

RESUBSCRIPTION ISSUE

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Supplements the 2003 *Oregon Administrative Rules Compilation*

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For August 18, 2003–September 15, 2003

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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2002-2003 Oregon Bulletin Publication Schedule

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

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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TABLE OF CONTENTS

	Page	
Information and Publication Schedule	2	Administrative Rules
Table of Contents	3	The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.
Executive Orders	4, 5	Board of Medical Examiners, Chapter 847
Other Notices	6-8	Board of Optometry, Chapter 852
Notices of Proposed Rulemaking Hearings/Notices		Department of Administrative Services, Chapter 125
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.		Department of Agriculture, Chapter 603
Board of Accountancy, Chapter 801	9, 10	Department of Consumer and Business Services, Workers' Compensation Division, Chapter 436
Board of Nursing, Chapter 851	10, 11	Department of Corrections, Chapter 291
Department of Administrative Services, Chapter 125	11	Department of Environmental Quality, Chapter 340
Department of Administrative Services, Budget and Management Division, Chapter 122	11	Department of Fish and Wildlife, Chapter 635
Office of Business Administration, Chapter 121	11	Department of Forestry, Chapter 629
Department of Agriculture, Chapter 603	11	Department of Geology and Mineral Industries, Chapter 632
Department of Consumer and Business Services, Insurance Division, Chapter 836	11, 12	Department of Human Services, Child Welfare Programs, Chapter 413
Oregon Occupational Safety and Health Division, Chapter 437	12	Departmental Administration and Medical Assistance Programs, Chapter 410
Workers' Compensation Division, Chapter 436	12, 13	Self-Sufficiency Programs, Chapter 461
Department of Environmental Quality, Chapter 340	13	Department of Transportation, Highway Division, Chapter 734
Department of Fish and Wildlife, Chapter 635	14	Motor Carrier Transportation Division, Chapter 740
Department of Forestry, Chapter 629	14, 15	Department of Veterans' Affairs, Chapter 274
Department of Human Services, Child Welfare Programs, Chapter 413	16, 17	Occupational Therapy Licensing Board, Chapter 339
Departmental Administration and Medical Assistance Programs, Chapter 410	17	Office of Energy, Energy Facility Siting Council, Chapter 345
Mental Health and Developmental Disability Services, Chapter 309	18	Oregon Board of Dentistry, Chapter 818
Public Health, Chapter 333	18	Oregon Department of Education, Chapter 581
Seniors and People with Disabilities, Chapter 411	18, 19	Oregon Economic and Community Development Department, Chapter 123
Department of Justice, Chapter 137	19	Oregon State Library, Chapter 543
Department of Public Safety Standards and Training, Chapter 259	19	Oregon State Lottery, Chapter 177
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	19-21	Oregon University System, Portland State University, Chapter 577
Highway Division, Chapter 734	21	University of Oregon, Chapter 571
Division of State Lands, Chapter 141	21, 22	Oregon Youth Authority, Chapter 416
Oregon Department of Education, Chapter 581	22, 23	Physical Therapist Licensing Board, Chapter 848
Oregon Public Employees Retirement System, Chapter 459	23	Secretary of State, Elections Division, Chapter 165
Oregon State Lottery, Chapter 177	23, 24	Teacher Standards and Practices Commission, Chapter 584
Oregon Student Assistance Commission, Office of Degree Authorization, Chapter 583	24	Travel Information Council, Chapter 733
Oregon University System, Chapter 580	24	OAR Revision Cumulative Index
Oregon Watershed Enhancement Board, Chapter 695	24, 25	205-259
Parks and Recreation Department, Chapter 736	25	
Public Utility Commission, Chapter 860	25, 26	

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. EO 03-10

PROCLAMATION OF A STATE OF EMERGENCY DUE TO THE IMMINENT THREAT OF WILDFIRE

Pursuant to my authority as Governor of the State of Oregon and under ORS 401.055, I find that:

A fire emergency exists due to imminent threat from wildland fires statewide. Current fires in several areas, the ongoing potential for thunderstorms with lightning strikes, and this year's extreme drought conditions in conjunction with a shortage of statewide resources to address the existing and potential fires statewide creates this imminent threat (the "Emergency"). Accordingly, I hereby declare that a statewide wildland fire Emergency exists.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

The Department of State Police through its Office of State Fire Marshal and Office of Emergency Management is authorized to coordinate the use of state personnel and equipment of all state agencies for the performance of any activity designed to prevent or mitigate damage from the Emergency. This includes, but is not limited to use of the resources of the State of Oregon Military Department

The Emergency is statewide, but this declaration is limited to the use of state resources and the National Guard for fire management solely required by the Emergency. Requests for state resources must be submitted through the County governing body to Oregon Emergency Management in the same manner as required for other emergencies.

This Order shall remain in effect until the threat is significantly relieved, the fire season ends, or I expressly rescind this Order.

Done at Salem, Oregon this 21st day of August.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 03-11

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 "Booth Fire", in Jefferson County. Assistance with life, safety, and structural fire protection is needed and was requested by the Deschutes County Fire Defense Chief and Jefferson County Fire Defense Chief. 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 8:28 a.m on August 20, 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 this specifically named fire, which occurred on August 20, 2003.

This order was made by verbal proclamation at 8:28 a.m. on the 20th day of August, 2003 and signed this 22nd day of August, 2003, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 03-12

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN UNION COUNTY DUE TO DROUGHT AND LOW WATER CONDITIONS.

Pursuant to ORS 401.055, I find that ongoing drought and low water conditions and weather patterns have the potential to cause an imminent natural and economic disaster in Union County (the "Affected County"). Projected weather patterns are not expected to significantly alleviate the current conditions; drought conditions are continuing. These conditions are expected to have profound consequences on the Affected County's agricultural, livestock, and natural resources and are likely to result in stark economic impacts.

Current conditions are being addressed by state agencies including the Department of Agriculture, the Department of Water Resources, and Oregon Emergency Management.

A timely response to this situation being vital to the well being and economic security of the citizens and businesses of the Affected County, I am therefore declaring a "state of drought emergency" in the Affected County and directing the following activities;

IT IS HEREBY ORDERED AND DIRECTED:

I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources available to mitigate conditions and effect agricultural recovery in the Affected County.

II. The Department of Water Resources is directed to coordinate and provide assistance and regulation for the Affected County as it determines is necessary in accordance with ORS 536.700 to 536.780.

III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in the Affected County.

IV. All other departments are directed to coordinate with the above agencies and to provide appropriate state resources as determined essential to assist affected political subdivisions in the Affected County.

V. This Executive Order expires on December 31, 2003

Done at Salem, Oregon this 29th day of August, 2003

/s/ Theodore R. Kulongoski

EXECUTIVE ORDERS

Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 03-13

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 "Herman Creek Fire", in Hood River County. Assistance with life, safety, and structural fire protection is needed and was requested by the Hood River County Fire Defense Chief. 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 1:40 p.m. on September 2, 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 Herman Creek Fire in Hood River County, which occurred on September 2, 2003.

This order was made by verbal proclamation at 1:40 p.m. on the 2nd day of September, 2003 and signed this 2nd day of September, 2003, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

CHANCE TO COMMENT ON... PROPOSED DECLARATION OF A GROUNDWATER MANAGEMENT AREA IN THE SOUTHERN WILLAMETTE VALLEY

COMMENTS DUE: December 1, 2003

PROJECT LOCATION: Areas of the Southern Willamette Valley between Corvallis and Eugene, in proximity to the Willamette River.

PROPOSAL: Pursuant to Oregon Revised Statutes, ORS 468.180, the Department of Environmental Quality (DEQ) is proposing to declare a Groundwater Management Area (GWMA) for portions of the Southern Willamette Valley, and is requesting public comment on this proposal. The declaration of a Groundwater Management Area for this area is based on widespread nitrate contamination in the groundwater at levels greater than 7 milligrams per liter (mg/L).

HIGHLIGHTS: The Southern Willamette Valley is one of Oregon's fastest growing regions and depends heavily on groundwater for private and public drinking water, irrigation water and other beneficial uses. Several recent studies with a focus on the water quality of the shallow groundwater in the Southern Willamette Valley have documented the presence of high levels of nitrate. One study found that 20% of the residential wells sampled had nitrate present at more than 7 mg/L, and exceedances were noted of public drinking water standard of 10 mg/L in more than 7% of the residential wells sampled. Non-point sources, such as fertilizers and septic systems, are the suspected origins for much of this pollution.

The focus of a Groundwater Management Area will be to improve the groundwater quality and ensure that this resource can be safely used in the future. DEQ's proposal to declare a Groundwater Management Area includes forming a Groundwater Management Committee made up of local citizens, local governmental agencies, and other stakeholders. This committee will advise the Lead Agency and the other State Agencies on the development of an Action Plan to restore and protect the groundwater quality.

There are two other Groundwater Management Areas in Oregon; one the Lower Umatilla Basin and the other in North Malheur County. DEQ anticipates that the voluntary approach used with these GWMA's would be incorporated into the Southern Willamette Valley GWMA.

HOW TO COMMENT: To obtain more information about the proposed Groundwater Management Area, you can review the project reports by appointment at DEQ's Eugene Office, 1102 Lincoln Street, Suite 210, Eugene, Oregon. Appointments to review these reports can be made by calling 541-686-7838, toll free at 1-800-844-8467, or TTY at 541-687-5603.

Written comments must be received by 5:00 PM on December 1, 2003. Please send written comments by mail or fax to:

Audrey Eldridge, R.G.
Southern Willamette Valley Project Coordinator
DEQ Western Region
201 West Main Street
Medford, OR 97501
Fax: 541-776-6262

Public meetings and hearings will be held to allow for additional input from those who live and work in the study area. A separate public notice announcing the dates, times, and locations of any public meeting or hearing will be published in the local newspapers.

THE NEXT STEP: DEQ will consider all public comments received by the December 1, 2003 deadline. DEQ will consider all comments before deciding to: declare the Groundwater Management Area as originally proposed; modify the boundary of the proposed Groundwater Management Area; or determine not to declare a Groundwater Management Area.

PROPOSED APPROVAL OF CLEANUP AT OREGON INSTITUTE OF TECHNOLOGY KLAMATH FALLS, OREGON

COMMENT DUE: October 31, 2003

PROJECT LOCATION: 3201 Campus Drive, Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) intends to issue a No Further Action (NFA) finding for particular areas of the subject property known as the Oregon Institute of Technology Klamath Falls campus, based upon completed site investigations and cleanup of petroleum and chlorinated solvent contaminated sediment. Specifically, the former Diesel Technologies Program which was located in Cornett Hall caused releases of perchloroethylene (perc) to a catch basin located in a former steam cleaning room. These sediments were cleaned up. In addition, petroleum contamination was cleaned up at the Physical Plant. One small pocket of residual petroleum contaminated soil was left in place at the Physical Plant as it was not feasible to remove. All residual contamination at this site is documented at levels below selected cleanup and/or screening standards established by the DEQ for this site. Consequently, there is no significant residual risk of impact to the environment as a result of specific historic past practices at these campus locations.

HOW TO COMMENT: A public comment period will extend to October 31, 2003. Please address all comments and/or inquiries to Mr. Cliff Walkey at the following address:

Cliff Walkey
Department of Environmental Quality
2146 NE 4th Street, Suite 104
Bend, Oregon 97701
(541) 388-6146, ext. 224
walkey.cliff@deq.state.or.us

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

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

PROPOSED APPROVAL OF CLEANUP AT BEND PINE NURSERY BEND, OREGON

COMMENT DUE: October 31, 2003

PROJECT LOCATION: 63095 Deschutes Market Road, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) intends to issue a No Further Action (NFA) finding for the subject property known as the Bend Pine Nursery, based upon completed site investigations and cleanup of sediment contaminated by pesticide residue, wood treating chemicals, historic solid waste landfills, and decommissioning of former agricultural wells. All residual contamination at this site is documented at levels below selected cleanup and/or screening standards established by the DEQ for this site. Low level residual concentrations of wood treating chemicals in site soils were left in place in a protective manner with appropriate institutional control because it was not feasible to completely remove diminimus volumes. The DEQ has determined there is no significant residual risk of impact to the environment as a result of specific historic toxic chemical releases or solid waste land filling.

HOW TO COMMENT: A public comment period will extend to October 31, 2003. Please address all comments and/or inquiries to Mr. Cliff Walkey at the following address:

Cliff Walkey
Department of Environmental Quality
2146 NE 4th Street, Suite 104
Bend, Oregon 97701
(541) 388-6146, ext. 224
walkey.cliff@deq.state.or.us

OTHER NOTICES

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.

DEQ APPROVES FINAL CLEANUP ACTIONS AT LAURENCE-DAVID FACILITY IN EUGENE

FINAL DECISION: The Oregon Department of Environmental Quality (DEQ) issues this notice of a final cleanup decision for soil and groundwater contamination at the former Laurence-David, Inc.(LDI) facility, 1400 South Bertelsen Road, Eugene, Oregon. Before making its decision, DEQ invited public comment on the proposed cleanup action in November 2002. In making a final decision, DEQ found that the selected remedy is protective of human health and the environment, effective, and cost-reasonable.

BACKGROUND: Some soil and groundwater at the site contains concentrations of toxic solvents and metals that could pose a future risk to workers on the property, if left untreated. Groundwater west of the property also contains solvents that could pose a risk to people if the groundwater was used for domestic water supplies. City water service is available in this area.

LDI was an active specialty paint and putty manufacturer from 1962 to Summer 2003. LDI manufactured solvent-based wood fillers, latex-based sealants, polyurethane-based wood patching compound and epoxy resins. The current property owner Bertelsen Corporation has retained the responsibility for site cleanup.

DEQ has reviewed environmental investigation and cleanup activities that have been conducted at the site since 1982, including a recent study to assess long term cleanup alternatives for addressing site contamination.

SELECTED CLEANUP ACTION: The selected cleanup will protect site workers and adjacent property owners from chemicals remaining on the property. These measures include:

- 1) Capping soil contamination with clean soil;
- 2) Protecting site workers in areas of known soil contamination;
- 3) Prohibiting drilling of water wells at the site to prevent use of untreated groundwater;
- 4) Limiting the zoning of the site for industrial uses;
- 5) Prohibiting excavation activities in areas of the site where soil contamination remains;
- 6) Reviewing well use in the neighborhoods surrounding the site to confirm that off-site groundwater is not being used; and
- 7) Notifying potentially affected properties of the possible presence of groundwater contamination near the site.

THE NEXT STEP: DEQ and Bertelsen Corporation are currently negotiating a legal agreement known as a Consent Order. That agreement will set forth the specific scope of work and schedule for completing a cleanup at the site. DEQ will provide public notice of the finalized Consent Order, expected in October, 2003.

INFORMATION: The decision documents and other records are available for public review at DEQ's Eugene Office. To schedule an appointment, call (541) 686-7838. For additional information about the cleanup, contact Project Manager Nancy Gramlich at (503) 378-8240, ext. 259, or by email at gramlich.nancy@deq.state.or.us

PROPOSED APPROVAL OF INVESTIGATION AND CLEANUP LINNONTON PLYWOOD ASSOCIATION 10504 NW ST. HELENS ROAD, LINNONTON, OREGON

COMMENT PERIOD: October 1, 2003 to October 31, 2003

COMMENTS DUE: October 31, 2003

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to approve a Pre-Remedial Investigation (Pre-RI),

and the cleanup of soils contaminated by petroleum and metals at the Linnonton Plywood Association (LPA) facility located at 10504 NW St. Helens Road in Linnonton, Oregon.

HIGHLIGHTS: The investigation evaluated three potential ways that contamination from the site could get into the Willamette River: 1) groundwater; 2) stormwater discharge system; and 3) direct movement of contaminated soils or sediments from the upland area or riverbank.

The investigation documented that site groundwater did not contain contaminants at levels of concern for discharge to the river. Linnonton Plywood was able to eliminate the transport of contaminants via the stormwater discharge system through simple site controls at the catch basins. The investigation documented two small areas of soil contamination; soils from Outfall 5 and a knife grinding debris pile. This soil was removed in May 2003, and DEQ has determined that concentrations of hazardous substances at the site are now below a level of concern for possible erosion and riverbank soils getting into the river.

DEQ considers the investigation to be complete and will not require investigation of currently active pathways contributing contaminants to the Willamette River. This conclusion is based upon an evaluation solely of sources and pathways which may have connection to the river, the current uses of the property (warehousing in building formerly used to produce plywood, and aggregate processing in southern portion of property), and presumes that maintaining catch basin sediment controls will keep stormwater from the site from getting into the river. The determination did not reach conclusions regarding future use of the upland portion of the site as the Pre-RI did not fully evaluate potential sources of contamination at the LPA facility that did not have the potential to impact the river.

DEQ has requested U.S. Environmental Protection Agency (EPA) review and comment on the decision that the site does not contain active sources of contamination threatening the river. The potential that historical releases of contaminants to the Portland Harbor have occurred from the LPA facility will continue to be investigated by the EPA.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Don Pettit, (503) 229-5492. Send written comments to Don Pettit, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by October 31, 2003. DEQ will hold a public meeting to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

PROPOSED APPROVAL OF GROUNDWATER CLEANUP AT MARKLEY PROPERTY IN HILLSBORO, OREGON

COMMENTS DUE: October 31, 2003

PROJECT LOCATION: 1600 NE 25th Avenue, Hillsboro, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed approval of a groundwater cleanup at the Markley property (formerly Grant & Roth Plastics and SPM Manufacturing) at 1600 NE 25th Avenue, Hillsboro, Oregon.

HIGHLIGHTS: Site investigations identified shallow groundwater impacts at the site in the early 1990s. Remedial actions were conducted in the 1990s to address the chlorinated solvents in the groundwater. The most-recent groundwater monitoring event (July 2003) documented that the contaminant plume has decreased significantly in area and contaminant concentrations have declined significantly below levels of concern. A final groundwater monitoring report is available for public review along with the original DEQ file information.

OTHER NOTICES

HOW TO COMMENT: To schedule an appointment at DEQ, contact Deborah Curtiss at 229-6361. The DEQ project manager is Alicia C. Voss (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 October 31, 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 APPROVAL OF CLEANUP AT UNOCAL BULK PLANT #0794 (FORMER) ONTARIO, OREGON

COMMENTS DUE: October 31, 2003

PROJECT LOCATION: 76 Southeast 4th Street, Ontario, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "Conditional No Further Action" determination based on results of site investigation and remedial activities performed at the former Unocal Bulk Plant and Service Station #0794 located at 76 Southeast 4th Street in Ontario, Oregon. The site will remain on the Confirmed Release List and Inventory of Hazardous Substances.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment and remedial activities performed at the site. The site was an operational bulk plant for over 50 years. All site structures and petroleum facilities were removed from the site in 1990. Prior to decommissioning, facilities at the site included 14 underground storage tanks (USTs), one above ground storage tank (AST), two dispenser islands, a truck loading rack, and two buildings. Four of the USTs were second generation having replaced four earlier USTs in 1984. Multiple site assessments and remedial actions have been performed since the initial release was reported in 1983. Soil and groundwater were impacted by petroleum products. The primary exposure pathway identified at the site is the potential for inhalation of benzene in indoor and outdoor air. The easement and equitable servitude addresses this pathway. The property has been redeveloped from a vacant lot into a retail store. The retail store building was placed outside of the area of potential impact and the remaining surface area will be capped by asphalt or landscaping further limiting potential exposure.

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 October 31, 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 "Conditional No Further Action" determination.

PROPOSED APPROVAL OF SOIL CLEANUP AT THE COAST TIRE SITE TILLAMOOK, OREGON

COMMENTS DUE: November 3, 2003

PROJECT LOCATION: 635 North Main Street (Highway 101), Tillamook, Oregon

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

HIGHLIGHTS: The site was developed in the mid-1950s as a tire repair shop and operated until 2001 when the business was closed due to repeated flooding. Automobile lubing, fueling and repair were conducted at the site. Tire recycling which including shredding, was also conducted at the site. Fuel was stored in above-ground storage tanks (ASTs) located along the northern property boundary and dispensed at two pump islands via underground piping in the northwest portion of the site. DEQ, the State of Oregon Office of Emergency Management (OEM), the State of Oregon Office of Economic and Community Development Division (OECDD), Federal Emergency Management Agency (FEMA), and the property owner, Mr. Steve Baertlein, have worked cooperatively to complete an investigation and cleanup at the site. Upon completion of the site cleanup, FEMA is providing funding to the City to purchase the property, limit future use to open space, and thereby eliminate future flooding damage at the site.

A series of site investigations showed significant petroleum-contaminated soil and groundwater present at the site. The primary contaminants are gasoline and related constituents such as benzene. The highest levels of contamination occur along the northern property boundary, but contamination levels decrease to low or non-detectable levels within about 50 feet of the property boundary. Based on preliminary findings of elevated concentrations, the property owner removed the existing fuel piping and approximately 50 tons of associated highly impacted soil. The removed soil was transported off-site for disposal at a solid waste landfill. Subsequent groundwater monitoring showed a significant decrease in contaminant concentrations, although on-site levels of benzene in groundwater were still above DEQ generic risk-based screening concentrations. Site-specific risk-based concentrations were developed based on the proposed use of the site as open space, where site visitors are expected to spend significantly less time on-site compared to typical residential or occupational exposure scenarios. The risk assessment indicates existing conditions are protective of future site visitors based on the assumption that the City will rezone the site to open space and prevent future development or intrusive activities.

An investigation of impacts to the storm drain system along Highway 101 that discharges to Hoquarten Slough was conducted, in addition to an evaluation of the potential risk to wildlife in the wetlands that exist on the eastern portion of the site. DEQ has concluded that the site does not present an unacceptable risk to human health or the environment. DEQ's finding is conditional upon the City of Tillamook rezoning the site property to open space, limited groundwater monitoring to verify the adequacy of the cleanup, and notification to adjacent property owners to the north and west of the site of the potential presence of site-related contamination on or near their property. If subsequent monitoring shows significant off-site contaminant migration, DEQ may require further site investigation and/or remediation.

HOW TO COMMENT: The staff memorandum and other files will be available for public review beginning Wednesday, October 1, 2003. To schedule an appointment to review the site files call Gerald Gamolo at (503) 229-6729. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 by Monday, November 3, 2003. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more.

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

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 p.m. on the Last Day for Comment listed below. Written and oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

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

Board of Accountancy
Chapter 801

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris, Board Vice-Chair
Stat. Auth.: ORS 183.332, 183.452, 670.310, 673.410 & OL 1999 Ch. 348

Stats. Implemented: ORS 183.337, 183.341, 192.640, 279.051, 673.185 & 673.410

Proposed Adoptions: 801-001-0035

Proposed Amendments: 801-001-0005, 801-001-0010, 801-001-0015, 801-001-0020

Last Date for Comment: 10-21-03

Summary: This rulemaking adopts a rule that allows all professional standards and interpretations to be those in effect on a certain date, eliminating the reference to effective dates throughout OAR Chapter 801. Other revisions are not substantive, but provide clarification.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302
Telephone: (503) 378-4181, ext. 24

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris, Board Vice-Chair

Stat. Auth.: ORS 670.310 & 673.010

Stats. Implemented: ORS 673.410

Proposed Amendments: 801-005-0010

Last Date for Comment: 10-21-03

Summary: These rules are being amended to remove the effective dates of standards and interpretations adopted by the Board. The effective date of all such standards is now in Division 001. In addition the amendments add two new definitions.

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

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302
Telephone: (503) 378-4181, ext. 24

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris, Board Vice-Chair

Stat. Auth.: ORS 673.040, 673.060, 673.153, 673.310, 673.410, 673.220 & 673.610

Stats. Implemented: ORS 673, 673.060, 673.410, 673.100, 673.075, 673.040, 673.153, 673.150, 673.220 & 673.160

Proposed Amendments: 801-010-0010, 801-010-0045, 801-010-0050, 801-010-0060, 801-010-0075, 801-010-0080, 801-010-0085, 801-010-0110, 801-010-0115, 801-010-0125, 801-010-0345

Last Date for Comment: 10-21-03

Summary: Amendments implement the transition from paper and pencil CPA exam to the computer based CPA exam, including fees, conditional status, and transition rules. Amendment to require public accountants applying to become certified public accountants to meet the current educational requirements. New provision stating when notice is not required under substantial equivalency. Clarification that renewals received after June 30 are subject to late fee. Requirements for licensees who resign their license. Rules regarding non-CPA ownership and branch offices were moved from Division 030 to Division 010 for consistency. New provisions describe internet practice requirements.

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

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181, ext. 24

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris, Board Vice-Chair

Stat. Auth.: ORS 297.670

Stats. Implemented: ORS 297.680

Proposed Amendments: 801-020-0700

Last Date for Comment: 10-21-03

Summary: This rulemaking allows CPE requirements for the first renewal period after appointment to the municipal roster to be prorated.

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

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181, ext. 24

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 670.310 & 673.410

Proposed Amendments: 801-030-0005, 801-030-0015, 801-030-0020

Last Date for Comment: 10-21-03

Summary: These rules are being amended to include rules regarding independence standards for CPAs and Pas. In addition, rules are amended to clarify the responsibility to clients including what is required to be maintained and for what period of time.

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

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181, ext. 24

NOTICES OF PROPOSED RULEMAKING

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris
Stat. Auth.: ORS 670.310, 673.410, 673.040 & 673.050
Stats. Implemented: ORS 670.310, 673.410 & 673.210
Proposed Amendments: 801-040-0070, 801-040-0090, 801-040-0100, 801-040-0160
Last Date for Comment: 10-21-03
Summary: These rules are being amended to clarify requirements for reporting CPE credit.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302
Telephone: (503) 378-4181, ext. 24

Date: 10-16-03 **Time:** 10 a.m.-12 p.m. **Location:** 3218 Pringle Rd. SE #110
Salem, OR 97302

Hearing Officer: Stuart Morris
Stat. Auth.: ORS 670.310
Stats. Implemented: ORS 673.457
Proposed Amendments: 801-050-0080
Last Date for Comment: 10-21-03
Summary: Housekeeping.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Kimberly Bennett
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302
Telephone: (503) 378-4181, ext. 24

Board of Nursing Chapter 851

Date: 11-20-03 **Time:** 9 a.m. **Location:** 800 NE Oregon St.
Rm. 120-C
Portland, OR 97232

Hearing Officer: Rolf Olson, Board President
Stat. Auth.: ORS 678.440 & 678.444
Stats. Implemented: ORS 678.440 & 678.444
Proposed Adoptions: 851-061-0130
Proposed Amendments: 851-061-0010, 851-061-0020, 851-061-0030, 851-061-0040, 851-061-0050, 851-061-0070, 851-061-0080, 851-061-0090, 851-061-0100, 851-061-0110
Last Date for Comment: 11-20-03
Summary: These rules cover the standards for training programs for Nursing Assistants and Medication Aides.
**Auxiliary aids for persons with disabilities are available upon advance request.*

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

Date: 11-20-03 **Time:** 9 a.m. **Location:** 800 NE Oregon St.
Rm. 120-C
(Willamette River Suite)
Portland, OR 97232

Hearing Officer: Rolf Olson, Board President
Stat. Auth.: ORS 678.150 & 678.340
Stats. Implemented: ORS 678.150 & 678.340
Proposed Amendments: 851-021-0010
Last Date for Comment: 11-20-03

Summary: These rules cover the standards for the approval of educational programs in nursing preparing candidates for licensure as practical or registered nurses.

The amendments propose language that would enable the Board to receive and consider a proposal from consortia of qualified institutions, and would set additional requirements that consortia would meet for developmental approval.

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

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

Date: 11-20-03 **Time:** 9 a.m. **Location:** 800 NE Oregon St.
Rm. 120-C
(Willamette River Suite)
Portland, OR 97232

Hearing Officer: Rolf Olson, Board President
Stat. Auth.: ORS 678.021 & 678.031
Stats. Implemented: ORS 678.021 & 678.031
Proposed Amendments: 851-031-0006, 851-031-0010
Last Date for Comment: 11-20-03, 9 a.m.

Summary: These rules cover the standards for licensure of registered nurses and licensed practical nurses.

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

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

Date: 11-20-03 **Time:** 9 a.m. **Location:** 800 NE Oregon St.
Rm. 120-C
Portland, OR 97232

Hearing Officer: Rolf Olson, Board President
Stat. Auth.: ORS 678.385
Stats. Implemented: ORS 678.375 & 678.385
Proposed Amendments: 851-050-0131
Last Date for Comment: 11-20-03, 9 a.m.

Summary: The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. The amendments add the September and October 2003 updates to Drug Facts and Comparisons to the formulary, with specific drugs proposed for inclusion or deletion. The Board may also petition to add currently excluded drugs to the Nurse Practitioner formulary.

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

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

Date: 11-20-03 **Time:** 9 a.m. **Location:** 800 NE Oregon St.
Rm. 120-C
Portland, OR 97232

Hearing Officer: Rolf Olson, Board President
Stat. Auth.: ORS 678.150 & 678.440
Stats. Implemented: ORS 678.440
Proposed Amendments: 851-063-0010, 851-063-0020, 851-063-0030, 851-063-0040, 851-063-0050, 851-063-0060, 851-063-0070, 851-063-0080, 851-063-0100
Last Date for Comment: 11-20-03

NOTICES OF PROPOSED RULEMAKING

Summary: These rules cover standards and authorized duties for Certified Nursing Assistants and Certified Medication Aides.

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

Rules Coordinator: KC Cotton

Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162

Telephone: (503) 731-4754

Date:	Time:	Location:
11-20-03	9 a.m.	800 NE Oregon St. Rm. 120-C Portland, OR 97232

Hearing Officer: Rolf Olson, Board President

Stat. Auth.: ORS 678.150 & 678.440

Stats. Implemented: ORS 678.440

Proposed Adoptions: 851-062-0005, 851-062-0015, 851-062-0016, 851-062-0055, 851-062-0075

Proposed Amendments: 851-062-0010, 851-062-0020, 851-062-0050, 851-062-0060, 851-062-0070, 851-062-0100, 851-062-0110, 851-062-0120, 851-062-0130

Proposed Repeals: 851-062-0040

Last Date for Comment: 11-20-03

Summary: These rules cover the standards for certification of Nursing Assistants and Medication Aides.

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

Rules Coordinator: KC Cotton

Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162

Telephone: (503) 731-4754

Department of Administrative Services Chapter 125

Stat. Auth.: ORS 183.335; Other Auth.: Administrative Procedures Act (APA), Oregon Attorney General's Administrative Law Manual, October 3, 2001

Stats. Implemented:

Proposed Amendments: 125-001-0000, 125-001-0005

Last Date for Comment: 10-21-03, 5 p.m.

Summary: Housekeeping changes to update OAR 125-001-0000, 125-001-0005 to meet the criteria stated in ORS 183.335 and the current Administrative Procedures Act (APA), Oregon Attorney General's Administrative Law Manual, October 3, 2001.

Rules Coordinator: Mary Unger

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

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

Department of Administrative Services, Budget and Management Division Chapter 122

Stat. Auth.: ORS 183.335; Other Auth.: Administrative Procedures Act (APA), Oregon Attorney General's Administrative Law Manual, October 3, 2001

Stats. Implemented:

Proposed Amendments: 122-001-0000, 122-001-0005

Last Date for Comment: 10-21-03, 5 p.m.

Summary: Housekeeping changes to update OAR 122-001-0000, 122-001-0005 to meet the criteria stated in ORS 183.335 and the current Administrative Procedures Act (APA), Oregon Attorney General's Administrative Law Manual, October 3, 2001.

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, Office of Business Administration Chapter 121

Stat. Auth.: ORS 183; Other Auth.: Attorney General's Model Rules of Procedure under the Administrative Procedures Act October 3, 2001

Stats. Implemented:

Proposed Amendments: 121-001-0000, 121-001-0005

Last Date for Comment: 10-21-03, 5 p.m.

Summary: Housekeeping changes are made to update the requirements of sending Notice for Administrative Rules and to bring current certain dates and ORS references.

Rules Coordinator: Mary Unger

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

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

Stat. Auth.: ORS 184.340, 292.045 & OL 1993, Ch. 500, Sec. 2

Stats. Implemented: ORS 184.340, 292.045 & OL 1993, Ch. 500, Sec. 2

Proposed Amendments: 121-030-0040

Last Date for Comment: 11-5-03

Summary: 121-030-0040(2) - "Sexual Orientation" was added to the rule to clarify the Charitable Fund Drive's (CFD) nondiscrimination clause. The language had not been permanently added to the rule, yet has functioned as a part of the applications to participate for 12 years. It is critical to include "sexual orientation" in the rule to further establish the criteria that is to be used to certify funds and federations and their member organizations.

Rules Coordinator: Mary Unger

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

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

Department of Agriculture Chapter 603

Date:	Time:	Location:
10-22-03	6 p.m.	OSU Klamath Co. Extension Center 3328 Vandenberg Rd. Klamath Falls, OR 97603
10-23-03	6:30 p.m.	Sprague River Community Ctr. Sprague River Rd. Sprague River, OR 97639

Hearing Officer: Stephanie Page

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

Stats. Implemented: ORS 568.900 - 568.933

Proposed Adoptions: 603-095-3800, 603-095-3820, 603-095-3840, 603-095-3860

Last Date for Comment: 11-17-03

Summary: The rules effectuate the implementation of the Klamath Headwaters Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et seq.

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

Rules Coordinator: Sherry Kudna

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

Telephone: (503) 986-4619

Department of Consumer and Business Services, Insurance Division Chapter 836

Stat. Auth.: ORS 731.244 & 737.225

Stats. Implemented: ORS 737.225

Proposed Amendments: 836-042-0045

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 11-14-03

Summary: This rulemaking proposes to amend the rule that prescribes a uniform statistical plan for workers' compensation insurance as required by ORS 737.225(4), in order to adopt the updated January 1, 2004 edition of actuarial pension tables. It is proposed that the rule amendment take effect January 1, 2004.

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, Oregon Occupational Safety and Health Division Chapter 437

Date:	Time:	Location:
10-29-03	1:30 p.m.	Labor & Industries Bldg. Basement - Conference Rm. F 350 Winter St. NE Salem, OR 97301

Hearing Officer: Marilyn Schuster

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Proposed Amendments: 437-001-0015, 437-001-0096, 437-001-0171, 437-001-0203, 437-001-0265, 437-001-0270, 437-001-0430, 437-001-0700, 437-001-0765

Last Date for Comment: 10-31-03

Summary: Federal OSHA published amendments to its Record-keeping standard in the December 17, 2002, and June 30, 2003, Federal Registers. Oregon OSHA must adopt these federal amendments or develop our own administrative rules to remain as effective as federal OSHA standards. Oregon OSHA proposes rulemaking to make the changes federal OSHA has in place, as well as several reference corrections and clarification amendments in Division 1, General Administrative Rules.

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

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Proposed Amendments: 437-002-0220, 437-003-0001

Last Date for Comment: 10-31-03

Summary: Federal OSHA published in the June 2, 2003, Federal Register a technical amendment that affects Oregon's Divisions 2/N and 3/O. This technical amendment deletes a Powered Industrial Truck standard covering the use of powered industrial trucks to lift personnel. It is being deleted because it was invalidly promulgated from a non-mandatory provision of a national consensus standard.

Oregon OSHA proposes to delete paragraph 1910.178(m)(12) from Division 2/N, Powered Industrial Trucks, and an identical paragraph applicable to construction work, 1926.602(c)(1)(viii) from Division 3/O. Oregon OSHA's OAR 437-002-0027(4), Personnel Platforms, still applies in general industry, and OAR 437-003-0094 applies in construction.

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

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

Date:	Time:	Location:
10-22-03	10 a.m.	Rm. 260 (2nd Flr.) Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4) & 656.704; Other Auth.: ORS 183.335, OAR 137-001, 436-001-0000 & 436-001-0005

Stats. Implemented: ORS 656

Proposed Adoptions: 436-050-0165, 436-050-0480

Proposed Amendments: 436-045-0008, 436-050-0003, 436-050-0008, 436-050-0040, 436-050-0050, 436-050-0055, 436-050-0060, 436-050-0080, 436-050-0090, 436-050-0100, 436-050-0110, 436-050-0120, 436-050-0150, 436-050-0160, 436-050-0170, 436-050-0175, 436-050-0180, 436-050-0185, 436-050-0190, 436-050-0195, 436-050-0210, 436-050-0220, 436-050-0260, 436-050-0270, 436-050-0280, 436-050-0290, 436-050-0400, 436-055-0008, 436-060-0008, 436-070-0008, 436-075-0008, 436-080-0001, 436-080-0002, 436-080-0003, 436-080-0005, 436-080-0006, 436-080-0010, 436-080-0020, 436-080-0030, 436-080-0040, 436-080-0060, 436-080-0065, 436-080-0070, 436-080-0080, 436-085-0008, 436-150-0008, 436-160-0003, 436-160-0310, 436-160-0320, 436-160-0340, 436-160-0350, 436-160-0360

Proposed Repeals: 436-050-0020, 436-080-0050

Last Date for Comment: 10-27-03, 5 p.m.

Summary: The agency proposes to amend these rules in part to reflect Senate Bill 233's changes to ORS 656.740. The time frame for appeal of a proposed order or proposed assessment of civil penalty will no longer be 60 days following the party's receipt of notice, but instead 60 days from the date the order is mailed by the department. In addition, the agency proposes to make a number of "house-keeping" amendments throughout these rules.

The agency proposes to amend OAR 436-050, "Employer/Insurer Coverage Responsibility," and OAR 436-160, "Electronic Data Interchange." These proposed rules:

- (436-050-0020) Repeal the requirement that the director send copies of orders to parties via certified mail and otherwise repeal the rule that restates certain statutory requirements affecting service of orders.
- (436-050-0050) Clarify requirements for notice by the employer to its insurer of election to cover otherwise non-subject workers.
- (436-050-0055) Specify that a criterion for whether a worker is temporarily in or out of state is the duration of the employer's "work," not the duration of the employer's "contract."
- (436-050-0060, 436-160-0310) Eliminate the requirement for insurers to report Standard Industrial Classification Codes or North American Industry Classification System codes; state that National Council on Compensation Insurance codes are sufficient.
- (436-050-0080, 436-160-0350) Eliminate the requirement to report coverage elections and cancellation of elections to the director by endorsement to the guaranty contract. (reflects statutory change made by Senate Bill 233)
- (436-050-0100, 436-160-0360) Explain the notice and reporting requirements regarding the insurer's termination of guaranty contracts. (reflects statutory change made by Senate Bill 233)
- (436-050-0100) State that active self-insurance certification remains in effect if a guaranty contract has been filed.
- (436-050-0110 and 0210) Require insurers and self-insured employers to notify workers with open/active claims, their attorneys, and primary medical service providers at least 10 days prior to changing claims processing locations, service companies, or self-administration.
- (436-050-0120 and 0220) Require insurers and self-insured employers to keep documentation regarding the dates payments are mailed to claimants.

NOTICES OF PROPOSED RULEMAKING

- (436-050-0160 and 0175) Provide that the director may require the self-insured employer (or applicant) to submit audited financial statements if certified financial statements are insufficient to evaluate the employer's financial status.

- (436-050-0165) Provide that an irrevocable standby letter of credit may be accepted by the director as an alternative to a surety bond as a security deposit; list required provisions of an irrevocable standby letter of credit and the criteria the director will use to determine if it is an acceptable security deposit; state the conditions under which an irrevocable standby letter of credit will be extended or called; incorporate by reference, International Standby Practices, ICC Publication No. 590. These changes are now in effect under authority of temporary rules effective 7/18/03.

- (436-050-0165) Provide that government securities, certificates of deposit, or time deposit accounts will not be accepted as new or replacement security deposits by self-insured employers effective January 1, 2004; require self-insured employers with existing securities of this type to complete a "Security Agreement and Notice to Intermediary," Form 440-4023, granting the department a security interest in and control over those financial assets.

- (436-050-0170) Provide that excess insurance coverage must be specific on a per occurrence basis, and that such coverage may include aggregate excess insurance.

- (436-050-0175) Incorporate annual reporting requirements formerly published only in Bulletin 209, to include a report of losses for the experience rating and non-experience rating periods.

- (436-050-0180) Require that future claim liability estimates or annual incurred losses include losses incurred but not reported; require that "losses incurred but not reported" be calculated by applying a loss development factor against the employer's annual incurred losses; provide that the director will calculate the "loss development factor" annually.

- (436-050-0180) Require that a new self-insured employer's deposit is not less than the amount of the approved self-insured employer retention level for the employer's excess workers' compensation insurance.

- (436-050-0195) Require that each entity included under a self-insurance certification must enter into an agreement making the entity jointly and severally liable for payment of compensation and moneys due to the director by the self-insured employer or any other entity included in the certification.

- (436-050-0260) Provide for revocation of a self-insured employer group's certification if the group fails to maintain the qualifications required in this rule.

- (436-050-0290) Require that self-insured employer groups maintain coverage records relating to each member.

- (436-050-0400) Prohibit a worker leasing company from providing workers' compensation coverage to another worker leasing company.

- (436-050-0480) Provide for assessment of civil penalties against worker leasing companies or prospective leasing companies that fail to meet the requirements of relevant rules. Provide penalty matrices for worker leasing companies that violate these rules and for companies that operate as worker leasing companies without a license.

NOTICE OF PERIODIC REVIEW

Oregon law requires an agency to review its rules not less than every three years to minimize the economic effect on businesses. Pursuant to ORS 183.545 and 183.550, the Workers' Compensation Division invites public comment upon these rules* concerning the continued need for the rules; the complexity of the rules; the extent to which the rules duplicate, overlap, or conflict with other state rules, federal regulations, and local government regulations; the degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rules; and the legal basis for the rules. Oral comments may be presented at the rule-making hearing; written comments must be received, at the address listed on the top of this form, by the date specified below.

*Subject to this periodic review, public comment is invited regarding all rules within the following divisions of chapter 436:

- OAR 436-045, Reopened Claims Program
- OAR 436-050, Employer/Insurer Coverage Responsibility
- OAR 436-055, Certification of Claims Examiners
- OAR 436-060, Claims Administration
- OAR 436-070, Workers' Benefit Fund
- OAR 436-075, Retroactive Program
- OAR 436-080, Noncomplying Employers
- OAR 436-085, Premium Assessments: Assessments/Contributions
- OAR 436-150, Workers' Benefit Fund Claims Program
- OAR 436-160, Electronic Data Interchange

Address questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; e-mail fred.h.bruyns@state.or.us
Proposed rules are available on the Workers' Compensation Division's Web site: <http://www.cbs.state.or.us/external/wcd/policy/rules/permanent/rules.html#proprules> or from WCD Publications at 503-947-7627 or fax 503-947-7630.

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

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, 350 Winter St. NE, Salem, OR 97301-3879

Telephone: (503) 947-7717

Department of Environmental Quality Chapter 340

Date:	Time:	Location:
10-21-03	3 p.m.	DEQ NW Region 2020 SW 4th Ave. Rm. 4A/B Portland, OR
10-23-03	3 p.m.	Jackson Co. Courthouse Auditorium 10 S. Oakdale Medford, OR

Hearing Officer: Staff

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025 & 468A.035

Proposed Amendments: 340-224-0010, 340-224-0030, 340-224-0050, 340-224-0070, 340-224-0080, 340-225-0020, 340-225-0050, 340-225-0090, 340-200-0040

Last Date for Comment: 10-30-03

Summary: The proposed changes would make the requirements for creating and using emission offsets clear and consistent, without changing the stringency of the requirements. The changes would also allow offsets to come from outside a designated maintenance area if the reductions creating the emissions offsets affected the same area as the proposed increase in emissions.

Since Divisions 224 and 225 are intricately linked for the New Source Review process, now is the appropriate time to open both of these Divisions and make relevant clarifications, corrections and adjustments based on stakeholder discussions as a follow-up to the May 2001 streamlining rule package.

These amendments, if adopted, will be submitted to the U.S. Environmental Protection Agency as a revision to the Oregon State Implementation Plan (SIP).

To submit comments or request additional information, please contact David Kauth at the Department of Environmental Quality (DEQ), 811 SW 5th Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011 or 503-229-5655, email: kauth.dave@deq.state.or.us, fax: 503-229-5675, or visit DEQ's website <http://www.deq.state.or.us/news/index.asp>.

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

Rules Coordinator: Rachel Sakata

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

Telephone: (503) 229-5659

NOTICES OF PROPOSED RULEMAKING

Department of Fish and Wildlife Chapter 635

Date: 11-7-03
Time: 8 a.m.
Location: ODFW Commission Room
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248

Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248

Proposed Amendments: Rules in 635-047

Last Date for Comment: 11-7-03

Summary: Amend rules regarding private hunting preserves.

**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: 11-7-03
Time: 8 a.m.
Location: ODFW Commission Room
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138 & 497.112

Stats. Implemented: ORS 496.012, 496.138 & 497.112

Proposed Amendments: Rules in 635-075

Last Date for Comment: 11-7-03

Summary: Amend rules to implement a Southwest Oregon Landowner Preference Pilot Program.

**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: 11-7-03
Time: 8 a.m.
Location: ODFW Commission Room
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 506.450 - 506.465

Proposed Adoptions: Rules in 635-004, 635-006

Proposed Amendments: Rules in 635-004, 635-006

Proposed Repeals: Rules in 635-004, 635-006

Last Date for Comment: 11-7-03

Summary: Change regulations in the harvest program for some developmental fisheries species and for developmental fisheries permits based on recommendations by the Developmental Fisheries Board. Also adopting regulations implementing House Bill 3108 by removing the nearshore fishery from the developmental fisheries program and establishing a black rockfish / blue rockfish / nearshore fishery restricted vessel system.

**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: 11-7-03
Time: 8 a.m.
Location: ODFW Commission Room
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 506.109, 506.119, 506.129 & 508.765

Stats. Implemented: ORS 506.109, 506.119, 506.129 & 508.755

Proposed Adoptions: Rules in 635-004, 635-006

Proposed Amendments: Rules in 635-004, 635-006

Proposed Repeals: Rules in 635-004, 635-006

Last Date for Comment: 11-7-03

Summary: Current Oregon Administrative Rules do not correctly describe and properly implement the Inland Waters Yaquina commercial herring sac roe fishery and general commercial bait fishery. Specifically, rule is needed to describe: (1) how the annual Yaquina sac roe fishery quota is determined, (2) amended rule to address season dates defining the Yaquina Bay fishery, (3) clarify language related to describing the number of Yaquina Bay sac roe limited entry permit holders in the fishery, (4) describe a "whole fish" to herring "eggs on kelp" conversion factor, (5) properly describe the Yaquina Bay roe fishery gear, (6) clarify eligibility requirements for roe herring limited entry permits, and (7) provide for an incidental catch of juvenile Shad in the Inland Waters commercial herring seine bait fishery.

**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: 11-7-03
Time: 8 a.m.
Location: ODFW Commission Room
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.012 & 496.138

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450 & 496.555

Proposed Repeals: 635-007-0524, 635-007-0550, 635-007-0555, 635-007-0560, 635-007-0565, 635-007-0570, 635-007-0575, 635-007-0580, 635-007-0585, 635-007-0590

Last Date for Comment: 11-7-03

Summary: The rules are being repealed following a temporary rule action adopted September 12, 2003. These rules are no longer relevant to the Native Fish Conservation and Fish Health Management Policies, which were adopted by the Fish and Wildlife Commission on September 12, 2003.

**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

Department of Forestry Chapter 629

Date: 10-21-03
Time: 9 a.m.
Location: South Slough National Estuarine Research Reserve
Interpretive Center
61907 Seven Devils Road
Charleston, OR 97420

Hearing Officer: John E. Lilly or designate

Stat. Auth.: ORS 183, 526.816 & 530.050(11); Other Auth.: ORS 526.041(1)

Stats. Implemented: ORS 526.801 et seq., 530.059 & 530.450 et seq.

Proposed Amendments: 629-031-0010

Last Date for Comment: 10-14-03, 5 p.m.

Summary: This hearing notice is the second of two concerning this rulemaking action and relates to reopening the public comment period for the proposed changes to these rules.

NOTICES OF PROPOSED RULEMAKING

OAR Chapter 629, Division 31, contains the Department of Forestry's (State Forester's) Log Export Rules. OAR Chapter 629, Division 31, controls the export of unprocessed timber from the state forest lands under the Board of Forestry and State Forester's jurisdiction (hereafter "BOF Lands"). OAR 629-031-0010(2) includes an exemption that allows persons that export softwood logs from lands within Oregon to purchase under some circumstances the hardwood logs that originate from timber sales on BOF forest lands. A parallel provision concerns logs originating from lands under the jurisdiction of the State Land Board (OAR 141, division 16).

In May 2003, a group of seven present or former owners of alder sawmills submitted a Petition for Rulemaking to the State Board of Forestry. (Authority for this rule lies with the State Forester rather than the Board of Forestry, and the Petition is being treated as a petition to the State Forester). A duplicate Petition was submitted to the State Land Board. The Petition focused on the exemption in OAR 629-031-0010(2) and presented two requests for rulemaking. First, that the State Forester adopt a temporary rule removing the exemption on OAR 629-031-0010(2). Second, that the State Forester initiate permanent rulemaking procedures to remove the exemption. The State Forester initially contemplated initiating a public forum on the proposed rulemaking. However, at its meeting on June 10, 2003, the Land Board decided to go forward with the rulemaking process to consider whether to remove the exemption. In order to avoid duplication of effort, the State Forester decided to conduct a parallel rulemaking process.

If adopted, the proposed amendments in the notices would remove the exemptions in OAR 629-031-0010(2) and OAR 141-016-0010(2). Removal of the exemptions could have several impacts. For instance, it could mean that persons who export any unprocessed softwood or hardwood logs that originate from private or public lands in Oregon would not be allowed to purchase directly or indirectly any hardwood logs that originate from state owned forest lands. It could mean that persons who are currently selling hardwood logs to persons who export unprocessed logs would have fewer purchasers competing for the logs. And it could mean that either less or more money revenue would be generated from state timber sales, in either the short or the long term.

The Land Board and the State Forester are coordinating their rulemaking procedures. Any information submitted to one entity will be included in the rulemaking records of both entities. Persons are requested to submit 4 copies of any written comments. The hearing noticed above will be conducted for the State Forester and for the Land Board. The Land Board and the State Forester will make independent decisions.

As stated above, this is the second of two notices concerning this rulemaking action and relates to reopening the public comment period for the proposed changes to these rules. The first notice concerning this rulemaking action appeared in the August 2003 issue of the Secretary of State's Oregon Bulletin. In that notice, the Oregon Department of Forestry (ODF) announced that the closing date for public comment was September 19, 2003 at 5 p.m.

By means of this notice, the ODF hereby notifies persons interested in these proposed rule changes that it is reopening the public comment period. ODF will again accept written public comments on the proposed changes to these rules from October 1, 2003 through October 14, 2003 at 5 p.m. In addition, the ODF will again accept oral public comments on the proposed changes to these rules at a hearing that will be held at the meeting of the Land Board on October 21, 2003 beginning at 9:00 a.m.

The purpose of this extension is to obtain any new/additional information for consideration by ODF and the State Forester that was not presented at the public hearing that was held on September 9, 2003 or otherwise provided to the Department during the first public comment period (September 1, 2003 through September 19, 2003).

ODF reserves the right to limit the time for public comments at the hearing on October 21, 2003.

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

Rules Coordinator: Gayle Birch

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

Telephone: (503) 945-7210

Stat. Auth.: ORS 526.016(4) & 527.685(4); Other Auth.: ORS 527.687(3), 527.714 & 527.715

Stats. Implemented: ORS 527.685 & 183.310 - 183.550

Proposed Adoptions: 629-001-0055

Proposed Amendments: 629-001-0015, 629-001-0025, 629-001-0040, 629-001-0045

Proposed Repeals: 629-001-0055(T)

Last Date for Comment: 10-28-03

Summary: Adopt OAR 629-001-0055 in which the Board of Forestry delegates certain authorities regarding contested cases to the State Forester.

Amend OAR 629-001-0015 to include the new rule, OAR 629-001-0055, in the range of rule application.

Amend OARs 629-001-0025, 629-001-0040, and 629-001-0045 to change hearing officer to administrative law judge.

Repeal OAR 629-001-0055T.

Rules Coordinator: Gayle Birch

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

Telephone: (503) 945-7210

Stat. Auth.: ORS 477.013 & 477.562; Other Auth.: ORS 526.016 & 526.041

Stats. Implemented: ORS 477.013 & 477.552 - 477.562

Proposed Amendments: 629-043-0041

Last Date for Comment: 11-3-03, 5 p.m.

Summary: This rule amendment would raise the burning fee for piled burns on forest land from \$2.00/acre to \$5.00/acre. The fees would be paid by landowners and land managers who pile and burn forest residue on state/local government, private or federal forestland in western Oregon or in the Deschutes National Forest. Contact Mike Ziolkowski at 503-945-7452 if there are questions about the proposed action.

Rules Coordinator: Gayle Birch

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

Telephone: (503) 945-7210

Stat. Auth.: ORS 527.715; Other Auth.: ORS 526.016(4)

Stats. Implemented: ORS 527.687 & 183.310 - 183.550

Proposed Amendments: 629-670-0300, 629-670-0310, 629-670-0315, 629-672-0210, 629-672-0220, 629-672-0310

Last Date for Comment: 10-28-03

Summary: Amend OAR 629-670-0300 to include the new rule, OAR 629-001-0055, in the range of rule application and to conform with HB 2526 (2003) terminology.

Amend OAR 629-670-0310 to include agency disposition of *prima facie* cases.

Amend OAR 629-670-0315 to conform with HB 2526.

Amend OAR 629-672-0210 to reflect that contested case hearings will be held according to Office of Administrative Hearings' rules and newer agency rules.

Amend OARs 629-672-0220 and 629-672-0310 to conform with Sections 1 to 21, Oregon Laws 1999 and HB 2526 (2003).

Rules Coordinator: Gayle Birch

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

Telephone: (503) 945-7210

NOTICES OF PROPOSED RULEMAKING

Department of Human Services, Child Welfare Programs Chapter 413

Date: 10-21-03
Time: 10:30 a.m.
Location: Rm. 257
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005; Other Auth.: Small Business Job Protection Act of 1996, "Removal of Barriers to Interethnic Adoption" (IEPA); Multiethnic Placement Act of 1994, P.L.104-188; Adoption and Safe Families Act

Stats. Implemented: ORS 418.005

Proposed Amendments: 413-110-0300, 413-110-0310, 413-110-0320, 413-110-0330, 413-110-0340, 413-110-0350, 413-110-0360

Last Date for Comment: 10-31-03

Summary: The Determining the Appropriateness of Adoption rules are being changed to provide clarity on how the decision is made that adoption is the child's permanent plan; provide new time frames for evaluating adoption as a plan when recruitment efforts have not been successful; and require that adoption as a permanent plan be formally determined by six months from the time of the child's placement.

**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, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date: 10-21-03
Time: 9 a.m.
Location: Rm. 257
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005; Other Auth.: CAPTA - Federal Child Abuse Prevention & Treatment Act

Stats. Implemented: ORS 418.005 & 419.370

Proposed Adoptions: 413-010-0748

Proposed Amendments: 413-010-0700, 413-010-0705, 413-010-0712, 413-010-0714, 413-010-0715, 413-010-0716, 413-010-0717, 413-010-0718, 413-010-0720, 413-010-0721, 413-010-0722, 413-010-0723, 413-010-0732, 413-010-0735, 413-010-0738, 413-010-0740, 413-010-0743, 413-010-0745, 413-010-0746, 413-010-0750

Proposed Repeals: 413-010-0719

Last Date for Comment: 10-31-03

Summary: The Notice and Review of Founded Disposition rules are being changed to refine procedures for ensuring the rights of individuals to receive notice and the opportunity to request a review when a child protective services assessment results in a "founded disposition."

**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, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date: 10-21-03
Time: 9:30 a.m.
Location: Rm. 257
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005; Other Auth.: ORS 418.747 & 419.005 - 419B.020

Stats. Implemented: ORS 418.005, 418.747 & 419.005 - 419B.020

Proposed Adoptions: 413-015-0511

Proposed Amendments: 413-015-0115, 413-015-0500, 413-015-0505, 413-015-0510

Last Date for Comment: 10-31-03

Summary: The Child Safety Assessment and Child Safety Planning rules are being changed and will require agency staff to make review assessment of child safety throughout the life of a case and particularly at critical case junctures. They also require development of a child safety plan when a safety threat is identified.

**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, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date: 10-21-03
Time: 1:30 p.m.
Location: Rm. 137B
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Proposed Adoptions: 413-040-0205, 413-040-0215, 413-040-0265

Proposed Amendments: 413-040-0200, 413-040-0210, 413-040-0230, 413-040-0260, 413-040-0270, 413-040-0320, 413-040-0330

Proposed Repeals: 413-040-0220

Proposed Ren. & Amends: 413-040-0250 to 413-040-0325

Last Date for Comment: 10-31-03

Summary: The Interstate Compact on the Placement of Children (ICPC) rules are being changed to clarify how and when the ICPC need to be utilized when any minor is placed across state lines for purposes of a residential, foster, relative or adoptive placement.

**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, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date: 10-21-03
Time: 10:30 a.m.
Location: Rm. 257
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005; Other Auth.: Adoption and Safe Families Act, Indian Child Welfare Act, Title IV-E, P.L. 105.89

Stats. Implemented: ORS 419B.502, 419B.498 & 419B.340

Proposed Amendments: 413-070-0500, 413-070-0505, 413-070-0515, 413-070-0517

Proposed Repeals: 413-070-0510

Last Date for Comment: 10-31-03

Summary: The Achieving Permanency rules are changing to provide clarification of "concurrent planning". Changes have also been made to make these rules easier to read and understand.

(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, Child Welfare Programs, 500 Summer St. NE, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date: 10-21-03
Time: 10:30 a.m.
Location: Rm. 257
500 Summer St. NE
Salem, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Proposed Amendments: 413-110-0100, 413-110-0110, 413-110-0120, 413-110-0130, 413-110-0140
Last Date for Comment: 10-31-03
Summary: The Sibling Placement Planning in Adoption rules are being changed to clearly define Permanency Adoption Council and Permanency Adoption Council Committee. These rules also require DHS staff to invite the child's attorney (if assigned) and the CASA (if assigned) to the child's portion of the presentation.
**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, E48, Salem, OR 97301-1066
Telephone: (503) 945-6067

Date:	Time:	Location:
10-21-03	10:30 a.m.	Rm. 257 500 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005; Other Auth.: Adoptions and Safe Families Act
Stats. Implemented: ORS 418.005
Proposed Adoptions: 413-120-0550
Proposed Amendments: 413-120-0500, 413-120-0510, 413-120-0520, 413-120-0530, 413-120-0540
Last Date for Comment: 10-31-03
Summary: The Current Caretaker for Adoption Planning rules have been changed to provide clarification in these areas: 1) immediate notification to current caretaker of decision not to select current caretaker as the adoption resource; 2) allows discretion for the Department to consider a current caretaker, who has previously declined to be considered an adoptive placement resource for the child, when recruitment has begun for general applications or an adoption committee has been set; 3) time frame for completion of current caretaker study; 4) adoption committee review protocol; and 5) 30-day time-frame for scheduling current caretaker preliminary staffing from the point of child's worker request.
**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, E48, Salem, OR 97301-1066
Telephone: (503) 945-6067

Date:	Time:	Location:
10-21-03	2 p.m.	DHS, Room 137B 500 Summer St. NE Salem, OR

Hearing Officer: Barbara Carranza
Stat. Auth.: ORS 418.005; Other Auth.: OAR 413-210-000 - 413-210-0250
Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998
Proposed Amendments: 413-210-0800, 413-210-0806, 413-210-0821
Last Date for Comment: 10-31-03
Summary: Some refinements need to be made to these rules regarding Outdoor Youth Programs. The advisory committee and staff recommend these revisions after a period of applying these rules. The revisions are related to stating values for regulating outdoor youth programs, licensing requirements related to bonding, insurance, workers compensation and financial stability. Also, a change has been made in the education requirements for outdoor youth program field staff.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Barbara J. Carranza
Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E63, Salem, OR 97301-1067
Telephone: (503) 945-6649

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

Date:	Time:	Location:
10-22-03	10:30 a.m.-12 p.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-120-1295
Last Date for Comment: 10-22-03, 5 p.m.
Summary: The General Rules program Administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Due to a statutory change made by HB 2511 section 16 and HB 3624 section 12, during the 2003 legislative session, 410-120-1295 is being amended to reflect a change in how FCHPs will reimburse non-contracted hospital. Type A and Type B hospital reimbursement will not be changed by this amendment.
**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 97301-1077
Telephone: (503) 945-6927

Date:	Time:	Location:
10-22-03	10:30 a.m.-12 p.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0030
Last Date for Comment: 10-22-03, 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 October 1, 2003, OMAP temporarily amended 410-121-0030 to remove the requirement for physicians to obtain an exception prior to getting a non-Practitioner-Managed Prescription Drug Plan (PMPDP) listed drug, as directed in legislative action.. OMAP will permanently amend this rule on or after November 1, 2003. OMAP will also amend this rule, effective November 1, 2003 to update Table 121-0030-1 and to add four therapeutic drug classes to the Plan drug list. Four previous drug classes will be modified to update the current plan drug list based on approved criteria.
**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 97301-1077
Telephone: (503) 945-6927

NOTICES OF PROPOSED RULEMAKING

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

Date: 10-22-03 **Time:** 1:30 p.m. **Location:** 500 Summer St. NE
Rm. 137D
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 410.070 & 490.050
Stats. Implemented: ORS 427.005 - 427.007 & 430.610 - 430.670
Proposed Repeals: 309-041-0300 - 309-041-0335, 309-041-0375 - 309-041-0480, 309-048-0000 - 309-048-0035
Last Date for Comment: 10-23-03

Summary: OAR Chapter 411, Division 320 is proposed for adoption effective January 1, 2004. The Community Developmental Disability Programs rules are intended to achieve the following: a) consolidate current rules governing the operation of community developmental disability services; b) incorporate requirements for services funded in previous biennia such as regional crisis services, quality assurance activities and relations with Support Services Brokerages; c) clarify services coordinator and support specialist roles and responsibilities in light of new Medicaid Waiver for Support Services for adults with developmental disabilities and the Staley Lawsuit Settlement Agreement; d) implement changes relating to individual support plans for individuals receiving comprehensive services; e) eliminate requirements regarding priority population and changes to a requirement for monitoring based on need and living situation; and f) incorporate quality assurance systems provided for in Oregon's response to the CMS Regional Protocol for Review of Home and Community Based Waiver Services.

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

Rules Coordinator: Pam Rouske
Address: Department of Human Services, Mental Health and Developmental Disability Services, 500 Summer St. NE, E25, Salem, OR 97301
Telephone: (503) 945-6954

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Date: 10-22-03 **Time:** 3 p.m. **Location:** 500 Summer St. NE
Rm. 137D
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 443.400 - 443.455
Proposed Repeals: 309-049-0030 - 309-049-0225
Last Date for Comment: 10-23-03

Summary: OAR Chapter 411, Division 325 is proposed for adoption effective January 1, 2004. The Comprehensive 24-Hour Residential Services for Children and Adults With Developmental Disabilities are proposed to: a) move rules governing 24-Hour Residential Services from Chapter 309 to Chapter 411 to better reflect the organizational structure within the Department; b) implement system improvements by updating rule language to be consistent with current practices and Oregon's response to the CMS Regional Protocol for Review of Home and Community Based Waiver Services; and c) strengthen the Department's ability to take sanctioning activity.

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

Rules Coordinator: Pam Rouske
Address: Department of Human Services, Mental Health and Developmental Disability Services, 500 Summer St. NE, E25, Salem, OR 97301
Telephone: (503) 945-6954

Department of Human Services, Public Health Chapter 333

Date: 10-28-03 **Time:** 2 p.m. **Location:** 800 NE Oregon St.
Rm. 120C
Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 432
Stats. Implemented: ORS 432.146
Proposed Amendments: 333-011-0106
Last Date for Comment: 10-28-03, 5 p.m.

Summary: The amendment of OAR 333-011-0106 increases current vital records fees and establishes new fees. Fees received from the purchase of vital records are the primary source of revenue for the Center of Health Statistics. The Center for Health Statistics is proposing to increase the current vital records fees and implement some new fees to accrue the necessary funds to maintain and improve services for the next 10 years.

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

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

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

Date: 10-22-03 **Time:** 1:30 p.m. **Location:** 500 Summer St. NE
Rm. 137D
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 410.070 & 490.050
Stats. Implemented: ORS 427.005 - 427.007 & 430.610 - 430.670
Proposed Adoptions: Rules in 411-320
Last Date for Comment: 10-23-03

Summary: OAR Chapter 411, Division 320 is proposed for adoption effective January 1, 2004. The Community Developmental Disability Programs rules are intended to achieve the following: a) consolidate current rules governing the operation of community developmental disability services; b) incorporate requirements for services funded in previous biennia such as regional crisis services, quality assurance activities and relations with Support Services Brokerages; c) clarify services coordinator and support specialist roles and responsibilities in light of new Medicaid Waiver for Support Services for adults with developmental disabilities and the Staley Lawsuit Settlement Agreement; d) implement changes relating to individual support plans for individuals receiving comprehensive services; e) eliminate requirements regarding priority population and changes to a requirement for monitoring based on need and living situation; and f) incorporate quality assurance systems provided for in Oregon's response to the CMS Regional Protocol for Review of Home and Community Based Waiver Services.

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

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

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Date: 10-22-03 **Time:** 3 p.m. **Location:** 500 Summer St. NE
Rm. 137D
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 409.050 & 410.070

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 443.400 - 43.455

Proposed Adoptions: Rules in 411-325

Last Date for Comment: 10-23-03

Summary: OAR Chapter 411, Division 325 is proposed for adoption effective January 1, 2004. The Comprehensive 24-Hour Residential Services for Children And Adults With Developmental Disabilities are proposed to: a) move rules governing 24-Hour Residential Services from Chapter 309 to Chapter 411 to better reflect the organizational structure within the Department; b) implement system improvements by updating rule language to be consistent with current practices and Oregon's response to the CMS Regional Protocol for Review of Home and Community Based Waiver Services; and c) strengthen the Department's ability to take sanctioning activity.

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

Rules Coordinator: Pam Rouske

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E25, Salem, OR 97301

Telephone: (503) 945-6954

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Department of Justice
Chapter 137

Date:	Time:	Location:
10-24-03	1:30-2:30 p.m.	1215 State St. NE Salem, OR

Hearing Officer: Mary Schnabel-Bray

Stat. Auth.: ORS 291.047 & 291.049

Stats. Implemented: ORS 291.047 & 291.049

Proposed Adoptions: 137-045-0055

Proposed Amendments: 137-045-0010, 137-045-0015, 137-045-0030, 137-045-0035, 137-045-0050, 137-045-0060, 137-045-0070, 137-045-0080, 137-045-0090

Last Date for Comment: 10-24-03

Summary: Allows more exemptions from the Attorney General's legal sufficiency review of state contracts. Rule-0055 makes new special public contract exemptions available to agencies. Special exemptions are in addition to class exemptions under Rule-0060 and exemptions that apply to all agencies across the board under Rule-0050. Agencies could prioritize types of contracts eligible for special exemption in collaboration with the Attorney General. After responsible agency representatives received training and certification from the Attorney General for certain types of contracts, the contracts would be exempt from Attorney General review so long as they included provisions required to be included and did not include prohibited clauses. Agencies would not be limited to using fill-in-the-blank forms.

Amendments to Rule-0050 provide new and expanded across-the-board exemptions. New exemptions include adoption assistance agreements, contracts prescribed in procurement documents, certain federal contracts, purchase order contracts, and settlement agreements. Exemptions for contract amendments are expanded.

Other amendments streamline the criteria for review of contracts (Rule-0015) and procurement documents (Rule-0035). Amendments to Rules-0080 and-0090 streamline processes for Attorney General approval and agency ratification where services are performed under a contract before legal sufficiency approval. Other streamlining amendments: (1) delegate authority to the Attorney in Charge, Business Transactions Section to approve matters previously required to be approved by the Chief Counsel, General Counsel Division and (2) permit executive officers responsible for public contracts to request approvals previously required to be requested by agency directors.

**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

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341, OL 2003 ch. 75

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.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

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Department of Public Safety Standards and Training
Chapter 259

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-008-0010

Last Date for Comment: 10-31-03

Summary: Makes language consistent with other portions of rule which changed the time for certification for police officers, telecommunications and emergency medical dispatchers to 18 months. Rules may be viewed at DPSST web site: www.dpsst.state.or.us

Rules Coordinator: Mary Gaines

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

Telephone: (503) 378-2100, ext. 2367

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Stat. Auth.: ORS 181.641

Stats. Implemented: ORS 181.641

Proposed Amendments: 259-008-0025

Last Date for Comment: 10-31-03

Summary: Corrects rule regarding vehicle pursuit training and exercises to bring in line with enabling statute. Rules may be viewed at DPSST web site: www.dpsst.state.or.us

Rules Coordinator: Mary Gaines

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

Telephone: (503) 378-2100, ext. 2367

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

Date:	Time:	Location:
10-29-03	9 a.m.	ODOT Bldg. 355 Capitol St. NE Salem, OR

Hearing Officer: Darel Capps

Stat. Auth.: ORS 184.616, 184.619 & 319.010 - 319.430; Other Auth.: OR 2003 Ch. 52 (HB 2211), OR 2003 Ch. 56 (HB 2223), OR 2003 Ch. 113 (HB 2222) & OR 2003 Ch. 307 (HB 2999)

Stats. Implemented: ORS 319.010 - 319.430

Proposed Adoptions: 735-170-0110, 735-170-0120, 735-170-0140

Proposed Amendments: 735-170-0000, 735-170-0010, 735-170-0020, 735-170-0030, 735-170-0050, 735-170-0060, 735-170-0070, 735-170-0090, 735-170-0100, 735-174-0000, 735-174-0010, 735-174-0020, 735-174-0030, 735-174-0040

NOTICES OF PROPOSED RULEMAKING

Proposed Ren. & Amends: 735-174-0050 to 735-170-0045, 735-174-0060 to 735-170-0130

Last Date for Comment: 11-10-03

Summary: Division 170 rules relate to record keeping and reporting requirements for Oregon Motor Vehicle Fuel Dealers. The rule changes establish what constitutes evidence that a dealer did not intend to avoid payment of license taxes for the purposes of establishing required bonding levels; establish a method of notifying license motor vehicle fuel dealers that a dealer's license has been suspended or revoked; establish the process for dealers to submit refund claims for uncollectible accounts; incorporate updated forms and reporting requirements; and replace or delete outdated or unnecessary language. Division 174 rules relate to record keeping and information required to support refund claims for Oregon motor vehicle fuel tax. Amendments relate to new requirements for claiming tax exemption by license dealers for exports of motor vehicle fuel from the State of Oregon. Other amendments are proposed for clarification and 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

Stat. Auth.: ORS 184.616, 184.619 & OR 2003 Ch. 6 Sec. 6

Stats. Implemented: OR 2003 Ch. 6 Sec. 6

Proposed Amendments: 735-070-0130

Last Date for Comment: 11-10-03

Summary: DMV is given authority in ORS 809.410(15), as amended by Chapter 115, Oregon Laws 2003 (HB 2262), to suspend a person's driving privileges if the person causes or contributes to an accident resulting in death to any other person if the department has reason to believe that the person's incompetence, recklessness, criminal negligence or unlawful operation of the vehicle caused or contributed to the accident. OAR 735-070-0130 provides the definitions DMV uses in determining incompetence, recklessness, criminal negligence and unlawful operation of a vehicle. OAR 735-070-0130 is being amended to remove some outdated references and to put the definitions in alphabetical order. ORS 809.410(15)(c) gives DMV authority to determine the length of suspension. DMV proposes to also amend OAR 735-070-0130 to establish the period of one year for the suspension. Chapter 402, Oregon Laws 2003 (SB 245) repeals ORS 809.410 effective January 1, 2004. SB 245 breaks the contents of ORS 809.410 into several new sections of the statute, which have not yet been codified. Therefore, the reference to what was contained in ORS 809.410(15) is cited in this draft rule as "Section 6, Chapter 245, Oregon Laws 2003."

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) 945-5228

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460

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

Proposed Amendments: 735-018-0020, 735-018-0070, 735-018-0080, 735-018-0110

Last Date for Comment: 11-10-03

Summary: Generally, OAR Chapter 735, Division 18 rules describe the procedures, requirements and processes pertaining to the conduct of electronic commerce between DMV and its customers. OAR 735-018-0080 specifies the requirements for using a credit card

or debit card when making a fee payment to DMV within an electronic transaction. DMV proposes to amend the rule to remove references to erroneous data requirements currently specified in subsections (2)(b), (e) and (f) of that rule. More specifically, cardholder phone number, e-mail address and shipping address. DMV's electronic credit card/debit card application was not designed to capture these data. Further, these data are not required by the Oregon Department of Administrative Services, the agency responsible for setting e-commerce payment policy for state agencies. Other non-substantive changes are proposed to Division 18 rules to clarify rule language.

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

Stat. Auth.: ORS 184.616, 184.619, 803.220, 807.420 & 807.560

Stats. Implemented: ORS 803.220, 807.160, 807.220, 807.230, 807.280, 807.400, 807.420 & 807.560

Proposed Amendments: 735-010-0070, 735-062-0110

Last Date for Comment: 11-10-03

Summary: Oregon Laws 2003, Chapter 129, (HB 2215) amends ORS 803.220, 807.420 and 807.560 to give DMV authority to determine by rule the methods and requirements for submitting a change of name or address to the Department. OAR 735-010-0070 is being amended to specify the methods for submitting a change of address. Section (4) of OAR 735-062-0110 is being deleted because the methods for submitting a change of address will be contained in OAR 735-010-0070. Section (3) is also being amended so that the description of "current residence" is consistent with OAR 735-062-0030.

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

Stat. Auth.: ORS 184.616, 184.619, 806.011, 806.012, 806.150, 806.245, 806.380 & 809.450

Stats. Implemented: ORS 806.011, 806.012, 806.150, 806.245, 809.380, 809.405, 809.410(9), 809.410(21) & 809.450

Proposed Amendments: 735-050-0060, 735-050-0062, 735-050-0064, 735-050-0070, 735-050-0080, 735-050-0120

Last Date for Comment: 11-10-03

Summary: Chapter 364, Oregon Laws 2003 (SB 253) changes the wording in statute from "insurance agent" to "insurance producer." These proposed rule amendments include the change from "agent" to "producer." OAR 735-050-0062 and 735-050-0064 are also being amended to clarify what DMV will accept or consider in determining if a person 'reasonably and in good faith' believed he or she was covered by insurance. Other proposed changes are made for clarity.

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

Stat. Auth.: ORS 184.616, 184.619 & 807.050

Stats. Implemented: ORS 802.200, 807.050 & OR 2003, Ch. 610

Proposed Amendments: 735-062-0005

Last Date for Comment: 11-10-03

Summary: Under current law, DMV only collects Social Security Numbers from applicants for commercial driving privileges. This rule is being rewritten in its entirety to implement Section 1, Chap-

NOTICES OF PROPOSED RULEMAKING

ter 610, 2003 Oregon Laws (HB 2783) which requires that an applicant's Social Security Number be recorded on the original application or renewal form for a driver license or permit. The law exempts an individual who has not been issued a Social Security Number if the person submits a written statement to DMV. This rule is also amended to establish the requirements for the written statement.

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

Stat. Auth.: ORS 184.616, 184.619, 807.045, 807.050, 807.070, 807.120, 807.170 & OR 1999, Ch. 91, Sec. 9

Stats. Implemented: ORS 807.031, 807.045, 807.070, 807.120, 807.130, 807.400 & 807.410

Proposed Amendments: 735-062-0075, 735-062-0095

Last Date for Comment: 11-10-03

Summary: Chapter 601 and Chapter 618, Oregon Laws 2003 increased DMV fees and Chapter 14, Oregon Laws 2003 changed the spelling of indorsement to endorsement. The proposed amendments to these rules make the provisions related to payment of fees, the period during which test scores are valid and forfeiture of testing fees applicable to all licenses, permits and endorsements. Proposed amendments also relate to acceptance of another state's test results; the renewal period for identification cards; and other changes to correct spelling and for clarification.

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

Stat. Auth.: ORS 184.616, 814.619, 807.240, 807.252 & 807.270

Stats. Implemented: ORS 025.780, 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.410, 813.520 & 813.602

Proposed Amendments: 735-064-0020, 735-064-0060

Last Date for Comment: 11-10-03

Summary: These rules establish who can apply for a hardship or probationary permit. Section 1, Chapter 204, Oregon Laws 2003 (HB 2263) amended ORS 807.250 so that a person whose driving privileges are suspended due to a notification from a court stating that the person has failed to comply with the court or has failed to appear in the court, will no longer be eligible for a hardship permit. Section 2, Chapter 160, Oregon Laws 2003 (SB 187) amends ORS 807.240 so that DMV may not issue a hardship or probationary permit that allows a person to operate a commercial motor vehicle. The rule amendments are proposed to make the rules consistent with these law changes.

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, 377.725, 377.727 & 377.729

Stats. Implemented: ORS 377.725 & 377.727

Proposed Amendments: 734-060-0025

Last Date for Comment: 11-10-03

Summary: This rule relates to the permitting process for outdoor directional signs. Chapter 126, Oregon Laws 2003 (HB 3151) delet-

ed the requirement for a sign owner to affix a decal to the sign every year. The proposed amendment to this rule deletes the language relating to issuance of a "current permit decal" in section (11). Section (10) is amended to correct terminology.

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

Division of State Lands Chapter 141

Date:
10-23-03

Time:
2-4 p.m.

Location:
Division of State Lands
775 Summer St. NE
Suite 100
Salem, OR 97301

Hearing Officer: Jeff Kroft

Stat. Auth.: ORS 98.302 - 98.436, 98.992, 111 - 119, Enrolled HB 3344, Enrolled SB 64, Enrolled SB 216 & Enrolled SB 311, Sec. 1-26; Other Auth.: ORS 183 & 273

Stats. Implemented: ORS 98.302 - 98.436, 98.992, 111 - 119, Enrolled HB 3344, Enrolled SB 64, Enrolled SB 216 & Enrolled SB 311

Proposed Amendments: Rules in 141-030, 141-035, 141-040, 141-045

Last Date for Comment: 10-31-03, 5 p.m.

Summary: This Notice of Rulemaking Hearing is the second of two concerning this rulemaking action and relates to the addition of one public hearing to receive public input concerning the proposed changes to these rules. The first notice concerning this rulemaking action appeared in the August 2003 issue of the Secretary of State's Oregon Bulletin and announced that the Division of State Lands (DSL) would conduct one public hearing on the proposed rule changes. This hearing was held on September 17, 2003. In that notice DSL stated also that the closing date for public comment would be October 17, 2003 at 5 PM.

By means of this notice, DSL hereby notified persons interested in these proposed rule changes that it is going to hold a second hearing on October 23, 2003, and will extend the public comment period to October 31, 2003 at 5 PM.

The purpose of this additional hearing and extension of the public comment period is to enable as many people interested in these rules as possible to review and comment on them.

**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

Telephone: (503) 378-3805, ext. 239

Date:
10-21-03

Time:
9 a.m.

Location:
So. Slough National Estuarine
Research Reserve Interp. Ctr.
61907 Seven Devils Rd.
Charleston, OR 97420

Hearing Officer: John E. Lilly or designate

Stat. Auth.: ORS 183, 273.045 & 526.816; Other Auth.: OR Constitution, Article VIII, Sec. 2 & 5

Stats. Implemented: ORS 273.522 et seq, 526.801 et seq, 530.450 et seq

Proposed Amendments: 141-016-0010, 141-016-0020

Last Date for Comment: 10-21-03

Summary: This hearing notice is the second of two concerning this rulemaking action and relates to reopening the public comment period for the proposed changes to these rules. The first notice concerning this rulemaking action appeared in the August 2003 issue of

NOTICES OF PROPOSED RULEMAKING

the Secretary of State's Oregon Bulletin. In that notice, DSL announced that the closing date for public comment was September 19, 2003 at 5 PM.

By means of this notice, DSL hereby notifies persons interested in these proposed rule changes that it is reopening the public comment period. DSL will again accept public comment on the proposed changes to these rules from October 1, 2003 through October 14, 2003 at 5 PM. In addition, oral public comments on the proposed changes to these rules will be accepted at a hearing that will be held at the meeting of the Land Board on October 21, 2003, beginning at 9 AM.

The purpose of this extension is to obtain any new/additional information for consideration by DSL and the Land Board that was not presented at the public hearing that was held on September 9, 2003, or otherwise provided to DSL during the first public comment period (September 1, 2003 through September 19, 2003) and that specifically relates to the impact on short and long-term revenue accruing to the Common School Fund if:

- (1) The current rules remain unchanged, or
- (2) The proposed changes are made.

Public comments that do not specifically address the financial impacts to the Common School Fund of the current rules or of the proposed amendments will not be considered by DSL or the Land Board.

The Land Board reserves the right to limit the time for public comments at the hearing on October 21, 2003.

The Oregon Department of Forestry is considering a similar set of amendments that would apply to forest lands owned by the State of Oregon that are not forest trust lands. The Land Board and the Oregon Department of Forestry are coordinating their rulemaking procedures. Any information submitted to one entity will be included in the rulemaking records of both entities. Persons are requested to submit 4 copies of any written comments. The hearing noticed above will be conducted for the Oregon Department of Forestry and for the Land Board. The Land Board and the Oregon Department of Forestry will make independent decisions on their respective rules.

**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

Oregon Department of Education Chapter 581

Date:	Time:	Location:
10-21-03	3 p.m.	255 Capitol St. NE Public Svc. Bldg. Room 251-A Salem, OR

Hearing Officer: Mike Reed

Stat. Auth.: ORS 345.030

Stats. Implemented: ORS 345.030

Proposed Amendments: 581-045-0001, 581-045-0012, 581-045-0018, 581-045-0019, 581-045-0023, 581-045-0026, 581-045-0032, 581-045-0065, 581-045-0068, 581-045-0200

Last Date for Comment: 10-21-03

Summary: The amendments to this rule will reflect ORS changes and streamline the monitoring process for school licensure and regulation.

For questions regarding this rule, please contact Ray Lindley at (503) 378-3600, ext. 2671 or e-mail ray.lindley@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
10-21-03	3 p.m.	Public Svc. Bldg. Rm. 251-A 255 Capitol St. NE Salem OR

Hearing Officer: Mike Reed

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 338.025

Proposed Amendments: 581-020-0341

Last Date for Comment: 10-21-03

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

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

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
10-21-03	3 p.m.	Public Svc. Bldg. Rm. 251-A 255 Capitol St. NE Salem OR

Hearing Officer: Michael V. Reed

Stat. Auth.: ORS 343.465, 343.475 & 343.521

Stats. Implemented: ORS 343.521

Proposed Amendments: 581-015-0972, 581-015-0990

Last Date for Comment: 10-21-03

Summary: The United States Department of Education, Office of Special Education Programs (OSEP) requires these rule changes to ensure that programs for children with disabilities ages three to five comply with Part B of the Individuals with Disabilities Education Act (IDEA).

For questions regarding this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
10-21-03	3 p.m.	Public Svc. Bldg. Rm. 251-A 255 Capitol St. NE Salem OR

Hearing Officer: Mike Reed

Stat. Auth.: ORS 343.464, 343.475, 343.521 & 343.531

Stats. Implemented: ORS 343.521, 343.527, 343.531 & SB 127, 2003

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 581-015-0900, 581-015-0935, 581-015-0938, 581-015-0940, 581-015-0960, 581-015-0964, 581-015-0968, 581-015-0970, 581-015-0980

Last Date for Comment: 10-21-03

Summary: The United States Department of Education, Office of Special Education Programs (OSEP) requires these rule changes to ensure that programs for children with disabilities from birth to age three to comply with Part C of the Individuals with Disabilities Education Act (IDEA).

The amendments to 581-015-0900 Definitions and 581-015-0968 IFSP Meeting and Timelines that limit the six-month review requirements to children under age three are prompted by SB 127. SB 127, effective July 1, 2003, eliminated the state requirement for a six-month review for children age three to five. Parents of children age three to five may still request a review at any time.

For questions regarding this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
10-21-03	3 p.m.	Public Svc. Bldg. Rm. 251-A 255 Capitol St. NE Salem, OR

Hearing Officer: Michael V. Reed

Stat. Auth.: ORS 343.047 & 343.055

Stats. Implemented: ORS 343.221

Proposed Amendments: 581-015-0126

Last Date for Comment: 10-21-03

Summary: Current OARs require private alternative schools registered with the Department of Education to apply separately to be an "approved private school" before enrolling students identified as having a disability. The Department of Education has anecdotal information from various sources suggesting that the current OAR may act as a barrier for students with disabilities to access private alternative schools. The proposed change would eliminate this requirement for registered alternative schools if the District placing the student continues to provide the student's special education services.

For questions regarding this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
10-21-03	3 p.m.	Public Svc. Bldg. Rm. 251-A 255 Capitol St. NE Salem, OR

Hearing Officer: Michael Reed

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.155 & 34 CFR 300.503

Proposed Amendments: 581-015-0075

Last Date for Comment: 10-21-03

Summary: This amendment will bring the current OAR consistent with federal regulations under the Individuals with Disabilities Education Act, Part B, 34 CFR 300.503.

For questions regarding this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

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

Rules Coordinator: Debby Ryan

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

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

Oregon Public Employees Retirement System Chapter 459

Date:	Time:	Location:
10-16-03	11 a.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Yvette Elledge

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238, OL 2003 Ch. 3 & OL 2003 Ch. 97

Proposed Adoptions: 459-007-0003, 459-007-0005, 459-007-0095

Proposed Amendments: 459-007-0070, 459-007-0080, 459-007-0090, 459-007-0300, 459-007-0510

Proposed Repeals: 459-007-0030, 459-007-0100, 459-007-0210, 459-007-0520

Last Date for Comment: 11-26-03

Summary: These new and amended rules under Division 007, Earnings and Interest Distribution, are necessary to conform with the provisions of HB 2001, as amended by HB 2003, effective on July 1, 2003.

OAR 459-007-0003 describes the steps for determining the factor used to credit earnings to Tier One regular accounts. OAR 459-007-0005 describes the process for crediting earnings annually based on current statute and new legislation. OAR 459-007-0095 describes the process for crediting earnings upon Tier One service retirements of members who elect installment payments and a retirement date on or after August 1, 2003, and prior to April 1, 2004. OAR 459-007-0070, 459-007-0080, 459-007-0090 and 459-007-0300 amend language that previously guaranteed earnings for Tier One members based on the assumed interest rate. These rules apply to service and disability retirements, and P&F Unit accounts. OAR 459-007-0510 amends language describing the process for crediting earnings to Employer Contribution Accounts. OAR 459-007-0030, 459-007-0100 and 459-007-0210 are no longer necessary due to the new and consolidated rules and are being repealed. OAR 459-007-0520, pertaining to the distribution of earnings or losses to Employer Contribution Accounts, is being repealed due to the repeal of ORS 238.667 (Employers participating in the Variable Account).

Copies of 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

Oregon State Lottery Chapter 177

Stat. Auth.: ORS 461 & OR Const., Article XV, § 4(4)

Stats. Implemented: ORS 461.213

Proposed Adoptions: 177-091-0000, 177-091-0010, 177-091-0020, 177-091-0030, 177-091-0040, 177-091-0050, 177-091-0060,

NOTICES OF PROPOSED RULEMAKING

177-091-0070, 177-091-0080, 177-091-0090, 177-091-0100, 177-091-0110

Proposed Repeals: 177-082-0100

Last Date for Comment: 10-31-03

Summary: These proposed rules establish the procedures and requirements for Scoreboard, the Lottery's new sports-related lottery game starting September 3, 2003. OAR 177-082-0100 (Ticket Validation and Redemption of Winning Cash Quest Game Ticket) is being suspended because the game ended in 2000 and the expiration date for this rules has been satisfied.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

**Oregon Student Assistance Commission,
 Office of Degree Authorization
 Chapter 583**

Date:	Time:	Location:
10-24-03	10:30 a.m.	1500 Valley River Dr. Suite 100 Eugene, OR 97401

Hearing Officer: Brian Clem, Commission Chair

Stat. Auth.: ORS 348.603

Stats. Implemented: ORS 348.603

Proposed Amendments: 583-040-0005, 583-040-0010, 583-040-0025

Last Date for Comment: 10-24-03

Summary: Revisions to Adverse Impact degree program approval process required by passage of SB 437 (2003). Includes change to timing of process, 180-day decision limit, new standard for approval of programs, and assignment of cost to participant schools. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Susan Taylor

Address: Student Assistance Commission, Office of Degree Authorization, 1500 Valley River Dr. #100, Eugene, OR 97401

Telephone: (541) 687-7443

Date:	Time:	Location:
10-24-03	11 a.m.	1500 Valley River Dr. Suite 100 Eugene, OR 97401

Hearing Officer: Brian Clem

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.603, 348.609 & 348.992

Proposed Adoptions: 583-050-0040

Proposed Amendments: 583-050-0006, 583-050-0011, 583-050-0016, 583-050-0031

Proposed Repeals: 583-050-0021

Last Date for Comment: 10-24-03

Summary: Revisions to definitions of school types to classify degree-issuing entities as standard, substandard, or diploma mill. Establishment of fee schedule for degree validations and school information pursuant to SB 437 (2003) and actions on ODA budget by legislature. Includes other minor technical changes. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Susan Taylor

Address: Student Assistance Commission, Office of Degree Authorization, 1500 Valley River Dr. #100, Eugene, OR 97401

Telephone: (541) 687-7443

Date:	Time:	Location:
10-24-03	11 a.m.	1500 Valley River Dr. Suite 100 Eugene, OR 97401

Stat. Auth.: ORS 183, 348, 348.594 & 348.606

Stats. Implemented: ORS 348, 348.594, 348.603, 348.606 & 348.612

Proposed Amendments: 583-030-0010, 583-030-0020, 583-030-0035, 583-030-0041, 583-030-0042, 583-030-0046

Last Date for Comment: 10-24-03

Summary: Revises process for religious exempt approvals pursuant to opinion of Attorney General. Raises fees charged by ODA for program reviews and evaluations. Makes technical corrections.

Rules Coordinator: Susan Taylor

Address: Student Assistance Commission, Office of Degree Authorization, 1500 Valley River Dr. #100, Eugene, OR 97401

Telephone: (541) 687-7443

**Oregon University System
 Chapter 580**

Date:	Time:	Location:
10-23-03	9-10 a.m.	Rm. 358 Susan Campbell Hall, UO Eugene, OR

Hearing Officer: Jim Arnold, Senior Residency Officer

Stat. Auth.: ORS 240 & 351.070

Stats. Implemented: ORS 240 & 351.070

Proposed Amendments: 580-010-0029 - 580-010-0045

Last Date for Comment: 10-28-03

Summary: 580-010-0029: Clarifies and expands definitions of "domicile," financially independent person," and "dependent person."

580-010-0030: Clarifies and expands language relating to determination of residence.

580-010-0031: Clarifies and expands language relating to residency consideration factors.

580-010-0033: Further clarifies evidence of financial dependency.

580-010-0035: Makes permanent the temporary rule change (adopted by the Board of Higher Education on July 18, 2003) that provides compliance with SB 525, which was signed by the Governor, and became effective on June 6, 2003. Also amends language pertaining to residence classification of military members recently released from service.

580-010-0037: Provides for the inclusion of enrolled members of the Yurok Tribe (of California) as a group eligible for Oregon residency.

580-010-0040: Modifies the eligibility for Oregon residency based on a non-citizen's visa status (based on recent changes and interpretations of immigration law).

580-010-0041: Amends language relating to changes in residence classification.

580-010-0045: Amends language relating to the appeals process. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: W. Alayne Switzer

Address: Department of Higher Education, PO Box 3175, Eugene, OR 97403-0175

Telephone: (541) 346-5795

**Oregon Watershed Enhancement Board
 Chapter 695**

Date:	Time:	Location:
10-20-03	1-2 p.m.	Deschutes Co. Administration Building Hearing Rm. 1130 NW Harriman Bend, OR
10-20-03	5:30-6:30 p.m.	Harney Co. Courthouse Meeting Rm., Basement 450 N. Buena Vista Burns, OR

NOTICES OF PROPOSED RULEMAKING

10-21-03 1-2 p.m. Umatilla Co. Courthouse
Conference Rm. 22
216 SE 4th
Pendleton, OR

10-21-03 5:30-6:30 p.m. Agricultural Service Center
Conference Rm.
Wasco SWCD
2325 River Rd. Ste. 3
The Dalles, OR

10-22-03 10-11 a.m. State Land Board Rm.
Conference Rm.
775 Summer St. NE
Salem, OR

10-22-03 5:30-6:30 p.m. Oregon Dept. Fish & Wildlife
Conference Rm.
4192 N. Umpqua Hwy.
Roseburg, OR

10-23-03 11 a.m.-12 p.m. Coos Bay Public Library
Conference Rm.
525 W. Anderson Ave.
Coos Bay, OR

10-23-03 5:30-6:30 p.m. People's Utility District
Carl Rawe Meeting Rm.
1115 Pacific Ave.
Tillamook, OR

Hearing Officer: Melissa Leoni, Wendy Hudson
Stat. Auth.: ORS 541.380(1) & 541.380(2)(a)

Stats. Implemented: ORS 541

Proposed Adoptions: Rules in 695-020

Proposed Amendments: Rules in 695-020

Last Date for Comment: 11-3-03

Summary: The rules will amend existing administrative rules for a locally administered small grant program. Amending the existing small grant program rules responds to a need to refine and improve the current program. A public comment period for the proposed administrative rules changes to the small grant program will begin on October 15, 2003, and end on November 3, 2003. To request a copy of the proposed rules, please call or email Bonnie King at (503) 986-0181, or BonnieKing@state.or.us, beginning October 15, 2003, or log-on to OWEB's website at www.oweb.state.or.us. You may also mail a request for a copy of the proposed rules to Bonnie King, OWEB, Small Grant Rules, 775 Summer Street NE, Suite 360, Salem, OR 97301.

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

Rules Coordinator: Bonnie King

Address: Oregon Watershed Enhancement Board, 775 Summer St. NE, Suite 360, Salem, OR 97301-1290

Telephone: (503) 986-0181

Parks and Recreation Department
Chapter 736

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.605(1), 390.650(3), 390.674, 390.676 & 390.992

Proposed Amendments: 736-020-0002, 736-020-0003, 736-080-0010

Last Date for Comment: 10-21-03

Summary: The proposed rule amendments to OAR 736-020-0002(9) and 736-080-0010(8) will amend the definition of "improvement" in both rule divisions to reflect the statutory definition in ORS 390.605(1). The amendment in both cases will change the definition wording from "Improvement means" to "Improvement includes." The amendment to OAR 736-020-0003(5) will delete language currently providing for the department to conduct a public hearing on an ocean shore application on the director's initiative.

Rules Coordinator: Angie Springer

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

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

Public Utility Commission
Chapter 860

Date: 10-28-03 **Time:** 9 a.m. **Location:** Public Utility Commission
Main Hearing Rm., 1st Floor
550 Capitol St. NE
Salem, OR

Hearing Officer: Tom Barkin, Admin. Law Judge

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.015 & 759.030

Proposed Adoptions: 860-032-0510, 860-032-0520

Proposed Repeals: 860-035-0010, 860-035-0020, 860-035-0030, 860-035-0040, 860-035-0050, 860-035-0060, 860-035-0070, 860-035-0080, 860-035-0090, 860-035-0100, 860-035-0110, 860-035-0120, 860-035-0130

Last Date for Comment: 10-21-03

Summary: OAR 860-032-0510 specifies how telecommunications carriers may use and disclose Customer Proprietary Network Information (i.e., details of each customer's service).

OAR 860-032-0520 specifies how telecommunications carriers request and transmit Customer Service Record information from one carrier to another when a customer seeks to change service from one carrier to another.

Division 035, proposed for repeal, specifies rules for Open Network Architecture.

A hearing is scheduled for October 28, 2003. Written comments for the hearing are due October 21, 2003.

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

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.490 & 757.495

Proposed Adoptions: 860-027-0048

Proposed Amendments: 860-038-0580

Last Date for Comment: 10-21-03

Summary: The proposed rule affirms the Commission's Transfer Pricing Policy for Affiliated Transactions (Allocation of Costs) for energy utilities. The rule states how transactions between energy (electric, natural gas and steam heat) utilities and their non-regulated affiliates are to be accounted for and recorded in financial records. The proposed rule includes methods for cost allocations by energy utilities and will require energy utilities to submit Cost Allocation Manuals to the Commission. The amended rule removes text and refers to the proposed rule.

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

Stat. Auth.: ORS 757.039

Stats. Implemented: ORS 757.039

Proposed Amendments: 860-024-0020, 860-024-0021

Last Date for Comment: 10-21-03

Summary: The proposed rules adopt the US Department of Transportation (USDOT) amendments associated with the construction, operation and maintenance of intrastate gas pipelines and liquefied natural gas facilities. The amendments being adopted are from the Code of Federal Regulations, Title 49, Part 192 (seven amendments), Part 193 (one amendment) and Part 199 (one amendment).

Pursuant to ORS 757.039(3), the Commission has agreements with USDOT that Oregon PUC will adopt current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. This rulemaking is necessary to make

NOTICES OF PROPOSED RULEMAKING

OPUC's gas safety rules current with the federal gas pipeline safety regulations.

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

Stat. Auth.: ORS 183.335 & OL 2003, Ch. 234 (SB 205)

Stats. Implemented: OL 2003, Ch. 234 (SB 205)

Proposed Adoptions: 860-017-0050, 860-017-0100

Last Date for Comment: 10-21-03

Summary: The Oregon Legislative Assembly enacted OR Laws 2003, Ch. 234 (Senate Bill 205). This law provides for a program by

which intervenors participating in certain Commission regulatory proceedings can receive financial assistance. This statute authorizes the Commission to approve written agreements for intervenor funding grants between electric and natural gas utilities and organizations representing broad customer interests. Proposed OAR 860-017-0050, details the requirements for an intervenor to be certified as eligible for an intervenor funding grant. Proposed OAR 860-017-0100, explains how and why certification could be canceled and the consequences of such action.

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

ADMINISTRATIVE RULES

Board of Medical Examiners Chapter 847

Adm. Order No.: BME 14-2003(Temp)

Filed with Sec. of State: 9-9-2003

Certified to be Effective: 9-9-03 thru 3-1-04

Notice Publication Date:

Rules Amended: 847-020-0170

Subject: The Temporary administrative rules allow a waiver of the licensing requirement that if an applicant took the licensing examination combinations (National Board of Medical Examiners, FLEX, and USMLE) they must have been completed by the year 2000, at which time USMLE became the single medical licensing examination. The waiver is only allowed for applicants who participated in a combined MD/DO/PhD program.

Rules Coordinator: Diana M. Dolstra—(503) 229-5873, ext. 223

847-020-0170

Written Examination, SPEX Examination and Personal Interview

(1) After complying with OAR 847-020-0110 through 847-020-0200 the applicant applying for licensure must have passed one of the following examination combinations:

(a) Part I of the National Board of Medical Examiners examination or Step 1 of the USMLE, Part II of the National Board of Medical Examiners examination or Step 2 of the USMLE, and Part III of the National Board of Medical Examiners examination or Step 3 of the USMLE or Component 2 of the FLEX examination. The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components must be administered prior to January 2000, except for applicants who participated in a combined MD/DO/PhD program; or

(b) Component 1 of the FLEX examination and Step 3 of the USMLE. A score of 75 or above must be achieved on Component 1 and the score achieved on Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score. The Component and Step must have been administered prior to January 2000, except for applicants who participated in a combined MD/DO/PhD program; or

(c) USMLE Steps 1, 2, and 3. All three Steps must be passed within a seven-year period which begins when the first Step, either Step 1 or Step 2, is passed. The applicant must have passed each step within three attempts within the seven-year period, or they are disqualified. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score. Applicants who have not passed all three Steps within the seven-year period may request an exception to the seven-year requirement if their education was delayed due to personal illness or their participation in an MD/DO/PhD program.

(2) Step 3 of the USMLE may be taken during the first year of postgraduate training, or after the first year of postgraduate training has been completed. A Limited License, Postgraduate will be required for training beyond the postgraduate 1 level if the USMLE is not yet passed.

(3) The applicant will not be allowed to take the USMLE for this state nor apply for licensure in this state if the FLEX has been previously failed four or more times.

(4) The applicant must have passed the written examination (FLEX) under the following conditions:

(a) The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Component 1 and Component 2), first administered in June 1985, was not required to take both Components 1 and 2 of the FLEX examination at one sitting. Both must have been passed within seven years of the first attempt.

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United State or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

(5) The applicant may also be required to pass the Special Purpose Examination (SPEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health Sciences University; and

(d) Has not ceased the practice of medicine for a period of 12 or more consecutive months. The SPEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed an accredited one year residency; or

(B) Completed an accredited or Board approved one year clinical fellowship; or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(D) Obtained continuing medical education to the Board's satisfaction.

(6) The applicant, who fails the SPEX examination three times, whether in Oregon or other states, shall successfully complete an accredited one year residency or an accredited or approved one-year clinical fellowship before retaking the SPEX.

(a) However, after the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall submit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to examinee's. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(7) The Limited License, SPEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the Special Purpose Examination are available and the applicant completes the initial registration process. The Limited License, SPEX would become invalid should the applicant fail the SPEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(8) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the (application). The interview shall be conducted during a regular meeting of the Board. An applicant who fails to cancel a scheduled interview at least one week prior to such interview, or who confirms and does not appear, shall be rescheduled only after paying a rescheduling fee prior to the filing deadline date.

(9) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04

Board of Optometry Chapter 852

Adm. Order No.: OPT 2-2003

Filed with Sec. of State: 9-15-2003

Certified to be Effective: 1-1-04

Notice Publication Date: 7-1-03

Rules Amended: 852-070-0010, 852-070-0060

ADMINISTRATIVE RULES

Subject: 852-070-0010, 0060 - Amends the requirements for continuing education for optometrists.

Rules Coordinator: David W. Plunkett—(503) 373-7721, ext. 23

852-070-0010

Requirement of Continuing Optometric Education

(1) Every active status licensed doctor of optometry shall complete not less than eighteen (18) hours of clinical optometric courses each license year as a condition of license renewal. Credit towards the required hours shall be allowed in a succeeding license year for excess hours taken in the preceding license year. Continuing education hours will cover 12-month periods and be reported with license renewal applications.

(a) No less than nine (9) hours of the required hours per license year shall be in the area of diagnosis, treatment and management of ocular disease.

(b) Beginning with the 2005 license renewal year, no less than one (1) hour of the required hours every other license year shall be in the area of ethics or Oregon law and administrative rules.

(c) Credit will only be given for five (5) hours of live observation in a surgical facility per license year.

(d) Credit will only be given for up to one half of the required hours of coursework in internet, journal, or video courses.

(2) The required hours of courses and lectures per license year shall be of different course content. When the Board determines that a licensee has submitted a course or lecture essentially identical to another presentation submitted in the same license renewal period, credit will be given for only one.

Stat. Auth.: ORS 683 & ORS 182

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

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 1-1978, f. & ef. 1-25-78; OE 1-1984, f. & ef. 1-13-84; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 3-1993, f. & cert. ef. 10-27-93; OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2003, f. 9-15-03, cert. ef. 1-1-04

852-070-0060

COPE Approved Continuing Optometric Education Courses

(1) The Oregon Board of Optometry accepts courses related to the maintenance or advancement of professional skills and clinical abilities approved by COPE (Council on Optometric Practitioner Education). If such a course has been COPE approved, the Board shall accept the course as meeting its continuing education requirements for license renewal excepting Category D. as indicated in (4) below.

(2) COPE course category A. — Clinical Optometry which includes Contact Lenses (CL), Functional Vision/Pediatrics (FV), General Optometry (GO), and Low Vision (LV).

(3) COPE course categories B. — Ocular Disease and C. — Related Systemic Disease are approved as meeting the Board's nine (9) hours per license year requirement of continuing optometric education in the area of diagnosis, treatment and management of ocular disease.

(a) Category B. — Ocular Disease includes Glaucoma (GL), Peri-Operative Management of Ophthalmic Surgery (OS), Refractive Surgery Management (RS), Treatment and Management of Ocular Disease: Anterior Segment (TA), and Treatment and Management of Ocular Disease: Posterior Segment (TP).

(b) Category C. — Related Systemic Disease includes Neuro-Optometry (NO), Pharmacology (PH), Principles of Diagnosis (PD), and Systemic/Ocular Disease (SD).

(4) COPE course category D. which includes Practice Management (PM) and Jurisprudence (JP) are not approved by the Oregon Board of Optometry, unless it is an ethics course. Ethics courses are approved by the Board.

(5) It is the responsibility of the licensee to make sure that any continuing optometric education coursework submitted for credit has been approved by the Board or COPE.

(6) The Oregon Board of Optometry will review the COPE criteria for course category definitions to determine if the process and categories are within the standards it has set. Those COPE category definitions not acceptable to the Board will be identified to COPE and listed in the Board's administrative rules.

Stat. Auth.: ORS 683 & ORS 182

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

Hist.: OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OP 2-1996, f. 10-30-96, cert. ef. 11-1-96; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2003, f. 9-15-03, cert. ef. 1-1-04

Adm. Order No.: OPT 3-2003

Filed with Sec. of State: 9-15-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 852-080-0040

Subject: 852-080-0040 - Amends the CPR requirements for non-topical certification.

Rules Coordinator: David W. Plunkett—(503) 373-7721, ext. 21

852-080-0040

Certification to Use Pharmaceutical Agents

(1) DPA Certification — Prior to using diagnostic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon must:

(a) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Diagnostic Pharmaceutical Agents"

(2) Topical TPA Certification for active status licensee - Prior to using topical therapeutic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD) or have passed, within five years of application to the Board for topical TPA certification, a 100 hour TPA course approved by the Board,

(b) Pay a \$75 TPA examination and licensure fee for topical TPA certification, and

(c) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical Therapeutic Pharmaceutical Agents".

(3) Topical TPA Certification for inactive status licensee — Any doctor of optometry licensed in Oregon in inactive status must:

(a) Pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD) or have passed a 100 hour TPA course approved by the Board and have been continuously practicing using therapeutic pharmaceutical agents in another state or states without disciplinary incident,

(b) Pay a \$75 TPA examination and licensure fee for topical TPA certification, and

(c) Receive a certificate from the Oregon Board of Optometry indicating "Certified to use Topical Therapeutic Pharmaceutical Agents".

(4) Nontopical TPA Certification for active status licensee — Prior to using nontopical therapeutic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Meet all criteria for Topical TPA Certification in OAR 852-080-0040(2),

(b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination,

(c) Pass a Nontopical TPA workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

(d) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification,

(e) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents"; and

(f) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This requirement shall be effective October 1, 2003 or upon the expiration of a current CPR certification held by a licensee already certified for nontopical certification by the Board.

(5) Nontopical TPA Certification for inactive status licensee - Any doctor of optometry licensed in Oregon in inactive status must:

(a) Meet all criteria for Topical TPA Certification in OAR 852-080-0040(3),

(b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination,

(c) Pass a Nontopical TPA workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

(d) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification,

ADMINISTRATIVE RULES

(e) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents"; and

(f) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This requirement shall be effective October 1, 2003 or upon the expiration of a current CPR certification held by a licensee already certified for nontopical certification by the Board.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.270 & ORS 182.466

Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 2-1999, f.12-29-99, cert. ef.1-1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 3-2003, f. 9-15-03, cert. ef. 10-1-03

Department of Administrative Services Chapter 125

Adm. Order No.: DAS 4-2003

Filed with Sec. of State: 9-8-2003

Certified to be Effective: 9-8-03

Notice Publication Date: 5-1-03

Rules Adopted: 125-055-0005, 125-055-0010, 125-055-0015, 125-055-0020, 125-055-0025, 125-055-0030, 125-055-0035, 125-055-0040, 125-055-0045

Rules Repealed: 125-030-0015

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

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

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

Rules Coordinator: Mary Unger—(503) 378-2349 ext 320

125-055-0005

Definitions for Purchasing Policies Governing the Acquisition of Goods and Services from Qualified Rehabilitation Facilities

(1) As used in OAR 125-055-0005 to 125-055-0045:

(a) "Accredited Vocational Consultant" means an individual who is accredited as:

(A) A Certified Rehabilitation Counselor (CRC) by the Certification of Disability Management Specialists Commission;

(B) A Certified Insurance Rehabilitation Specialist (CIRS) by the Certified Insurance Rehabilitation Specialist Commission; or

(C) A Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(b) "Agency" means a public agency, as defined in ORS 279.011(7).

(c) "Competitive Employment" means work performed by an individual in the competitive labor market on a full-time basis with no more than reasonable accommodation (as required by the Americans with Disabilities Act, 42 USC §§12101 to 12213) for which the individual is compensated within the range of customary wages and levels of benefits paid in the community for the same or similar work performed by individuals who are not disabled.

(d) "Disabled Individual," as defined in ORS 279.835(3), means a person who has a physical or mental impairment (a residual, limiting condition resulting from an injury, disease or congenital defect) that so limits

the person's functional capabilities (such as mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is not able to engage in normal competitive employment over an extended period of time and, as a result, must rely on the provision of specialized employment opportunities by qualified nonprofit agencies for disabled individuals.

(e) "Price" means the cost to Agencies of the products and services under contracts procured under the Products of Disabled Individuals Law, as determined under OAR 125-055-0030.

(f) "Procurement List" means a listing of those nonprofit agencies for Disabled Individuals that currently are qualified, under OAR 125-055-0015, to participate in the program created by ORS 279.835 to 279.850 and includes, as required by ORS 279.850(1), a list of the products and services offered by QRFs and determined by the State Procurement Office, under OAR 125-055-0020, to be suitable for purchase by Agencies.

(g) "QRF" means an activity center or rehabilitation facility, certified as a community rehabilitation program or as a vocational service provider through the Oregon Department of Human Services, that the State Procurement Office has determined to be qualified under OAR 125-055-015.

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

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

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

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0010

Policy

(1) As required by ORS 279.850(1), Agencies that intend to procure a product or service that is listed on the Procurement List must procure that product or service, at the Price determined by the State Procurement Office, from a Qualified Rehabilitation Facility if the product or service is of specifications appropriate to the Agency's procurement needs and is available within the time required by the Agency.

(2) It is the policy of the Department to assist Qualified Rehabilitation Facilities (hereinafter referred to as QRFs) by administering a program to:

(a) Identify contracting opportunities in the public sector for QRFs;

(b) Ensure that QRF programs meet the standards set forth in ORS 279.835 to 279.850; and

(c) Assist and facilitate Agencies in entering into contractual relationships with QRFs for the provision of products and services.

(3) In administering the program created by ORS 279.835 to 279.850, the State Procurement Office, Agencies and QRFs shall keep in mind the purpose of the law: to encourage and assist disabled individuals to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and constant market for sheltered workshop and activity center products and services.

(4) In promoting the policy of this section and ORS 279.850(2), the Chief Procurement Officer may appoint uncompensated volunteer members to serve on an advisory council for purchases from qualified rehabilitation facilities to review available information on QRF programs and to make recommendations to the Chief Procurement Officer concerning the facilitation and administration of the program under ORS 279.835 to 279.850. The Chief Procurement Officer's authority to appoint advisory council members includes the authority to remove and replace members in the Chief Procurement Officer's sole discretion. Meetings of the advisory council for purchases from qualified rehabilitation facilities are not subject to the public meetings law (ORS 192.610 to 192.710). However, to facilitate attendance by members of the public, the State Procurement Office will post, at least two business days prior to each meeting, notice of the times and places of meetings of the advisory council on a web-site maintained by the State Procurement Office. However, the State Procurement Office reserves the right to change the meeting time and place after the posting of notice of a meeting to address scheduling needs or for the convenience of participants.

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

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

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0015

Application for QRF Participation

(1) Initial Application. A nonprofit activity center or rehabilitation facility that seeks to participate in the program created by ORS 279.835 to 279.850 must submit a completed application to the State Procurement Office on forms prescribed by the State Procurement Office.

(2) Subsequent Annual Reapplications.

(a) A QRF that seeks to continue participation in the program after having initially been approved as qualified and placed on the Procurement List under this rule must submit a completed reapplication to the State

ADMINISTRATIVE RULES

Procurement Office each year on forms prescribed by the State Procurement Office. The QRF must submit the reapplication within 120 calendar days of the close of the QRF's fiscal year.

(b) All QRFs who have had, in the previous fiscal year of the QRF, contracts with Agencies that yielded payments to the QRF that in the aggregate exceeded \$20,000 (Twenty Thousand Dollars) in that fiscal year, must also submit the audit report required by OAR 125-055-0035 for that fiscal year with their annual reapplications. A QRF who must file an annual reapplication must submit the reapplication, together with the audit report, within 120 days of the close of the QRF's fiscal year.

(3) The information to be submitted on or as part of the application or annual reapplication must contain all information required by the application or reapplication form, including:

(a) Corporate or organizational information, including legal name, business or mailing address and other information to permit communication with the organization, name of the executive director or other chief managing officer, federal tax identification number and documentation of the organization's status as a nonprofit entity.

(b) Information concerning the organization's status as an activity center or rehabilitation facility that is certified as a community rehabilitation program or as a vocational service provider through the Oregon Department of Human Services.

(c) Information concerning the organization's certification status under the federal Javits-Wagner-O'Day Act program operated under 41 USC §§46 to 48c.

(d) For initial applications, information concerning the organization's employment of Disabled Individuals during the organization's last fiscal year, if the organization has operated as a QRF throughout the last fiscal year, including information sufficient to determine whether the organization qualifies or will qualify as a nonprofit agency for Disabled Individuals under the direct labor requirement of ORS 279.835(5). If the applicant has not operated as a QRF throughout its last fiscal year, then the applicant must submit information concerning its planned employment of Disabled Individuals in the next fiscal year of the applicant, including the measures it will take to ensure that the applicant will comply with the direct labor requirement of ORS 279.835(5) in the next fiscal year of the applicant.

(A) To qualify under this subparagraph, an applicant is required, during the applicant's fiscal year, to employ Disabled Individuals for not less than 75 percent of the total work hours of direct labor required for the manufacture or provision of the products or services produced by the applicant. The 75 percent direct labor requirement need not be met with respect to each product or service provided by the applicant, or with respect to each contract the applicant enters into under this program.

(e) If the applicant has contracts with Agencies that yield payments to the applicant that in the aggregate exceed \$20,000 (Twenty Thousand Dollars) in the applicant's fiscal year, information concerning whether the applicant has had an independent audit of the applicant's direct labor and, if so, the date of the most recently conducted audit and a true and correct copy of the audit report. An applicant who must submit an annual reapplication must submit a true and correct copy of the audit report for the preceding fiscal if the applicant's contracts exceeded the \$20,000 threshold in that fiscal year.

(f) A listing of all contracts that exceed \$500 (Five Hundred Dollars) the applicant has with Agencies that includes the identity of each contracting Agency, the type of product or service provided under each contract, the annual contract amount for each contract year and the estimated contract amount for the current contract year.

(g) Certifications by an authorized officer of the applicant that:

(A) The applicant qualifies as a "nonprofit agency for disabled individual" as defined in ORS 279.835;

(B) All individuals claimed to be employed as Disabled Individuals by the applicant have been determined to be Disabled Individuals as documented by information maintained by the applicant in its file on each such individual.

(C) The applicant complies with all applicable occupational health and safety standards required by the laws of the United States or of the State of Oregon.

(D) The applicant will conduct an annual direct labor audit by an independent certified public accountant to determine the applicant's compliance with ORS 279.835(5)(c), if the payments to the applicant under Agency contracts in the aggregate exceed \$20,000 (Twenty Thousand Dollars) annually;

(E) The applicant will comply, if any of its products or services are placed on the Procurement List, with the applicable requirements of ORS 279.835 to 279.850 and OAR 125-055-0005 to 125-055-0040; and

(F) The applicant has submitted no false or misleading information in connection with the application and will submit no false or misleading information in connection with the submission of information concerning the applicant's continuing qualifications to maintain the listing of its products or services on the Procurement List.

(4) The State Procurement Office will evaluate each application submitted by an entity seeking a determination of its QRF status and addition to the Procurement List. The State Procurement Office reserves the right to require applicants to provide information in addition to the information required by this rule that is pertinent to making the determination whether an applicant is qualified.

(5) In conducting the evaluation, the State Procurement Office will consider the particular facts and circumstances in each case to determine whether the applicant is qualified for QRF status and addition to the Procurement List under the following standards:

(a) The applicant must be organized under the laws of the United States or of the State of Oregon and must be operated in the interest of Disabled Individuals;

(b) The net income of the applicant must not inure, in whole or in part, to the benefit of any shareholder or other individual;

(c) The applicant must comply with all applicable occupational health and safety standards required by the laws of the United States or of the State of Oregon; and

(d) The applicant must satisfy the direct labor requirement of ORS 279.835(5) or, in the case of a start-up applicant, demonstrate that it will satisfy the direct labor requirement of ORS 279.835(5) in the ensuing fiscal year of the applicant.

(6) If the State Procurement Office determines that the entity is qualified, it shall send notice of QRF status to the applicant and add the applicant to the Procurement List. If the State Procurement Office does not find the applicant qualified for QRF status, it shall reject the application and notify the applicant in writing of the criteria the applicant did not satisfy or adequately demonstrate.

(7)(a) Within thirty (30) calendar days from the date of the State Procurement Office's notice of the rejection of an application or reapplication, the applicant may appeal the decision by submitting a written appeal to the State Procurement Office. The appeal shall include a copy of the State Procurement Office's notice and shall state the applicant's grounds for appealing the decision. If the applicant does not appeal the State Procurement Office's decision within the 30-day period from the date of the State Procurement Office's notice of the rejection of the application or reapplication, the applicant shall not be placed on the Procurement List or, in the case of a reapplication, on the 31st day, the applicant shall be removed from the Procurement List.

(b) On appeal, if the State Procurement Office determines that the applicant is then qualified, it shall send the applicant notice of qualification for QRF status and add the applicant to the Procurement List. If the State Procurement Office does not find the applicant qualified, it shall provide the applicant a written decision that states the reasons for that determination and that denies the applicant placement on the Procurement List or, in the case of a reapplication, removes the applicant from the Procurement List. The State Procurement Office's written decision under this subsection constitutes a final order under ORS 183.484.

(8) The State Procurement Office may re-evaluate the decision to grant approval for QRF status if the State Procurement Office discovers pertinent information that was not available when the initial decision was made. If the State Procurement Office determines that there is sufficient cause to revoke QRF status, it shall issue notice to cure to the QRF. If the QRF does not satisfactorily effect cure within 30 calendar days of the date of the State Procurement Office's notice or such longer time as may be permitted by the State Procurement Office, the State Procurement Office may then initiate proceedings to revoke QRF status by providing written notice of the proposed revocation and removal of the entity from the Procurement List. An entity may appeal the notice to cure or the proposed revocation and removal by submitting a written appeal to the State Procurement Office in the manner provided in subsection (7) of this rule.

(9) If a QRF is removed from the Procurement List under subsections (5) to (8) of this section, no Agency shall award or renew a contract made with that QRF under ORS 279.835 to 279.850, and the removal from the Procurement List shall constitute sufficient grounds for an Agency to terminate any outstanding contract with the QRF that was established under ORS 279.835 to 279.850. The State Procurement Office will post, on a web-site or other accessible on-line posting address administered through the State Procurement Office, notice of the removal of a QRF from the Procurement List.

ADMINISTRATIVE RULES

(10) Nothing in this rule shall be construed as prohibiting the State Procurement Office and an applicant or QRF from resorting to informal dispute resolution measures such as non-binding arbitration or mediation in addition to the appeal procedures prescribed by subsections (7) and (8) of this rule.

(11) The State Procurement Office will publish and maintain a Procurement List that identifies the nonprofit activity centers and rehabilitation facilities the State Procurement Office determines, under this section, to be qualified to participate in the program. The State Procurement Office shall distribute this Procurement List or make it available, electronically or otherwise, to all Agencies.

(12) After a denial or revocation of an applicant's or QRF's qualified status and listing on the Procurement List, the applicant or QRF may reapply only after one year from the date the denial or revocation determination became final.

(13) Once listed on the Procurement List, a QRF will remain listed, subject to the State Procurement Office's re-examination of the QRF's qualified status each year, based on the information provided with the QRF's annual reapplication. Additionally, the State Procurement Office may terminate the listing under the procedures provided by this rule as the result of the State Procurement Office's discovery of pertinent information that was not available when the initial, or any subsequent reapplication decision was made, or if the QRF ceases to do business as a QRF.

Stat. Auth.: ORS 279.845(1), ORS 184.340
Stats. Implemented: ORS 279.015 (1)(b), ORS 279.835 - ORS 279.855
Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0020

Determination of Suitability of Product or Service

(1) The State Procurement Office will publish and maintain a Procurement List that identifies the products and services of QRFs the State Procurement Office has determined to be suitable for procurement by Agencies under this section. No Agency shall enter into or renew a contract under the QRF program created by ORS 279.835 to 279.850 for products or services that are not on the Procurement List. No QRF shall offer to contract to provide, or renew any contract to provide, under the program created by ORS 279.835 to 279.850, products and services that are not on the Procurement List.

(2) A QRF proposing to offer one or more products or services under ORS 279.835 to 279.850 shall deliver a written request to the State Procurement Office that specifies the products or services proposed to be offered.

(3) For a product or service to be suitable for addition to the Procurement List, each of the following criteria must be satisfied:

(a) Qualified Rehabilitation Facility (QRF). A QRF proposing to furnish a product or service must be a qualified nonprofit agency for disabled individuals approved under OAR 125-055-0015.

(b) Ownership. A QRF must own the product or directly provide the service that the QRF proposes to provide to Agencies through the program created by ORS 279.835 to 279.850. For example, a product or service will not be determined to be suitable for procurement by Agencies where the QRF operates merely as a broker, distributor, licensor or sales agent for another person or entity in providing a product to an Agency.

(c) Tied Products. A QRF's contract to provide a service cannot obligate an Agency to buy a product tied to that service unless the product is incidental to, or consumed in, the performance of the service.

(d) No Excessive Prices. The pricing proposed to be charged by the QRF for the product or service must not be excessive. In cases in which proposed pricing appears arguably excessive, as determined in the discretion of the State Procurement Office, the State Procurement Office may require the QRF to demonstrate that the proposed pricing is not excessive. The QRF's demonstration may include reliable evidence of comparative pricing in the market for the same or similar products or services.

(e) Purpose, Value, Capability. The QRF desiring to furnish the product or service must demonstrate to the State Procurement Office that the QRF meets the purpose of the Products of Disabled Individuals Law and State Procurement Office quality standards and delivery schedules. The QRF must demonstrate capability by submitting to the State Procurement Office a written plan that addresses:

(A) Purpose of the Law. The purpose of the law is to further the policy of this state to encourage and assist disabled individuals to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and constant market for sheltered workshop and activity center products and services, thereby enhancing their dignity and capacity for self support and minimizing their dependence

on welfare and need for costly institutionalization. To ensure that a QRF achieves this goal, the QRF must demonstrate:

(i) The extent of the labor operations to be performed in connection with the QRF's provision of the product or service; and

(ii) That appreciable value will be added to the product or service by Disabled Individuals; the term "appreciable value" means a measurable addition of value, or an objectively observable improvement, enhancement or change, to the final product or service. No product or service may be determined to be suitable for addition to the Procurement List where the process of the manufacture, assembly or production of the product or of the rendition of the service contains or is affected by any procedure, device or artifice under which the work of Disabled Individuals does not contribute, in a substantial, economically meaningful manner, to the value of the product or to the performance of the service, or under which the work of Disabled Individuals is not a logical element of the chain of production.

(iii) The range of salaries, rates of pay or other applicable measure of compensation that the QRF will pay for work performed in providing the product or services proposed.

(B) Subcontractor Disclosure. The QRF must disclose subcontractor utilization, partnerships or planned joint ventures, if any, the character and portion of the labor to be performed by, and the equipment to be used or supplied by, any subcontractor, partner or joint venturer (collectively, "subcontractor"). If a subcontractor performs direct labor or provides personnel that perform direct labor in the manufacture or assembly of a product or in the provision of a service to be provided to an Agency under the program created by ORS 279.835 to 279.850, the QRF must submit reliable documentation that demonstrates that:

(i) The combined productive activities of that subcontractor and the QRF in the performance of the subcontract between them together meet the standards of OAR 125-055-0015(3)(d) and 125-055-0020(3)(e)(A)(ii); and

(ii) The performance of work by non-QRF participants and persons who are not Disabled Individuals will not cause the QRF that participates in such a combination to violate the direct labor requirement of OAR 125-055-0015(3)(d) or result in a violation of OAR 125-055-0020(3)(e)(A)(ii). For purposes of this subparagraph, a person or entity that merely serves as a supplier of raw materials, parts or components of a product, or of supplies that are used or consumed in the performance of a service, is not a subcontractor. A person or entity that only leases facilities or productive equipment to a QRF, and provides no labor or personnel that participate in the manufacture or assembly of a product or in the provision of a service, is not a subcontractor.

(C) Quality Standards and Delivery Schedules. The QRF must demonstrate that the QRF has the capability to meet the applicable specifications and to make the product or services available within the time required for supplying Agencies.

(D) Additional Information. The State Procurement Office may require other pertinent data in the QRF plan such as the projected employment potential, start up costs and estimated cost recovery, product/service pricing, market research conducted by the QRF for the product or service, if any, identification of business space dedicated to the product or service, and other pertinent information that may be requested by the State Procurement Office. In conducting determinations of suitability, the State Procurement Office may conduct on-site investigations of the QRF's work-sites and production processes.

(4) Based on the request, including the written plan required by subparagraph (3)(e) of this rule, and any additional information submitted in response to the State Procurement Office's request under subparagraph (3)(d)(D), the State Procurement Office will determine whether the proposed product or service satisfies the criteria in subsection (3). If the State Procurement Office determines that the product or service satisfies the criteria in subsection (3), it shall record that determination on a form prescribed by the State Procurement Office. If the State Procurement Office determines that the product or service does not satisfy the criteria in subsection (3), it shall notify the requesting party in writing of the criteria the QRF did not meet or adequately demonstrate that it met.

(5) Within ten (10) calendar days from the date of the State Procurement Office's notice of the criteria that a requested product or service failed to meet or that the QRF failed to satisfactorily demonstrate that it met, the QRF may appeal the decision by submitting a written appeal to the State Procurement Office. The appeal shall include a copy of the State Procurement Office's notice and shall state the QRF's grounds for appealing the decision. On appeal, if the State Procurement Office determines that the product or service satisfies the criteria, it shall send notice to the QRF of its decision and add the product or service to the Procurement List. If the State Procurement Office does not find that the product or service satisfies

ADMINISTRATIVE RULES

the criteria, it shall provide the QRF a written decision that states the reasons for that determination. The State Procurement Office's written decision under this subsection shall constitute a final order under ORS 183.484.

(6) At least fourteen (14) calendar days prior to the effective date of the listing of a product or service on the Procurement List, the State Procurement Office shall give notice of the proposed listing on an accessible on-line posting address administered through the State Procurement Office. A person or entity who will be adversely affected by the listing in its ability to compete for public contracts for the product or service proposed to be listed may, within the fourteen-day period, submit a written protest of the listing of the product or service to the State Procurement Office. The written protest must state the facts that demonstrate how the listing will adversely affect the person's or entity's ability to compete for public contracts for the product or service proposed to be listed and must demonstrate how the product or service to be listed fails to satisfy the criteria stated in subsection (3) of this rule. If the State Procurement Office receives no protest concerning the proposed listing by the close of business on the fourteenth day after the first day on which the State Procurement Office first posted the form, then the listing shall automatically become effective on the next business day after the fourteenth day.

(7) If the State Procurement Office receives a written protest concerning the proposed listing of a product or service from a person or entity who has demonstrated in writing that it will be adversely affected by the listing in its ability to compete for public contracts for the product or service proposed to be listed, the State Procurement Office will consider the protest and issue a written response to the protest. The State Procurement Office will not consider a protest not made in writing and received by the State Procurement Office by the close of business on the fourteenth day after the first day on which the State Procurement Office first posted the proposed listing under subsection (6) of this rule. In considering a timely protest, the State Procurement Office may request further information and comment from the complaining party and from the QRF that submitted the application for the listing of the product or service.

(a) The State Procurement Office's response to the protest will confirm the listing of the product or service, modify the listing of the product or service, or withdraw the proposed listing of the product or service. The State Procurement Office will make its written determination available, by mail or by electronic means, to the complaining party and to the QRF whose product or service is the subject of the protest.

(b) A protester or QRF who is adversely affected or aggrieved by the State Procurement Office's response under this subsection may request that the State Procurement Office institute contested case proceedings under ORS 183.413 to 183.470 by delivering to the State Procurement Office a written request for a contested case within fourteen (14) calendar days of the date of issuance of the response. The written request for a contested case must describe how the requesting party is adversely affected or aggrieved by the response and why the Division's response is incorrect. The contested case will be limited to the issues raised before the State Procurement Office in the protest proceedings.

(8) Nothing in this rule shall be construed as prohibiting the State Procurement Office, a QRF and a protester from agreeing to resort to informal dispute resolution measures such as non-binding arbitration or mediation in addition to the appeal procedures prescribed by subsections (5) and (7) of this section.

(9) No determination under this section that a product or service is suitable and no placement of a product or service on the Procurement List shall act to displace a contractor under an existing public contract with an Agency for the same product or service prior to the expiration or other termination of the contractor's contract with the Agency.

(10) Once a product or service has been placed on the Procurement List, it will remain on the list until:

(a) Five years have elapsed from the date of the listing of the suitability determination, or such earlier time as the State Procurement Office may prescribe for expiration of the listing at the time it makes the determination of suitability;

(b) The State Procurement Office has determined, under OAR 125-055-0020 or 125-055-0025, that the product or service is not suitable for procurement by Agencies;

(c) The product or service no longer is offered by the QRF that requested a determination of its suitability; or

(d) The QRF is removed from the Procurement List.

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

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

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0025

Review of Suitability Determinations

(1) The State Procurement Office reserves the right, to be exercised in its sole discretion, to review suitability determinations as changes in pertinent circumstances, which include but are not limited to changes in rules, laws, market conditions and QRF contractor performance, occur. Should the State Procurement Office identify information that was not available during the initial determination that negatively impacts a previous determination of suitability, it may notify the QRF and conduct a review of the determination. The review may result in removal of the product or service from the Procurement List. A QRF may appeal a decision to remove a product or service from the Procurement List in the manner provided in OAR 125-055-0020(5).

(2) The State Procurement Office may review a determination that a product or service is suitable if the State Procurement Office discovers pertinent information that was not available when the initial decision was made. Within 10 calendar days after the receipt of written notice from the State Procurement Office of a determination to remove a product or service from the listing, the affected QRF may appeal the determination by submitting a written appeal to the State Procurement Office. The appeal shall include a copy of the State Procurement Office's notice, and the QRF's grounds for appealing the determination. If the State Procurement Office determines, on reconsideration, that the product or service is suitable for procurement by public agencies, the State Procurement Office shall send notice of approval to the QRF and maintain the publication of the product or service on the Procurement List. If the State Procurement Office finds the product or service not suitable for procurement by public agencies under the criteria of OAR 125-055-0020(3), the State Procurement Office shall give written notice to the QRF of the criteria that were not satisfied. The State Procurement Office's written decision under this subsection shall constitute a final order under ORS 183.484.

(3) In no event may an Agency and a QRF agree to change the specifications in, or amend, a contract established under the program created by ORS 279.835 to 279.850 in a manner that alters the character or scope of the product or service so that the product or service no longer is essentially the same product or service that was the subject of the determination of suitability. In cases where such a change is sought, the Agency and the QRF must first request and receive from the State Procurement Office a new or revised determination that the product or service, as changed, is suitable under this section. In cases where the change in specifications or amendment appears to affect the Price of a product or service as determined under OAR 125-055-0030, the State Procurement Office also may conduct a new Price determination in response to the request.

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

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

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0030

Determination of Price

(1) Under ORS 279.845(1)(a), the State Procurement Office shall determine the Price of products and services offered for sale to Agencies that the State Procurement Office has determined to be suitable for procurement by Agencies and placed on the Procurement List.

(2) Determination of Price. The Price determined by the State Procurement Office shall be a reasonable and adequate Price that will recover for the QRF the cost of:

(a) Raw materials;

(b) Labor;

(c) Overhead that is allocable to the particular product or service for which the Price determination is being made, including the actual, reasonable costs of complying with the independent audit requirements of OAR 125-055-0040(1) (For purposes of this subparagraph, overhead cost is allocable to a particular product or service to the extent the overhead costs are chargeable to the production of the product or the performance of the service in accordance with the relative benefits received by the product or service program as compared to the overall activities of the QRF);

(d) Delivery costs; and

(e) An amount held in reserve for inventory and equipment replacement.

(3) Initial Price Determination Procedures:

(a) For products or services the State Procurement Office has determined to be suitable for purchase by Agencies, an Agency or the State Procurement Office shall provide the QRF with a solicitation document and an annotated pricing tabulation that covers the period of the proposed contract for those products or services, the expiring contract, or the most recent solicitation. Additionally, an Agency or the State Procurement Office shall

ADMINISTRATIVE RULES

provide the QRF with the scope of work and specifications, if any, that will cover the initial period during which the QRF expects to provide the product or service.

(b) The QRF shall submit its proposed Price to the Agency or the State Procurement Office, based on the volume or scope of the work and specifications acceptable to the Agency, as prescribed in the proposed contract between the QRF and an Agency. The contract may propose to serve a single Agency or multiple Agencies. Where the contract proposes to serve multiple Agencies, the QRF's disclosure of costs under subparagraph (c) of this subsection must address the costs of serving all Agencies the QRF proposes to serve under the contract. The State Procurement Office reserves the right to review and amend a Price determination in light of reductions in or additions to the Agencies served under a multiple Agency contract.

(c) In submitting its proposed Price to the Agency or the State Procurement Office, the QRF must make full disclosure of known costs. The disclosure must include documentation, on a form prescribed by the State Procurement Office, that the costs proposed will result in a Price that will permit the QRF to recover the amounts prescribed in subsection (2) of this section and ORS 279.845(1)(a).

(d) As part of the disclosure, an authorized officer of the QRF must certify that the costs claimed are, to the best of the officer's knowledge, reasonable and adequate, and that the proposed Price will permit the QRF to recover the amounts prescribed in subsection (2) of this section.

(e) If the QRF and the Agency agree on the terms and conditions of a proposed contract and the price for the products or services to be provided under the proposed contract, the QRF and the Agency must present the proposed contract (including the agreed price) to the State Procurement Office for review and a determination of the Price.

(4) Based on the volume or proposed scope of work and the costs disclosed by the QRF under subsection (3) of this section, the State Procurement Office will determine a Price for the products or services offered under the proposed contract. If the State Procurement Office regards the determined Price to be reasonable and adequate to permit the QRF to recover the amounts prescribed in subsection (2) of this section, then it will notify the QRF and the Agency of the Price.

(5) In determining a reasonable and adequate Price of a product or service, the State Procurement Office may consider:

(a) Prices of similar products or services purchased in comparable quantities by federal agencies under the authorized federal program (Javits-Wagner-O'Day Act);

(b) Prices of products or services of similar specifications and quantities previously purchased by government agencies from responsible contractors engaged in the business of selling similar products or services;

(c) Prices that private businesses pay for similar products or services in similar quantities of comparable scope and specifications if purchasing from a reputable vendor engaged in the business of selling similar products or services;

(d) Prices of products or services of similar specifications and quantities purchased by Agencies from QRFs under the program created by ORS 279.835 to 279.850.

(6) A QRF and an Agency shall not execute or implement any contract under the program created by ORS 279.835 to 279.850 until the State Procurement Office has transmitted notice of the Price determined by the State Procurement Office to the Agency and the QRF.

(7) Re-determinations of Price. A Price established by the State Procurement Office shall apply for the initial term or period of the contract unless otherwise approved by the State Procurement Office. The State Procurement Office may re-determine a Price at the request of a QRF or Agency, or at the discretion of the State Procurement Office. Until the State Procurement Office approves a new Price, the QRF shall continue to provide, at the established Price, the service or product in accordance with the scope of work that was the basis for establishing the existing Price. The Agency shall not pay or agree to pay the QRF any amount other than the Price approved by the State Procurement Office. The State Procurement Office reserves the right, during the process of re-determining a Price, and subject to existing contract rights of the QRF and Agency, to suspend the Price and set an interim Price; such action may trigger a review of the suitability determination for the affected product or service under OAR 125-055-0025.

(a) In re-determining Price, the State Procurement Office will consider the factors in subsections (2) and (3) of this rule. The State Procurement Office also may take into consideration changes that have taken place since the last Price determination that are pertinent to re-determining Price.

(b) Each re-determination or adjustment of Price shall be based on changes in the scope of work, changes in the costs of producing the prod-

uct or performing the service, or both. If the proposed adjustment is based on changes in QRF cost factors, the QRF shall submit to the State Procurement Office and the Agency a request for a Price change showing a breakdown of cost changes with appropriate documentation, as requested by the State Procurement Office or Agency. As part of the request and documentation, an authorized officer of the QRF must certify that the proposed changes in costs are, to the best of the officer's knowledge, genuine, reasonable, and adequate, and that the proposed Price will permit the QRF to recover the amounts prescribed in subsection (2) of this section and ORS 279.845(1)(a). The Price established by the State Procurement Office for a product or service shall remain in effect until the State Procurement Office approves a new Price.

(c) Agencies and QRFs may not make material changes (changes that affect the cost of providing the products or services in more than a negligible manner) to the specifications of a contract entered into under the program created by ORS 279.835 to 279.850 unless the changes are in writing and have been submitted to the State Procurement Office for a re-determination of Price. The following information reporting is required of the Agency in order to assist the State Procurement Office in Price re-determinations based on changes in contract specifications:

(A) In the event that the Agency or State Procurement Office wishes to change specifications from the most recent solicitation for the product or service, the Agency or State Procurement Office shall notify the QRF in writing of the specific changes in the scope of work or other conditions which will be required during the new contract period.

(B) Upon receipt of notice of change, the QRF shall submit a Price recommendation and Price change request under subparagraph (7)(b) of this section to the Agency and State Procurement Office for review and a re-determination of the Price by the State Procurement Office.

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

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

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0035

Audits

(1) To maintain qualifications and listing on the Procurement List under OAR 125-055-0015, all QRFs whose total annual Agency contract value exceeds \$20,000 must conduct an annual audit of direct labor to determine compliance with ORS 279.835(5)(c). Each such QRF must submit to the State Procurement Office an audit report and letter of attestation, on forms prescribed by the State Procurement Office, regarding each annual audit. Under the annual reapplication requirement of OAR 125-055-0015(2), a QRF must submit, with each reapplication, an audit report and letter of attestation for the preceding fiscal year of the QRF. Each QRF shall ensure that each of its contracts entered into with an Agency under the program created by ORS 279.835 to 279.850 includes a provision that requires the QRF, if the QRF's total annual value of contracts with Agencies exceeds \$20,000, to conduct an annual audit of direct labor.

(2) The audit shall be conducted by an independent certified public accountant for the same fiscal year as the QRF's annual financial audit.

(3) The audit shall consist of an auditor's examination of the QRF, conducted in accordance with generally accepted auditing principles.

(4) For purposes of subsection (5) of this section:

(a) "Direct labor" means all work required for the manufacture, preparation, processing and packing of products produced by a QRF and all work performed in the rendition of services by a QRF, but does not include supervision, administration or shipping. "Direct labor also does not include client-type services provided by a QRF to Disabled Individuals served by the QRF, such as job training and therapeutic services.

(b) "Supervision" means the direction, assignment, instruction and oversight of individuals performing direct labor, and inspection of work performed or products for quality assurance.

(c) "Administration" means the management activities of a QRF that include acquisition of equipments, parts, supplies and inventory, handling of the entity's payroll, personnel and accounting activities, executive decision-making and other business activities, generally of a centralized nature, that do not entail the "hands-on" production of a product or the performance of a service.

(d) "Shipping" means the transportation of a product to the site designated by the acquirer of the product or the transportation of workers to site at which they will perform services for a customer.

(5) The examination and resultant audit report must be based on the following records and information:

(a) A listing of all products and services provided by the entity in the QRF's fiscal year, including those products and services were procured by

ADMINISTRATIVE RULES

Agencies under ORS 279.015 and 279.835 to 279.850 and those which were procured outside the program created by those statutes.

(b) A list of all individuals covered by the audit scope employed by the QRF who are Disabled Individuals who provided direct labor required for the production of products or the performance of services during the fiscal year that is the subject of the audit examination, including employee name, unique employee identification number, job description and disability status.

(c) A list of all individuals covered by the audit scope employed by the QRF, whether paid or unpaid, who are not Disabled Individuals and who provided direct labor required for the production of products or the performance of services during the fiscal year that is the subject of the audit examination, including employee name, unique employee identification number and job description.

(d) A compilation of the total hours of direct labor actually performed by the QRF during the fiscal year.

(e) Payroll reports for all individuals covered by the audit scope employed by the QRF during the fiscal year, including employee name, social security number, work hours paid, and vacation hours, sick leave hours, and training hours. Hours worked must be segregated from hours paid but not worked.

(f) Time and billing records showing direct hours worked by each employee in the manufacture or provision of goods and services.

(g) Disability status documentation. The QRF must have documentation on file for each employee who is or who is claimed to be a Disabled Individual. The file must include documentation from an officially accredited source that each such person has been determined to be a Disabled Individual as defined in OAR 125-055-0005. The acceptable forms of disability documentation are:

(A) Department of Human Services/Seniors and People with Disabilities Office of Licensing and Quality Care referrals;

(B) Commission for the Blind referrals;

(C) Department of Human Services/Community Human Services, Office of Vocational Rehabilitation Services referrals;

(D) Competitive Employment statements signed by a physician or other Accredited Vocational Consultant stating that the employee is a Disabled Individual as defined in OAR 125-055-0005;

(E) Certifications that the employee is legally deaf and is a Disabled Individual as defined in OAR 125-055-0005;

(F) Certifications that the employee is eligible for Supplemental Security Income (SSI) or Social Security for the Disabled (SSDI) benefits.

(6) The audit report must address the following elements:

(a) A determination whether the QRF's time, billing and payroll records are sufficiently complete and reliable to demonstrate compliance with the 75 percent direct labor requirement of ORS 279.835(5)(c). The records must permit segregation of direct labor hours from other hours worked and paid, and allow for assessment of direct hours worked by employees with disabilities, as well as by employees without disabilities.

(b) If the certified public accountant finds the records to be sufficiently complete and reliable, the certified public accountant must test the QRF's calculation, for the entire applicable fiscal year, of the portion of total direct labor hours that were worked by employees with disabilities. Only direct hours worked shall be included in the calculation. Vacation, sick leave, holiday, training hours, and any other hours paid but not worked by the employee are to be excluded from the calculation.

(c) The certified public accountant must apply sufficient statistical sampling techniques to obtain an eighty percent level of confidence with a precision of plus or minus ten percent that:

(A) The direct labor by Disabled Individuals during the QRF's fiscal year satisfied the 75 percent direct labor requirement under ORS 279.835(5) and OAR 125-055-0015(2)(d)(A); and

(B) The hours reported as worked by persons with disabilities were worked by persons whose disabilities were documented under subparagraph (5)(g) of this rule.

(d) A determination whether adequate actions have been taken to resolve any prior adverse audit report findings or recommendations.

(e) The independent certified public accountant that conducted the annual audit shall sign an attestation that the QRF complied or did not comply with the 75 percent direct labor requirement of ORS 279.835(5)(c) during the fiscal year period for which the annual financial audit was conducted. If the Certified Public Accountant attests that the QRF did not comply with the requirement of ORS 279.835(5)(c), the report must include a concise description of the character and extent of the noncompliance.

(7) Within 120 calendar days after the close of the QRF's fiscal year, each QRF must submit the direct labor audit attestation report for the pre-

ceding fiscal year, signed and dated by the independent Certified Public Accountant and by an officer of the QRF's board of directors, to the State Procurement Office. A QRF that must submit an annual reapplication under OAR 125-055-0015(2) must submit the reapplication with its most recent annual direct labor audit report and letter of attestation.

(8) Failure to comply with the requirements of this section by a QRF shall constitute sufficient grounds to terminate the QRF's listing on the Procurement List under OAR 125-055-0015 and shall constitute sufficient grounds for an Agency to terminate, or to suspend performance of the work under, a contract with the QRF.

(9) Failure to comply with the 75 percent direct labor requirement of ORS 279.835(5)(c) shall constitute sufficient grounds to terminate the QRF's listing on the Procurement List under OAR 125-055-0015 and shall constitute sufficient grounds for an Agency to terminate, or to suspend performance of the work under, a contract with the QRF.

(10) The cost of the annual audit required by this rule shall be considered an overhead expense that the QRF may recover and which must be taken into account in determining the Price under OAR 125-055-0030.

(11) If the State Procurement Office determines that a QRF is in material noncompliance with any requirement imposed on it by OAR 125-055-0015 to 125-055-0040, including the qualifications requirements of OAR 125-055-0015, subsection (7) of this rule, or the direct labor requirement of ORS 279.835(5)(c), the State Procurement Office will issue, to the non-complying QRF, a written notice to cure the noncompliance. The written notice will identify the requirement or requirements with which the QRF does not comply, state the reasons that the QRF is not in compliance with the requirements, and prescribe a time period of not less than ninety (90) calendar days, or such other time as may be permitted by the State Procurement Office, within which the QRF must achieve compliance.

(a) A QRF receiving notice of noncompliance under this subsection must respond in writing, within thirty (30) calendar days of the date of the State Procurement Office's notice, to the State Procurement Office. The response may:

(A) State the reasons, with supporting documentation, why the QRF is not out of compliance with the requirements, if the QRF believes that it is in compliance;

(B) Present a plan of action to be taken by the QRF to achieve compliance and propose a date within which it will achieve compliance;

(C) Request an extension of the time within which the QRF will achieve compliance;

(D) Report that the QRF has achieved compliance and state the actions the QRF has taken to achieve compliance.

(b) If the QRF does not submit a written response within the 30-day period from the date of the written notice issued under subsection (11) of this rule or such additional time as may be permitted by the State Procurement Office, the State Procurement Office may terminate the QRF's listing on the Procurement List under OAR 125-055-0015 by issuing to the QRF written notice of the proposed termination and removal of the QRF's products and services from the Procurement List.

(c) The State Procurement Office reserves the right to require a QRF, as part of the required cure or as part of a plan of action to attain compliance, to submit to the State Procurement Office quarterly audit reports concerning the QRF's compliance with the direct labor requirement of ORS 279.835(5)(c). If a QRF that is subject to this requirement satisfies the direct labor requirement in the first two consecutive quarterly audits, the State Procurement Office may waive the quarterly audit requirement for that QRF. However, if the QRF next succeeding annual audit discloses that the QRF failed to satisfy the direct labor requirement, the State Procurement Office will institute disqualification proceedings by issuing to the QRF a notice of termination under subparagraph (d) of this subsection.

(d) If the QRF fails to achieve compliance with the violated requirements within the time prescribed in the State Procurement Office's written notice issued under subsection (11) of this rule, within the time proposed in a QRF's plan of action approved by the State Procurement Office, or within the time permitted under any extension of time granted by the State Procurement Office, the State Procurement Office will terminate the QRF's listing on the Procurement List under OAR 125-055-0015 by issuing to the QRF written notice of that termination and of the removal of the QRF's products and services from the Procurement List.

(e) After any termination of a QRF's listing on the Procurement List under OAR 125-055-0015, the QRF shall not enter into or renew any contracts under the program created by ORS 279.835 to 279.850. Any termination of a QRF's listing on the Procurement List also shall constitute sufficient grounds for any Agency to terminate any contract with the QRF.

ADMINISTRATIVE RULES

(f) If the QRF requests, within ten (10) calendar days of its receipt of notice of termination, an informal hearing concerning the validity of the grounds for termination stated in the notice, the termination will not become effective until the conclusion of the informal, non-contested case hearing process. If the QRF fails to request a hearing within this ten-day period, the termination shall become effective on the eleventh day.

(A) As the result of the hearing process, the State Procurement Office may either reach written agreement with the QRF or, if no agreement is reached, issue an order that resolves the issues raised by the QRF and, if no resolution satisfactory to the State Procurement Office results from the hearing process, the order may provide for termination of the QRF's listing on the Procurement List under OAR 125-055-0015 and removal of the QRF's products and services from the Procurement List.

(B) After any hearing, the State Procurement Office may issue an order that resolves the issues raised by the QRF and, if the determination is adverse to the QRF, the order may provide for termination of the QRF's listing on the Procurement List under OAR 125-055-0015 and removal of the QRF's products and services from the Procurement List. The State Procurement Office's written decision under this subsection shall constitute a final order under ORS 183.484.

(g) After any termination of a QRF's listing on the Procurement List under OAR 125-055-0015, the QRF shall not enter into or renew any contracts under the program created by ORS 279.835 to 279.850. Any termination of a QRF's listing on the Procurement List also shall constitute sufficient grounds for any Agency to terminate any contract with the QRF.

(h) After the passage of one year after the effective date of a termination of a QRF's listing on the Procurement List under this section, a terminated QRF may again make an application to be listed as a QRF under OAR 125-055-0015.

Stat. Auth.: ORS 279.845(1), ORS 184.340
Stats. Implemented: ORS 279.015 (1)(b), ORS 279.835 - ORS 279.855
Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0040

General Provisions

(1) Contracting Authority. The Department of Administrative Services and other Agencies must contract directly with a QRF for a contract to qualify for the exception from the competitive procurement requirement in ORS 279.015(1)(b) for contracts under the program created by ORS 279.835 to 279.850. Contracts between multiple Agencies and a QRF satisfy this requirement that the Agencies must contract directly with a QRF.

(2) Contract Disputes. Contract performance issues and disputes arising out of contracts entered into under the program created by ORS 279.835 to 279.850, such as disputes concerning timely delivery of products or performance of services or compliance with specifications, must be resolved exclusively between the QRF and the Agency that is a party to the contract, and will not be resolved by the State Procurement Office (except where the Department of Administrative Services is a party to the contract with the QRF).

(3) Temporary Services. In each contract for the provision of temporary services entered into by a state agency under the program created by ORS 279.835 to 279.850, the QRF must monitor the prior and current work assignments of its employees who work under the contract to ensure that no employee performs services for a state agency in excess of a total of 1,040 hours during any consecutive twelve-month period. Contracts for the provision of temporary services by QRFs may be used only to meet temporary, emergency, non-recurring, unexpected, or short-term workload demands of state agencies.

(4) Competitive Public Contract Bidding by a QRF. If a QRF submits, to any Agency, a competitive bid, proposal, quote or other offer ("offer") in a competitive procurement for a public contract, then regardless of whether the offer was accepted, that QRF may not, at any time during the initial term of the contract for which the QRF submitted a bid, proposal or offer, make any claim to the Agency that instituted the procurement for the public contract that the product or service that was the subject of the offer should have been subject to the set-aside program created by ORS 279.835 to 279.850.

(5) A QRF shall not enter into a public contract with an Agency under the program created by ORS 279.835 to 279.850 unless the contract complies with OAR 125-055-0005 to 125-055-0040 and the products or services that are the subject of the contract are listed on the Procurement List. Any liabilities or expenses that may arise from the establishment of a contract that violates this subsection shall be those exclusively of the QRF and Agency, respectively, that purports to enter into such a contract.

(6) QRF Records.

(a) Each QRF shall maintain accurate and correct records of the direct labor hours performed in the nonprofit agency by each worker in a manner sufficient to determine compliance with the 75 percent direct labor requirement of ORS 279.835(5)(c).

(b) Each QRF shall make its records available, at any reasonable time, for inspection by the State Procurement Office, the Office of the Oregon Secretary State, and their officers and representatives.

(7) Application of These Rules.

(a) OAR 125-055-0015 shall apply to applications and annual reapplications for participation in the program created by ORS 279.835 to 279.850 that are presented to the State Procurement Office, or which are due, after August 31, 2003. OAR 125-055-0020 shall apply to requests for determinations that a product or service is suitable for addition to the Procurement List that are presented to the State Procurement Office after August 31, 2003. OAR 125-055-0030 shall apply to determinations of Price first submitted to the State Procurement Office after August 31, 2003. OAR 125-055-0035 shall apply to direct labor audit reports that are due under OAR 125-055-0035(7) after August 31, 2003.

(b) For determinations of suitability of a product or service that were made prior to the effective date of these rules, the maximum five-year term of determinations of suitability under OAR 125-055-0020(10)(a) shall expire five years from the effective date of these rules.

(c) The adoption of these rules shall not affect the validity of:

(A) Any determination that a QRF was qualified for participation in the program;

(B) Any determination that a product or service was suitable for addition to the Procurement List; or

(C) Any determination of Price; made prior to the effective date of these rules.

(8) The State Procurement Office reserves the right to extend any deadline or time within which a QRF or a party to any proceedings under OAR 125-055-0015 to 125-055-0040 must take any action under those rules if the affected party applies in writing for relief to the State Procurement Office and demonstrates in writing that special circumstances warrant the grant of such relief. For the purpose of this subsection, special circumstances that warrant the grant of relief include practical exigencies that reasonably can be regarded as imposing a substantial, practical impediment to the QRF's or party's ability to meet the deadline or achieve the correction of a violation of rules. Special circumstances are circumstances beyond the reasonable control of the organization including, but not limited to, the illness or other incapacity of key officers of the organization seeking relief, emergency reorganizations or replacements of the corporate structure, board of directors or executive officers of the organization, acts of God and comparable practical impediments to a person or organization's ability to meet a deadline or achieve the correction of a violation of rules. The grant or denial of relief under this subsection must be determined by the Chief Procurement Officer or, in the absence of the Chief Procurement Officer, by an officer of the State Procurement Office who specifically has been delegated that task. The State Procurement Office also reserves the right to waive or to permit the correction of minor or technical violations of OAR 125-055-0015 to 125-055-0040.

Stat. Auth.: ORS 279.845(1), ORS 184.340
Stats. Implemented: ORS 279.015 (1)(b), ORS 279.835 - ORS 279.855
Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

125-055-0045

Purchases under ORS 279.855

(1) Policy. QRFs, residential programs and public benefit corporations recognized by ORS 279.855 may acquire equipment, materials, supplies and services under the same conditions as state agencies that, under ORS 279.712(2), are not subject to the requirement that the Oregon Department of Administrative Services provide for their acquisition of such items. Accordingly, QRFs, residential programs and public benefit corporations must enter into an agreement with the department in order to participate in the Oregon Cooperative Purchasing Program. The agreement must have substantially the same form, content and obligations as the standard agreement prescribed by the State Procurement Office that state agencies must execute in order to participate. In addition, QRFs, residential programs and public benefit corporations must comply with the applicable subsections of this rule to acquire equipment, materials, supplies or services under ORS 279.855.

(2) QRFs that currently are approved under OAR 125-055-0015 may purchase equipment, materials, supplies and services through the State Procurement Office in the same manner as state agencies, as provided in ORS 279.545 to 279.746 and 279.820 to 279.824.

ADMINISTRATIVE RULES

(3) A residential program seeking to purchase equipment, materials, supplies or services through the State Procurement Office under ORS 279.855 must make a written request to the State Procurement Office to which is attached a true and correct copy of its currently effective contract with the Department of Human Services to provide services to youth in the custody of the state. In addition, the residential program must submit a letter from the Oregon Department of Human Services, on the letterhead of that department or of a division of that department that contains the following information:

(a) The services the residential program must provide, including the scope of those services, under the currently effective contract with the Department of Human Services;

(b) The Department of Human Services contract number;

(c) The starting date and expiration date of the contract; and

(d) The name, original signature, mailing address and telephone number of the Department of Human Services' Contract Administrator for the contract.

(4) A public benefit corporation seeking to purchase equipment, materials, supplies or services through the State Procurement Office under ORS 279.855 must make a written request to the State Procurement Office to which is attached:

(a) A certification by an authorized officer of the public benefit corporation that the applicant qualifies as a public benefit corporation under ORS 65.001;

(b) A true and correct copy of documentation, which may include the corporation's currently effective articles of incorporation, that demonstrates that the corporation is tax exempt under §501(c)(3) of the Internal Revenue Code and that the corporation is not a religious corporation as defined in ORS 65.001;

(c) A true and correct copy of at least one currently effective contract between the public benefit corporation and a state agency or unit of local government by which the corporation's contract performance is funded at least in part with state funds; and

(d) A letter from the state agency or unit of local government that confirms the existence and effectiveness of the contract submitted under subparagraph (c) of this subsection, on the letterhead of the state agency or unit of local government, that contains the following information:

(A) The services the public benefit corporation must provide, including the scope of those services, under the contract submitted under subparagraph (c) of this subsection;

(B) The contract number;

(C) The starting date and expiration date of the contract; and

(D) The name, original signature, mailing address and telephone number of the state agency or unit of local government's Contract Administrator for the contract.

(5) Neither the State Procurement Office nor the State of Oregon shall be liable for any obligation or debt entered into on behalf of a QRF, a residential program or a public benefit corporation, and likewise shall not be liable for any obligation or debt incurred by a QRF, a residential program or a public benefit corporation, in making purchases under subsections (1) to (3) of this rule.

(6) Each residential program and public benefit corporation that makes any purchase of equipment, materials, supplies or services through the State Procurement Office under ORS 279.855 must notify the State Procurement Office in writing whenever a contract that is necessary for the organization to qualify under ORS 279.855 expires, is terminated, or is not renewed, and whenever the organization otherwise ceases to qualify under ORS 279.855 or this rule.

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

Stats. Implemented: ORS 279.855

Hist.: DAS 4-2003, f. & cert. ef. 9-8-03

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Department of Agriculture Chapter 603

Adm. Order No.: DOA 30-2003

Filed with Sec. of State: 9-11-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 5-1-03

Rules Adopted: 603-074-0012, 603-074-0014, 603-074-0018

Rules Amended: 603-074-0005, 603-074-0010, 603-074-0020, 603-074-0040, 603-074-0060, 603-074-0070, 603-074-0080

Subject: Rules are adopted to comply with legislative mandate under HB 2156 which requires the Oregon Department of Agriculture to perform any acts necessary to implement the provisions of the Fed-

eral Water Pollution Control Act, commonly known as the Clean Water Act, and any regulations or guidelines issued pursuant to the Act, relating to the control and prevention of water pollution from livestock and other animal-based agricultural operations.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-074-0005

Purpose

These rules guide the Oregon State Department of Agriculture, Natural Resources Division in administering its Confined Animal Feeding Operation Program. In interpreting and applying these rules the Department may consider variations in soils and climate, and the potential for a particular confined animal feeding operation to cause a discharge of animal wastes into the waters of the state.

Stat. Auth.: ORS 468

Stats. Implemented: ORS 561.175

Hist.: AD 12-1990, f. & cert. ef. 6-4-90; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0010

Definitions

Unless the context or OAR chapter 340, division 051 or 052 require otherwise, as used in these rules:

(1) "Annual fee" means that fee required each year of each animal feeding operation with a national pollutant discharge elimination system permit or a water pollution control facilities waste disposal permit including, but not limited to, that fee required under ORS 561.175.

(2) "Compliance" means meeting the requirements of ORS chapter 468 or 468B or any rule, order, or permit adopted thereunder and relating to the control and prevention of water pollution from an animal feeding operation, a concentrated animal feeding operation, or a confined animal feeding operation.

(3) "Confined animal feeding operation" means

(a) The concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms;

(A) In buildings or in pens or lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or

(B) That have wastewater treatment works; or

(C) That discharge any wastes into waters of the state; or

(b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to **40 CFR § 122.23**.

(4) "Department" means the Oregon Department of Agriculture or the Oregon Department of Environmental Quality.

(5) "Director" means the director of the Oregon Department of Agriculture or the director of the Oregon Department of Environmental Quality.

(6) "Flagrant violation" means any violation where the respondent had actual knowledge of the law and knowingly committed the violation.

(7) "Formal enforcement action" means any order of the director or the director's designee that is issued to a respondent in connection with a violation and requires the respondent to cease the violation, refrain from further violations, pay a civil penalty, or take other actions with respect to the violation. Formal enforcement actions include, but are not limited to, notices of noncompliance, civil penalty assessment, compliance schedules and stipulated or consent orders.

(8) "Intentional" means conduct by a person with a conscious objective to cause the result of the conduct.

(9) "Manure" means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

(10) "Negligence" or "negligent" means failure to take reasonable care to avoid a foreseeable risk of committing a violation.

(11) "New source" as defined in **40 CFR §122.2** means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced after February 12, 2003.

(12) "Order" has the meaning given in ORS 183.310(5).

(13) "Person" means the United States and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other legal entity whatever.

(14) "Past occurrence of violations," as used in OAR 603-074-0080(4), means any violation for which a notice of noncompliance or assessment of civil penalty was issued within the preceding ten years. It

ADMINISTRATIVE RULES

does not include a violation if the notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(15) "Pollution" or "water pollution" has the meaning given in ORS 468B.005(3).

(16) "Previous notice of the same or similar violation," as used in OAR 603-074-0070(2), means a notice of noncompliance or assessment of civil penalties for the same or a similar type of violation that was issued within the preceding five years. It includes a notice for the same or a similar type of violation that is the subject of a pending appeal. It does not include a notice that has been withdrawn or successfully appealed.

(17) "Process wastewater" or "process wastes" means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

(18) "Production area" means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment areas include but are not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of animal mortalities.

(19) "Reckless" means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstances exist. The risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

(20) "Repeat violation" as used in OAR 603-074-0080(3), means the recurrence of the same type of violation for which a notice of noncompliance or assessment of civil penalty was issued within the preceding ten years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(21) "Respondent" means a person to whom a formal enforcement action is directed.

(22) "Rule" has the meaning given in ORS 183.310(8).

(23) "Violation" means the failure to comply with any requirement of ORS chapter 468 or 468B, or any rule, order or permit adopted thereunder and relating to the control and prevention of pollution of the waters of the state from a confined animal feeding operation. Each day a violation continues after the time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(24) "Wastewater disposal system," "wastewater treatment works," or "waste water control facility" means a "disposal system" or "treatment works" as defined in ORS 468B.005 that may cause pollution of surface water or groundwater and is used for collecting, conveying, treating, stabilizing or storing manure, litter, process wastewater, or contaminated production area drainage (e.g., silage leachate, contaminated storm water runoff, etc.) at confined animal feeding operations.

(25) "Wastes" has the meaning given in ORS 468B.005(7).

(26) "Water" or "the waters of the state" has the meaning given in ORS 468B.005(8).

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 561.190 & ORS 561.191

Stats. Implemented: OL Ch. 248, HB 2156

Hist.: AD 12-1990, f. & cert. ef. 6-4-90; AD 8-1994, f. & cert. ef. 7-26-94; DOA 15-2001(Temp), f. & cert. ef. 7-2-01 thru 12-28-01; DOA 28-2001, f. & cert. ef. 12-31-01; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0012

Permit Procedures

(1) Except as provided in OAR 603-074-0020 below, permits for Confined Animal Feeding Operations will be issued under the applicable provisions of OAR chapter 340, division 45.

(2) The director may designate an animal feeding operation as a significant contributor of pollutants pursuant to the provisions of **40 CFR § 122.23(c)**. An operator may seek review of the director's determination by requesting a contested case hearing pursuant to ORS 183.413 to 183.470.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 561.468B

Stats. Implemented: ORS 561.468B

Hist.: DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0014

Adoption of General Permit

(1) The following general permit is adopted by reference in this rule and available for review at the department:

(a) NPDES number 01 (Confined Animal Feeding Operations) (issued on October 1, 2003).

(b) A complete copy of the general permit is available for inspection at the Oregon Department of Agriculture, Natural Resources Division, 635 Capitol St. NE, Salem, Oregon.

(2) Any person owning or operating a confined animal feeding operation has a duty to seek coverage under the Oregon CAFO General permit (NPDES number 01).

(3) Any person owning or operating a CAFO must submit an ODA Application to Register (ATR) according to the following schedule:

(a) All newly constructed CAFOs: Newly constructed CAFOs, including "new sources," must submit an ATR at least 180 days prior to the time that the CAFO commences operation.

(b) Existing CAFOs that met the previous definition of *concentrated* AFOs: CAFOs that were defined as *concentrated* under federal regulations in effect prior to April 14, 2003, must submit an ATR immediately.

(c) Existing CAFOs newly defined as *concentrated* AFOs as of April 14, 2003: CAFOs that met the federal definition of *concentrated* as of April 14, 2003, that were not defined as *concentrated* in federal regulations prior to that date must submit an ATR by a date specified by the director, but no later than February 13, 2006.

(d) Existing CAFOs that become defined as *concentrated* AFOs after April 14, 2003: CAFOs that become defined as *concentrated* after April 14, 2003, must submit an ATR within 90 days after becoming defined as a CAFO unless the change in operation that causes the AFO to be defined as a *concentrated* AFO would not have caused it to be defined as a *concentrated* AFO prior to April 14, 2003.

(e) All other existing CAFOs that are not *concentrated* AFOs: Other existing CAFOs that are not *concentrated* AFOs covered by this permit must submit an ATR within 90 days of notification by the director that permit coverage is required.

(f) AFOs designated by the director: AFOs designated by the director as a *concentrated* AFO must submit an ATR no later than 90 days after receiving notice of designation.

Stat. Auth.: ORS 468B.050; 468B.217; ORS 561.190; ORS 561.191; Or. Laws 2001, ch 248, Section 1(2).

Stats. Implemented: ORS 468B.050; 468B.200 to 468B.230; ORS 561.191, Or. Laws 2001, ch 248.

Hist.: DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0018

Certification of Plans and Specifications

(1) In lieu of department approval of plans and specifications as required by OAR 340-051-0015, the department will accept certification by a licensed engineer that waste water control facilities specified in subsection (2)(a) of this rule were designed and constructed in compliance with OAR 340-051-0055 through 340-051-0070.

(a) Certifications may only be made for:

(A) Earthen impoundments, conveyances, and animal holding areas;

(B) Earthen-floored buildings and animal travel lanes between buildings in the production area; and

(C) Primary storage structures for liquid and solid manure. For purpose of this paragraph, a primary storage structure is any storage structure intended to hold an operation's waste for a period of five or more days.

(b) Certifications must be submitted on forms approved by the department.

(c) Certification in lieu of department approval is not allowed for waste water control facilities using experimental or unproven treatment methods or technology and may be disallowed for any other facility if the department determines that the nature of the facility or operation is such that department review is needed to ensure protection of waters of the state.

(2) **Exclusion from Department Approval:** Construction or modification of waste water control facilities, other than impoundments, conveyances, holding areas, buildings and animal travel lanes within the production area, and primary storage structures, are not subject to design or

ADMINISTRATIVE RULES

post-construction review and approval requirements unless the department determines that the nature of the facility is such that review is needed to ensure protection of waters of the state.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230
Stats. Implemented: ORS 468.005, ORS 468B.005 & ORS 468B.205
Hist.: DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0020

Permit Fees

Any person owning or operating a CAFO under an NPDES or WPCF permit must pay the following fees:

- (1) Initial filing fee: \$50.00
- (2) Annual fee: \$25.00

(a) The annual fee shall be paid to the department and be effective with the state's fiscal year July 1 - June 30 and shall be paid no later than July 31.

- (3) Any additional fees required by OAR 340-045-0075.

Stat. Auth.: ORS 561.190 & ORS 561.191
Stats. Implemented: OL Ch. 248, HB 2156
Hist.: AD 12-1990, f. & cert. ef. 6-4-90; AD 8-1994, f. & cert. ef. 7-26-94; DOA 15-2001(Temp), f. & cert. ef. 7-2-01 thru 12-28-01; DOA 28-2001, f. & cert. ef. 12-31-01; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0040

Enforcement Actions

- (1) A Notice of Noncompliance:

(a) Informs the owner or operator of the violation, including a reference to a particular statute, administrative rules or order involved, the location of the violation when appropriate, and the consequences of the violation or future violations;

(b) Directs the subject owner or operator to perform those actions necessary to comply with the particular statute, administrative rules or orders involved.

(c) Specifies a reasonable period of time by which compliance is to be achieved, not to exceed 30 business days after the respondent receives the notice, or if the violation requires more than 30 days to correct, a period of time contained in a plan of correction acceptable to the department;

- (d) Is issued by the director or the director's designee;

(e) Is in writing and must be served personally or by registered or certified mail;

(f) In all cases must be mailed or delivered to the legal owner of the property;

(g) Is an order in other than a contested case for purposes of judicial review.

- (2) A plan of correction:

(a) Includes a statement of the actions that must be taken by the owner or operator to eliminate the violation and shall include a schedule stating the time by which each of the actions is required to be accomplished to achieve compliance;

(b) May include requirements for the owner or operator to report the completion of specific actions;

(c) Is in writing and must be sent to the owner or operator by registered or certified mail or served personally;

(d) In all cases must be mailed or delivered to the legal owner of the property.

(e) Is an order in other than a contested case for the purposes of judicial review.

(3) The department shall make a reasonable attempt to consult with the subject owner or operator in the development of a plan of correction.

(4) Failure to perform any of the requirements of a plan of correction may be considered by the department to be a failure to correct the violation within the period of time set for correction by the department.

- (5) A Notice of Civil Penalty Assessment:

- (a) Is issued by the director or the director's designee;

(b) Is issued in a manner consistent with the provisions of ORS 183.415, 468B.230 and OAR chapter 137;

(c) Is in writing and must be served personally or by registered or certified mail to the owner and operator.

Stat. Auth.: ORS 468B.217, ORS 468B.230 & ORS 561

Stats. Implemented: ORS 561.175

Hist.: AD 8-1994, f. & cert. ef. 7-26-94; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0060

Entry of Order and Appeal Rights

(1) If a person having received a notice of civil penalty assessment fails to request a hearing as specified in OAR 603-074-0050, or if after the hearing the person is found to be in violation of the provisions of these rules, an order may be entered by the department assessing a civil penalty.

(2) The order must be signed by the director or the director's designee.

(3) The order may be appealed pursuant to ORS 183.480 to 183.497.

(4) An order assessing a civil penalty becomes due and payable and may be enforced as provided by ORS 183.090.

Stat. Auth.: ORS 468B.217, ORS 468B.230 & ORS 561

Stats. Implemented: ORS 561.175

Hist.: AD 8-1994, f. & cert. ef. 7-26-94; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0070

Civil Penalty Assessment

(1) In addition to any other penalty provided by law, the department may assess a civil penalty against the owner or operator of a confined animal feeding operation for failure to comply with a provision of ORS Chapter 468 or 468B or any rule adopted under or a permit issued under ORS Chapter 468 or 468B, relating to the control and prevention of water pollution from a confined animal feeding operation. The amount of the civil penalty shall be determined using the two matrices contained in OAR 603-074-0080 in conjunction with the formula contained in OAR 603-074-0080(4).

(a) Except for those animal feeding operations defined in OAR 603-074-0010(3)(b), the amount of the initial civil penalty may not exceed \$2,500 and any subsequent civil penalties for a repeat occurrence may not exceed \$10,000 per violation.

(b) For those animal feeding operations defined in OAR 603-074-0010(3)(b), civil penalties may not exceed \$5,000 per violation and any subsequent civil penalties for a repeat occurrence may not exceed \$10,000 per violation.

(2) Prior to assessment of a civil penalty for a violation, the department must provide a notice of noncompliance to the owner or operator. No advance notice or period to achieve compliance prior to assessment of a civil penalty is required under section (1) of this rule and the department may issue a notice of civil penalty assessment if:

- (a) The violation is intentional; or

(b) The owner or operator has received a previous notice of the same or similar violation; or

(c) The facility meets the definition of an animal feeding operation as defined in OAR 603-074-0010(3)(b).

(3) The amount of any civil penalty imposed shall be reduced by the amount of any civil penalty imposed by the Environmental Quality Commission or the Department of Environmental Quality or the United States Environmental Protection Agency, if the latter penalties are imposed on the same person and are based on the same violation.

(4) Magnitude of Violation: The magnitude of a violation shall be categorized as follows:

- (a) Category I (Major):

(A) A violation of a department order issued as part of or in connection with a formal enforcement action;

(B) Failure to provide access to premises or records when required by statute, rule or order;

(C) Any direct discharge of wastes that enters the waters of the state, either without a waste discharge permit, or from a point not authorized by a waste discharge permit;

(D) Submitting records, reports or application forms that are false, misleading, or fraudulent;

(E) Failure to provide notification of a spill or upset condition that results in a nonpermitted discharge of waste to waters of the state;

- (F) Violation of a permit compliance schedule;

(G) Any violation of any pretreatment standard or requirement by a user of a municipal treatment works that either impairs or damages the treatment works, or causes major harm or poses a major risk of harm to public health or the environment.

- (b) Category II (Moderate):

(A) Failure to submit a plan or report as required by rule, permit or order;

(B) Placing wastes such that the wastes are likely to enter the waters of the state by any means;

(C) Any violation related to water quality that is not classified elsewhere in these rules as major or minor.

- (c) Category III (Minor):

(A) Failure to operate in accordance with an animal waste management plan when one has been approved by the department;

(B) Failure to submit a discharge monitoring report on time or failure to submit a completed discharge monitoring report.

(5) The gravity of effect of the violation shall be determined by consideration of the individual or cumulative possibility of harm to public

ADMINISTRATIVE RULES

health or the environment caused by a violation or violations. Gravity of effect shall be classified as high, medium or low. The existence of one or more factors determined to be high level shall result in the gravity of effect considered to be of high level. Lacking any factor determined to be of high level, the existence of one or more factors of medium level shall result in the gravity of effect to be considered to be of medium level. Lacking any factor of high or medium level shall result in the gravity being of low level:

(a) Gravity of Effect — High Level:

(A) Evidence of significant injury to crops, wildlife or livestock;

(B) Surface or groundwater contamination of a level that poses a significant risk of harm to public health or the environment.

(b) Gravity of Effect — Medium Level: Surface or groundwater contamination that causes a loss of beneficial uses or a violation of applicable water quality standards, but does not pose a significant threat to human health or the environment.

(c) Gravity of Effect — Low Level: Water contamination not found or not found at a level in excess of applicable water quality standards.

(6) Pursuant to ORS 468B.220, any owner or operator of a confined animal feeding operation who has not applied for or does not have a permit required by ORS 468B.050 may be assessed a civil penalty of \$500 in addition to other penalties that the director may assess.

(7) Notwithstanding section (1) above, the department may assess a penalty larger than that specified by the matrices in OAR 603-074-0070 and 603-074-0080 if the violation is committed by an operation defined in OAR 603-074-0010(3)(b) and the department determines that a larger penalty is appropriate given the extraordinary nature of the violation or its environmental consequences. In no event, however, may the penalty be increased above the maximum amount specified in subsection (1)(b) of this rule.

Stat. Auth.: ORS 561.190 & ORS 561.191

Stats. Implemented: OL Ch. 248, HB 2156

Hist.: AD 8-1994, f. & cert. ef. 7-26-94; DOA 15-2001(Temp), f. & cert. ef. 7-2-01 thru 12-28-01; DOA 28-2001, f. & cert. ef. 12-31-01; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

603-074-0080

Civil Penalty Determination Procedure

In determining the amount of a civil penalty to be assessed for any violation, the department shall apply the following procedure:

(1) Determine the magnitude of the violation as specified in OAR 603-074-0070(4).

(2) Determine the gravity of effect pertinent to the violation as specified in OAR 603-074-0070(5).

(3) Using the magnitude of the violation and the gravity of effect identified, and depending on whether it is the first or a repeat violation, determine the base penalty (B) by reference to the appropriate matrix contained in OAR 603-074-0080.

Civil Penalty Matrix for First Violation

Gravity of Effect

Magnitude of Violation

High

Medium

Low

Category I (Major)

\$1,200

\$800

\$400

Category II (Moderate)

\$600

\$400

\$200

Category III (Minor)

\$240

\$120

\$50

Civil Penalty Matrix for Repeat Violations

Gravity of Effect

Magnitude of Violation

High

Medium

Low

Category I (Major)

\$5,000

\$2,400

\$800

Category II (Moderate)

\$1,600

\$800

\$400

Category III (Minor)

\$400

\$200

\$100

(4) Calculate the amount of the civil penalty to be assessed utilizing the formula: $B + [(.1 \times B) (P + H + R)] = \text{Penalty Amount}$ where:

(a) B = Base penalty is the primary penalty for a given violation derived from the appropriate matrix contained in OAR 603-074-0080;

(b) P = Past occurrence of violations. P will be weighted from 0 to 6 in the following manner:

(A) 0 = no prior violation or insufficient evidence on which to base a finding;

(B) 1 = past occurrence of a category III violation;

(C) 2 = past occurrence of a Category II violation or two category III violations;

(D) 3 = past occurrence of a Category I violation, two Category II violations, or three Category III violations;

(E) 4 = past occurrence of two Category I violations, three Category II violations or four Category III violations;

(F) 5 = past occurrence of three Category I violations, four Category II violations, or five or more Category III violations;

(G) 6 = past occurrence of more than three Category I violations or five or more Category II violations.

(c) H = History of the person in taking all feasible steps or procedures necessary and appropriate to prevent or correct a violation. H will be weighted from -2 to 2 in the following way:

(A) -2 = the person took all feasible steps to correct any prior violations;

(B) 0 = there is no prior history or insufficient information on which to base a finding;

(C) 1 = the person took some, but not all feasible steps to correct prior violations;

(D) 2 = the person took no action to correct prior violations.

(d) R = Preventability of the violation and whether negligence or misconduct was involved. R will be weighted from -2 to 7 in the following way:

(A) -2 = the person's actions determined to be in violation were unavoidable and the person notified the department of the violation in accordance with the terms of the person's permit;

(B) -1 = the person's actions determined to be in violation were unavoidable;

(C) 0 = information is insufficient to make any finding;

(D) 2 = the person's actions determined to be in violation were reasonably avoidable and the person notified the department of the violation in accordance with the terms of the person's permit;

(E) 4 = the person's actions determined to be in violation were reasonably avoidable;

(F) 7 = the person's actions were flagrant or reckless.

(5) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced at the director's discretion upon such terms and conditions that are proper and consistent with public health and safety.

(6) At the discretion of the director, a respondent who is unable to pay the full amount of a civil penalty may be allowed to pay the civil penalty by means of a schedule of payments that may include payment of interest on the unpaid balance for any delayed payments.

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

Stat. Auth.: ORS 468B.217, ORS 468B.230 & ORS 561

Stats. Implemented: ORS 561.175

Hist.: AD 8-1994, f. & cert. ef. 7-26-94; DOA 30-2003, f. 9-11-03, cert. ef. 10-1-03

Adm. Order No.: DOA 31-2003

Filed with Sec. of State: 9-12-2003

Certified to be Effective: 9-12-03

Notice Publication Date: 8-1-03

Rules Amended: 603-012-0230

Subject: This rule change will increase the fees for animal remedies, pharmaceuticals and veterinary biologics sold in Oregon to the maximum allowed which is \$75 per product per year.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-012-0230

Fees

(1) The registration fee for each animal remedy, pharmaceutical or veterinary biologic product shall be \$75.

(2) Manufacturers of autogenous biologics shall pay \$75 annually for all autogenous products formulated.

Stat. Auth.: ORS 561.190 & ORS 584

Stats. Implemented: ORS 584

Hist.: AD 6-1991(Temp), f. & cert. ef. 7-19-91; AD 2-1992, f. & cert. ef. 2-11-92; AD 10-1993(Temp), f. 8-4-93, cert. ef. 8-5-93; AD 4-1994, f. & cert. ef. 3-31-94; DOA 9-1999, f. 5-14-99, cert. ef. 6-1-99; DOA 31-2003, f. & cert. ef. 9-12-03

ADMINISTRATIVE RULES

Adm. Order No.: DOA 32-2003
Filed with Sec. of State: 9-12-2003
Certified to be Effective: 9-12-03
Notice Publication Date: 8-1-03
Rules Adopted: 603-014-0046, 603-014-0047, 603-014-0048
Rules Amended: 603-014-0045

Subject: This rule change will amend the fee charged to record cattle, horse, and sheep brands. It will also establish a new activation fee and renewal fee.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-014-0045

Application and Activation Fees for New Certificates of Recordation of Brands

(1) If a person desires to record a distinctive brand on a location on a species of livestock, the person may apply for a certificate of recordation as provided in this section.

(2) To receive a certificate of recordation, the person shall submit a written application, submit all other requested documents, and pay an application fee plus an activation fee.

(a) The person may submit a written application for a certificate of recordation. The application fee must accompany the application. The amount of the application fee is \$25 for each location on each species of livestock.

(b) If the department determines after a review of the application that the requested brand is available, the department will project an expiration date for a certificate of recordation, inform the applicant of the projected expiration date and of the amount of the activation fee, and may request additional documents from the applicant.

(c) The amount of the activation fee for each certificate of recordation will be calculated based on the livestock species and on the number of days between the date that the department determined that the requested brand is available and the projected expiration date. For all livestock species except sheep, the activation fee for a certificate of recordation shall be \$.07 per day, up to a maximum of \$100. For sheep, the activation fee for a certificate of recordation shall be \$.03 per day, up to a maximum of \$40.

(d) Upon receiving the information described in paragraph (B), the applicant may submit the activation fee to the department. If the applicant does not submit the activation fee and all requested documents to the department so that the department receives them within three months of the date that the department determined that the requested brand is available, then the department's determination will be deemed rescinded without further action.

(3) Upon receipt of a written application, the application fee, the activation fee, and all other requested documents as provided in this section, the department will issue a certificate of recordation for the distinctive brand on the location on the species of livestock. The certificate shall allow use of the brand until the expiration date.

Stat. Auth.: ORS 561.180, ORS 604.027 & ORS 607.261
Stats. Implemented: ORS 604.027

Hist.: AD 615, f. 7-23-59, ef. 7-23-59 and 8-5-59; AD 849(21-67), f. 9-5-67, ef. 9-13-67; AD 1026(16-74), f. 4-30-74, ef. 5-25-74; AD 1068(14-75), f. 9-5-75, ef. 10-1-75; AD 2-1980, f. 2-20-80, ef. 4-1-80; AD 22-1981, f. & ef. 10-7-81; AD 6-1992, f. & cert. ef. 6-3-92; DOA 27-2003(Temp), f. & cert. ef. 8-4-03 thru 11-1-03; DOA 32-2003, f. & cert. ef. 9-12-03

603-014-0046

Establishing Expiration Dates for Certificates of Recordation of Brands

(1) Except as provided in subsection (2), when issuing a new certificate of recordation or when renewing an existing certificate of recordation, the department may establish or adjust the expiration date of the certificate as the department considers necessary to ensure that an approximately equal number of certificates will expire in each year of a four-year cycle.

(2) Every certificate of recordation must have at least one expiration date in each four-year cycle.

Stat. Auth.: ORS 561
Stats. Implemented: ORS 604.027(1) & 604.027(2)

Hist.: DOA 27-2003(Temp), f. & cert. ef. 8-4-03 thru 11-1-03; DOA 32-2003, f. & cert. ef. 9-12-03

603-014-0047

Renewal Fees for Certificates of Recordation of Brands

(1) All certificates of recordation expire on their expiration dates, unless the department receives the renewal fee by the first January 4th that follows an attempt by the department to notify the holder of the need to renew.

(2) The department will attempt to notify the holder during the September that precedes the expiration date of the certificate of recordation that the certificate needs to be renewed.

(3) The amount of the renewal fee depends on whether the new expiration date will be adjusted under OAR 603-014-0046.

(a) If the new expiration date will not be adjusted, the certificate of recordation will be effective for four years and the amount of the renewal fee will be based on the species of livestock. For all livestock species except sheep, the renewal fee shall be \$100. For sheep, the renewal fee shall be \$40.

(b) If the new expiration date will be adjusted, the department will attempt to notify the holder of the adjusted expiration date and of the amount of the renewal fee. The amount of the renewal fee will be calculated based on the number of years that the certificate of recordation will be effective and on the species of livestock. For livestock species except sheep, the renewal fee shall be \$25 per year. For sheep, the renewal fee shall be \$10 per year.

(4) The department will mail the notifications described in this section to a holder of a certificate of recordation at the holder's last known address as shown on the department's records.

Stat. Auth.: ORS 561

Stats. Implemented: ORS 604.027(1) & 604.027(2)

Hist.: DOA 27-2003(Temp), f. & cert. ef. 8-4-03 thru 11-1-03; DOA 32-2003, f. & cert. ef. 9-12-03

603-014-0048

Reactivation Fees for Expired Certificates of Recordation of Brands

(1) If a certificate of recordation has expired, the person who held the certification of recordation may reactivate the certificate as provided in this section within one year of the date the certificate expired.

(2) Within 60 days of the expiration, the department will provide written notice of the expiration to the person who held the certificate.

(3) To reactivate a certificate of recordation, the person who held the certificate shall submit a written request, submit all other requested documents, and pay a reactivation fee plus a renewal fee.

(a) The person who held the certificate of recordation may request in writing that the department reactivate the certificate. The reactivation fee must accompany the request. The amount of the reactivation fee is \$25 for each certificate.

(b) If the department determines that the certificate of recordation may still be reactivated, the department will inform the person who held the certificate of the amount of the renewal fee and may request additional documents from the person.

(c) The amount of the renewal fee for each certificate of recordation will be calculated based on the livestock species and on the number of days between the date that the department determined that the certificate may still be activated and the new expiration date. For all livestock species except sheep, the renewal fee for a certificate of recordation shall be \$.07 per day, up to a maximum of \$100. For sheep, the renewal fee for a certificate of recordation shall be \$.03 per day, up to a maximum of \$40.

(d) Upon receiving the information described in paragraph (b), the person who held a certificate of recordation may submit the renewal fee to the department. If the person does not submit the renewal fee so that the department receives it within three months of the date that the department determined that the certificate of recordation may be reactivated or within one year of the date that the certificate expired, whichever occurs first, then the department's determination will be deemed rescinded without further action.

(e) Upon receipt of a written request, the reactivation fee, the renewal fee, and all requested documents as provided in this section, the department will reactivate the certificate of recordation. The reactivation shall allow use of the brand between the date that the department determined that the certificate of recordation may be reactivated and the new expiration date. The reactivation does not allow use of the brand between the date the certificate or recordation expired and the date that the department determined that the certificate of recordation may be reactivated.

(4) If the person who held a certificate of recordation does not reactivate an expired certificate of recordation within one year of the date that the certificate expired and as otherwise provided in this section, then the certificate is considered abandoned and any other person may apply for recordation of the distinctive brand.

(5) The department will mail the notifications described in this section to a person who held a certificate of recordation by addressing the notification to the person and use the person's last known address as shown on the department's records.

Stat. Auth.: ORS 561

Stats. Implemented: ORS 604.027(1) & 604.027(2)

Hist.: DOA 27-2003(Temp), f. & cert. ef. 8-4-03 thru 11-1-03; DOA 32-2003, f. & cert. ef. 9-12-03

ADMINISTRATIVE RULES

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

Adm. Order No.: WCD 9-2003(Temp)

Filed with Sec. of State: 8-29-2003

Certified to be Effective: 9-2-03 thru 2-28-04

Notice Publication Date:

Rules Amended: 436-060-0010, 436-060-0019, 436-060-0035, 436-060-0500

Subject: 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.

(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

ADMINISTRATIVE RULES

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 to process, but not pay supplemental disability benefits, or elects to not process and/or 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.

(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

Hist.: 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

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 the job at which the injury occurred as a result of the compensable injury, subject to the following:

(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.

(5) For workers with multiple jobs at the time of injury, the three day waiting period applies only to the job at which the injury occurred.

(6) The worker's scheduled days off for the job at which the injury occurred shall be used to calculate supplemental disability.

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

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. If the insurer has elected not to process and/or pay these benefits, and the worker is not eligible for supplemental disability benefits because the temporary disability rate from the primary job meets or exceeds the maximum rate, the insurer shall send the assigned processing agent all information needed to deny the worker's eligibility for supplemental disability benefits, within five business days of receiving the claim. The assigned processing agent shall send the denial notice to the worker.

(3) Within five business days of receiving a claim, 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 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) Supplemental disability is not due on a non-disabling claim, even though the worker may otherwise be eligible for supplemental disability.

ADMINISTRATIVE RULES

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) Except as otherwise provided in sections (2), (8), (9), and (10) 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.

(13) 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. With the payment, the insurer shall send Form #3531, "Physician Authorization of Supplemental Disability" to the worker to obtain on-going authorization for supplemental disability. Reimbursement for supplemental disability paid will be made pursuant to OAR 436-060-0500.

(14) 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. At the same time the insurer sends the voucher to the division, the insurer shall send Form #3531, "Physician Authorization of Supplemental Disability" to the worker to obtain on-going authorization for supplemental disability.

(15) 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 once each 14 days, if the attending physician's authorization is received, pursuant to section (16) of this rule. With the payment, the assigned processing agent shall send Form #3531, "Physician Authorization of Supplemental Disability" to the worker to obtain on-going authorization for supplemental disability. Reimbursement for supplemental disability paid will be made pursuant to OAR 436-060-0500.

(16) 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. Form # 3531, "Physician Authorization of Supplemental Disability" is provided (see Bulletin 325) to assist the worker with this responsibility.

(17) 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.

(18) 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.

(19) 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.

(20) 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

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.

(2) Requests for reimbursement shall be submitted on Form 3504, "Supplemental Disability Benefits Quarterly Reimbursement Request."

(3) In addition to the supplemental disability reimbursement, the division shall calculate and pay the insurer 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

ADMINISTRATIVE RULES

Adm. Order No.: WCD 10-2003

Filed with Sec. of State: 8-29-2003

Certified to be Effective: 9-15-03

Notice Publication Date: 4-1-03

Rules Amended: 436-050-0003, 436-050-0410, 436-050-0420, 436-050-0440, 436-050-0450, 436-050-0460, 436-050-0470

Rules Repealed: 436-050-0430

Subject: These rules:

- Eliminate rule text that repeats the statutory requirements in ORS 656.850 and 656.855.

- Incorporate the information/data requirements now in Bulletins 271 and 273 and the related forms (used for workers' compensation coverage notification and application for worker leasing company license).

- Clarify the requirement that a licensed worker leasing company must have at least one Oregon location where all Oregon leasing records are kept.

- Include criminal conviction for theft or embezzlement among the reasons for disqualification, suspension or revocation of a worker-leasing company license.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us
Rules are available on the internet: <http://www.oregonwcd.org/policy/rules/permanent/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

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

436-050-0003

Applicability of Rules

(1) These rules are effective September 15, 2003, to carry out the provisions of:

(a) ORS 656.017 — Employer required to pay compensation and perform other duties.

(b) ORS 656.029 — Independent contractor status.

(c) ORS 656.126 — Coverage while temporarily in or out of state.

(d) ORS 656.407 — Qualifications of insured employers.

(e) ORS 656.419 — Guaranty contracts.

(f) ORS 656.423 — Cancellation of coverage by employer.

(g) ORS 656.427 — Termination of guaranty contract or surety bond liability by insurer.

(h) ORS 656.430 — Certification of self-insured employer.

(i) ORS 656.434 — Certification effective until canceled or revoked; revocation of certificate.

(j) ORS 656.443 — Procedure upon default by employer.

(k) ORS 656.447 — Sanctions against insurer for failure to comply with contracts, orders or rules.

(l) ORS 656.455 — Records location and inspection.

(m) ORS 656.745 — Civil penalties.

(n) ORS 656.850 and 656.855 — Worker-leasing companies.

(o) ORS 731.475 — Insurer's in-state location.

(2) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.017, ORS 656.029, ORS 656.126, ORS 656.407, ORS 656.419, ORS 656.423, ORS 656.427, ORS 656.430, ORS 656.434, ORS 656.443, ORS 656.447, ORS 656.455, ORS 656.745, ORS 656.850, ORS 656.855 & ORS 731.475
Stats. Implemented: ORS 656.704 & ORS 656.726(4)

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, ef. 10-1-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; Renumbered from 436-051-0003, 1-1-86; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 3-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 1-1998, f. 1-9-98, cert. ef. 1-23-98; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0410

Notice to Director of Lease Arrangement; Termination

(1) Within 14 days after the effective date of the lease arrangement or contract, a worker-leasing company must file written notice with the director and its insurer, using Form 440-2465, that it is providing leased workers to a client and workers' compensation coverage. The notice must be correct and complete, and must include:

(a) The client's:

(A) Legal name;

(B) FEIN or other tax reporting number;

(C) Type of ownership;

(D) Primary nature of business;

(E) Mailing address; and

(F) Street address in Oregon;

(b) The worker leasing company's:

(A) Legal name;

(B) Mailing address;

(C) FEIN or other tax reporting number;

(D) WCD worker leasing license number, if any;

(E) Workers' compensation insurer's name (or "self-insured");

(F) Effective date of leasing contract;

(G) Contact name and phone number; and

(H) A signature of a representative of the worker leasing company.

(2) A worker-leasing company may terminate its obligation to provide workers' compensation coverage by giving to its insurer, its client, and the director written notice of the termination. A notice of termination shall state the effective date and hour of termination, but the termination will be effective not less than 30 days after the notice is received by the director. Notice to the client under this section must be given by mail, addressed to the client at its last-known address.

Stat. Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855

Stats. Implemented: ORS 656.850 & ORS 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0420

Temporary Worker Distinguished from Leased Worker

(1) A person who provides a worker to work for a client will be considered to be providing the worker on a "temporary basis" only if there is contemporaneous written documentation, retained by either the client or the temporary service provider, which indicates the duration of the work to be performed and the worker is provided pursuant to ORS 656.850(1)(b), under one or more of the following conditions:

(a) Special situations to cover employee absences or employee leaves, including but not limited to such things as maternity leave, vacation, jury duty, or illness from which the permanent worker will return to work;

(b) To fill a professional skill shortage;

(c) To staff a seasonal workload;

(d) To staff a special assignment or project where the worker will be terminated or assigned to another temporary project upon completion;

(e) A student worker provided and paid by a school district or community college through a work experience program; or

(f) The work contract is part of the client's overall employment selection program, such as where new workers must satisfactorily pass a probationary period before being granted permanent employee status.

(2) If a person provides workers, by contract and for a fee, to work for a client and any such workers are not provided on a "temporary basis," that person will be considered a worker-leasing company.

(3) If a person provides both leased workers and workers on a temporary basis, that person shall maintain payroll records that show specifically which workers are provided on a temporary basis. If the payroll records do not specify which workers are provided on a temporary basis, all workers are deemed to be leased workers.

Stat. Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855

Stats. Implemented: ORS 656.850 & ORS 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 15-1994, f. 12-23-94, cert. ef. 2-1-95; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0440

Qualifications, Applications, and Renewals for License as a Worker-Leasing Company

(1) Each applicant for initial license or renewal as a worker-leasing company shall:

(a) Be either an Oregon corporation or other legal entity registered with the Oregon Secretary of State, Corporations Division to conduct business in this state;

(b) Maintain workers' compensation coverage pursuant to ORS 656.017; and

(c) Pay the required licensing fee of \$1,250.

(2) Each applicant for initial license or renewal as a worker-leasing company must submit an application for license on Form 440-2466. The form and accompanying documentation must include:

(a) Legal name;

(b) Mailing address;

(c) In-state and out-of-state phone numbers;

ADMINISTRATIVE RULES

- (d) FEIN or other tax reporting number;
- (e) Type of business;
- (f) Physical address for Oregon principal place of business;
- (g) Assumed business names;
- (h) Name of workers' compensation insurer (or "self-insured") and policy number;

- (i) WCD employer number, if any;
- (j) Names and titles of authorized representatives, including the Oregon representative;

(k) List of controlling persons holding or controlling 10 percent or more interest in the company, including their names, titles, residence addresses, and dates of birth;

(l) A record of any present or prior worker leasing company services provided in any state and an explanation of those services;

(m) A letter of verification or good-standing from the controlling regulatory agency of those states in which a worker leasing license or certification is currently held;

(n) Verification of compliance with tax laws from Oregon Employment Division, Oregon Department of Revenue, and the Internal Revenue Service, using Attachments A, B, and C of Form 440-2466, the worker leasing license application;

(o) A record of any actions in which an essential element of the action involved fraud, theft, or embezzlement of monies on the part of the applicant or any controlling person; such actions may include:

- (A) Criminal convictions;
- (B) Lawsuits;
- (C) Guilty pleas;
- (D) Judgments; or
- (E) Administrative actions;

(p) Full details regarding any action taken under subsection (o) of this section, including:

- (A) The nature and dates of the action(s);
- (B) Outcomes, sentences, and or conditions imposed;
- (C) Name and location of the court or jurisdiction in which any proceedings were held or are pending, and the dates of the proceedings; and
- (D) The designation and/or license number for any actions against a license;

(q) A plan of operation which demonstrates how the worker-leasing company will meet the requirements of ORS Chapter 654, The Oregon Safe Employment Act, and collect the information necessary to establish each client's experience rating; and

(r) A notarized signature of an authorized representative of the applicant.

(3) Incomplete or incorrectly completed application packages will be rejected and returned to the applicant. The applicant will not be authorized to lease employees until the director has issued a license.

(4) Upon receipt of a completed application package, the application will be reviewed. The department may conduct a background investigation of each individual applicant and controlling person. If the application is approved, the director will issue a license.

(5) Each license issued under these rules shall automatically expire two years after the date of issuance unless renewed by the licensee.

Stat. Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855
Stats. Implemented: ORS 656.850 & ORS 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0450

Recordkeeping

(1) Every licensed worker-leasing company must give notice to the director of one Oregon location where Oregon leasing records are kept. The notice must include the physical address, mailing address, telephone number, and any other contact information in this state.

(2) Every licensed worker-leasing company must have at least one representative of the worker-leasing company at the Oregon location who is able to respond to inquiries regarding leasing arrangements and client contracts.

(3) The following records must be kept at the Oregon location:

- (a) Copies of signed worker leasing notices;
- (b) Copies of signed notices of termination of leasing arrangements;
- (c) Copies of signed contracts between the worker-leasing company and clients; and

(d) Payroll records for all workers which identify leased workers subject to coverage by the worker-leasing company; leased workers not subject to coverage by the worker-leasing company; and

(e) Payroll records for all regular and temporary employees of the worker-leasing company.

(4) If the designated Oregon location, or representative is changed, the worker-leasing company must notify the director within 30 days of the effective date of the change.

Stat. Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855

Stats. Implemented: ORS 656.850 & ORS 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0460

Disqualification, Suspension, Revocation of License

(1) The director may disqualify, suspend or revoke the worker-leasing company's license upon a determination that the worker-leasing company has failed to comply with ORS 656.850, 656.855, or these rules. Reasons for disqualification, suspension or revocation include, but are not limited to:

(a) Insolvency, whether the worker-leasing company's liabilities exceed their assets or the worker-leasing company cannot meet its financial obligations;

(b) If the worker-leasing company or any controlling person has been convicted of dishonest, fraudulent or illegal practices or conduct in any business or profession;

(c) If any controlling person has been convicted of a crime within the past 10 years, an essential element of which is fraud, theft, or embezzlement of monies;

(d) If the worker-leasing company has willfully violated or has failed to comply with any provisions of ORS Chapters 654, 656, 659, 731 or 737; or any provisions of these rules; or

(e) If the worker-leasing company is permanently or temporarily enjoined by a court from engaging in or continuing any conduct or practice involving any aspect of the worker-leasing business.

(2) For the purposes of this rule:

(a) "Disqualification" and its variations means a refusal by the director to issue a license to a prospective worker-leasing company for failure to meet the requirements of ORS 656.850, 656.855, or these rules.

(b) "Suspension" and its variations means a stopping by the director of the worker-leasing company's authority to provide leased workers to clients for a specified period of time.

(c) "Revocation" and its variations means a permanent stopping by the director of the worker-leasing company's authority to provide leased workers to clients.

(d) "Show-cause hearing" means an informal meeting with the director in which the worker-leasing company shall be provided an opportunity to be heard and present evidence regarding any proposed orders by the director to suspend or revoke a worker-leasing company's authority to provide leased workers to clients.

(3) Suspension or revocation under this rule will not be made until the worker-leasing company has been given notice and the opportunity to be heard through a show-cause hearing before the director and "show cause" why it should be permitted to continue to be licensed as a worker-leasing company.

(4) A show-cause hearing may be held at any time the director finds that a worker-leasing company has failed to comply with its obligations under a leasing contract or that it failed to comply with the rules or orders of the director.

(5) Following a show-cause hearing, the director may rescind the proposed order if the worker-leasing company establishes to the director's satisfaction its ability and commitment to comply with ORS Chapter 656 and these rules.

(6) A suspension may be in effect for a period of up to two years.

(7) After a revocation of a worker-leasing company's authority to provide leased workers to clients has been in effect for five years or longer, it may reapply for license.

(8) Appeal of proposed and final orders of suspension or revocation issued under this rule may be made as provided in OAR 436-050-0008 and 436-001.

(9) Notwithstanding section (3) of this rule, the director may immediately suspend or refuse to renew a license by issuing an "emergency suspension order" if the worker-leasing company fails to maintain workers' compensation coverage; or if the director finds there is a serious danger to public health or safety.

(10) A disqualification, suspension or revocation will apply to any new entity created from the disqualified, suspended, or revoked entity through the sale, transfer or conveyance of ownership interest or of the entity's assets to another entity which takes over its operations.

Stat. Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855

ADMINISTRATIVE RULES

Stats. Implemented: ORS 656.850 & ORS 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01;
WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

436-050-0470

Monitoring/Auditing

(1) The division will monitor and conduct periodic audits of employers as necessary to ensure compliance with the worker-leasing company licensing and performance requirements.

(2) All pertinent records of the worker-leasing company required by these rules must be disclosed upon request of the director.

(3) Pursuant to ORS 656.726 and 656.758, the director may inspect the books, records and payrolls of employers pertinent to the administration of these rules. Employers must provide the director with all pertinent books, records and payrolls upon request.

(4) For the purposes of this rule, both the worker-leasing company and its clients shall be considered employers.

Stat Auth.: ORS 656.704, ORS 656.726(4), ORS 656.850 & ORS 656.855
Stats. Implemented: ORS 656.850 & ORS 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96;
WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03

Department of Corrections

Chapter 291

Adm. Order No.: DOC 12-2003

Filed with Sec. of State: 8-20-2003

Certified to be Effective: 8-20-03

Notice Publication Date: 4-1-03

Rules Adopted: 291-031-0085, 291-031-0095, 291-031-0100, 291-031-0110, 291-031-0120, 291-031-0130, 291-031-0140, 291-031-0150, 291-031-0160, 291-031-0170, 291-031-0180, 291-031-0190, 291-031-0200, 291-031-0210

Subject: The department is adopting these rules to establish a process whereby a county may cease to participate in the Community Corrections Act and transfer responsibility for community corrections to the state Department of Corrections, or option to participate in the Community Corrections Act rather than having the state Department of Corrections operate community corrections.

Rules Coordinator: Carolyn Schnoor—(503) 945-0933

291-031-0085

County Option to Cease Participation in the Community Corrections Act

(1) The Community Corrections Act gives each county the option to transfer responsibility for community corrections to the Department of Corrections if the Legislature fails to fund community corrections at the baseline established in ORS 423.483(1) and (3).

(2) If the total state community corrections allocation is less than the baseline, the county may discontinue participation in the Act by providing written notification to the Director of the Department of Corrections 180 days prior to implementation of the change.

(3) The department can elect to assume responsibility for community corrections sooner than 180 days with concurrence from the county.

(4) A county may transfer responsibility for community corrections to the state no more than one time in a biennium.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0095

Responsibility for Community Corrections

(1) The Department of Corrections will assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies who are on parole or post-prison supervision, probation, sentenced or sanctioned to a prison term of 12 months or less, or on conditional release under ORS 420.206.

(2) According to sentencing guidelines, terms of incarceration of 12 months or less are served at the direction of the local supervisory authority rather than in the legal and physical custody of the Department of Corrections (OAR 213-005-0001(2)). The Department of Corrections will perform the duties of the local supervisory authority for terms of incarceration of 12 months or less (local control offenders).

(3) The Department of Corrections will not assume responsibility for the supervision of offenders convicted of misdemeanors.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0100

Funding

(1) Department of Corrections funds allocated to provide correctional services by the county will be retained by the state.

(2) County allocations are computed for a 24-month period. If the transfer of responsibility is for a period of less than 24 months, the funds retained by the state for community corrections activities will be prorated to the day of the transfer.

(3) A financial closing statement will be provided to the state within 60 days of the transfer of responsibility. Any state funds distributed but not spent will be returned to the state.

(4) The department, at its option, may choose to operate community corrections in regions consisting of several counties, and to combine funds and staff to operate the region most efficiently.

(5) The department shall retain all supervision fees collected from offenders supervised by state-operated community corrections offices and received subsequent to the state assuming responsibility for operations.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0110

Biennial Community Corrections Plan

(1) The Department of Corrections shall develop a community corrections plan for each county with a state-operated community corrections office.

(2) The department will meet with the local public safety coordinating council to review the county's recommendations as to how state resources will be invested to serve the local offender population. Those recommendations will be included in the plan and/or the department will provide a response to each recommendation.

(3) The department will submit the plan to the county commissioners for information and comments. The commissioners may choose to comment or may simply acknowledge the plan was received.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525, & ORS 423.530

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.500 - ORS 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0120

Transfer of Property

(1) When a county ceases participation in the Community Corrections Act, the state shall assume title to any equipment, furnishings, vehicles or property purchased with community corrections grant funds and used by existing county staff to provide parole and probation services to the county. The county shall provide the Department of Corrections with a list of all such equipment, furnishings, vehicles or property with a value of over \$250 within 30 days of the county's notification to the Director of the Department of Corrections that it will discontinue participation in the Community Corrections Act.

(2) An agreement transferring title of equipment or property to the Department of Corrections shall be written, accompanied by an inventory list signed by the designated representatives of both the county and the department. The agreement shall be subject to all state regulations governing such transfer of title.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0130

Correctional Facilities

When a county ceases participation in the Community Corrections Act, the state and county shall follow the terms of any applicable lease-sub-

ADMINISTRATIVE RULES

lease agreements regarding any correctional facilities acquired, constructed, or renovated under ORS 423.525(2).

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0140 Employees

(1) County employees in the county community corrections agency and funded through the community corrections grant to that county will be transferred to state employment, to the extent there are funds available. If the county has experienced a reduction in funding, there will be a commensurate reduction in staff positions available for transfer.

(2) County employees transferred to state employment will not suffer any reduction in salary or loss of employee benefits for 12 months because of the transfer. Salary will not be reduced, accrued sick leave will be retained, up to 80 hours of vacation may be transferred, a waiver of waiting period for preexisting conditions will be arranged. The employee may remain with his or her present retirement system for 12 months or may participate in the state retirement system. Following this period, salary, benefits and retirement plan will be based on established state wages and benefits.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0150 County Option to Participate in the Community Corrections Act

(1) The Community Corrections Act gives each county the option to directly operate community corrections rather than to have the Department of Corrections operate community corrections.

(2) A county that has exercised the option to "opt out" of participation may again participate in the Community Corrections Act by providing written notification to the Director of the Department of Corrections 180 days prior to implementation of the change. A county may make this change no more than one time in a biennium.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0160 Responsibility for Community Corrections

The county will assume responsibility from the Department of Corrections for community-based supervision, sanctions and services for offenders convicted of felonies who are on parole or post-prison supervision, probation, sentenced or sanctioned to a prison term of 12 months or less, or on conditional release under ORS 420A.206.

Stat Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525, and 423.530
Stat Impl: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.500 to 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0170 Funding

(1) Department of Corrections funds formerly used to provide correctional services by the state will be granted to the county under an intergovernmental agreement.

(2) County allocations are computed for a 24-month period. If the transfer of responsibility is for a period less than 24 months, the funds allocated to the county will be prorated to the day of the transfer.

(3) A financial closing statement will be provided to the county by the Department of Corrections within 60 days of the transfer of responsibility. Any state funds allocated to the county but not spent by the state will be appropriated to the county.

(4) The county shall retain all supervision fees collected from offenders supervised by county-operated community corrections offices after the date of transfer.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0180

Biennial Community Corrections Plan

The county will develop a community corrections plan (OAR 291-031-0015) prior to the transfer of responsibility.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0190

Transfer of Property

(1) When a county begins participation in the Community Corrections Act, the county shall assume title to any equipment, furnishings, or property used by existing DOC staff to provide parole and probation services in the county. The Department of Corrections shall provide the county with a list of all such equipment, furnishings, or property with a value of over \$250 within 30 days of the county's notification to the Director of the Department of Corrections that it will participate in the Community Corrections Act.

(2) An agreement transferring title of equipment or property to the county shall be written, accompanied by an inventory list signed by designated representatives of both the county and the department and shall be subject to all state regulations governing such transfer of title.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0200

Correctional Facilities

Correctional facilities acquired, constructed, or renovated under ORS 423.515(2) shall be sub-leased to the county if the county assumes responsibility for probation and parole/post-prison supervision before the lease agreement terminates.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0210

Employees

(1) State employees employed in the county community corrections agency and funded through the community corrections grant to that county will be transferred to county employment, to the extent there are funds available. If the county has experienced a reduction in funding, there will be a commensurate reduction in staff positions available for transfer.

(2) State employees transferred to county employment will not suffer any reduction in salary or loss of employee benefits for 12 months because of the transfer. Salary will not be reduced, accrued sick leave will be retained, up to 80 hours of vacation may be transferred, a waiver of waiting period for preexisting conditions will be arranged. The employee may remain with his or her present retirement system for 12 months. Following this period, salary, benefits and retirement plan will be based on established county wages and benefits.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

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Adm. Order No.: DOC 13-2003

Filed with Sec. of State: 8-22-2003

Certified to be Effective: 8-22-03

Notice Publication Date: 8-1-03

Rules Amended: 291-077-0030

Subject: The department is amending this rule to more equitably distribute monetary awards to inmates with the lowest level of job responsibility when the number of days available to work in the month is shortened due to holidays.

Rules Coordinator: Carolyn Schnoor—(503) 945-0933

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

ADMINISTRATIVE RULES

the department for a monthly performance award in accordance with these rules.

(2) When the department, in its discretion, determines to make available to inmates individual monthly performance awards, 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** and a corresponding schedule of monetary awards for specific point ranges as set forth in Appendix A to these rules, and in accordance with the following criteria:

(a) Total Monthly Performance Points: Total monthly performance points will be calculated as follows:

MONTHLY PERFORMANCE POINTS
- BEHAVIORAL ADJUSTMENTS
= TOTAL MONTHLY PERFORMANCE POINTS

(b) Monthly Performance Points: In each month in which the department determines to make available to inmates individual performance awards, the department will add together each inmate's daily points for that month to determine the inmate's **monthly performance points**.

(c) Evaluation Periods: Evaluation periods are days during which the department will assess an inmate's willingness, attitude, and aptitude to perform in his or her particular program assignment(s). During evaluation periods, inmates are not eligible to earn PRAS points for assignments in which they participate.

(A) Inmates arriving at a Department of Corrections facility from intake status on or after October 1, 2000, will undergo an evaluation period of 90 days. The 90 days begin accumulating on the admission date to the facility.

(B) There is also a 30-day evaluation period which is an accumulate total of 30 successful programming days (30 daily passes). All inmates will undergo the 30-day evaluation period if involved in any of the following events:

(i) Removal from a program for failure to satisfactorily perform in a program assignment; or

(ii) Placement in segregated housing in connection with an inmate disciplinary sanction order.

(C) If an inmate fulfilling a 90-day evaluation period is involved in any of the above events, the 30-day evaluation period will not start until after the 90-day evaluation period is satisfied.

(D) Inmates assigned to a minimum security facility are exempt from all evaluation period assignments.

(d) Daily Points: After completion of the evaluation period and for each day of satisfactory performance in qualifying program assignment(s), the department will credit each eligible inmate with points equal to the numerical value of the responsibility level assigned to the inmate's program assignment. Satisfactory level of performance will be determined on a pass/fail basis. The sum of the points credited to the inmate for each day yield the inmate's **daily points**.

(e) Multiple Program Assignments: Inmates will be credited with points from only one assignment in the work program category and one assignment in the workforce development or treatment program category in any specific day.

(A) Work Program Assignments: If the inmate is assigned to more than one work or training assignment on a given day, the highest responsibility level assigned to the inmate's work program assignments will be used to calculate the daily points in the work program category. A failing level of performance in any one of the work or training assignments in a given day will result in no points being awarded that day in the work program category.

(B) Work Force Development or Treatment Program Assignments: If an inmate is assigned to more than one workforce development or treatment program assignment on a given day, the highest value assigned to the inmate's workforce development or treatment program assignment will be used to calculate the daily points in the workforce development or treatment program category. A failing level of performance in any one of the workforce development or treatment program assignments will result in no points being awarded that day in the workforce development or treatment program category.

(f) Responsibility Level: The department's assessment of the level of responsibility associated with a specific qualifying inmate program assignment. The Assistant Director for Programs or designee, in his or her sole discretion, will determine for each qualifying inmate program a specific responsibility level value of one through eighteen, as follows:

(A) Workforce development and treatment assignments will be assigned a value of one.

(B) Work and training 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 ratings for specific vocational preparation (SVP), reasoning, language, and math. The numeric skill level ratings for SVP, reasoning, and language will be added together for a total rating sum. The responsibility level is equal to the rating sum.

(C) The Assistant Director for Programs or designee may, in his or her sole discretion, assign a qualifying program assignment a responsibility level that differs from that described in subsections (A) or (B) above 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 to any public agency or private enterprise.

(g) Satisfactory Performance: Program supervisors will submit to the functional unit manager or designee, their daily pass/fail assessment of each inmate's performance in each qualifying program assignment. The daily assessment will be based upon an evaluation of the inmate's attendance, performance quality, performance effort, interpersonal communications with staff and fellow inmates, self-improvement effort, and ability to follow directions.

(h) Behavioral Adjustment:

(A) The department will record all inmate disciplinary 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 disciplinary rule violation, the department will deduct points from an inmate's monthly performance points based on the level of misconduct as follows:

Level — Percentage Deducted

1	— 100%
2	— 100%
3	— 80%
4	— 65%
5	— 50%
6	— 40%
7	— 30%
8	— 20%

(B) Deductions for behavioral adjustment will be made in the month in which the final disciplinary order is issued in the disciplinary case.

(3) Deductions/Permissible Uses for Performance Awards: The department will deduct a fixed percentage of each performance award made to inmates under the PRAS and these rules, to be credited to a general victims assistance fund. The department will credit the remainder of any performance award to each recipient inmate's trust account for his/her use in accordance with department rules, including but not limited to making discretionary purchases from facility canteens.

[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

Department of Environmental Quality Chapter 340

Adm. Order No.: DEQ 12-2003

Filed with Sec. of State: 9-2-2003

Certified to be Effective: 9-2-03

Notice Publication Date: 5-1-03

Rules Adopted: 340-051-0007

Rules Amended: 340-045-0015, 340-045-0033, 340-051-0005, 340-051-0010, 340-051-0015, 340-051-0020, 340-051-0025, 340-051-0030, 340-051-0050, 340-051-0055, 340-051-0060, 340-051-0065, 340-051-0070, 340-051-0075, 340-051-0080

Subject: Consistent with federal National Pollutant Discharge Elimination System (NPDES) permit program regulations, amend OAR 340-045-0015 to allow the Director to designate an animal feeding

ADMINISTRATIVE RULES

operation as a significant contributor of pollutants needing an NPDES permit pursuant to 40 CFR §122.23(c).

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

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

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

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

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

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

For ODA, this proposal would do the following:

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

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

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

Rules Coordinator: Rachel Sakata—(503) 229-5659

340-045-0015

Permit Required

(1) Without first obtaining a permit from the Director, no person shall:

(a) Discharge any wastes into the waters of the state from any industrial or commercial establishment or activity or any disposal system;

(b) Construct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto;

(c) Increase in volume or strength any wastes in excess of the permissive discharges specified under an existing permit;

(d) Construct, install, operate or conduct any industrial, commercial, or other establishment or activity or any extension or modification thereof or addition thereto, the operation or conduct of which would cause an increase in the discharge of wastes into the waters of the state or which would otherwise alter the physical, chemical, or biological properties of any waters of the state in any manner not already lawfully authorized;

(e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

(2) NPDES Permit Requirement:

(a) Without first obtaining an NPDES permit, no person shall discharge pollutants from a point source into navigable waters.

(b) Without first obtaining an NPDES permit, no person owning or operating an animal feeding operation designated by the Director as a sig-

nificant contributor of pollutants pursuant to the provisions of 40 CFR §122.23(c) shall discharge pollutants from a point source into navigable waters. Any person designated as such may seek review of the Director’s determination by requesting a contested case hearing pursuant to ORS 183.413 to 183.470.

(3) Any person who has a valid NPDES permit shall be considered to be in compliance with the requirements of section (1) of this rule. No additional permit for the discharge is required.

(4) Although not exempted from complying with all applicable laws, rules, and regulations regarding water pollution, persons discharging wastes into a sewerage system are specifically exempted from requirements to obtain a WPCF or NPDES permit, provided the owner of such sewerage system has a valid WPCF or NPDES permit. In such cases, the owner of such sewerage system assumes ultimate responsibility for controlling and treating the wastes he allows to be discharged into said system. Notwithstanding the responsibility of the owner of such sewerage systems, each user of the sewerage system shall comply with applicable toxic and pretreatment standards and the recording, reporting, monitoring, entry, inspection, and sampling requirements of the Commission and the Federal Act and federal regulations and guidelines issued pursuant thereto.

(5) Each person who is required by sections (1) and (2) of this rule to obtain a permit shall:

(a) Make prompt application to the Department therefor;

(b) Fulfill each and every term and condition of any permit issued to such person;

(c) Comply with applicable federal and state requirements, effluent standards, and limitations including, but not limited to, those contained in or promulgated pursuant to Sections 204, 301, 302, 304, 306, 307, 402, and 403 of the Federal Act, and applicable federal and state water quality standards;

(d) Comply with the Department’s requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby.

Stat. Auth.: ORS 468 & ORS 468B

Stats. Implemented: ORS 468.065 & ORS 468B.050

Hist.: DEQ 53(Temp), f. & ef. 6-21-73 thru 10-18-73; DEQ 58, f. 9-21-73, ef. 10-25-73; DEQ 113, f. & ef. 5-10-76; DEQ 12-2003, f. & cert. ef. 9-2-03

340-045-0033

General Permits

(1) The Director may issue general permits for certain categories of minor discharge sources or minor activities where individual NPDES or WPCF permits are not necessary to adequately protect the environment. Before the Director can issue a general permit, the following conditions must be met:

(a) There must be several minor sources or activities that involve the same or substantially similar types of operations.

(b) The sources or activities must have the potential to discharge or dispose of the same or similar types of wastes.

(c) The general permit must require the same or similar monitoring requirements, effluent limitations and operating conditions for the categories.

(d) The category of sources or activities would be more appropriately controlled under a general permit than an individual permit.

(e) The Commission has adopted the general permit into rule by reference.

(2) General permits issued after the effective date of this rule will specify the following:

(a) The requirements to obtain coverage under a general permit, including application requirements and application submittal deadlines. The Department may determine that submittal of an application is not necessary after evaluating the type of discharge, potential for toxic and conventional pollutants in the discharge, expected discharge volume, availability of other means to identify dischargers, and estimated number of dischargers to be covered by the permit. The Department’s evaluation must be provided in the public notice for the general permit.

(b) The process used by the Department to notify a person that coverage under a general permit has been obtained and the discharge or activity is authorized.

(3) Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

(4) Prior to issuing a general permit, the Department will follow the public notice and participation procedures outlined in OAR 340-045-0027, 340-045-0035(3), and ORS 183.325 to 183.410. In addition the Department will make a reasonable effort to mail notices of pending actions to those per-

ADMINISTRATIVE RULES

sons known by the Department who are likely to be covered by the general permit.

(5) Any person operating a discharge source or conducting an activity described in a general permit must apply for coverage under the general permit, unless the general permit does not require submission of an application pursuant to (2)(a) of this rule or the source or activity is specifically covered by an individual NPDES or WPCF permit. Any person seeking coverage under a general permit must submit an application as required under the terms of the applicable NPDES or WPCF general permit. If application requirements are not specified in the general permit, procedures in OAR 340-045-0030 or 340-071-0162, whichever is applicable, must be followed. A person who fails to submit application in accordance with the terms of the general permit, OAR 340-045-0030 or 340-071-0162, whichever is applicable, is not authorized to conduct the activity described in the permit.

(6) Any person required to have coverage under a general permit must pay permit fees as required in OAR 340-045-0070 to 340-045-0075 or 340-071-0140 to obtain and maintain coverage under that permit.

(7) Any permittee covered by an individual NPDES or WPCF permit may request that the individual permit be canceled or allowed to expire, and that it be covered by a general permit if its discharge or activity may be covered by an existing general permit. As long as the permittee is covered by an individual NPDES or WPCF permit, the conditions and limitations of the individual permit govern, until such time as it is canceled or expires.

(8) Any person not wishing to be covered by a general permit may make application for an individual permit in accordance with OAR 340-045-0030 or 340-071-0162, whichever is applicable.

(9) The Director may revoke coverage and authorization under a general permit pursuant to OAR 340-045-0060 as it applies to any person and require such person to apply for and obtain an individual NPDES or WPCF permit. Any interested person may petition the Director to take action under this section. Cases where an individual permit may be required include the following:

(a) The discharge or activity is a significant contributor of pollution or creates other environmental problems;

(b) The permittee is not in compliance with the terms and conditions of the general permit, submitted false information, or is in violation of any applicable law;

(c) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants being discharged;

(d) For NPDES general permits, effluent limitation guidelines are promulgated for point sources covered by a general permit and the guidelines are not already in the general permit; or

(e) Circumstances have changed so that the discharge or activity is no longer appropriately controlled under a general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

(10) The following general permits are adopted by reference in this rule and available for review at the Department:

(a) NPDES 200-J, Filter backwash (issued August 29, 1997)

(b) NPDES 500-J, Boiler blowdown (issued August 29, 1997)

(c) WPCF 600, Offstream placer mining (issued April 9, 1997)

(d) NPDES 700-J, Suction dredges (issued May 3, 1999)

(e) WPCF 800, Confined animal feeding operations (issued August 8, 1990)

(f) NPDES 900-J, Seafood processing (issued June 7, 1999)

(g) WPCF 1000, Gravel mining (issued July 26, 2002)

(h) NPDES 1200-A, Storm water runoff from sand, gravel & non-metallic quarrying & mining in Standard Industrial Classification (SIC) 14, asphalt mix batch plants, and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002)

(i) NPDES 1200-C, Storm water runoff from construction activities, including clearing, grading, and excavation, and stockpiling that disturbs five or more acres, including activities that will disturb five or more acres over time as part of a larger common plan of development; effective December 1, 2002, construction activities that disturb one or more acre are covered (issued February 20, 2001)

(j) NPDES 1200-CA, Government agencies responsible for storm water runoff from construction activities that disturbs five or more acres; effective December 1, 2002, construction activities that disturb one or more acres are covered (issued February 20, 2001)

(k) NPDES 1200-COLS, Storm water runoff in the Columbia Slough watershed from industrial activities listed in 8(l) of this rule (issued December 22, 1999)

(l) NPDES 1200-Z, Storm water runoff from: Warehousing in SIC 4221-4225; Food processing in SIC 20; Landfills, land app. sites; Heavy industrial in SIC 28, 29, 30, 31, 32, 33 & steam electric power generating (includes coal/hogged fuel handling); Light mfg. in SIC 34, 35, 36, 37, 38 & 39 includes ship & boat building/repair; Printing in SIC 27; Textile & apparel mfg. in SIC 22 & 23; Transportation in SIC 40, 41, 42, 43, 44, 45 & 5171; Wood products mfg. in SIC 24 & 25; Metal scrap yards, battery reclaimers & auto salvage yards in SIC 5015 & 5093; Hazardous waste treatment, storage, & disposal facilities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002)

(m) NPDES 1300-J, Oily storm water runoff and oil/water separators (issued January 11, 2000)

(n) WPCF 1400-A, Seasonal food processing & wineries, less than 25,000 gallons/day (issued August 22, 2000)

(o) WPCF 1400-B, Other food processing, less than 25,000 gallons/day (issued August 22, 2000)

(p) NPDES 1500-A, Petroleum hydrocarbon cleanups discharged to surface waters (issued August 22, 2000)

(q) WPCF 1500-B, Petroleum hydrocarbon cleanups (issued August 22, 2000)

(r) NPDES 1700-A, Vehicle and equipment wash water discharged to surface waters (issued March 5, 1998)

(s) WPCF 1700-B, Vehicle and equipment wash water (issued March 5, 1998)

(t) NPDES 1900-J, Non-contact geothermal heat exchange (issued September 11, 1997)

(u) NPDES 01, Confined animal feeding operations (issued October 1, 2003)

Stat. Auth.: ORS 468.020, ORS 468B.020 & ORS 468B.035

Stats. Implemented: ORS 468.065, ORS 468B.015, 468B.035 & ORS 468B.050

Hist.: DEQ 28-1980, f. & ef. 10-27-80; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 13-2001, f. & cert. ef. 10-16-01; DEQ 8-2002, f. & cert. ef. 8-9-02; DEQ 14-2002, f. & cert. ef. 10-16-02; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0005

Purpose

It is the purpose of these rules to protect the quality of the environment and public health in Oregon by requiring compliance with federal requirements in 40 CFR §122, 123, and 412 (68 FR 7176 (February 12, 2003)) and application of applicable waste control technology relative to location, construction, operations and maintenance of confined animal feeding operations.

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

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0007

Implementation of OAR 340-051

(1) **Oregon Department of Agriculture Authority.** Pursuant to ORS 468B.200 through 468B.230 and the Memorandum of Understanding between the Environmental Quality Commission and Oregon Department of Agriculture (October 2002), the Oregon Department of Agriculture is authorized to implement the provisions of OAR chapter 340, division 051 consistent with OAR chapter 603, division 074 *Confined Animal Feeding Operation Program*.

(2) **Certification of Plans and Specifications.** In lieu of Department approval of plans and specifications as required by OAR 340-051-0015, the Department will accept certification by a licensed engineer that waste water control facilities specified in subsection (2)(a) of this rule were designed and constructed in compliance with OAR 340-051-0055 through 340-051-0070.

(a) Certifications may only be made for:

(A) Earthen impoundments, conveyances, and animal holding areas;

(B) Earthen-floored buildings and animal travel lanes between buildings in the production area; and

(C) Primary storage structures for liquid and solid manure. For purpose of this paragraph, a primary storage structure is any storage structure intended to hold an operation's waste for a period of five or more days.

(b) Certifications must be submitted on forms approved by the Department.

(c) Certification in lieu of Department approval is not allowed for waste water control facilities using experimental or unproven treatment methods or technology and may be disallowed for any other facility if the Department determines that the nature of the facility or operation is such that Department review is needed to ensure protection of waters of the state.

ADMINISTRATIVE RULES

(3) **Exclusion from Department Approval.** Construction or modification of waste water control facilities, other than impoundments, conveyances, holding areas, buildings and animal travel lanes within the production area, and primary storage structures, are not subject to design or post-construction review and approval requirements unless the Department determines that the nature of the facility is such that review is needed to ensure protection of waters of the state.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468.005, ORS 468B.005 & ORS 468B.205

Hist.: DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0010

Definitions

Unless the context or OAR chapter 603, division 074 requires otherwise, as used in these rules:

(1) "Department" means the Oregon Department of Environmental Quality or the Oregon Department of Agriculture.

(2) "Confined Animal Feeding Operation" means:

(a) The concentrated confined feeding or holding of animals or poultry, including, but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms;

(A) In buildings or in pens or lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or

(B) That have wastewater treatment works; or

(C) That discharge any wastes into waters of the state; or

(b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR §122.23.

(3) "Manure" means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

(4) "Person" means the state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

(5) "Process Wastewater" means water directly or indirectly used in the operation of the confined animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other confined animal feeding operation facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

(6) "Production Area" means that part of a confined animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment areas include but are not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of animal mortalities.

(7) "Waste Water Control Facility" means a "disposal system" or "treatment works" as defined by ORS 468B.005 that may cause pollution of surface water or groundwater and is used for collecting, conveying, treating, stabilizing or storing manure, litter, process wastewater, or contaminated production area drainage (i.e., silage leachate, contaminated storm water runoff, etc.) at confined animal feeding operations.

(8) "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlet, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are wholly or partially within or bordering the state or within its jurisdiction.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468.005, ORS 468B.005 & ORS 468B.205

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 21-1990, f. & cert. ef. 7-6-90; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0015

New, Modified or Expanded Facilities and Operations

A person constructing or commencing to operate a confined animal feeding operation or waste water control facility, or substantially modifying or expanding an existing confined animal feeding operation or waste water control facility shall first submit detailed plans and specifications for said facility and operation and other necessary information to the Department and obtain approval for the proposed facility and operation from the Department in writing:

(1) Plans and specifications and other information to be submitted will constitute a complete, descriptive proposal and should include, to the extent that such information is pertinent and available, the following:

(a) Location map showing ownership, zoning and use of adjacent lands and location of the proposed confined animal feeding operation in relation to residences and domestic water supply sources;

(b) Topographic map of the proposed site showing the natural drainage pattern and the proposed surface water diversion and area and roof drainage control system or systems;

(c) Climatological data for the proposed site describing normal annual and seasonal precipitation quantities and patterns, evaporation rates and prevailing winds;

(d) Information regarding the occurrence of usable groundwaters and typical soil types in the area of the proposed site and disposal areas;

(e) Estimated maximum numbers and types of animals to be confined at the site at any one time and estimated volume of wastes to be collected and disposed of;

(f) Detailed plans and specifications and procedures for wastewater and manure collection, handling, retention, storage, treatment and disposal systems;

(g) Details of feed preparation, storage, handling and use and proposed methods and facilities for controlling wastes that are likely to result therefrom;

(h) Any additional information that the Department may reasonably require to enable it to pass intelligently upon the effects of the proposed confined animal feeding operation upon environmental quality.

(2) Receipt of applications and a preliminary evaluation of completeness shall be made within 14 days to all applicants. Written notice of approval or disapproval will be issued by the Department to the applicant within 45 days of receipt of complete plans and specifications. Any notice of disapproval will contain itemized deficiencies.

(3) New or substantially modified or expanded facilities or operations must be constructed in accordance with plans and specifications as approved in writing by the Department.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0020

Construction, Operation and Maintenance Requirements

All waste water control facilities and confined animal feeding operations must be designed, constructed, maintained, and operated in accordance with the following:

(1) All confinement areas, manure handling and accumulation areas and disposal areas and facilities must be located, constructed, and operated such that manure, contaminated drainage waters or other wastes do not enter the waters of the state at any time, except as may be permitted by the conditions of a specific waste discharge permit issued in accordance with ORS 468B.050.

(2) Unless it can be demonstrated that contaminated drainage can be effectively controlled by other means, or unless a specific written variance is obtained from the Department as provided in OAR 340-051-0025, the design, construction, operation, and maintenance of confined animal feeding operations and waste water control facilities must be in conformance with "Guidelines for the Design and Operation of Animal Waste Water Control Facilities". (OAR 340-051-0050 through 340-051-0080)

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0025

Variations From Specified Requirements

(1) The Department may, by specific written variance, waive certain requirements of these regulations when size of operation, location and topography, operational procedures, or other special conditions indicate that the purpose of these regulations can be achieved without strict adherence to all of the requirements.

ADMINISTRATIVE RULES

(2) The Department may, in accordance with a specific compliance schedule, grant reasonable time for existing confined animal feeding operations to comply with these regulations.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0030

Advisory Committee

(1) At the request of the animal industry, provision is made for a 13-person committee to serve in an advisory capacity to the Department on problems related to the location, construction, operation and maintenance of confined animal feeding operations. The advisory committee will include one member each from:

- (a) Oregon Horsemen's Association.
- (b) Oregon Dairymen's Association.
- (c) Oregon Sheep Growers Association.
- (d) Oregon Purebred Swine Growers Association.
- (e) Oregon State Fur Breeders Association.
- (f) Oregon State Department of Agriculture.
- (g) Department of Animal Science, Oregon State University.
- (h) Western Oregon Livestock Association and divisional representation from:

(A) Oregon Cattlemen's Association (Producer representative and feeder representative);

(B) Oregon Poultry Council (Oregon Turkey Improvement Association representative, Oregon Poultry Growers Association and Oregon Broiler Growers Association representatives).

(2) Each member will be appointed by the presiding officer of the organization the member represents and will serve at the pleasure of the organization. The Department shall not be liable for any of the expenses of the advisory committee or its individual members.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; Administrative correction 8-14-97; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0050

Scope

The guidelines contained in this rule are recommendations for design and operation of animal waste water control facilities and are intended to supplement OAR 340-051-0020. They convey many of the criteria considered by the Department to conform to applicable design and operational practices. Alternative methods of control will be acceptable if they can be shown to provide fully equivalent control. Compliance with these guidelines will in most instances constitute satisfactory performance of the design and operation functions to which OAR 340-051-0020 apply. To the extent possible, the Department will reference applicable guidelines or appropriate sections of OAR chapter 340, division 051 when it disapproves of submitted plans or requires improvements to facilities or their operations.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0055

Drainage and Waste Volume Control

(1) Roof drainage and uncontaminated surface drainage should be diverted such that it is not allowed to flow through confinement areas or enter waste water holding lagoons, sumps or tanks, unless it can be demonstrated by detailed design and proven operational practices that wastes and contaminated drainage waters can be effectively controlled by other means.

(2) Where large winter use confinement areas are exposed to heavy rainfall, and wastewater storage and disposal capacities are limited, such areas should be covered to minimize wastewater volume.

(3) Waste collection systems utilizing water for flushing manure from floors should minimize water use, and washwater reuse practices should be employed wherever possible.

(4) Animal drinking water and atmospheric control sprays should be managed such that drainage through contaminated areas is minimized.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0060

Collection and Storage Facilities

(1) Liquid Manure Systems:

(a) When waste holding lagoons are used to accumulate manure and contaminated drainage waters they should have sufficient usable capacity to contain the maximum accumulated rainfall and manure runoff from the

entire collection area for the maximum expected period of accumulation. (As a generalized rule of thumb for design, ponds with capacity equal to 1/2 the average annual rainfall over the entire collection area will usually provide adequate operating and reserve capacity to catch one in ten year peak storm runoff from a feedlot);

(b) Waste holding lagoons and collection sumps should be constructed to provide for at least annual removal of accumulated solids to maintain effective storage capacity;

(c) Earth dikes should be constructed of good quality soil material, well compacted during construction, with sideslopes consistent with accepted earthfill practices for the materials used and stabilized with vegetation recommended by the Agricultural Extension Service, immediately following construction;

(d) Waste holding lagoons or collection sumps with earth dikes should be constructed with overflow relief structures to prevent a washout in the event of failure in other parts of the system;

(e) Where unusually windy conditions prevail, or surface aeration equipment is used, dikes should be protected to prevent erosion;

(f) Reinforced concrete manure holding tanks should be constructed in accordance with, or at least equivalent to, specifications for steel placement and concrete quality contained in a design that has been prepared by or has been reviewed and found acceptable by a qualified structural engineer;

(g) Where seasonal groundwater levels rise above the bottom of a below-ground-level tank, drain tile should be laid at the base of the tank before it is backfilled.

(2) Solids Handling Systems:

(a) Manure solids should be collected, stored, and utilized or disposed of with a minimum of water (or rainfall) addition, in a manner that will prevent water pollution and minimize the production of flies and odors;

(b) Where large accumulations of manure are stored during winter months, contaminated drainage collection and holding or disposal facilities should be provided.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0065

Conveyance Facilities and Practices

(1) Liquid manure irrigation systems should have delivery mains buried wherever practicable to minimize the amount of pipe exposed to the hazards of surface damage and failure.

(2) Trucks or tank wagons carrying manure or manure slurry on public roads should be of water tight construction and sufficiently closed or baffled to prevent spillage of any kind.

(3) Manure slurry delivery pipelines crossing streams or gullies should be permanently placed with adequate protection from streamflow hazards and/or braced to prevent excessive bending stress in the pipe.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0070

Disposal Facilities and Practices

(1) Liquid Manure Disposal:

(a) When slurry is spread by tank wagon or truck, a predetermined plan of uniform coverage should be established and adhered to. Under no circumstances should a tank be drained when not in motion across suitable receiving land;

(b) Liquid manure irrigation systems should be operated according to a predetermined plan of rotation to insure uniform coverage and prevent prolonged ponding or surface runoff from excessive applications. Leaks and sprinkler head malfunctions should be repaired immediately;

(c) The selection of equipment for land disposal should be based upon land configuration, labor requirement, and long term dependability of the system and its components;

(d) Adequate land should be provided on a year-round basis for effective assimilation of all manure slurry applied, regardless of the method of application used. Land with poor vertical drainage characteristics, high water table or steep slopes should not be selected for use in a year-round plan of manure disposal;

(e) The vegetative cover on disposal land should be harvested or grazed regularly to prevent thatch accumulations of mature grasses and weeds;

(f) Livestock should not be permitted to graze the disposal area during periods of saturated soil conditions;

(g) Seepage basins should not be used except where it can be demonstrated that ground water pollution will not result.

ADMINISTRATIVE RULES

(2) Solids Disposal:

(a) Field spreading of manure should be uniform in distribution and limited in quantity to the capacity of the land to retain it;

(b) Manure should not be stored or deposited where it can be washed into the surface drainage;

(c) Manure solids should not be used as a fill or land raising material where they will pollute ground or surface waters;

(d) All dead animals should be promptly collected and disposed of in an approved manner.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0075

Incidental Control Practices

(1) The application of manure or manure slurry to land areas should be accomplished when air movements is least likely to carry objectionable odors to residential or recreational areas.

(2) New confined animal feeding operations should not be located where prevailing winds are likely to carry odors into residential or recreational areas. Attention should also be given to expansion of suburban areas and the stability of local zoning restrictions in locating new operations or substantially expanding existing operations.

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

340-051-0080

Sources of Qualified Assistance for Design of Facilities

(1) Where drainage control, structural or mechanical facilities are sufficiently large or complex to require specialized professional design, the Department may require that detailed plans and specifications be prepared by a qualified engineer for approval prior to construction.

(2) Appropriate design services are available through:

(a) USDA - Natural Resource Conservation Service;

(b) Oregon State University Extension Service and associated plan services;

(c) Various equipment manufacturers;

(d) Independent consulting engineers. Useful design information is often available through:

(A) County extension offices and Agricultural Experiment Stations;

(B) Department engineering staff;

(C) Oregon State University Departments of Agricultural Engineering and Animal Science;

(D) Certain power companies and irrigation districts.

(e) Climatological data reporting services (Oregon State University and state climatologist);

(f) Other livestock operations that have waste water control facilities in operation;

(g) Various livestock production associations;

(h) Soil and Water Conservation District offices.

(3) Where long range operational planning appears necessary to development of a workable waste control and disposal system, the Department may request that special planning assistance be obtained from Oregon State University and recommendations therefrom be included in the proposal submitted.

(4) Any dam or dike in excess of ten feet in height, or any impoundment volume in excess of 9.2 acre feet is required by state laws to be designed by a qualified engineer and approved by the office of the State Engineer. A copy of "Rules and Regulations of the State Engineer", published annually, should be obtained prior to designing a facility of this type.

(5) Approval by the Department of a confined animal feeding operation does not relieve the applicant from his obligation to comply with other pertinent federal, state or local statutes, regulations or ordinances.

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

Stat. Auth.: ORS 468.020 & ORS 468B.200 - ORS 468B.230

Stats. Implemented: ORS 468B.200 - ORS 468B.300

Hist.: DEQ 34, f. 2-3-72, ef. 2-15-72; DEQ 12-2003, f. & cert. ef. 9-2-03

Department of Fish and Wildlife Chapter 635

Adm. Order No.: DFW 79-2003(Temp)

Filed with Sec. of State: 8-18-2003

Certified to be Effective: 8-18-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-004-0033

Subject: Amend rules to close commercial season for harvest of greenling.

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, olice 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; 3,000 pounds of nearshore rockfish, no more than 900 pounds of which may be species other than black rockfish or blue rockfish, 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; and November 1 - December 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.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; 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

ADMINISTRATIVE RULES

Adm. Order No.: DFW 80-2003(Temp)

Filed with Sec. of State: 8-22-2003

Certified to be Effective: 8-22-03 thru 9-30-03

Notice Publication Date:

Rules Amended: 635-021-0090

Subject: Amend administrative rules that authorize catch limits and methods of take in Thief Valley Reservoir.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-021-0090

Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. The Southeast Zone is described in OAR 635-021-0100. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **2003 Oregon Sport Fishing Regulations**. This rule contains requirements which modify the **2003 Oregon Sport Fishing Regulations** pertaining to the Southeast Zone.

(2) Thief Valley Reservoir is open to angling for all game species with the following restrictions:

(a) No daily catch or possession limits.

(b) Harvest allowed by hand, dip net, or angling.

(b) **Stat. Auth.:** ORS 496.138 & ORS 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03

Adm. Order No.: DFW 81-2003(Temp)

Filed with Sec. of State: 8-25-2003

Certified to be Effective: 8-26-03 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 of August 22, 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; and 6:00 a.m. Tuesday, September 9 to 6:00 p.m. Friday, September 12, 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. & cert. ef. 8-2-79; FWC 36-1979(Temp), f. & cert. ef. 8-22-79; FWC 47-1979(Temp), f. & cert. ef. 9-21-79; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 46-1980(Temp), f. & cert. ef. 9-13-80; FWC 33-1981(Temp), f. & cert. ef. 9-15-81; FWC 58-1982(Temp), f. & cert. ef. 8-27-82; FWC 62-1982(Temp), f. & cert. ef. 9-7-82; FWC 63-1982(Temp), f. & cert. ef. 9-14-82; FWC 75-1982(Temp), f. & cert. ef. 10-29-82; FWC 36-1983, f. & cert. ef. 8-18-83; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 51-1983(Temp), f. & cert. ef. 9-30-83; FWC 55-1983(Temp), f. & cert. ef. 10-4-83; FWC 46-1984, f. & cert. ef. 8-30-84; FWC 55-1984(Temp), f. & cert. ef. 9-10-84; FWC 58-1984(Temp), f. & cert. ef. 9-17-84; FWC 61-1984(Temp), f. & cert. ef. 9-21-84; FWC 70-1984(Temp), f. & cert. ef. 10-9-84; FWC 47-1985, f. & cert. ef. 8-23-85; FWC 60-1985(Temp), f. & cert. ef. 9-13-85; FWC 63-1985(Temp), f. & cert. ef. 9-24-85; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 53-1986(Temp), f. & cert. ef. 9-4-86; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 57-1986(Temp), f. & cert. ef. 9-11-86; FWC 60-1986(Temp), f. & cert. ef. 9-26-86; FWC 62-1986(Temp), f. & cert. ef. 10-2-86; FWC 63-1987, f. & cert. ef. 8-7-87; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-1-87; FWC 78-1987(Temp), f. & cert. ef. 9-15-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 89-1987(Temp), f. & cert. 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. 9-27-88; 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. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90; FWC 85-1991, f. & cert. ef. 8-7-91; FWC 82-1991; 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 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. & cert. ef. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-4-92, 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. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 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. & 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. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, 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. 9-13-95; 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; 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. 9-2-99, 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. 9-21-99, 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

Adm. Order No.: DFW 82-2003(Temp)

Filed with Sec. of State: 8-25-2003

Certified to be Effective: 8-25-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-042-0031

Subject: Amend rules to establish a non-Indian commercial fishing boundary during a specified season in the mainstem Columbia River.

Amendments consistent with Columbia River Compact action of August 22, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River from the mouth upstream to the lower Zone 4 fishing boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore (Zones 1-3). The Grays River, Elokomin-A, Cowlitz River, Kalama-A, and Lewis-A sanctuaries are in effect. Open fishing periods are 7 p.m. August 4, 2003 to 7 a.m. August 5, 2003; 7 p.m. August 6, 2003 to 7 a.m. August 7, 2003; 7 p.m. August 11, 2003 to 7 a.m. August 12, 2003 and; 7 p.m. August 13, 2003 to 7 a.m. August 14, 2003.

(a) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size.

ADMINISTRATIVE RULES

(b) A maximum of seven 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. During August 3, 2003 through August 16, 2003, the weekly sturgeon limit applies to the Youngs Bay and other open Select Area fisheries and the Columbia River mainstem fishery in the aggregate.

(2) Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River from the I-5 Bridge upstream to the upper Zone 5 boundary at Beacon Rock (Zones 4-5). The Washougal River and Sandy River sanctuaries are in effect. Open fishing periods are 8 p.m. August 18, 2003 to 6 a.m. August 19, 2003; 8 p.m. August 21, 2003 to 6 a.m. August 22, 2003; 8 p.m. August 25, 2003 to 6 a.m. August 26, 2003; and 8 p.m. August 27, 2003 to 6 a.m. August 28, 2003.

(a) Gear is restricted to gillnets with a 9-inch minimum mesh size and 9 3/4-inch maximum mesh size.

(b) A maximum of seven 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.

(c) Salmon and sturgeon may be taken for commercial purposes in the area of the lower Zone 4 commercial fishing boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore upstream to Beacon Rock (Zone 4-5) during the August 25-26, 2003 fishing period as described in 635-042-0031(2).

Stat. Auth.: ORS 496.118 & ORS 506.119
Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030
Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002, f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03

Adm. Order No.: DFW 83-2003
Filed with Sec. of State: 8-28-2003
Certified to be Effective: 8-28-03
Notice Publication Date:
Rules Amended: 635-001-0005
Subject: Adoption of the most current Attorney General's Model Rules of Procedure.
Rules Coordinator: Mike Lueck—(503) 947-6033

635-001-0005 Model Rules of Procedure

Pursuant to ORS 183.341, the Oregon Department of Fish and Wildlife adopt the Attorney General's Model Rules of Procedure under the Administrative Procedures Act as amended 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 Agency.]
Stat. Auth.: ORS 183.341(2)
Stats. Implemented: ORS 183.341
Hist.: GC 86, f. & cert. ef. 8-26-58; GC 249, f. & cert. ef. 12-1-71; GC 266, f. & cert. ef. 10-18-73, ef. 11-11-73; FWC 25, f. & cert. ef. 11-28-75, Renumbered from 630-001-0005; FWC 8-1978, f. & cert. ef. 3-7-78; FWC 3-1981, f. & cert. ef. 1-21-81; FWC 2-1982, f. & cert. ef. 1-11-82; FWC 64-1983, f. & cert. ef. 11-17-83; FWC 21-1986, f. & cert. ef. 6-20-86; FWC 112-1991, f. & cert. ef. 9-30-91; FWC 28-1992, f. & cert. ef. 4-22-92; FWC 8-1994, f. & cert. ef. 2-7-94; DFW 1-2002, f. & cert. ef. 1-3-02; DFW 83-2003, f. & cert. ef. 8-28-03

Adm. Order No.: DFW 84-2003(Temp)
Filed with Sec. of State: 8-26-2003
Certified to be Effective: 8-26-03 thru 2-20-04
Notice Publication Date:
Rules Amended: 635-051-0000
Subject: Amend rules to delete the word "lead" from the federally approved non-toxic shot list included on page 8 of the 2003-04 Oregon Game Bird regulations.
Rules Coordinator: Mike Lueck—(503) 947-6033

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "2003-2004 Oregon Game Bird Regulations," is incorporated by reference into these rules. The version of the "2003 Oregon Game Bird Regulations" incorporated by reference has been further amended to clarify that lead shot are not "federally approved non-toxic shot," as indicated on page 8 of the original version. An amended version of page 8 of the Regulations is available at the headquarters office of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04

Adm. Order No.: DFW 85-2003(Temp)
Filed with Sec. of State: 8-27-2003
Certified to be Effective: 8-27-03 thru 2-23-04
Notice Publication Date:

Rules Amended: 635-050-0170, 635-065-0001, 635-065-0705, 635-065-0740

Subject: Amend rules to be in compliance with ORS 166.170 in regards to firearm possession.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-050-0170

Pursuit Seasons

(1) The following pursuit seasons are authorized:

(a) Bobcat: September 1, 2002 through February 28, 2003 and September 1, 2003 through February 28, 2004.

(b) Fox: September 1, 2002 through February 28, 2003 and September 1, 2003 through February 28, 2004.

(c) Raccoon: September 1, 2002 through February 28, 2003 and September 1, 2003 through February 28, 2004.

(2) License Requirements: Furtaker's license or hunting license for furbearers shall be on one's person during pursuit.

(3) No weapons may be used to hunt or animals killed except during authorized open harvest season.

(4) A bobcat record card shall be on one's person while taking or attempting to take bobcat.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 35-1980, f. & cert. ef. 7-2-80; FWC 21-1981, f. & cert. ef. 6-29-81, Renumbered from 635-050-0026; FWC 43-1982, f. & cert. ef. 7-9-82; FWC 27-1983, f. & cert. ef. 7-8-83; FWC 58-1983, f. & cert. ef. 10-19-83; FWC 52-1984, f. & cert. ef. 9-5-84; FWC 44-1985, f. & cert. ef. 8-22-85; FWC 48-1986, f. & cert. ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 61-2001, f. & cert. ef. 7-25-01; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04

635-065-0001

Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife. The version of the "2003 Oregon Big Game Regulations" incorporated by reference has been further amended to comply with ORS 166.170 concerning possession of firearms, firearm components and ammunition. That version is available at the headquarters office of the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef.

ADMINISTRATIVE RULES

1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04

635-065-0705

Muzzleloading Rifles

During controlled muzzleloader only seasons:

(1) Hunters shall use any long gun that:

- (a) Is fired from the shoulder;
- (b) Is loaded from the muzzle;
- (c) Has an open ignition system;

(d) Is a single shot except for muzzleloading shotguns that may be double barreled;

(e) Has only open or aperture (peep) sights.

(2) Hunters shall use only round ball, conical lead or lead alloy bullets whose length does not exceed two times the diameter.

(3) Hunters shall use only flint or percussion caps as a source of ignition.

(4) Hunters shall use only loose or granular black powder or black powder substitutes as propellants.

(5) Any .40 caliber or larger muzzleloader as described in OAR 635-065-0705(1-4) to hunt pronghorn antelope, black bear, cougar (mountain lion), or deer.

(6) Any .50 caliber or larger muzzleloader as described in OAR 635-065-0705(1-4) to hunt bighorn sheep, Rocky Mountain goat, or elk.

(7) Hunters shall use only number 1 or larger buckshot or bullets as described in OAR 635-065-0705(2) for hunting deer, black bear or cougar (mountain lion).

(8) Hunters shall use only single projectiles as described in OAR 635-065-0705 (2) for hunting pronghorn antelope, elk, bighorn sheep, or Rocky Mountain goat

(9) Hunters may only use a legal muzzleloading firearm as described in OAR 635-065-0705 (1-4) During centerfire firearms seasons where muzzleloaders are also a legal firearm, hunters may:

(a) Use any .40 caliber or larger muzzleloading firearm to hunt pronghorn antelope, black bear, cougar (mountain lion), or deer.

(b) Use any .50 caliber or larger muzzleloading firearm to hunt bighorn sheep, Rocky Mountain goat, or elk.

(c) Use any muzzleloader ignition type (excepting matchlock), any sight, any propellant, or any bullet type.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 21-1982, f. & ef. 3-31-82; FWC 37-1982, f. & ef. 6-25-82; FWC 15-1983, f. & ef. 4-19-83; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 21-1985, f. & ef. 5-7-85; FWC 43-1985, f. & ef. 8-22-85; FWC 11-1987, f. & ef. 3-6-87; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04

635-065-0740

Hunting Prohibited

It is unlawful:

(1) To hunt with a centerfire or muzzleloading rifle during eastern Oregon controlled buck season (Oct. 4 - 15, 2003, Cascade bull elk season, Coast bull elk seasons, Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 - Nov. 30, 2003) without a valid, unused tag for that species, time period and area on their person.

EXCEPTION: Landowners, or their agent, hunting predators on lands they own or lease may use centerfire or muzzleloading rifles to hunt on such lands.

EXCEPTION: Hunters may use .22 caliber or smaller centerfire rifles for hunting coyotes (*Canis latrans*) in the Juniper, Beatys Butte, Whitehorse and Owyhee units and in the Wagonfire Unit south of the Lake County Road 5-14 during Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 - Nov. 30, 2003).

(2) To hunt on any refuge closed by the state or federal government.

(3) To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(4) Notwithstanding section (4) of this rule, controlled antlerless elk hunts are permitted within the south city limits of Seaside if the herd should become a serious problem.

(5) To hunt game mammals outside any area designated by a controlled hunt tag when such tag is required for that hunt season.

(6) To hunt in any Safety Zones created and posted by the department.

(7) To hunt protected wildlife except:

(a) By a permit or during an authorized season established by the commission.

(b) That crow, blackbirds, cowbirds, and magpies may be taken under Federal regulations for reason of depredation or health hazards as described in the Code of Federal Regulations.

(8) To pursue or assist another to pursue a cougar (mountain lion) during an authorized cougar (mountain lion) season unless in possession of an unused cougar (mountain lion) tag or accompanied by the holder of an unused cougar (mountain lion) tag which is valid for that area and time period.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 41-1987, f. & ef. 7-6-87; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04

Adm. Order No.: DFW 86-2003(Temp)

Filed with Sec. of State: 8-29-2003

Certified to be Effective: 8-29-03 thru 9-4-03

Notice Publication Date:

Rules Amended: 635-060-0030

Subject: Amend rule to change the application deadline date for "first time" youth hunt tags from September 1 to September 3, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-060-0030

Issuing Tags

(1) The department may, except for bighorn sheep and Rocky Mountain goat, issue tags or permits in excess of the quantity authorized by the commission to resolve documented errors made by the department. The quantity shall not exceed an amount consistent with the management goals of the hunt.

(2) The number of controlled deer and controlled elk tags issued to nonresident applicants shall not exceed five percent of the tags authorized for each hunt. Exception: one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. This number does not affect the tags issued under the Landowner Preference Program (OAR chapter 635, division 075).

(3) Tags will not be issued to a party (residents or nonresidents) when, during the drawing process, the party size exceeds the number of remaining tags.

(4) Youths age 12-17 who are unsuccessful in the first controlled hunt drawing for 100, 200, or 600 series hunts may apply for one guaranteed "first time" tag per series, provided that:

(a) Youths are limited to only one "first time" tag per series in a lifetime.

(b) Within the 200 series, only hunts with antlerless only bag limits are available as "first time" tags.

(c) Hunts are only available as "first time" opportunities as follows: 100 series hunts must have had more than 200 tags available in the first drawing; 200 and 600 series hunts must have had more than 50 tags available in the first drawing.

(d) Applicants shall use forms available in the Oregon Big Game Regulations and applications must be received at the department's Portland headquarters by September 3, each year.

(e) Persons who were successful in any controlled hunt drawing for 100, 200, or 600 series hunts are never again eligible for "first time" tags in the respective hunt series.

(f) Successful "first time" applicants shall purchase tags at POS vendors by the day before the assigned season begins.

(g) Youths may not receive a "First Time" youth hunt tag in a hunt series if they applied for a point saver option in the primary big game drawing.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 18-1991, f. & cert. ef. 3-12-91; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 86-2003(Temp), f. & cert. ef. 8-29-03 thru 9-4-03

ADMINISTRATIVE RULES

Adm. Order No.: DFW 87-2003(Temp)
Filed with Sec. of State: 8-27-2003
Certified to be Effective: 8-27-03 thru 12-31-03
Notice Publication Date:
Rules Amended: 635-042-0031
Subject: Amend rules to establish a non-Indian commercial fishing boundary during a specified season in the mainstem Columbia River. Amendments consistent with Columbia River Compact action via Telephone Conference of August 27, 2003.
Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River from the mouth upstream to the lower Zone 4 fishing boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore (Zones 1-3). The Grays River, Elokomin-A, Cowlitz River, Kalama-A, and Lewis-A sanctuaries are in effect. Open fishing periods are 7 p.m. August 4, 2003 to 7 a.m. August 5, 2003; 7 p.m. August 6, 2003 to 7 a.m. August 7, 2003; 7 p.m. August 11, 2003 to 7 a.m. August 12, 2003 and; 7 p.m. August 13, 2003 to 7 a.m. August 14, 2003.

(a) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size.

(b) A maximum of seven 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. During August 3, 2003 through August 16, 2003, the weekly sturgeon limit applies to the Youngs Bay and other open Select Area fisheries and the Columbia River mainstem fishery in the aggregate.

(2) Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River from the 1-5 Bridge upstream to the upper Zone 5 boundary at Beacon Rock (Zones 4-5). The Washougal River and Sandy River sanctuaries are in effect. Open fishing periods are 8 p.m. August 18, 2003 to 6 a.m. August 19, 2003; 8 p.m. August 21, 2003 to 6 a.m. August 22, 2003; 8 p.m. August 25, 2003 to 6 a.m. August 26, 2003; and 8 p.m. August 27, 2003 to 6 a.m. August 28, 2003.

(a) Gear is restricted to gillnets with a 9-inch minimum mesh size and 9 3/4-inch maximum mesh size.

(b) A maximum of seven 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.

(c) Salmon and sturgeon may be taken for commercial purposes in the area of the lower Zone 4 commercial fishing boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore upstream to Beacon Rock (Zone 4-5) during the August 25-26, 2003 and the August 27-28, 2003 fishing periods as described in 635-042-0031(2).

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002, f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03

Adm. Order No.: DFW 88-2003(Temp)
Filed with Sec. of State: 9-3-2003
Certified to be Effective: 9-3-03 thru 12-31-03
Notice Publication Date:
Rules Amended: 635-065-0001
Subject: Amend rules to reflect a permanent road closure area in the Paulina Unit/Timbers area.
Rules Coordinator: Mike Lueck—(503) 947-6033

635-065-0001

Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife. The version of the "2003 Oregon Big Game Regulations" incorporated by reference has been further amended to comply with ORS 166.170 concerning possession of firearms, firearm components and ammunition. That version is available at the headquarters office of the Oregon Department of Fish and Wildlife. The 2003 Big Game Regulations have been further amended to change the Cooperative Travel Management Area 35B (Paulina Unit, Timbers Closure, page 98 of the synopsis) to a permanent closure. A copy of this amendment is available at Department headquarters.

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

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

Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 88-2003(Temp), f. & cert. ef. 9-3-03 thru 12-31-03

Adm. Order No.: DFW 89-2003(Temp)
Filed with Sec. of State: 9-8-2003
Certified to be Effective: 9-9-03 thru 12-31-03
Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180, 635-042-0190

Subject: Amend rules prohibit the retention of sturgeon in Select Fisheries. Amendments consistent with Columbia River Compact management.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) 5 a.m. to 9 p.m. February 18, 2003, 12 noon February 22, 2003 to 6 p.m. February 23, 2003, and 5 a.m. to 9 p.m. February 25, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 11 a.m. to 7 p.m. May 7, 2003, 12 noon May 12, 2003 to 6 p.m. May 16, 2003, 12 noon May 19, 2003 to 6 p.m. May 23, 2003, 12 noon May 26, 2003 to 6 p.m. May 30, 2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is unlawful to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters

ADMINISTRATIVE RULES

which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 6, 2003 to 6 p.m. August 7, 2003; 12 noon August 13, 2003 to 6 p.m. August 14, 2003; 12 noon August 20, 2003 to 6 p.m. August 21, 2003; 12 noon August 27, 2003 to 6 p.m. August 28, 2003; 6 p.m. August 29, 2003 to 6 a.m. August 30, 2003; and 12 noon September 2, 2003 to 6 p.m. October 31, 2003.

(b) Gill nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. From August 6, 2003 through August 28, 2003, it is unlawful to use a gill net having a mesh size that is more than eight inches. From August 29, 2003 through October 31, 2003, it is unlawful to use a gill net having a mesh size that is more than six inches.

(c) A maximum of seven white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) of the open fishing periods during August 3-16, 2003. The weekly sturgeon limit applies to the Youngs Bay fishery and any other open Select Area fisheries and the Columbia River mainstem fisheries in the aggregate.

(3) Retention of sturgeon is prohibited effective 7:00 a.m., September 9, 2003.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (B) of this rule in those waters of Blind Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. In addition, Knappa Slough is open to fishing for salmon, sturgeon and shad during open fishing periods described as the spring fishery in paragraph (1)(a)(C) of this rule. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough/Knappa Slough, except during May 1, 2003 through May 9, 2003 in Blind Slough only, in paragraph (B) as follows:

(A) 7 p.m. February 15, 2003 to 7 a.m. February 16, 2003, 7 p.m. February 22, 2003 to 7 a.m. February 23, 2003, 7 p.m. March 1, 2003 to 7 a.m. March 2, 2003;

(B) 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 22,

2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

(b) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 15, 2003 and March 2, 2003;

(c) Gear restrictions are as follows:

(A) During the winter fishery (see paragraph (1)(a)(A) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches;

(B) During the spring (see paragraphs (1)(a)(B) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is unlawful to use a gill net having a mesh size that is more than eight inches.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Blind Slough and Knappa Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore, except a 100 foot radius defined by markers at the mouth of Big Creek remains closed. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Blind Slough only from 7 p.m. September 7, 2000 to 7 a.m. September 8, 2000, 7 p.m. September 8, 2000 to 7 a.m. September 9, 2000, 7 p.m. September 11 to 7 a.m. September 12, 7 p.m. September 12 to 7 a.m. September 13, 7 p.m. September 14 to 7 a.m. September 15, and 7 p.m. September 15 to 7 a.m. September 16;

(B) In the area described for Blind Slough and Knappa Slough combined from 7 p.m. August 25, 2003 to 7 p.m. August 28, 2003; 7 p.m. September 2, 2003 to 7 a.m. September 3, 2003; 7 p.m. September 3, 2003 to 7 a.m. September 4, 2003; 7 p.m. September 4, 2003 to 7 a.m. September 5, 2003; 7 p.m. September 8, 2003 to 7 a.m. September 9, 2003; 7 p.m. September 9, 2003 to 7 a.m. September 10, 2003; 7 p.m. September 10, 2003 to 7 a.m. September 11, 2003; 7 p.m. September 11, 2003 to 7 a.m. September 12, 2003; 7 p.m. September 15, 2003 to 7 a.m. September 16, 2003; 7 p.m. September 16, 2003 to 7 a.m. September 17, 2003; 7 p.m. September 17, 2003 to 7 a.m. September 18, 2003; 7 p.m. September 18, 2003 to 7 a.m. September 19, 2003; 7 p.m. September 22, 2003 to 7 a.m. September 23, 2003; 7 p.m. September 23, 2003 to 7 a.m. September 24, 2003; 7 p.m. September 24, 2003 to 7 a.m. September 25, 2003; 7 p.m. September 25, 2003 to 7 a.m. September 26, 2003; and

(C) In the area described for Blind Slough and Knappa Slough combined from 6 p.m. September 29, 2003 to 8 a.m. September 30, 2003; 6 p.m. September 30, 2003 to 8 a.m. October 1, 2003; 6 p.m. October 1, 2003 to 8 a.m. October 2, 2003; 6 p.m. October 2, 2003 to 8 a.m. October 3, 2003; 6 p.m. October 6, 2003 to 8 a.m. October 7, 2003; 6 p.m. October 7, 2003 to 8 a.m. October 8, 2003; 6 p.m. October 8, 2003 to 8 a.m. October 9, 2003; 6 p.m. October 9, 2003 to 8 a.m. October 10, 2003; 6 p.m. October 13, 2003 to 8 a.m. October 14, 2003; 6 p.m. October 14, 2003 to 8 a.m. October 15, 2003; 6 p.m. October 15, 2003 to 8 a.m. October 16, 2003; 6 p.m. October 16, 2003 to 8 a.m. October 17, 2003; 6 p.m. October 20, 2003 to 8 a.m. October 21, 2003; 6 p.m. October 21, 2003 to 8 a.m. October 22, 2003; 6 p.m. October 22, 2003 to 8 a.m. October 23, 2003; 6 p.m. October 23, 2003 to 8 a.m. October 24, 2003; 6 p.m. October 27, 2003 to 8 a.m. October 28, 2003; 6 p.m. October 28, 2003 to 8 a.m. October 29, 2003; 6 p.m. October 29, 2003 to 8 a.m. October 30, 2003; and 6 p.m. October 30, 2003 to 8 a.m. October 31, 2003.

(b) Gill nets may not exceed 100 fathoms in length with no weight limit on the leadline. Prior to September 16, 2003, it is unlawful to use a gill net having a mesh size of more than 9-3/4 inches; and thereafter it is unlawful to use a gill net having a mesh size of more than six inches.

(c) A maximum of seven white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) of the open fishing periods during August 3-16, 2003. The weekly sturgeon limit applies to the Youngs Bay fishery and any other open Select Area fisheries and the Columbia River mainstem fisheries in the aggregate.

ADMINISTRATIVE RULES

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

(4) Retention of sturgeon is prohibited effective 7:00 a.m., September 9, 2003.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. & cert. ef. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03

635-042-0170

Tongue Point Basin and South Channel Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin bounded by a line from the red light "2" at Tongue Point to the flashing green light "3" at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. In addition, South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(a) Open fishing periods are 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003;

(b) Gear restrictions are as follows:

(A) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats;

(B) In waters described in section (1) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. It is unlawful to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(2) Salmon and sturgeon only may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin and South Channel as described in section (1) of this rule. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Tongue Point basin only from 7 p.m. September 2, 2003 to 7 a.m. September 3, 2003; 7 p.m. September 3, 2003 to 7 a.m. September 4, 2003; 7 p.m. September 4, 2003 to 7 a.m. September 5, 2003; 7 p.m. September 8, 2003 to 7 a.m. September 9, 2003; 7 p.m. September 9, 2003 to 7 a.m. September 10, 2003; 7 p.m. September 10, 2003 to 7 a.m. September 11, 2003; and 7 p.m. September 11, 2003 to 7 a.m. September 12, 2003;

(B) In the areas described for Tongue Point basin and South Channel combined from 7 p.m. September 15, 2003 to 7 a.m. September 16, 2003; 7 p.m. September 16, 2003 to 7 a.m. September 17, 2003; 7 p.m. September 17, 2003 to 7 a.m. September 18, 2003; 7 p.m. September 18, 2003 to 7 a.m. September 19, 2003; 7 p.m. September 22, 2003 to 7 a.m. September 23, 2003; 7 p.m. September 23, 2003 to 7 a.m. September 24, 2003; 7 p.m. September 24, 2003 to 7 a.m. September 25, 2003; 7 p.m. September 25, 2003 to 7 a.m. September 26, 2003; 6 p.m. September 29, 2003 to 8 a.m. September 30, 2003; 6 p.m. September 30, 2003 to 8 a.m. October 1, 2003; 6 p.m. October 1, 2003 to 8 a.m. October 2, 2003; 6 p.m. October 2, 2003 to 8 a.m. October 3, 2003; 6 p.m. October 6, 2003 to 8 a.m. October 7, 2003; 6 p.m. October 7, 2003 to 8 a.m. October 8, 2003; 6 p.m. October 8, 2003 to 8 a.m. October 9, 2003; 6 p.m. October 9, 2003 to 8 a.m. October 10, 2003; 6 p.m. October 13, 2003 to 8 a.m. October 14, 2003; 6 p.m. October 14, 2003 to 8 a.m. October 15, 2003; 6 p.m. October 15, 2003 to 8 a.m. October 16, 2003; 6 p.m. October 16, 2003 to 8 a.m. October 17, 2003; 6 p.m. October 20, 2003 to 8 a.m. October 21, 2003; 6 p.m. October 21, 2003 to 8 a.m. October 22, 2003; 6 p.m. October 22, 2003 to 8 a.m. October 23, 2003; 6 p.m. October 23, 2003 to 8 a.m. October 24, 2003; 6 p.m.

October 27, 2003 to 8 a.m. October 28, 2003; 6 p.m. October 28, 2003 to 8 a.m. October 29, 2003; 6 p.m. October 29, 2003 to 8 a.m. October 30, 2003; 6 p.m. October 30, 2003 to 8 a.m. October 31, 2003;

(b) In Tongue Point, gear is restricted to 6-inch maximum mesh size, net not to exceed 250 fathoms in length, and weight on headline not to exceed two pounds of weight on any one fathom. Fishers participating in the Tongue Point fishery may have stored on board their boat, gill nets with headline in excess of two pounds per fathom. In South Channel, gear is restricted to 6-inch maximum mesh size, net not to exceed 100 fathoms in length, and no weight restrictions on the headline.

(c) A maximum of seven white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) of the open fishing periods during August 3-16, 2003. The weekly sturgeon limit applies to the Youngs Bay fishery and any other open Select Area fisheries and the Columbia River mainstem fisheries in the aggregate.

(3) Retention of sturgeon is prohibited effective 7:00 a.m., September 9, 2003.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. & cert. ef. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. & cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. & cert. ef. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03

635-042-0180

Deep River Select Area Salmon Season

Salmon, sturgeon, and shad may be taken for commercial purposes as follows:

(1) From the town of Deep River, downstream to markers at the mouth of Deep River (a line from navigation marker 16 southwest to a marker on the Washington shore).

(2) There are 35 open fishing periods from 7 p.m. September 2, 2003 to 7 a.m. September 3, 2003; 7 p.m. September 3, 2003 to 7 a.m. September 4, 2003; 7 p.m. September 4, 2003 to 7 a.m. September 5, 2003; 7 p.m. September 9, 2003 to 7 a.m. September 9, 2003; 7 p.m. September 9, 2003 to 7 a.m. September 10, 2003; 7 p.m. September 10, 2003 to 7 a.m. September 11, 2003; 7 p.m. September 11, 2003 to 7 a.m. September 12, 2003; 7 p.m. September 15, 2003 to 7 a.m. September 16, 2003; 7 p.m. September 16, 2003 to 7 a.m. September 17, 2003; 7 p.m. September 17, 2003 to 7 a.m. September 18, 2003; 7 p.m. September 18, 2003 to 7 a.m. September 19, 2003; 7 p.m. September 22, 2003 to 7 a.m. September 23, 2003; 7 p.m. September 23, 2003 to 7 a.m. September 24, 2003; 7 p.m. September 24, 2003 to 7 a.m. September 25, 2003; 7 p.m. September 25, 2003 to 7 a.m. September 26, 2003; 6 p.m. September 29, 2003 to 8 a.m. September 30, 2003; 6 p.m. September 30, 2003 to 8 a.m. October 1, 2003; 6 p.m. October 1, 2003 to 8 a.m. October 2, 2003; 6 p.m. October 2, 2003 to 8 a.m. October 3, 2003; 6 p.m. October 6, 2003 to 8 a.m. October 7, 2003; 6 p.m. October 7, 2003 to 8 a.m. October 8, 2003; 6 p.m. October 8, 2003 to 8 a.m. October 9, 2003; 6 p.m. October 9, 2003 to 8 a.m. October 10, 2003; 6 p.m. October 13, 2003 to 8 a.m. October 14, 2003; 6 p.m. October 14, 2003 to 8 a.m. October 15, 2003; 6 p.m. October 15, 2003 to 8 a.m. October 16, 2003; 6 p.m. October 16, 2003 to 8 a.m. October 17, 2003; 6 p.m. October 20, 2003 to 8 a.m. October 21, 2003; 6 p.m. October 21, 2003 to 8 a.m. October 22, 2003; 6 p.m. October 22, 2003 to 8 a.m. October 23, 2003; 6 p.m. October 23, 2003 to 8 a.m. October 24, 2003; 6 p.m. October 27, 2003 to 8 a.m. October 28, 2003; 6 p.m. October 28, 2003 to 8 a.m. October 29, 2003; 6 p.m. October 29, 2003 to 8 a.m. October 30, 2003; and 6 p.m. October 30, 2003 to 8 a.m. October 31, 2003.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. It is unlawful to use a gill net having a mesh size that is more than six inches.

(4) Only salmon and sturgeon may be taken and sold commercially.

(5) A maximum of seven white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) of the open fishing periods during August 3-16, 2003. The weekly sturgeon limit applies to the Youngs Bay fishery and any other open Select Area fisheries and the Columbia River mainstem fisheries in the aggregate.

ADMINISTRATIVE RULES

(6) Retention of sturgeon is prohibited effective 7:00 a.m., September 9, 2003.

Stat. Auth.: ORS 506.109 & ORS 506.119
Stats. Implemented: ORS 506.129 & ORS 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. & cert. ef. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03

635-042-0190

Steamboat Slough

(1) From markers on Price Island and the Washington shore at both ends of Steamboat Slough.

(2) There are 35 open fishing periods from 7 p.m. September 2, 2003 to 7 a.m. September 3, 2003; 7 p.m. September 3, 2003 to 7 a.m. September 4, 2003; 7 p.m. September 4, 2003 to 7 a.m. September 5, 2003; 7 p.m. September 5, 2003 to 7 a.m. September 6, 2003; 7 p.m. September 6, 2003 to 7 a.m. September 7, 2003; 7 p.m. September 7, 2003 to 7 a.m. September 8, 2003; 7 p.m. September 8, 2003 to 7 a.m. September 9, 2003; 7 p.m. September 9, 2003 to 7 a.m. September 10, 2003; 7 p.m. September 10, 2003 to 7 a.m. September 11, 2003; 7 p.m. September 11, 2003 to 7 a.m. September 12, 2003; 7 p.m. September 12, 2003 to 7 a.m. September 13, 2003; 7 p.m. September 13, 2003 to 7 a.m. September 14, 2003; 7 p.m. September 14, 2003 to 7 a.m. September 15, 2003; 7 p.m. September 15, 2003 to 7 a.m. September 16, 2003; 7 p.m. September 16, 2003 to 7 a.m. September 17, 2003; 7 p.m. September 17, 2003 to 7 a.m. September 18, 2003; 7 p.m. September 18, 2003 to 7 a.m. September 19, 2003; 7 p.m. September 19, 2003 to 7 a.m. September 20, 2003; 7 p.m. September 20, 2003 to 7 a.m. September 21, 2003; 7 p.m. September 21, 2003 to 7 a.m. September 22, 2003; 7 p.m. September 22, 2003 to 7 a.m. September 23, 2003; 7 p.m. September 23, 2003 to 7 a.m. September 24, 2003; 7 p.m. September 24, 2003 to 7 a.m. September 25, 2003; 7 p.m. September 25, 2003 to 7 a.m. September 26, 2003; 6 p.m. September 29, 2003 to 8 a.m. September 30, 2003; 6 p.m. September 30, 2003 to 8 a.m. October 1, 2003; 6 p.m. October 1, 2003 to 8 a.m. October 2, 2003; 6 p.m. October 2, 2003 to 8 a.m. October 3, 2003; 6 p.m. October 3, 2003 to 8 a.m. October 4, 2003; 6 p.m. October 4, 2003 to 8 a.m. October 5, 2003; 6 p.m. October 5, 2003 to 8 a.m. October 6, 2003; 6 p.m. October 6, 2003 to 8 a.m. October 7, 2003; 6 p.m. October 7, 2003 to 8 a.m. October 8, 2003; 6 p.m. October 8, 2003 to 8 a.m. October 9, 2003; 6 p.m. October 9, 2003 to 8 a.m. October 10, 2003; 6 p.m. October 10, 2003 to 8 a.m. October 11, 2003; 6 p.m. October 11, 2003 to 8 a.m. October 12, 2003; 6 p.m. October 12, 2003 to 8 a.m. October 13, 2003; 6 p.m. October 13, 2003 to 8 a.m. October 14, 2003; 6 p.m. October 14, 2003 to 8 a.m. October 15, 2003; 6 p.m. October 15, 2003 to 8 a.m. October 16, 2003; 6 p.m. October 16, 2003 to 8 a.m. October 17, 2003; 6 p.m. October 17, 2003 to 8 a.m. October 18, 2003; 6 p.m. October 18, 2003 to 8 a.m. October 19, 2003; 6 p.m. October 19, 2003 to 8 a.m. October 20, 2003; 6 p.m. October 20, 2003 to 8 a.m. October 21, 2003; 6 p.m. October 21, 2003 to 8 a.m. October 22, 2003; 6 p.m. October 22, 2003 to 8 a.m. October 23, 2003; 6 p.m. October 23, 2003 to 8 a.m. October 24, 2003; 6 p.m. October 24, 2003 to 8 a.m. October 25, 2003; 6 p.m. October 25, 2003 to 8 a.m. October 26, 2003; 6 p.m. October 26, 2003 to 8 a.m. October 27, 2003; 6 p.m. October 27, 2003 to 8 a.m. October 28, 2003; 6 p.m. October 28, 2003 to 8 a.m. October 29, 2003; 6 p.m. October 29, 2003 to 8 a.m. October 30, 2003; and 6 p.m. October 30, 2003 to 8 a.m. October 31, 2003.

(3) Gill nets may not exceed 100 fathoms in length with no weight limit on the headline. It is unlawful to use a gill net having a mesh size that is more than six inches.

(4) A permit issued by an authorized agency employee is required of fishers transporting fish out of the fishing area. For information regarding this permit call ODFW in Clackamas at (503) 657-2000 ext. 251.

(5) Only salmon and sturgeon may be taken and sold commercially.

(6) A maximum of seven white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) of the open fishing periods during August 3-16, 2003. The weekly sturgeon limit applies to the Youngs Bay fishery and any other open Select Area fisheries and the Columbia River mainstem fisheries in the aggregate.

(7) Retention of sturgeon is prohibited effective 7:00 a.m., September 9, 2003.

Stat. Auth.: ORS 506.109 & ORS 506.119
Stats. Implemented: ORS 506.129 & ORS 507.030
Hist.: DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03

Adm. Order No.: DFW 90-2003(Temp)

Filed with Sec. of State: 9-12-2003

Certified to be Effective: 9-13-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-014-0090, 635-016-0090, 635-017-0090

Subject: Amend rules to increase the daily bag limit for adipose fin-clipped adult coho in the Willamette, Northwest and Southwest zones.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-014-0090

Inclusions and Modifications

(1) The 2003 Oregon Sport Fishing Regulations as posted on the Department's web page www.dfw.state.or.us provide requirements for the Northwest Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the 2003 Oregon Sport Fishing Regulations.

(2) Big Creek downstream from the suspended cable is open for chinook salmon and adipose fin-clipped steelhead January 1, 2003 through March 31, 2003, May 10, 2003 through August 31, 2003, and October 1, 2003 through December 31, 2003.

(3) Gnat Creek upstream from Aldrich Pt. Road Bridge to Barrier Falls which is located 1/4 mile upstream from Hwy. 30 is open for chinook salmon and adipose fin-clipped steelhead January 1, 2003 through March 31, 2003, May 10, 2003 through August 31, 2003, and October 1, 2003 through December 31, 2003.

(4) The Klaskanine River including tidewater, North Fork upstream to hatchery, and South Fork is open to chinook salmon and adipose fin-clipped steelhead January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(5) The Lewis and Clark River upstream to fish ladder located 200 feet downstream from Warrenton Reservoir Dam is open for adipose fin-clipped steelhead and chinook salmon January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(6) Youngs River including tidewater is open for adipose fin-clipped steelhead and chinook salmon January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(7) Effective May 24, 2003, the angling deadline on Three Rivers is approximately 65 feet below the ladder entrance at the Cedar Creek Hatchery weir structure; the deadline is marked with a signed cable crossing the river.

(8) Three Rivers is open for fin-clipped spring chinook salmon May 24, 2003 through June 30, 2003, and closed to all angling from the mouth upstream to the hatchery weir July 1, 2003 through September 30, 2003.

(9) During the seasons and times for angling for adipose fin-clipped coho in the following tributaries of the Columbia River: Youngs Bay, Klaskanine River, Lewis and Clark River, Youngs River, Bear Creek, Gnat Creek, and Big Creek, as described in the 2003 Oregon Sport Fishing Regulations pamphlet, notwithstanding the daily bag limit for adult salmon and steelhead, anglers may retain one additional adult adipose fin-clipped coho per day effective September 13, 2003.

(10) During the seasons and times for angling for adipose fin-clipped coho in the following waters draining directly to the Pacific Ocean: Nehalem Bay, North Fork Nehalem River, Tillamook Bay, Trask River and Salmon River, as described in the 2003 Oregon Sport Fishing Regulations pamphlet, notwithstanding the daily bag limit for adult salmon and steelhead, anglers may retain one additional adult adipose fin-clipped coho per day effective September 13, 2003.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162 & ORS 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 93-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-31-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03

635-016-0090

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 Southwest Zone. However, additional regulations may be adopted from

ADMINISTRATIVE RULES

time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) During the seasons and times for angling for adipose fin-clipped coho in the following waters draining directly to the Pacific Ocean: Umpqua River mainstem (includes Winchester Bay), North Umpqua River up to the fly angling boundary above Rock Creek, Coos Bay and River, Coquille River, and Rogue River, as described in the 2003 Oregon Sport Fishing Regulations pamphlet, notwithstanding the daily bag limit for adult salmon and steelhead, anglers may retain one additional adult adipose fin-clipped coho per day effective September 13, 2003.

Stat. Auth.: ORS 496.138 & ORS 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 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 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; 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 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03

635-017-0090

Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page www.dfw.state.or.us provide requirements for the Willamette Zone. The Willamette Zone is described in OAR 635-017-0100. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits for 2003 are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1, 2003 through July 31, 2003 from sunrise to sunset or until the Department projects that a quota of 6,000 lamprey has been harvested whichever comes first; personal use harvest is permitted Saturday through Monday each week. All harvest is prohibited Tuesday through Friday;

(c) Personal use harvest is also permitted July 10, 2003 from sunrise to sunset or until a time that ODFW personnel at the fishing site have determined the total harvest quota of 6,000 lamprey will be reached, whichever comes first.

(d) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(e) Gear is restricted to hand or hand-powered tool only;

(f) Catch must be reported to ODFW by August 31, 2003 on a form provided by the Department. Harvesters must allow sampling or enumeration of catches by ODFW personnel at fishing site;

(g) Except as provided in subsection (h), Pacific lamprey fishing is prohibited effective July 11, 2003 through the remainder of the previously scheduled season.

(h) An open fishing period for members of Oregon federally recognized tribes, the Yakama tribe, and the Nez Perce tribe is established July 23, 2003 through August 1, 2003 from sunrise to sunset or until the Department projects that an additional quota of 250 lamprey are harvested, whichever comes first; personal use harvest is permitted Wednesday through Friday each week. All harvest is prohibited Saturday through Tuesday. This temporary rule is adopted solely in recognition of the cultur-

al significance of lamprey to the tribes, and does not imply that the state recognizes any treaty right to fish at Willamette Falls. The limitations of subsections (d), (e), and (f) apply to this fishery.

(i) The fishing period for Pacific lamprey, as described in subsection (h) of this rule, is closed effective July 25, 2003.

(3) The Willamette River is closed to the retention of sturgeon downstream of Willamette Falls (including Multnomah Channel) from March 24, 2003 through June 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) In the Willamette River and tributaries above Willamette Falls, notwithstanding the daily bag limit for salmon and steelhead, anglers may retain one additional adipose fin-clipped steelhead per day, effective June 18, 2003 through December 14, 2003.

(5) During the seasons and times for angling for adipose fin-clipped coho in the following tributaries of the Columbia River: Willamette River below Willamette Falls including Multnomah Channel, Clackamas River upstream to North Fork Dam, River Mill Reservoir (Estacada Lake), Eagle Creek (Clackamas County), Sandy River upstream to Marmot Dam, and Bull Run River, as described in the 2003 Oregon Sport Fishing Regulations pamphlet, notwithstanding the daily bag limit for adult salmon and steelhead, anglers may retain one additional adult adipose fin-clipped coho per day effective September 13, 2003.

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

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03

Adm. Order No.: DFW 91-2003(Temp)

Filed with Sec. of State: 9-12-2003

Certified to be Effective: 9-16-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-041-0075

Subject: Amend rules to extend Indian commercial fishing options for the mainstream Columbia River.

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 mainstream 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

ADMINISTRATIVE RULES

p.m. Friday, September 12, 2003, and 6:00 a.m. Tuesday, September 16 to 6:00 p.m. Saturday, September 20, 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. & cert. 8-2-79; FWC 36-1979(Temp), f. & cert. 8-22-79; FWC 47-1979(Temp), f. & cert. 9-21-79; FWC 44-1980(Temp), f. & cert. 8-22-80; FWC 46-1980(Temp), f. & cert. 9-13-80; FWC 33-1981(Temp), f. & cert. 9-15-81; FWC 58-1982(Temp), f. & cert. 8-27-82; FWC 62-1982(Temp), f. & cert. 9-7-82; FWC 63-1982(Temp), f. & cert. 9-14-82; FWC 75-1982(Temp), f. & cert. 10-29-82; FWC 36-1983, f. & cert. 8-18-83; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 51-1983(Temp), f. & cert. 9-30-83; FWC 55-1983(Temp), f. & cert. 10-4-83; FWC 46-1984, f. & cert. 8-30-84; FWC 55-1984(Temp), f. & cert. 9-10-84; FWC 58-1984(Temp), f. & cert. 9-17-84; FWC 61-1984(Temp), f. & cert. 9-21-84; FWC 70-1984(Temp), f. & cert. 10-9-84; FWC 47-1985, f. & cert. 8-23-85; FWC 60-1985(Temp), f. & cert. 9-13-85; FWC 63-1985(Temp), f. & cert. 9-24-85; FWC 42-1986, f. & cert. 8-15-86; FWC 53-1986(Temp), f. & cert. 9-4-86; FWC 54-1986(Temp), f. & cert. 9-5-86; FWC 57-1986(Temp), f. & cert. 9-11-86; FWC 60-1986(Temp), f. & cert. 9-26-86; FWC 62-1986(Temp), f. & cert. 10-2-86; FWC 63-1987, f. & cert. 8-7-87; FWC 74-1987(Temp), f. & cert. 9-4-87; FWC 75-1987(Temp), f. & cert. 9-1-87; FWC 78-1987(Temp), f. & cert. 9-15-87; FWC 80-1987(Temp), f. & cert. 9-18-87; FWC 87-1987(Temp), f. & cert. 10-9-87; FWC 89-1987(Temp), f. & cert. 10-12-87; FWC 67-1988, f. & cert. 8-15-88; FWC 72-1988(Temp), f. & cert. 8-19-88; FWC 77-1988(Temp), f. & cert. 9-2-88; FWC 91-1988(Temp), f. & cert. 9-16-88; FWC 95-1988(Temp), f. & cert. 9-27-88, cert. 9-28-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 87-1989(Temp), f. & cert. 9-1-89; FWC 95-1989(Temp), f. & cert. 9-19-89; FWC 96-1989(Temp), f. & cert. 9-21-89; FWC 99-1989(Temp), f. & cert. 9-27-89; FWC 100-1989(Temp), f. & cert. 9-28-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 90-1990, f. & cert. 8-31-90; FWC 96-1990(Temp), f. & cert. 9-7-90, cert. 9-10-90; FWC 98-1990(Temp), f. & cert. 9-14-90, cert. 9-17-90; FWC 85-1991, f. & cert. 8-12-91; FWC 96-1991, f. & cert. 9-9-91; FWC 101-1991(Temp), f. & cert. 9-10-91; FWC 103-1991(Temp), f. & cert. 9-17-91, cert. 9-18-91; FWC 110-1991(Temp), f. & cert. 9-27-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 86-1992(Temp), f. & cert. 9-1-92, cert. 9-2-92; FWC 87-1992(Temp), f. & cert. 9-4-92, cert. 9-7-92; FWC 91-1992(Temp), f. & cert. 9-16-92, cert. 9-17-92; FWC 96-1992(Temp), f. & cert. 9-23-92; FWC 105-1992(Temp), f. & cert. 10-2-92, cert. 10-5-92; FWC 107-1992(Temp), f. & cert. 10-9-92; FWC 47-1993, f. & cert. 8-6-93, cert. 8-9-93; FWC 52-1993, f. & cert. 8-30-93; FWC 57-1993(Temp), f. & cert. 9-13-93; FWC 59-1993(Temp), f. & cert. 9-17-93, cert. 9-20-93; FWC 61-1993(Temp), f. & cert. 9-24-93; FWC 55-1994(Temp), f. & cert. 8-26-94, cert. 8-29-94; FWC 61-1994(Temp), f. & cert. 9-7-94, cert. 9-8-94; FWC 74-1994(Temp), f. & cert. 10-12-94; FWC 68-1995(Temp), f. & cert. 8-25-95, cert. 8-29-95; FWC 72-1995(Temp), f. & cert. 9-1-95; FWC 75-1995(Temp), f. & cert. 9-12-95, cert. 9-13-95; FWC 46-1996, f. & cert. 8-23-96; FWC 48-1996(Temp), f. & cert. 8-29-96, cert. 9-2-96; FWC 51-1996(Temp), f. & cert. 9-6-96, cert. 9-9-96; FWC 53-1996(Temp), f. & cert. 9-26-96; FWC 54-1996(Temp), f. & cert. 9-23-96; FWC 48-1997, f. & cert. 8-25-97; FWC 52-1997(Temp), f. & cert. 9-2-97, cert. 9-2-97; FWC 57(Temp), f. & cert. 9-9-97; FWC 60-1997(Temp), f. & cert. 9-16-97, cert. 9-17-97; FWC 68-1998(T), f. & cert. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. 9-14-98, cert. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. 9-21-98, cert. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. 9-23-98, cert. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. 9-2-99, cert. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. 9-14-99, cert. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. 9-21-99, cert. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. 9-28-99, cert. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. & cert. 8-18-00, cert. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. 9-11-00, cert. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. 9-15-00, cert. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. 9-10-01, cert. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. 9-26-01, cert. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. 10-16-01, cert. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. 10-14-02, cert. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. 8-25-03, cert. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. 9-12-03 cert. 9-16-03 thru 12-31-03

Adm. Order No.: DFW 92-2003(Temp)

Filed with Sec. of State: 9-12-2003

Certified to be Effective: 9-15-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-042-0032, 635-042-0060

Subject: Amend rules to establish commercial fishing seasons for the mainstream Columbia River consistent with Columbia River Compact action of September 12, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0032

Coho Target Fishery

Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia from the mouth upstream to Longview Bridge. The Elokomin-A and Abernathy Creek Sanctuaries are in effect. The open fishing period is 7:00 a.m. to 7:00 p.m., Monday, September 15, 2003.

(1) Gear is restricted to unslackened floater gillnets with a 6-inch maximum mesh size. Nets are to be hung even with no strings, slackers, trammels, or riplines used to slacken nets. Riplines are allowed providing they do not slacken the net.

(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 96-1991, f. & cert. 9-9-91; FWC 101-1991(Temp), f. & cert. 9-10-91; FWC 102-1991, f. & cert. 9-17-91; Suspended by FWC 92-1992(Temp), f. & cert. 9-16-92; FWC 46-1996, f. & cert. 8-23-96; DFW 71-1999(Temp), f. & cert. 9-20-99 thru 10-22-99; DFW 75-1999(Temp), f. & cert. 9-29-99, cert. 9-30-99 thru 10-22-99; DFW 79-1999(Temp), f. & cert. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. 10-27-99 thru 12-31-99; DFW 62-2000(Temp), f. & cert. 9-15-00, cert. 9-19-00 thru 12-31-00; DFW 65-2000(Temp), f. & cert. 9-22-00, cert. 9-25-00 thru 12-31-00; DFW 66-2000(Temp), f. & cert. 9-29-00, cert. 10-2-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. 10-20-00, cert. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. 10-27-00, cert. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cert. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. 9-21-01, cert. 9-24-01 thru 12-31-01; DFW 102-2002(Temp), f. & cert. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. 9-24-02 thru 12-31-02; DFW 92-2003(Temp), f. & cert. 9-12-03 cert. 9-15-03 thru 12-31-03

635-042-0060

Late Fall Salmon Season

Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River from the I-5 Bridge upstream to the upper Zone 5 boundary at Beacon Rock. The Washougal River and Sandy River sanctuaries are in effect. The open fishing period is 8:00 p.m. to 12:00 p.m., midnight, Monday, September 15, 2003.

(1) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size.

(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. 9-10-79; FWC 45-1979(Temp), f. & cert. 9-21-79; FWC 52-1979(Temp), f. & cert. 11-2-79; FWC 48-1980(Temp), f. & cert. 9-19-80; FWC 51-1980(Temp), f. & cert. 9-22-80; FWC 55-1980(Temp), f. & cert. 9-26-80; FWC 56-1980(Temp), f. & cert. 9-29-80; FWC 58-1980(Temp), f. & cert. 10-17-80; FWC 37-1981(Temp), f. & cert. 9-24-81; FWC 38-1981(Temp), f. & cert. 9-29-81; FWC 69-1982(Temp), f. & cert. 9-30-82; FWC 72-1982(Temp), f. & cert. 10-20-82; FWC 56-1983(Temp), f. & cert. 10-5-83; FWC 54-1984(Temp), f. & cert. 9-10-84; FWC 59-1984(Temp), f. & cert. 9-18-84; FWC 66-1984(Temp), f. & cert. 9-26-84; FWC 68-1984(Temp), f. & cert. 10-2-84; FWC 58-1985(Temp), f. & cert. 9-13-85; FWC 62-1985(Temp), f. & cert. 9-24-85; FWC 66-1985(Temp), f. & cert. 10-11-85; FWC 54-1986(Temp), f. & cert. 9-5-86; FWC 64-1986(Temp), f. & cert. 10-3-86; FWC 67-1986(Temp), f. & cert. 10-17-86; FWC 74-1987(Temp), f. & cert. 9-4-87; FWC 75-1987(Temp), f. & cert. 9-11-87; FWC 80-1987(Temp), f. & cert. 9-18-87; FWC 87-1987(Temp), f. & cert. 10-9-87; FWC 91-198(Temp), f. & cert. 10-16-87; FWC 85-1988(Temp), f. & cert. 9-9-88; FWC 93-1988(Temp), f. & cert. 9-16-88; FWC 99-1988(Temp), f. & cert. 10-7-88; FWC 100-1988(Temp), f. & cert. 10-21-88, cert. 10-24-88; FWC 94-1989(Temp), f. & cert. 9-15-89, cert. 9-17-89; FWC 97-1989(Temp), f. & cert. 9-21-89; FWC 109-1989(Temp), f. & cert. 10-6-89; FWC 113-1989(Temp), f. & cert. 11-9-89; FWC 100-1990(Temp), f. & cert. 9-18-90; FWC 101-1990(Temp), f. & cert. 9-19-90; FWC 102-1990(Temp), f. & cert. 9-20-90; FWC 114-1990, f. & cert. 10-8-90; FWC 105-1991, f. & cert. 9-20-91; FWC 118-1991, f. & cert. 10-4-91; FWC 122-1991(Temp), f. & cert. 10-18-91; DFW 129-1991(Temp), f. & cert. 11-1-91, cert. 11-3-91; FWC 97-1992(Temp), f. & cert. 9-22-92; FWC 100-1992(Temp), f. & cert. 9-25-92, cert. 9-27-92; FWC 107-1992(Temp), f. & cert. 10-9-92; FWC 109-1992(Temp), f. & cert. 10-19-92, cert. 10-20-92; FWC 110-1992(Temp), f. & cert. 10-22-92; FWC 80-1995(Temp), f. & cert. 9-27-95, cert. 10-9-95; FWC 46-1996, f. & cert. 8-23-96; FWC 58-1996(Temp), f. & cert. 9-27-96, cert. 9-30-96; FWC 60-1996(Temp), f. & cert. 10-7-96; FWC 62(Temp), f. & cert. 10-18-96, cert. 10-21-96; FWC 61-1997(Temp), f. & cert. 9-23-97, cert. 9-24-97; FWC 62-1997(Temp), f. & cert. 10-6-97; FWC 64-1997(Temp), f. & cert. 10-14-97; FWC 65-1997(Temp), f. & cert. 10-20-97; FWC 68-1997(Temp), f. & cert. 11-3-97; DFW 79-1999(Temp), f. & cert. 10-8-99, cert. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. 10-27-99 thru 12-31-99; DFW 87-

ADMINISTRATIVE RULES

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

Adm. Order No.: DFW 93-2003(Temp)

Filed with Sec. of State: 9-12-2003

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Notice Publication Date:

Rules Suspended: 635-007-0550, 635-007-0555, 635-007-0560, 635-007-0565, 635-007-0570, 635-007-0575, 635-007-0580, 635-007-0585, 635-007-0590

Subject: Suspension of rules that are inconsistent with the Fish Health Management Policy adopted by the Commission at the September 12-13, 2003 hearing.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-007-0550

Inspection of Fish for Disease

(1) The Department will maintain a fish disease inspection program for both public and private fish rearing facilities except that shellfish will not be inspected by Department pathologists.

(2) Reasonable costs may be charged for fish disease inspections conducted at the request of private growers.

(3) Any group of live fish or eggs found to have been imported into Oregon without a Fish Transport Permit is subject to seizure and destruction by the Department. To prevent seizure, the owner shall undertake immediately, upon request by the Department, to have fish or eggs inspected for disease by an individual recognized by the Department as competent in the diagnosis of fish diseases. Such fish or eggs shall be held and not released or moved to any other facility until the owner has obtained a completed disease examination report.

(4) Inspection of fish under section (1) of this rule shall be made at the expense of the owner and must be completed prior to issuance by the Department of a Fish Transport Permit.

(5) Any fish which are found to be infected with any disease (including parasites and pests) that the Department determines may adversely affect the health of the fish of this state shall be treated or destroyed, at the expense of the owner, as directed by the Department.

Stat. Auth.: ORS 496.138, 496.162, 497.252, 498.022 & 506.700 - 508.740
Stats. Implemented: ORS 496.138, 496.162, 497.252, 498.022 & 506.700 - .740
Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0500; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0555

Transport of Diseased Fish

(1) Live fish suspected by the Department to have a disease infection may not be transported from one watershed to another within this state or exported from this state without the written consent of the Department.

(2) The Department may restrict or prohibit transport of infected fish, or fish which may be infected, to or from certain watersheds or areas within watersheds.

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.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0505; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0560

Grounds for Revocation of Licenses and Permits

Failure to comply with the requirements of OAR 635-007-0550 or 635-007-0555 shall be grounds for the revocation of any Fish Propagation License, Cooperative Salmon Hatchery Agreement, Fish Transport, or STEP Permit.

Stat. Auth.: ORS 496.138 & ORS 506.119
Stats. Implemented: ORS 496.146 & ORS 506.124
Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0510; FWC 15-1997, f. & cert. ef. 3-10-97; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0565

Fish Disease Control Policy

It shall be the policy of the Oregon Department of Fish and Wildlife to protect the fish resources of the state by preventing the importation or introduction, to new waters or areas, those fish disease agents known to adversely affect hatchery or natural production of fish.

Stat. Auth.: ORS 496 & ORS 506
Stats. Implemented: ORS 496 & ORS 506
Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0570

Disease Control

Fish diseases shall be classified by category of concern:

(1) Category I. "Emergency" fish diseases are those for which there is no known treatment and which have never been diagnosed as occurring in Oregon.

(2) Category II. "Certifiable" diseases are highly contagious, may cause catastrophic losses, do not have a known cure and may or may not have been found in Oregon.

(3) Category III. "Reportable" diseases are those infections which may be enzootic in populations and/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.

(4) Category IV. "Historical" diseases are related primarily to the area, waters, or facility either here or in another state or country in which fish are raised or those for which an intermediate host is found in other than the fish themselves. This category also includes Category I through III diseases if previously found at a particular facility but which do not now occur at that location. The record of agents in this category seldom prevent transfer or release of fish if the disease agent has not occurred within the past three years of fish rearing, or fish are appropriately treated for disease prior to transfer, or the agent also occurs in the receiving waters.

Stat. Auth.: ORS 496.138, 496.162, 497.252, 498.022 & 506.700 - 508.740
Stats. Implemented: ORS 496.138, 496.162, 497.252, 498.022 & 506.700 - .740
Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0575

Disease Agents by Category

Fish diseases identified by category are set out in **Table 1**.

[ED. NOTE: The Table referenced in this rule is available from the agency.]

Stat. Auth.: ORS 496 & ORS 506
Stats. Implemented: ORS 496 & ORS 506
Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 105-1987, f. & ef. 12-18-87; FWC 66-1996, f. 11-27-96, cert. ef. 12-1-96; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0580

Fish Health Examination Procedure and Requirements

(1) Health or disease inspections of finfish shall be conducted according to procedures outlined in the **American Fisheries Society Fish Health Blue Book** or the **Fish Health Protection Regulations Manual of Compliance of Canada**.

(2) For import or transfer of fish, other than fish reared for release under a private salmon hatchery permit pursuant to ORS 508.700, an annual health examination, including examination of salmonid brood stock for IHNV, IPNV, and VHSV, is required by a pathologist acceptable to the Department. However, the Department may issue a Fish Transport Permit to import into this state live fish without the examination report if the Department finds:

(a) It is not scientifically possible to complete a disease examination prior to the time the fish eggs or larvae mature to a stage at which they cannot be safely transported; and

(b) The fish or eggs are to be transported to and held in an isolation facility approved by the Department until such time as the holder of the permit can obtain a completed disease examination report.

(3) Live fish or eggs found to be infected with any disease that the Department determines may adversely affect the health of the fish populations of this state are also subject to the provisions of OAR 635-007-0550 through 635-007-0560.

(4) The Department shall require monthly health examinations, by a pathologist acceptable to the Department, of all fish reared for release pursuant to a private hatchery permit, and may so require of fish propagation licensees as well.

(5) If losses of fish exceed 0.1 percent per week (Sunday through Saturday) in any rearing or incubation container, unless otherwise provided

ADMINISTRATIVE RULES

ed in an approved operational plan, private hatchery permittees (and propagation licensees when so required by the Department) shall:

(a) Examine live and dead fish from each pond of concern, and if required by the Department, at the entire facility, immediately;

(b) Notify in writing, postmarked within 48 hours, or facsimile transmission within 48 hours to the Fish Division (Portland) and the Fish Pathology Section (Corvallis) of the location, extent, and probable cause of such losses and provide as soon as possible written documentation of a Department-approved treatment regimen planned to control the fish disease; and

(c) Provide within seven working days a copy of the disease examination record upon completion of appropriate tests when applicable.

[Publications referenced are available from the agency.]

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.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 3-1991, f. & cert. ef. 1-18-91; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0585

Import or Transfer of Fish Restricted

(1) Transfer or import requests may be denied or conditioned on the basis of disease history of the shipping station or watershed, current disease inspection report, or disease known to occur in the watershed to which fish would be shipped; i.e., potential loss of the fish due to their susceptibility to pathogens indigenous in the receiving water supply.

(2) The Oregon exporter and importer (recipient) are responsible for obtaining required permits and compliance with regulations necessary to transport fish within Oregon, export fish from Oregon, or import fish to Oregon from any other state, province or country.

(3) It is *unlawful* to ship fish into Oregon from outside the United States which do not meet U.S. Fish and Wildlife Title 50 regulations in addition to Oregon fish import and transport regulations.

(4) No susceptible fish may be imported, exported, or transferred from a site or area where a Category I disease has been found until such time as that site has been declared acceptable for fish rearing by Department pathologists.

(5) No fish which have, or are from a station or area with a recent or continuing history of Category II disease may be imported, exported, or transferred except as authorized by the Department for transfer to locations where the same disease agent already occurs.

(6) Transfer or import of fish with Category III diseases may be restricted until such time as the fish to be transferred have successfully been treated for that or those disease(s).

(7) Transfer or import of fish from facilities where Category III and IV diseases or agents have occurred may be restricted until acceptable treatment or improved history record (more years after disease outbreak) requirements have been met depending upon the specific disease, its effect, and general distribution.

(8) Annual examination (station check) of salmonids sampled at a particular hatchery for *Myxobolus cerebralis*, shall meet Oregon requirements for importation of fish from that facility to Oregon provided the facility does not have a history of *Myxobolus cerebralis* and has not received fish from an infected site or area, i.e., samples of brood stock at originating site or the young fish held at the originating site have been examined for certification and the results are acceptable.

(9) Anadromous fish or their progeny which have been exposed to water from main stem Columbia River or its tributaries shall not be transferred to other waters in the state except after acceptable disease examination results and consultation with Department pathologists.

(10) Anadromous fish or their progeny which have been exposed to waters of Oregon coastal rivers shall not be transferred to waters of the Columbia River and its tributaries except after acceptable disease examination results and consultation with Department pathologists.

(11) The Department may authorize transfer of salmonids from the Columbia River or its tributaries to an accepted isolation facility for scientific study pursuant to the objectives of projects acceptable to the Department.

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

Stats. Implemented: ORS 506.124

Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 3-1991, f. & cert. ef. 1-18-91; FWC 66-1996, f. 11-27-96, cert. ef. 12-1-96; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

635-007-0590

Sanitation of Imported Eggs and Equipment

(1) Imported eggs and their shipping containers shall be disinfected at the approved destination using methods acceptable to the Department. (A

list of acceptable disinfecting agents and methods is available from the Department.)

(2) Equipment or water used in any phase of fish culture which could be contaminated through use or storage shall be disinfected prior to its transfer to or use in another facility or watershed.

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.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 3-1991, f. & cert. ef. 1-18-91; Suspended by DFW 93-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

Adm. Order No.: DFW 94-2003(Temp)

Filed with Sec. of State: 9-12-2003

Certified to be Effective: 9-12-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-067-0031

Subject: Amend rules to allocate two controlled hunt bighorn sheep tags to the Confederated Tribes of the Warm Springs Reservation of Oregon during the 2003 season.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-067-0031

Controlled Bighorn Sheep Hunt Regulations

(1) Bighorn sheep taken by hunters shall have one horn permanently marked with an identification pin by department personnel prior to the hunter leaving the hunt area. Party applications are not allowed. All hunters are required to check out through the local district ODFW office within 72 hours of completion of their hunt.

(2) ODFW will allocate two 2 controlled bighorn sheep tags to the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) during 2003 as follows:

(a) CTWSRO will transfer bighorn harvest tags to tribal members of their choosing. Only designated CTWSRO members shall be authorized to use these tags.

(b) Tribal bighorn tags shall not be sold, bartered, transferred, or otherwise provided to any non-tribal member.

(c) CTWSRO will inform holders of tribal bighorn tags regarding state seasons, hunt unit boundaries, bag limits, and all other rules pertinent to harvest of bighorn sheep outside CTWSRO reservation boundaries.

(d) Tribal hunters will abide by all applicable state rules while hunting bighorn outside CTWSRO boundaries. State rules shall be adopted by the CTWSRO and tribal member hunters shall be subject to prosecution in Warm Springs Tribal Court for violation of such rules.

(e) Tribal hunters will be responsible for obtaining permission to hunt private lands located within hunt unit boundaries.

(f) Upon harvesting a bighorn, tribal hunters shall check out through the local District ODFW office within 72 hours after completing their hunt. Checkout must occur during normal working hours (8am-5pm Monday-Friday). ODFW Biologists will collect basic biological data from the hunter's bighorn, and affix an identifying pin or seal to one horn of the animal.

(g) Hunt 543A2 W John Day River one tag:

(i) Bag Limit: One bighorn sheep ram.

(ii) Hunting Hours: One-half hour before sunrise to one-half hour after sunset.

(iii) Open Season: October 18, 2003 - October 26, 2003

(iv) Open Area: That part of the John Day River canyon from Clarno Bridge to Cottonwood Bridge in Unit 43 that is west of the John Day River. Access is extremely limited, hunters may have to float the John Day River to access public lands. Access through some private land may be by fee only.

(h) Hunt 543B2 E Deschutes River No. 2 (One Tag):

(i) Bag Limit: One bighorn sheep ram.

(ii) Hunting Hours: One-half hour before sunrise to one-half hour after sunset.

(iii) Open Season: October 16, 2003 - October 26, 2003

(iv) Open Area: That part of the Deschutes River Canyon from Sherar's Bridge to the mouth that is east of the Deschutes River. Access will be limited from the top of the canyon and boat or foot access will be required. Access through some private land may be by fee only.

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

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

Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 94-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03

ADMINISTRATIVE RULES

Department of Forestry Chapter 629

Adm. Order No.: DOF 3-2003(Temp)
Filed with Sec. of State: 9-5-2003
Certified to be Effective: 9-8-03 thru 3-6-04
Notice Publication Date:
Rules Adopted: 629-001-0055

Subject: This temporary rule reinstates the Board of Forestry's authority to delegate to the State Forester the ability to prepare and/or execute, on behalf of the board, written consent orders, written orders implementing actions of the board, and default orders in contested cases.

Questions specific to the temporary rule may be directed to Sandy Middleton, 503-945-7480.

Rules Coordinator: Gayle Birch—(503) 945-7210

629-001-0055

Delegation of Authority to State Forester

In addition to any duties and responsibilities conferred upon the State Forester by law or delegation of authority from the Board of Forestry, the State Forester may, with regard to the administration of contested cases:

- (1) Execute any written order, on behalf of the board, which has been consented to in writing by the person or persons adversely affected by the order;
 - (2) Prepare and execute written orders, on behalf of the board, implementing any action taken by the board on any matter;
 - (3) Prepare and execute orders, on behalf of the board, upon default where:
 - (a) The adversely affected party or parties have been properly notified of the time and manner in which to request a hearing and have failed to file a proper, timely request for a hearing; or
 - (b) Having requested a hearing, the adversely affected person or persons have failed to appear at the hearing.
- Stat. Auth.: ORS 526.016 & ORS 527.710
Stats. Implemented: ORS 527.685
Hist.: DOF 3-2003(Temp), f. 9-5-03, cert. ef. 9-8-03 thru 3-6-04

Department of Geology and Mineral Industries Chapter 632

Adm. Order No.: DGMI 2-2003
Filed with Sec. of State: 8-22-2003
Certified to be Effective: 8-22-03
Notice Publication Date: 3-1-03
Rules Amended: 632-030-0017, 632-030-0022

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

Rules Coordinator: Gary W. Lynch—(541) 967-2039, ext. 23

632-030-0017

Limited Exemption

- (1) For the purposes of this rule:
 - (a) "Expansion" means lateral expansion consequential to surface mining into land surfaces previously not affected by surface mining.
 - (b) "Lands within the surfaces and contours of surface mines in existence on July 1, 1972," means land affected by surface mining before July 1, 1972, which has not been adequately reclaimed.
- (2) The following mining operations are exempt from the reclamation except as provided in ORS 517.775:
 - (a) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surface and contours, provided that the Department issues a certificate of exemption to the mining operation on or before October 31, 2000; and
 - (b) Lands within the surface and contours of surface mining operations that are owned or operated by a person that, on July 1, 1972, was a party to a surface mining contract that was valid on January 1, 1971, provided that the Department issued a certificate of exemption to the mining operation on or before September 20, 1985.
 - (3) A certificate of exemption terminates if the landowner or operator does not renew the certificate annually.

- (4) To apply for a Limited Exemption Certificate, an applicant must:
 - (a) Submit the appropriate application form and fee;
 - (b) Document with appropriate aerial photographs or other acceptable information that the site qualifies for the limited exemption; and
 - (c) Demonstrate that the site has not been reclaimed or naturally revegetated. The applicant must demonstrate that the site has not stabilized to the point where it is at least revegetated to 50 percent of estimated original cover prior to mining, when compared to adjacent lands, or has not reverted to any beneficial use such as wildlife habitat or grazing.
- (5) The Department will review each request and make a determination based on the documentation provided, and on-site inspection, if necessary. If the Department denies the application for a Limited Exemption Certificate, it will notify the applicant in writing specifying the reasons for the denial and give the applicant an opportunity to supply additional documentation to support the application.

(6) The holder of a Limited Exemption Certificate shall renew the limited exemption annually by submitting the renewal form and fee to the Department before the certificate expires. A certificate of exemption terminates if the landowner or operator does not renew the certificate annually. As a courtesy, the Department may notify the holder that the certificate is due for renewal by mailing the necessary renewal forms and fee schedule at least 45 days before the renewal date. The Department may request information to determine continued eligibility.

(7) No surface mining is permitted outside of the Limited Exemption area without an Operating Permit unless the expansion qualifies for a total exemption from regulation under ORS 517.750(14) and OAR 632-030-0016. Expansion of a site before the Operating Permit is issued constitutes surface mining without a permit and is prohibited by ORS 517.790.

(8) At least one year prior to completion of mining at a site operating under a Limited Exemption Certificate, the landowner or operator must submit a closure plan to the Department for approval. The closure plan must be signed by the landowner and by the operator if the operator is different than the landowner. For purposes of this section, "landowner" means the owner of the surface of the land or the owner of the mineral estate if the mineral estate owner is different than the surface land owner. The closure plan must reasonably control erosion and must reasonably ensure that there will be no off-site impacts to surface or ground water from the mined land. The closure plan must include:

- (a) Name and address of the landowner;
- (b) Name and address of the mine operator and holder of the Limited Exemption Certificate if different than the landowner;
- (c) The commodity or commodities mined at the site;
- (d) A map or maps showing the boundary of the area subject to the limited exemption, existing topography, springs, surface waters, wetlands, and final slope configuration, and also showing whether final slopes are cut slopes or fill slopes and how any drainage will be managed;
- (e) Detailed stabilization and sediment control measures;
- (f) Detailed revegetation measures including a description of soils, seed bed preparation, mulching, fertilization, plant species, seeding or planting rates, and seeding or planting dates;
- (g) Design plans for any sediment control structures to be constructed or installed on the site; and
- (h) A description of all stockpiles, petroleum products and any toxic or hazardous substances or materials stored on the site and a description of how these stockpiles, products, substances or materials will be managed or removed from the site.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.770 & ORS 517.775

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 2-2003, f. & cert. ef. 8-22-03

632-030-0022

Fees

- (1) Application Fee: The fee for a new application for an operating permit is \$875. If a permit is not issued within one year, due to the applicant's failure to provide all requested information in a timely manner or the need for extraordinary department review, the applicant must pay the annual fee specified in subsection (2)(a) or resubmit the application and pay a new application fee.
- (2) Annual Fee:
 - (a) The annual fee for an operating permit is based on the tonnage of total aggregate or mineral ore extracted during the previous 12 months. The fee is:
 - (A) \$635 for zero to 99,999 tons;

ADMINISTRATIVE RULES

Hist.: GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 2-2003, f. & cert. ef. 8-22-03

Adm. Order No.: DGMI 3-2003
Filed with Sec. of State: 8-29-2003
Certified to be Effective: 9-1-03
Notice Publication Date: 7-1-03
Rules Amended: 632-030-0022

Subject: The rules implement the fee increase for the Division 30 Mine Sites allowed under House Bill 2256 passed by the legislature and signed by the Governor. The bill declared and emergency making the fee applicable as of September 1, 2003.

Rules Coordinator: Gary W. Lynch—(541) 967-2039, ext. 23

632-030-0022

Fees

(1) Application Fee: The fee for a new application for an operating permit is \$1,200. If a permit is not issued within one year, due to the applicant's failure to provide all requested information in a timely manner or the need for extraordinary department review, the applicant must pay the annual fee specified in subsection (2)(a) or resubmit the application and pay a new application fee.

(2) Annual Fee:

(a) The annual fee for an operating permit is based on the tonnage of total aggregate or mineral ore extracted during the previous 12 months. The fee is:

- (A) \$670 for zero to less than 10,000 tons.
- (B) \$735 for 10,000 to less than 100,000 tons.
- (C) \$935 for 100,000 to less than 200,000 tons.
- (D) \$1,135 for 200,000 to less than 300,000 tons.
- (E) \$1,335 for 300,000 to less than 400,000 tons.
- (F) \$1,535 for 400,000 to less than 500,000 tons.
- (G) \$1,735 for 500,000 to less than 600,000 tons.
- (H) \$1,935 for 600,000 to less than 700,000 tons.
- (I) \$2,135 for 700,000 to less than 800,000 tons.
- (J) \$2,335 for 800,000 to less than 900,000 tons.
- (K) \$2,535 for 900,000 to less than 1,000,000 tons.
- (L) \$2,735 for 1,000,000 to less than 1,100,000 tons.
- (M) \$2,935 for 1,100,000 to less than 1,200,000 tons.
- (N) \$3,135 for 1,200,000 to less than 1,300,000 tons.
- (O) \$3,335 for 1,300,000 to less than 1,400,000 tons.
- (P) \$3,535 for 1,400,000 to less than 1,500,000 tons.
- (Q) \$3,735 for 1,500,000 tons or more.

(b) Operations that have produced no more than 5,000 cubic yards per year since October 1992 may pay an annual fee of \$525 in place of the regular annual fee set out in subsection (2)(a) above.

(c) Operations that have been regraded, stabilized, and acceptably seeded prior to the beginning of the annual permit period but where reclamation is not complete because the vegetation is not satisfactorily established may pay a fee of \$200 in place of the annual fee specified in subsections (2)(a) or (b) above.

(d) The department in its discretion may prorate annual fees at the permittee's request to adjust the anniversary date.

(e) Each application for an Operating Permit or Limited Exemption Certificate shall be accompanied by the established fee.

(f) Each permit and certificate shall be renewed annually, on or before the last day of the month shown on the permit as the renewal month. The annual fee shall be paid and the annual report form returned prior to renewal. As a courtesy, the Department may notify the permittee with a renewal notice at least 45 days prior to the renewal date. The permittee must pay all delinquent fees owed to this Department prior to renewal of the certificate or permit;

(3) Amendment Fee: The Department may assess an additional fee not to exceed \$625 for staff time, legal fees, and other administrative costs relating to a request for significant revisions to an operating permit or reclamation plan.

(4) Refunds: The State Geologist may refund a fee if the underlying application or request is withdrawn and neither significant staff time has been spent nor expenses have been incurred by the Department.

(5) Local Land Use Decisions: If, at the request of an applicant, the department responds to requests for information required by a local government in making a land use planning decision on behalf of the applicant for a specific site, the State Geologist may require the applicant to pay the department an additional fee for staff time and related costs. The department

- (B) \$835 for 100,000 to 199,999 tons;
- (C) \$1,035 for 200,000 to 299,999 tons;
- (D) \$1,235 for 300,000 to 399,999 tons;
- (E) \$1,435 for 400,000 to 499,999 tons;
- (F) \$1,635 for 500,000 or more.

(b) Operations that have produced no more than 5,000 cubic yards per year since October 1992 may pay an annual fee of \$525 in place of the regular annual fee set out in subsection (2)(a) above.

(c) Operations that have been regraded, stabilized, and acceptably seeded prior to the beginning of the annual permit period but where reclamation is not complete because the vegetation is not satisfactorily established may pay a fee of \$200 in place of the annual fee specified in subsections (2)(a) or (b) above.

(d) The department in its discretion may prorate annual fees at the permittee's request to adjust the anniversary date.

(e) Each application for an Operating Permit or Limited Exemption Certificate shall be accompanied by the established fee.

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(6) Extraordinary Expenses: If an application for a new permit requires extraordinary department resources because of concerns about slope stability or proximity to waters of the state or other environmentally sensitive areas, the applicant shall pay to the department an additional fee in an amount determined by the State Geologist to be adequate to cover the additional costs for staff and other related expenses. The State Geologist shall consult with the applicant when determining the amount of the fee.

(7) Special Inspection Fees: An additional fee not to exceed \$200 may be assessed for department investigations under the following situations:

(a) Where surface mining is conducted without a valid Operating Permit required under ORS 517.790;

(b) Where a surface mining operation has not been reclaimed in a timely manner;

(c) Where surface mining operations are conducted outside the area authorized in the Operating Permit.

(8) The fees assessed in subsections (3), (5), (6), and (7) shall be in addition to any fee assessed under subsections (1) and (2) of this rule.

(9) The completed annual report and renewal fee required under ORS 517.775 and OAR 632-032-0022(2)(f) for any area operating under a Limited Exemption Certificate must be received by the Department within 30 days of the anniversary date of the Certificate. Failure to file the report or pay the fee within this 30-day period will result in the immediate termination of the limited exemption under ORS 517.770(2) and the revocation of the Certificate. If the limited exemption is terminated; all mining allowed under the exemption must cease immediately and the landowner or operator must:

(a) Immediately begin implementation of the closure plan required under OAR 632-0300-0017(8);

(b) Or if no closure plan has been submitted to the Department, submit a closure plan to the Department within 30 days and begin implementing the closure plan within 30 days after approval by the Department; or

(c) Within 30 days, submit an application to the Department for a new Operating Permit (for sites previously operating only under a Limited Exemption Certificate) or an amendment to the existing Operating Permit (for sites operating under both a Certificate and Operating Permit).

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.800

ADMINISTRATIVE RULES

ment shall notify the applicant in advance of the estimated costs and the amount of hours necessary to provide the information. The actual amount assessed shall not exceed the estimate provided by the department.

(6) Extraordinary Expenses: If an application for a new permit requires extraordinary department resources because of concerns about slope stability or proximity to waters of the state or other environmentally sensitive areas, the applicant shall pay to the department an additional fee in an amount determined by the State Geologist to be adequate to cover the additional costs for staff and other related expenses. The State Geologist shall consult with the applicant when determining the amount of the fee.

(7) Special Inspection Fees: An additional fee not to exceed \$200 may be assessed for department investigations under the following situations:

(a) Where surface mining is conducted without a valid Operating Permit required under ORS 517.790;

(b) Where a surface mining operation has not been reclaimed in a timely manner;(c) Where surface mining operations are conducted outside the area authorized in the Operating Permit.

(8) The fees assessed in subsections (3), (5), (6), and (7) shall be in addition to any fee assessed under subsections (1) and (2) of this rule.

(9) The completed annual report and renewal fee required under ORS 517.775 and OAR 632-032-0022(2)(f) for any area operating under a Limited Exemption Certificate must be received by the Department within 30 days of the anniversary date of the Certificate. Failure to file the report or pay the fee within this 30-day period will result in the immediate termination of the limited exemption under ORS 517.770(2) and the revocation of the Certification. If the limited exemption is terminated; all mining allowed under the exemption must cease immediately and the landowner or operator must:

(a) Immediately begin implementation of the closure plan required under OAR 632-0300-0017(8);

(b) Or if no closure plan has been submitted to the Department, submit a closure plan to the Department within 30 days and begin implementing the closure plan within 30 days after approval by the Department; or

(c) Within 30 days, submit an application to the Department for a new Operating Permit (for sites previously operating only under a Limited Exemption Certificate) or an amendment to the existing Operating Permit (for sites operating under both a Certificate and Operating Permit).

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.800

Hist.: GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 2-2003, f. & cert. ef. 8-22-03; DGMI 3-2003, f. 8-29-03, cert. ef. 9-1-03

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

Adm. Order No.: CWP 30-2003(Temp)

Filed with Sec. of State: 9-2-2003

Certified to be Effective: 9-2-03 thru 2-28-04

Notice Publication Date:

Rules Amended: 413-100-0030, 413-100-0040, 413-100-0050, 413-100-0070, 413-100-0080, 413-100-0110, 413-100-0130, 413-100-0135, 413-100-0150, 413-100-0160, 413-100-0240, 413-100-0276, 413-100-0290

Subject: The Title IV-E eligibility rules must be changed due to a recent opinion the Ninth Circuit Court. This opinion enables states under the Ninth Circuit Court to base financial eligibility for a child living with a relative, at the time court action was initiated that resulted in the removal of the child from the home, by linking the child's Aid to Families and Dependent Children (AFDC) eligibility to the home of the relative.

States under the Ninth Circuit Court have determined that this ruling also allows a child to be AFDC linked to any relative home in which the child resides within 6 months of the eligibility month (Month that court action was initiated that results in the removal of the child from the home or the month in which the voluntary custody or placement agreement is signed) if the child cannot be AFDC linked to the parent or relative home they are currently residing with or removed from. If a child is AFDC linked to a relative home it will allow us to look at the child as a household of one and will almost

assure that the child will meet the AFDC linkage requirement of the Title IV-E program.

This interpretation allows us to reexamine and determine the eligibility of children in Oregon for Title IV-E eligibility when the child was denied Title IV-E due to no AFDC linkage in the eligibility month.

Rules Coordinator: Barbara J. Carranza—(503) 945-6649

413-100-0030

Certification Documentation Requirements for Title IV-E

Children found eligible for Title IV-E-FC must be placed in a certified foster home. Documentation in the case file or certification file of certification is required. Title IV-E may be claimed for the period of time between the date a prospective foster family home satisfies all certification requirements and the date the actual certificate is issued, which shall not exceed 60 days. The following documentation is required for children in out-of-state placements:

(1) Verification that the out-of-state foster home or child caring agency is certified, licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(2) In states where relative homes are not certified, a statement in writing that the home would meet the state's licensing standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a Criminal History check was completed and approved.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0040

Placement in Relative Homes

(1) Relative Payments for Non-Indian Children. Foster care maintenance payments to relatives are restricted by ORS 418.625. Children in relative foster care must be Title IV-E eligible to receive a foster care maintenance payment with the exception of an Indian child.

(2) Relative Payments for Indian Children. A Tribal enrollment committee must verify that the child is enrolled as a member of a federally recognized tribe or eligible for enrollment. State general fund foster care payments may be authorized for these Indian children in relative foster care but found ineligible for Title IV-E.

(3) Relative Placements. With the exception of Indian children, children in the following homes must be found Title IV-E eligible for the relative to receive foster care maintenance payments:

(a) The home of any blood or half blood relative or adoptive relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great. Children with one common birth parent are half-blood relatives;

(b) The home of siblings, aunts, uncles, first cousins, first cousins once removed, nephew, or niece, and grandparents;

(c) The home of a relative, as defined in (a) of this rule, of adoptive parents.

(4) Relative Foster Care Provider Rights. The relative foster care provider has a right to:

(a) Information about the Title IV-E foster care maintenance program administered by the agency, including the eligibility requirements of the program and the required verification methods;

(b) Apply for Title IV-E foster care maintenance payments for the financial support of the related child in their care;

(c) Receive these benefits without discrimination when the related child in their care meets the eligibility requirement of the Title IV-E foster care program and the home meets foster care certification requirements.

(5) Request for Foster Care Maintenance Payment. The relative foster care provider may contact the agency with a request for Title IV-E payments. Their request for Title IV-E foster care maintenance payments may be in the form of a phone call, visit or written request by the relative provider or another person acting on the relative provider's behalf. This request starts the application process. The "date of relative provider's request" is the date the verbal request is made to or the written request is received by the agency. The date of request will be recorded by the Eligibility Specialist on the narrative and used to establish:

(a) The date for starting the application processing time frame; and

(b) The earliest date for which Title IV-E eligibility may be established.

ADMINISTRATIVE RULES

(6) Eligibility Determination Time Lines. Eligibility for Title IV-E-FC will be determined within 45 days from the date of request for benefits. The limit may be extended for any of the following reasons:

(a) Information needed to determine eligibility is expected to be received after the 45 day limit; or

(b) Other circumstances exist that are not within the control of the client or the branch local DHS office, and this delays the eligibility decision past the 45 day limit.

(7) Notice of Closing of Relative Payment. The eligibility worker will send written notification to the relative provider at least ten days prior to the effective date of termination of payments when a child is no longer Title IV-E-FC eligible.

(8) Notice of Denial of Relative Payment. The eligibility worker will send written notification of denial of benefits to the relative(s) requesting foster care maintenance payments when a child placed in their home does not meet the requirements of the Title IV-E-FC program.

(9) If relatives do not agree with the closure or denial of Title IV-E foster care maintenance payments and medical coverage, the relative may request a conference with local DHS staff. At the conference, branch staff will:

- (a) Discuss the decision;
- (b) Explain the specific reasons for the action; and
- (c) Allow the relatives to explain why they feel the action should not be taken.

(10) Relatives also have the right to ask for an Administrative Hearing before an impartial person designated as an authority on the federal eligibility requirements of the Title IV-E Foster Care and medical programs. The purpose of such a hearing is to determine if the local DHS office's Title IV-E foster care eligibility determination decision is in compliance with the guidelines established by state and/or federal legislation for the program. If the hearing decision is that Title IV-E foster care maintenance payments and medical coverage have been wrongfully denied or terminated, corrective payment action will be taken.

(11) Whether relatives request a conference with local DHS staff, or an Administrative Hearing, witnesses may testify on their behalf and legal counsel or other representatives may be present. The Department of Human Services will not pay the expenses of witnesses attending or of an attorney.

(12) Whenever a client or the client's authorized representative clearly expresses a desire to have a hearing, orally or in writing, the client has requested a hearing. The Eligibility Specialist will document the hearing request date on the narrative.

(13) Relatives may make a written or oral request for an Administrative Hearing to either their local DHS office or the Central Office. Requests for an Administrative Hearing must be made within 45 days of the date of notice of closure or denial of Title IV-E foster care payments and medical coverage.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0050

Placement in Unrelated Homes

(1) Unrelated Home. Certification of the home is required when children are placed in the home of a person formerly related by blood or marriage. The following homes meet DHS's definition of an unrelated home. General fund foster care payments may be made to the following certified homes:

(a) The home of a person formerly related to the child by marriage when:

(A) The relationship by marriage was terminated by death or divorce;

(B) The child was not adopted by a step-parent prior to the dissolution of the marriage or death of the natural or adoptive parent. A child's relationship to his/her step-parent ends 30 days after the entry of a divorce decree.

(b) The home of a person no longer related to the child by blood, with the exception of the birth parent. Blood relationships end when the child is legally adopted by another family. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all the prior blood relationships of siblings, unless also adopted by the same adoptive parents, and extended family members.

(c) The home of a putative paternal relative. A paternal relationship by blood does not exist when:

(A) There is no court order establishing paternity or no evidence of such an order having been submitted to Vital Statistics; or,

(B) The father's name is not on the birth certificate. (Only the birth certificate issued by Vital Statistics will provide proof of paternity having been established by the court. The hospital certificate giving the father's name is not sufficient evidence of paternity.); or

(C) The putative father signed relinquishment papers without ever having signed a stipulation of paternity. (The Division of Child Support does not recognize the signing of a stipulation of paternity without the mother agreeing that the man is indeed the father. The HS 21 form jointly signed by the mother and putative father is a legal document which establishes paternity and allows the father's name to be added to the birth certificate.)

(2) Non IV-E Reimbursable Placements. Children in the following relative homes are ineligible for IV-E foster care maintenance payments:

(a) The home of a birth parent even after adoption or termination of parental rights;

(b) The home of the specified relative from whose legal custody the child was removed;

(c) The home of a relative when the child's parent resides under the same roof and the parent is providing caretaking responsibilities for the child;

(d) The home of a step-parent when the birth parent and step-parent are separated, but not divorced;

(e) The home of a relative when the relative has legal custody;

(f) The home of a relative that is not fully certified.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0070

Application for Title IV-E-FC

(1) Children in the care and custody of DHS and in substitute care will be referred for a Title IV-E-FC eligibility determination.

(2) Under no circumstances is Title IV-E-FC to be authorized on behalf of any child prior to the establishment of eligibility by DHS's eligibility worker. A child cannot be eligible for Title IV-E-FC on the basis of presumed eligibility.

(3) Applications will be submitted to eligibility workers under the following timelines:

(a) No later than three working days after a child's placement with a relative provider, unless the relative declines foster care payments;

(b) No later than 14 working days after a child's placement in regular paid care. (No application is required when children leave care on or before the seventh working day.)

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0080

Effective Eligibility Date

Eligibility for Title IV-E can be established if all other eligibility criteria, as outlined in OAR 413-100-0020 through 413-100-0360, including the following, is met:

(1) No earlier than the date of placement when the child is in the agency's legal care and custody;

(2) The of placement in a Relative certified home when the Relative has received a TANF non-needy grant and repayment is authorized to the TANF agency;

(3) The first of the month in which the "Reasonable Efforts" ruling is made when the court delays making the finding, as long as Reasonable Efforts to Prevent the Placement was obtained within 60 days of placement;

(4) The effective certification date of the relative provider's home when a TANF (NNR) grant has not been received;

(5) The effective certification date when DHS Financial Services has reimbursed DHS the relative provider's TANF (NNR) grant retroactive to the certification date;

(6) Effective the date the child is no longer in receipt of SSI (if applicable);

(7) The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" when a child in their parental home under DHS custody is returned to care;

(8) The first of the month in which DHS obtains custody when a child is placed in a substitute care placement prior to DHS obtaining custody.

ADMINISTRATIVE RULES

(9) The first of the month in which the voluntary placement/custody agreement is signed, when placement occurs prior to the signing of the agreement; or

(10) The first of the month in which a non-certified home becomes certified as long as the child was placed in the home at that time.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0110

Effective Closure Date

The effective date of termination for cases no longer meeting Title IV-FC eligibility criteria will be the earlier of the following:

(1) The end of the month in which eligibility ceased to exist;

(2) Retroactive to the end of the month in which eligibility ceased to exist even though information causing the child's ineligibility became known to the agency after the fact;

(3) The day the parent(s), custodial or non-custodial, establishes residency in the home where their child resides if they are providing caretaking responsibility for the child;

(4) The day the foster home license certification is terminated;

(5) On the 181st day of placement for a voluntary placement not approved for continuation by the court within 180 days. The date the child is placed, not the signature date on the agreement, will begin the count;

(6) The day DHS ceases having legal care and custody of the child;

or,

(7) The end of the month in which an 18-year-old youth graduates or obtains a GED; or the end of the last month they are 17 years of age if they did not or will not graduate by age 19.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0130

Eligibility Determinations-AFDC Linkage

(1) Title IV-E eligibility is determined on a one-time basis when the child enters substitute care. Children removed from the home of a parent or other specified relative must meet specific eligibility requirements.

(2) The agency will reconstruct the case facts in the eligibility month to determine if the child was receiving AFDC, or might have been eligible for AFDC under rules in effect 7/16/1996, had an application been made.

(a) AFDC Relatedness. The child meets the AFDC relatedness test if one of the following three criteria is met:

(A) The child received AFDC under rules in effect 7/16/1996, in the eligibility month, and the child remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Soc. Sec. Act effective (7-1-96);

(B) The child would have been eligible to receive AFDC under rules in effect 7/16/1996, in the eligibility month, if an application had been made; or

(C) The child did not live with the AFDC specified relative in the eligibility month, but did live with such a relative in any of the six months prior to the eligibility month; and would have been eligible to receive AFDC under rules in effect 7/16/1996, during the eligibility month had an application been made.

(D) If the child does not meet the conditions in (2)(a)(A), (B) or (C), the linkage requirement is met if the following applies:

(i) The DHS office has information which establishes the child resided with any specified relative as defined in 413-100-0020(35) during the eligibility month or within any of the six months prior to the eligibility month, and that the child would have been eligible for AFDC based on that home, had application been made while the child was living there.

(ii) This rule 413-100-0130(2)(a)(D) will not become operative unless and until it has been approved by the federal Department of Health and Human Services as part of the Oregon Title IV-E State Plan.

(b) Circumstances defining AFDC eligibility or hypothetical AFDC rules in effect 7/16/1996, for Title IV-E purposes are:

(A) Living with a specified relative;

(B) Deprived of the support of one or both parents;

(C) Financial need;

(D) U.S. citizen or qualified alien; and

(E) Age.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.163 & Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0135

Living with a Specified Relative

(1) To meet the Title IV-E requirements for living with a specified relative prior to removal from the home, one of the following situations must apply:

(a) The child was living with a specified relative and was, under rules in effect on 7/16/1996, AFDC eligible in that home in the eligibility month of the voluntary custody/ placement agreement or initiation of court proceedings;

(b) The child had been living with a specified relative within six months of the eligibility, and the child would have been, under rules in effect on 7/16/1996, AFDC eligible in that month; or

(c) The child was hospitalized under parental custody and released into DHS custody for placement purposes. Such children will be considered to have lived with the parent regardless of the length of the child's hospitalization.

(2) Removal Requirements. The Title IV-E eligibility rules require that the child be removed from the home of a specified relative as defined in OAR 413-100-0020. For the purposes of meeting Title IV-E requirements, a removal from the home must occur pursuant to:

(a) A voluntary custody/placement agreement entered into by a parent/specified relative which leads to a "physical" or "constructive" removal of the child from the home; or

(b) A judicial order for a physical or constructive removal of the child from a parent/specified relative.

(3) For Title IV-E purposes, the following will be designated as "removal homes":

(a) Physical Removal: The home of a parent/specified relative when the court action or voluntary custody/placement agreement results in the removal of the child from the custody of the parent/specified relative.

(b) Constructive Removal:

(A) The home of a parent when the child was left in the home of a relative and the court action or voluntary custody/placement agreement results in the removal of the child from the custody of the parent.

(B) The home of a parent when the parent and the child reside in a relative home and the parent leaves the home leaving the child in the home of the relative.

(C) The specified relative home where the child last resided when the child is living with a non-related caretaker or was homeless. The child must have lived with a specified relative within six months of initiation of court action or signing of a voluntary custody/placement agreement pertaining to the removal from the specified relative. If not, eligibility for Title IV-E is denied based on not meeting the specified relative requirement.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SOSCF 20-2000(Temp), f. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0150

Parental Deprivation

A continued absence of one or both birth, or adoptive, or stepparent(s) from the home constitutes the basis for deprivation of parental support or care. Deprivation of parental support exists when:

(1) Either parent is deceased.

(2) There is a Continued Absence of one or both parents as follows:

(a) The parent(s) is out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child; or

(b) There is evidence of continued absence of over 30 days duration;

or

(c) Predictable absence due to divorce, legal separation, incarceration, and other verified and documented circumstances.

(3) Unemployment or Incapacity. For two-parent families with no absent parent, deprivation of parental support must be based on one of the following;

(a) Incapacity. One parent must meet one of the following criteria:

(A) Receives Supplemental Security Income (SSI);

(B) Receives Social Security Benefits (SSB) based on disability or blindness; or

ADMINISTRATIVE RULES

(C) Is unable to work or has a physical or mental condition that is expected to last at least 30 days and substantially reduces the parent's ability to support or care for the child.

(b) Unemployment or underemployment. Consider a two-parent household unemployed or under employed if they meet one of the following criteria:

(A) Is working less than 100 hours per month; or

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months;

AND

(ii) Is expected to work less than 100 hours in the following month.

(IV-A)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.163 & Title IV-E of the Social Security Act.

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0160

Financial Need

A child removed from the home of a specified relative who was not receiving AFDC requires reconstruction of the child's situation to determine whether under rules in effect on 7/16/1996 the child was AFDC eligible. A step-by-step process must be followed.

(1) In cases where a child is physically removed from a parent's home:

(a) First consider the income and resources of the parent(s) or step-parent from whom the child was removed; and

(A) Determine the countable gross earned and unearned income of all the family members in the assistance unit in the eligibility month; and

(B) Include the child placed in substitute care in the assistance unit.

Exclude the parent or child receiving SSI or a combination of SSI and other Social Security benefits and exclude them from the number in the household for AFDC calculations.

(b) The next consideration in the income eligibility determination process is to:

(A) Determine the countable gross earned income with disregards and countable unearned income of all the family members in the assistance unit, including the child(ren) who has/have been removed;

(B) An assistance unit is not eligible when all available countable income in the eligibility month, both earned and unearned, exceeds the Adjusted Income Payment/Need Standard under rules in effect 7/16/1996. SSI or a combination of SSI and SSA benefits are excluded as countable income. The first \$50 of child support are excluded. The Adjusted Income Payment/Need Standard is used to determine the actual AFDC grant amount;

(C) An assistance unit is not eligible if in the eligibility month all available resources not excluded by DHS Rules in effect 7/16/1996, are over the Resource Limit.

(2) In cases where a child is residing with, or was residing within six months of the eligibility month, a specified relative which is not a parent:

(a) Consider child as a household of one.

(b) Disregard the income and resources of the caretaker relative(s);

(c) Determine the countable earned and unearned income and resources available to the child;

(d) Include the child placed in substitute care in the Assistance Unit (Household of one);

(e) Deny Title IV-E eligibility if the child's income is above the No Adult Standards for the ADC Non-Needy Relative Assistance Unit in effect 7/16/1996.

(3) In cases where a child is removed from a minor mother residing in her parent(s)' home.

(a) When a child is removed from a minor mother residing in her parent(s) home, the first step of the eligibility determination process is to:

(A) Exclude the resources of the parent(s) of the minor mother;

(B) Determine the amount of countable income of the parent(s);

(C) Deduct the needs of the parent(s) and their dependents living in the same household at the ADC Adjusted Income Payment/Need Standard in effect 7/16/1996. Do not include the minor mother and her child in the assistance unit;

(D) Allow the standard earned income deduction;

(E) Deduct payments of alimony or child support;

(F) Any remaining income is considered available to the minor parent and their dependent child even if it is not received.

(b) The second step of the eligibility determination process is to:

(A) Determine the minor mother and her child's needs at ADC Adjusted Income Need Standards in effect 7/16/1996;

(B) Deduct the grandparent's income available to the minor parent from the ADC Adjusted Income Need Standard in effect 7/16/1996;

(C) Deny Title IV-E eligibility if the grandparent's income exceeds the Need Standard for the minor parent.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0240

Judicial Finding Requirements

(1) Contrary to the Welfare or Best Interest Findings Requirement. To establish IV-E eligibility, a child's removal from the home must have been the result of a judicial finding, unless the child was removed pursuant to a voluntary/custody placement agreement, that continuation of residence in the home would be contrary to the welfare of the child, or that placement would be in the best interests of the child. The Contrary to the Welfare or Best Interest ruling must be made in the first court order that sanctions, even temporarily, the removal of a child from home including pickup orders and detention orders.

(a) Should the court fail to make a "Best Interest" or "Contrary to the Welfare" ruling in the first order issued at the time of the removal, the case will be denied IV-E eligibility for the entire duration of the child's substitute care placement.

(2) Reasonable Efforts Requirement: Effective March 27, 2000 in order to satisfy IV-E eligibility requirements there must be a judicial determination that:

(a) Reasonable efforts were made to prevent a child from being removed from the home; OR

(b) Reasonable efforts are/were not required due to aggravated circumstances to prevent the child's removal from home; AND

(c) Reasonable efforts were made to finalize a permanency plan. The permanency plan may be further identified as:

(A) DHS has made reasonable efforts to make it possible for the child to safely return home or

(B) DHS has made reasonable efforts to place the child in a timely manner in accordance with the plan and to complete steps necessary to finalize the permanent plan.

(3) Timelines for Reasonable Efforts Judicial findings:

(a) Timeline for Judicial Finding of Reasonable Efforts to Prevent Removal from the Home. The judicial finding as to whether reasonable efforts to prevent the child's removal were made, or were not required due to aggravated circumstances, must be made no later than 60 days from the date the child is removed from the home.

(A) If a judicial finding regarding reasonable efforts to prevent removal from the home is not made within the time frame outlines in (a) above the child is not eligible under the Title IV-E foster care maintenance payments program for the duration of that stay in foster care.

(b) Timeline for Judicial Finding of Reasonable Efforts to Finalize a Permanency Plan. Within twelve months of the date the child is considered to have entered foster care and not less frequently than every twelve months thereafter a judicial finding is required that reasonable efforts have been made to finalize the permanency plan whether the plan is to return safely to the family or another permanency plan as outlined in 2(c) above.

(A) If a judicial finding regarding reasonable efforts to finalize a permanency plan is not made within the time frames outlined in (3)(b) above, the child becomes temporarily ineligible under Title IV-E from the end of the twelfth month following the date the child entered foster care. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(B) For subsequent hearings the child becomes ineligible the end of the month in which the twelve month hearing was due when the hearing is not held on time. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(4) Orders Reflecting Recommended Placements. The court order must also:

(a) Allow the agency to make decisions about a change in the child's placement without further court approval; or

(b) Reflect that the court was advised of, and approved, placement or the agency's intent and case plan to place the child at a future date.

(5) Nunc Pro Tunc Orders. Nunc pro tunc are acceptable to correct the omission of a "best interest" or "reasonable efforts" ruling in the original removal order only when court transcripts are available to verify that the judicial determination was made at the original removal hearing.

ADMINISTRATIVE RULES

(6) Replacement Orders. Each time a child is removed from the home in the following instances, a new eligibility determination and a judicial review addressing the circumstances of the child's removal is required regardless of whether the child is already committed to DHS's custody:

- (a) The case plan was for the child to remain in the parental home; or
- (b) New circumstances or issues arose in the parental home causing the child's replacement; or
- (c) The child was under agency supervision and removed from the legal care, custody, and placement of a relative; or
- (d) A child in a legally finalized adoptive placement is returned to care; or
- (e) When a trial home visit extends beyond 6 months unless the court orders a longer trial home visit.

(7) Exceptions to Replacement Orders. Some Title IV-E-FC eligible children, moved while in care or with interruptions or delays in placement, require no new application or new judicial findings for Title IV-E-FC. The eligibility factors of deprivation, limited income and resources available to the child, and school registration for the 18 year old must still exist, to reopen or continue Title IV-E eligibility. Eligibility may be reopened or established effective the day the child enters paid care for the following otherwise eligible children:

- (a) Children moved from a paid or non-paid relative placement into family foster care;
- (b) Children at home awaiting a residential opening and the court has approved placement in a residential facility;
- (c) Children on the run or taken by the parent without DHS permission are located in the home of the parent and immediately returned to care;
- (d) Children on the run are located in the home of the parent and are allowed to remain there for a reasonable time, with the worker's consent, until a placement becomes available;
- (e) Children with interrupted placement resulting from:
 - (A) A runaway; or
 - (B) Placement in a detention facility or a juvenile training school; or
 - (C) Hospitalization.
- (f) Children returned to care from the parental home when a trial visit fails. A judicial review is not required for a failed trial visit under the following situations:
 - (A) DHS custody, Administrative Reviews and Permanency Hearings were continued during the trial visit period; and
 - (B) At the time the child was sent home, the case record narration or documentation designated that the child's return home was on a trial visit basis; and
 - (C) The duration of the trial visit was no longer than six months unless the court orders a longer trial home visit.
- (g) Children in continuous placement and returned by court order to the care and custody of DHS from the custody of a private agency or substitute care provider.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act & PL 105-89 (ASFA)

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0276

Judicial Finding of Reasonable Efforts at Review

(1) Timeline for Judicial Finding of Reasonable Efforts to Finalize a Permanency Plan. Within twelve months of the date the child is considered to have entered foster care and every twelve months thereafter a judicial finding is required that reasonable efforts have been made to finalize the permanency plan whether the plan is to return safely to the family or another permanency plan as outlined in 413-100-0240(2)(c).

(a) If a judicial finding regarding reasonable efforts to finalize a permanency plan is not made within the time frames outlines in (1) above, the child becomes temporarily ineligible under Title IV-E from the end of the twelfth month following the date the child entered foster care. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(b) For subsequent hearings the child becomes ineligible the end of the month in which the twelve month hearing was due when the hearing is not held on time. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, ORS 419B.175, ORS 419B.180 & ORS 419B.185

Hist.: SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

413-100-0290

Parental Deprivation at Review

(1) Existing Deprivation. To maintain Title IV-E reimbursability the child must be considered to be continually deprived of the parental support and care of one or both parents. However the deprivation need not be the same as at the time of the original application. The following constitutes parental deprivation:

(a) Divorce, marital separation, parental incarceration, parents were never married, death of a parent in single parent households, or absent parents for children removed from a relative home;

(b) Unemployment or incapacity in two-parent households. Because the parents' wages and/or benefits are disregarded at review, reimbursability may continue when:

(A) Both parents are unemployed or incapacitated; or

(B) Both parents are unemployed or each parent is working less than 100 hours per month, or either parent has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months; and

(ii) Is expected to work less than 100 hours in the upcoming month.

(C) One parent is incapacitated and the other is employed.

(C) Continued absence of a parent when:

(A) A child is removed from the home of a relative other than the parent; or

(B) Parental rights of the parent(s) from whom removal was based are terminated or relinquished. The status of the parents does not have to be verified after termination or relinquishment. (See OAR 413-100-0280.)

(2) Deprivation Not Existing: Children are not deprived of parental support and care and are not eligible for IV-E reimbursement at review when:

(a) The parent remarries, if removal was based on that parent, and parental deprivation based on incapacity or unemployment does not exist in the two parent household; or

(b) The parent reconciles with the parent of the child in care and parental deprivation based on incapacity or unemployment does not exist in the two parent household; or

(c) Both parents return to reside in the home of the specified relative from whom the child was legally removed, or on whom AFDC linkage was based; or

(d) The child returns to the home of a specified relative from whom the child was legally removed, and on whom eligibility was based; or

(e) A parent visits extensively in the relative foster home. Parental visits in the child's home and that of the relative may not exceed four times per week, or a total of 12 hours per week without a visitation plan outlined or reasonable explanation documented in the case and eligibility file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.163 & Title IV-E of the Social Security Act

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04

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

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

Rules Coordinator: Stehpani Holmes—(503) 945-6084

410-001-0100

Definitions

For purposes of these rules, the following terms shall have the meanings set forth below. Capitalized terms used in these Electronic Data

ADMINISTRATIVE RULES

Interchange (EDI) Rules have the same meaning as those terms are defined in this section.

(1) Access. The ability or the means necessary to read, write, modify or communicate Data or information or otherwise use any Information System resource.

(2) Agents. Third parties or organizations that contract with a Trading Partner to perform designated services in order to facilitate a Transaction or the conduct of other business functions on behalf of the Trading Partner.

(a) Examples of Agents include billing agents, including but not limited to the following: claims clearinghouses, vendors, billing services, service bureaus, and accounts receivable management firms.

(b) Agents may also include clinics, group practices and facilities that submit billings on behalf of Providers but the payment is made to the Provider, including the following: an employer of a Provider, if the Provider is required as a condition of employment to turn over his fees to the employer; the facility in which the service is provided, if the Provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if the Provider has a contract under which the organization submits the claim.

(c) Agents may also include EDI Submitters as that term is defined in these DHS EDI rules.

(3) Allied Agencies. Local and regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; Oregon Youth Authority; Department of Corrections; local Health departments; schools; education service districts; developmental disability service programs; area agencies on aging; federally recognized American Indian tribes; and such other governmental agencies or regional authorities that have a Contract (including an interagency agreement, or an intergovernmental agreement, or a grant agreement, or an agreement with an American Indian tribe pursuant to ORS 190.110) with DHS to provide for the delivery of services to Covered Individuals and that requests to be a Trading Partner with DHS in the conduct of EDI in relation to the Contract.

(4) ANSI. American National Standards Institute.

(5) Centers for Medicare and Medicaid Services ("CMS"). CMS is the federal agency charged with the administration of the Medicare and Medicaid programs within the U.S. Department of Health and Human Services and also charged with implementation of the HIPAA Transaction Rule.

(6) Clinic. A group practice, facility or organization that is an employer of a Provider, if the Provider is required as a condition of employment to turn over his fees to the employer; the facility in which the service is provided, if the Provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if the Provider has a contract under which the organization submits the claim; and such group practice, facility or organization is enrolled with DHS, and payments are made to the group practice, facility or organization. If such entity solely submits billings on behalf of Providers and payments are made to each Provider, then the entity is an Agent.

(7) Companion Guide. DHS's business-specific instructions describing the Transaction-specific information necessary to submit a Data Transmission and have it be successfully processed.

(8) Confidential Information. Information relating to Covered Individuals (as defined herein) which is exchanged by and between DHS, the Provider, Prepaid Health Plan, Clinic or Allied Agency and/or Agents for various business purposes, but which is protected from disclosure to unauthorized persons or entities by applicable state and federal statutes such as ORS 344.600, 410.150, 411.320, 418.130, or the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and its implementing regulations, which statutes and regulations shall hereinafter be collectively referred to as "Privacy Statutes and Regulations".

(9) Contract. A specific written agreement between DHS and a Provider, Prepaid Health Plan, Clinic or Allied Agency that provides, or manages the provision of, services, goods or supplies to Covered Individuals and in the provision of which DHS and the Provider, Prepaid Health Plan, Clinic or Allied Agency may exchange Data (as defined herein). A Contract specifically includes, without limitation, an OMAP Provider Enrollment Agreement, a Fully Capitated Health Plan Managed Care Contract, a Dental Care Organization Managed Care Contract, a Mental Health Organization Managed Care Contract, a Chemical Dependency Organization Managed Care Contract, a County Financial Assistance Agreement, or any other applicable written agreement, interagency agree-

ment, intergovernmental agreement, or grant agreement between DHS and Provider, Prepaid Health Plan, Clinic or Allied Agency.

(10) Covered Individuals. Individual persons who are eligible for payment of certain services or supplies provided to them or their eligible dependents by or through a Provider, Prepaid Health Plan, Clinic or Allied Agency (as defined herein) under the terms, conditions, limitations and exclusions of a Contract applicable to a governmental program and for which DHS processes or administers Data Transmissions.

(11) Data. A formalized representation of specific facts or concepts suitable for communication, interpretation, or processing by people or by automatic means.

(12) Data Transmission. The transfer or exchange of Data between DHS and an EDI Submitter by means of an Information System (as defined herein) which is compatible for that purpose, and including without limitation, EDI, ERA, or EMC (all as defined herein) transmissions, pursuant to the terms and conditions set forth in a Trading Partner Agreement and these rules.

(13) Department of Human Services ("DHS"). The Oregon Department of Human Services or any of its divisions, programs or offices, including DHS Information Systems.

(14) Electronic Data Interchange ("EDI"). The exchange of business documents from application to application in a federally mandated format or (if no federal Standard has been promulgated) such other format as DHS shall designate.

(15) EDI Submitter. A person or entity authorized to establish the Electronic Media connection with DHS to conduct an EDI Transaction. An EDI Submitter may be the Trading Partner, or may be an Agent of the Trading Partner.

(16) Electronic Media. (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media includes, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

(17) Electronic Media Claims ("EMC"). An Electronic Media means of submitting claims or encounters for or in relation to payment of services or supplies provided by a Provider, Prepaid Health Plan, Clinic or Allied Agency (as defined herein) to a Covered Individual.

(18) Electronic Remittance Advice ("ERA"). A document or electronic file containing information pertaining to the disposition of a specific claim for payment of services or supplies rendered to Covered Individuals (as defined herein) which are filed with DHS on behalf of the Covered Individual by Providers, Clinics or Allied Agencies (as defined herein). The documents include, without limitation, information such as the Provider name and address, Individual name, date of service, amount billed, amount paid, whether the claim was approved or denied, and if denied, the specific reason for the denial. For Prepaid Health Plans the Remittance Advice file contains information on the adjudication status of claims submitted.

(19) Envelope. A control structure in a mutually agreed format for the electronic interchange of one or more encoded Data Transmissions either sent or received by the EDI Submitter or DHS.

(20) HIPAA Transaction Rule. The Standards for Electronic Transactions at 45 CFR Part 160 and 162 (2003) adopted by the U.S. Department of Health and Human Services to implement the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d et. seq ("HIPAA").

(21) Information System. An interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, information, data, applications, communications and trained personnel necessary for a successful Data Transmission.

(22) Lost or Indecipherable Transmission. A Data Transmission which is never received by or cannot be processed to completion by the receiving Party in the format or composition received because it is garbled or incomplete, regardless of how or why the message was rendered garbled or incomplete.

(23) Prepaid Health Plan. A managed health care, dental care, chemical dependency or mental health care organization that contracts with DHS on a case managed, prepaid, capitated basis under the Oregon Health Plan.

ADMINISTRATIVE RULES

(24) Provider. An individual, facility, institution, corporate entity, or other organization which supplies or provides for the supply of services, goods or supplies to Covered Individuals pursuant to a Contract with DHS. The term "Provider" as used in these DHS EDI Rules does not include Billing Providers as that term is used in the OMAP General Rules. OMAP Billing Providers are defined in these DHS EDI Rules as Agents (defined herein), except for OMAP Billing Providers that are Clinics (as defined herein).

(25) Registered Transaction. Each type of Transaction (e.g., claims submission, eligibility inquiry, etc.) applicable to a Trading Partner must be registered with DHS before it can be tested or approved for transmission. Registration is initiated with an EDI Registration Form.

(26) Security Access Codes. Those alpha-numeric codes assigned to the EDI Submitter by DHS for the purpose of allowing access to DHS's Information System for the purpose of successfully executing Data Transmissions or otherwise carrying out the express terms of a Trading Partner Agreement and these rules.

(27) Source Documents. Documents or electronic files containing underlying Data which is or may be required as part of a Data Transmission with respect to a claim for payment of charges for medical services rendered or supplies provided to a Covered Individual, or with respect to any other Transaction. Examples of Data contained within a specific Source Document may include, without limitation, the following: Individual's name and identification number, claim number, diagnosis code for the services rendered, dates of service, service procedure description, applicable charges for the services rendered, the Provider's, Prepaid Health Plan's, Clinic's or Allied Agency's name and/or identification number and signature.

(28) Standard. A rule, condition or requirement describing the following information for products, systems or practices: (a) classification of components; (b) specification of materials, performance, or operations; or (c) delineation of procedures.

(29) Standards for Electronic Transactions. A Transaction that complies with the applicable Standard adopted by the U.S. Department of Health and Human Services (DHHS) to implement the Standards for Electronic Transactions.

(30) Transaction. The exchange of Data between DHS and its Trading Partner using Electronic Media to carry out financial or administrative activities.

(31) Trade Data Log. The complete written summary of Data and Data Transmissions exchanged between DHS and an EDI Submitter over the period of time a Trading Partner Agreement is in effect and, including, without limitation, sender and receiver information, the date and time of transmission and the general nature of the transmission.

(32) Trading Partner. A Provider, Prepaid Health Plan, Clinic or Allied Agency (as defined herein) that has entered into a Trading Partner Agreement with DHS in order to satisfy all or part of its obligations under a Contract by means of EDI, ERA and/or EMC or any other mutually agreed means of electronic exchange or transfer of Data as provided for herein.

(33) Trading Partner Agreement ("TPA"). A specific written agreement between DHS and a Provider, Prepaid Health Plan, Clinic or Allied Agency that governs the terms and conditions for EDI Transactions in the performance of obligations under a Contract. A Provider, Prepaid Health Plan, Clinic or Allied Agency that has executed a TPA will be referred to herein as a Trading Partner in relation to those functions.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0110

Purpose

(1) The purpose of these rules is to establish a registration process and requirements applicable to individuals or entities that desire to be treated as Trading Partners or EDI Submitters with the Department of Human Services. These rules govern the conduct of all EDI Transactions with DHS.

(2) These rules also set forth DHS EDI Transaction requirements for purposes of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 and sec 264, and the implementing Standards for Electronic Transactions Rule. The Standards for Electronic Transactions Rule permits the use of a Trading Partner Agreement ("TPA") to establish the parameters under which Covered Entities conduct Electronic Data Interchange ("EDI") Transactions. Where a federal HIPAA Standard has been adopted for an

EDI Transaction, this rule should be construed to implement and not to alter the requirements of the Standards for Electronic Transactions Rule.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0120

Registration Process

(1) EDI Registration is an administrative process governed by these EDI Transaction rules. The EDI Registration process is initiated by the submission of a Trading Partner Registration Agreement (TPA) by a Provider, Prepaid Health Plan, Clinic or Allied Agency, including all requirements and documentation required by these EDI rules.

(2) Trading Partners Must Be DHS Providers, Prepaid Health Plans, Clinics or Allied Agencies with a current DHS Contract. DHS will accept a TPA only from those individuals or entities who are Providers, Prepaid Health Plans, Clinics or Allied Agencies that have a current Contract with DHS.

(a) DHS may receive and hold the TPA for individuals or entities that have submitted a Provider Enrollment Agreement or other pending Contract, subject to the satisfactory execution of a Contract.

(b) Termination, revocation, suspension or expiration of the Contract shall be deemed to result in the concurrent termination, revocation, suspension or expiration of the TPA without any additional notice; except that the TPA shall remain in effect to the extent necessary for Trading Partner or DHS to complete obligations involving EDI under the Contract for dates of service when the Contract was in effect. Contracts that are periodically renewed or extended do not require renewal or extension of the TPA unless there is a lapse of time between Contracts.

(c) Failure to identify a current DHS Contract as requested during the registration process will result in a rejection of the TPA. DHS will verify that the Contract numbers identified by a Provider, Prepaid Health Plans, Clinic or Allied Agency are current Contracts.

(d) If Contract number or Contract status changes, a Trading Partner shall provide DHS with updated information within five (5) business days of the change in Contract status. If DHS determines that a valid Contract no longer exists, DHS shall discontinue EDI Transactions applicable for any time period in which the Contract no longer exists; except that the TPA shall remain in effect to the extent necessary for the Trading Partner or DHS to complete obligations involving EDI under the Contract for dates of service when the Contract was in effect.

(3) Trading Partner Agreement. In order to register as a Trading Partner with DHS, a Provider, Prepaid Health Plan, Clinic or Allied Agency must submit a signed TPA to DHS. Signing the TPA constitutes agreement by the Provider, Prepaid Health Plan, Clinic or Allied Agency to comply with all DHS EDI Rules, OAR 410-001-0100 through 410-001-0200, and other DHS, state and federal laws and regulations applicable to the application for and conduct of EDI Transactions with DHS, and further constitutes Provider's, Prepaid Health Plan's, Clinic's or Allied Agency's agreement to ensure compliance by its Agents with such laws, rules, policies and procedures.

(4) Application for Authorization. In addition to the requirements of subsection (3) of this Rule, a Trading Partner must submit an Application for Authorization to DHS. The Application provides specific identification of and legal authorization from the Trading Partner for the EDI Submitter to conduct EDI Transactions on behalf of the Trading Partner.

(5) Trading Partner Agents. A Trading Partner may use Agents in order to facilitate the electronic transmission of Data. If Trading Partner will be using an Agent as the EDI Submitter, the Application for Authorization required under subsection (4) of this Rule shall identify and authorize the EDI Submitter and shall include the EDI Certification signed by the EDI Submitter before DHS may accept an electronic submission from, or send an electronic transmission to, such EDI Submitter. Submitting an Application for Authorization is not a guarantee that the EDI Submitter has been accepted by DHS to conduct EDI transactions.

(6) EDI Registration. In addition to the requirements of subsection (3) of this Rule, a Trading Partner shall also submit its EDI Registration Form. This form requires the Trading Partner or its authorized EDI Submitter to register the EDI Submitter and the name and type of EDI Transaction(s) they are prepared to conduct. Signature of the Trading Partner or authorized EDI Submitter is required on the EDI Registration Form. The Registration Form will also permit the Trading Partner to identify the individuals or EDI Submitter(s) who are authorized to submit or receive EDI Registered Transactions.

ADMINISTRATIVE RULES

(7) Review and Acceptance Process. DHS shall review the documentation provided to determine compliance with sections (1) - (6) of this Rule. Submission of such information is not a guarantee that a TPA or an authorization of an EDI Submitter has been accepted by DHS. The information provided may be subject to verification by DHS. When DHS determines that the information complies with these EDI rules, DHS will notify the Trading Partner and EDI Submitter by email about any testing or other requirements applicable to place the Registered Transaction(s) into a production environment.

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

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0130

Trading Partner as EDI Submitter

(1) Trading Partner may be EDI Submitter. Any registered Trading Partner that also qualifies as an EDI Submitter may submit his or her own EDI transactions directly to DHS. The Trading Partner will be referred to as the EDI Submitter when functioning in that capacity, and shall be required to comply with all terms and conditions of these rules applicable to an EDI Submitter, except as expressly provided in subsection (3) of this Rule.

(2) Authorization and Registration Designating Trading Partner as EDI Submitter. Prior to acting as an EDI Submitter, the Trading Partner shall designate in the Application for Authorization that Trading Partner is the EDI Submitter who is authorized to send and/or receive Data Transmissions in the performance of EDI transactions. Trading Partner must complete the "Trading Partner Application for Authorization to Submit EDI Transactions" and the "EDI Submitter Information" required in the Application. Trading Partner shall also submit the EDI Registration Form identifying Trading Partner as the EDI Submitter in applicable required fields. The Trading Partner shall notify DHS of any material changes in the information no less than ten (10) days prior to the effective date of such changes.

(3) EDI Submitter Certification Conditions Not Required. Where Trading Partner is acting as its own EDI Submitter, Trading Partner is not required to submit the EDI Submitter Certification Conditions in the Application for Authorization applicable to Agents.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0140

Trading Partner Agents as EDI Submitters

(1) Responsibility for Agents. If the Trading Partner uses the services of an Agent, including but not limited to an EDI Submitter, in any capacity in order to receive, transmit, store or otherwise process Data or Data Transmissions or perform related activities, the Trading Partner shall be fully responsible to DHS for any acts, failures or omissions of the Agent in providing said services as though they were the Trading Partner's own acts, failures or omissions.

(2) Notices Regarding EDI Submitter. Prior to the commencement of an EDI Submitter's services, the Trading Partner shall designate in the Application for Authorization, its specific EDI Submitter(s) that are authorized to send and/or receive Data Transmissions in the performance of EDI Transactions of the Trading Partner. Trading Partner must complete the "Trading Partner Authorization of EDI Submitter" and the "EDI Submitter Information" required in the Application. Trading Partner shall also submit the EDI Registration Form identifying and providing information about the EDI Submitter in applicable required fields. The Trading Partner or authorized EDI Submitter shall notify DHS of any material changes in the EDI Submitter authorization or information no less than five (5) days prior to the effective date of such changes.

(3) Authority of EDI Submitter. A Trading Partner shall authorize the actions that an EDI Submitter may take on behalf of Trading Partner. The Application for Authorization permits the Trading Partner to authorize which decisions may be made only by Trading Partner and which decisions are authorized to be made by the EDI Submitter. The EDI Submitter information authorized in the Application for Authorization will be recorded by DHS in an EDI Submitter profile. DHS may reject EDI Transactions from an EDI Submitter acting without authorization from the Trading Partner.

(4) EDI Submitter Certification Conditions. Each authorized EDI Submitter acting as an Agent of a Trading Partner shall execute and shall

comply with the EDI Submitter Certification Conditions that are incorporated into the Application for Authorization. Failure to include the signed EDI Submitter Certification Conditions with the Application shall result in a denial of EDI Submitter authorization by DHS. Failure of an EDI Submitter to comply with the EDI Submitter Certification Conditions may result in termination of EDI Submitter registration for EDI Transactions with DHS.

(5) Responsibilities Regarding EDI Submitters. In addition to the requirements of section (1) of this Rule, the Trading Partner is responsible for ensuring that the EDI Submitter will make no unauthorized changes in the Data content of any and all Data Transmissions or the contents of an Envelope, and further that such EDI Submitter will take all appropriate measures to maintain the timeliness, accuracy, truthfulness, confidentiality, security and completeness of each Data Transmission. Furthermore, the Trading Partner further is responsible for ensuring that its EDI Submitter(s) are specifically advised of, and will comply in all respects with, the terms of these rules and any TPA.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0150

Testing

(1) When a Trading Partner or authorized EDI Submitter registers an EDI Transaction with DHS, DHS may require testing before authorizing the Transaction. Testing may include both third party compliance testing and business-to-business testing. An EDI Submitter must be able to demonstrate its capacity to send and/or receive each Transaction type for which it has registered. DHS will reject any EDI Transaction if the EDI Submitter either refuses or fails to comply with DHS testing requirements.

(2) Except as otherwise provided for by DHS, DHS may require its EDI Submitters to complete compliance testing, at the EDI Submitter's expense, for each Transaction type with a DHS selected third party testing firm. Use of the third party testing service allows DHS to efficiently manage the testing process by ensuring that each EDI Submitter has reached a standard level of readiness to send and receive compliant EDI Transactions before entering in to business-to-business testing.

(3) After successfully demonstrating the ability to sustain compliant third party testing and obtaining required documentation of successful completion of third party testing requirements for a specific Transaction type to DHS satisfaction, DHS shall initiate business-to-business testing for that Transaction type.

(4) When business-to-business testing is completed to DHS satisfaction, DHS will notify the EDI Submitter that it will register and accept the Transaction(s) in the production environment. This notification authorizes the EDI Submitter to submit the registered EDI Transaction(s) to DHS for processing and response, as applicable. If there are any changes in the Trading Partner or EDI Submitter authorization, profile data or EDI Registration information on file with DHS, updated information shall be submitted to DHS as required in OAR 410-001-0190 of these Rules.

(5) Testing will be conducted using secure Electronic Media communications methods.

(6) The EDI Submitter may be required to re-test with DHS if DHS format changes or if the EDI Submitter format changes.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0160

Conduct of Transactions

(1) EDI Submitter Obligations. In addition to the obligations of the Trading Partner and/or Agent(s) set forth elsewhere in these rules, the EDI Submitter is responsible for the conduct of the EDI Transactions registered on behalf of the Trading Partner, including the following:

(a) Accuracy of EDI Transmission. The EDI Submitter shall take reasonable care to ensure that Data and Data Transmissions are timely, complete, accurate and secure, and shall take reasonable precautions to prevent unauthorized access to the Information System, the Data Transmission itself or the contents of an Envelope which is transmitted either to or from DHS pursuant to these rules. DHS will not correct or modify an incorrect Transaction prior to processing; such Transactions may be rejected and the EDI Submitter will be notified of the rejection.

(b) Re-transmission of Indecipherable Transmissions. Where there is evidence that a Data Transmission is a Lost or Indecipherable

ADMINISTRATIVE RULES

Transmission, the sending party shall make best efforts to trace and re-transmit the original Data Transmission in a manner which allows it to be processed by the receiving party as soon as practicable.

(c) Cost of Equipment. EDI Submitter and DHS shall bear their own Information System costs. EDI Submitter shall, at its own expense, obtain and maintain its own Information System. Furthermore, EDI Submitter shall pay its own costs for any and all charges related to Data Transmission under these DHS EDI rules and specifically including without limitation, charges for Information System equipment, software and services, charges for maintaining an electronic mailbox, connect time, terminals, connections, telephones, modems, and any applicable minimum use charges, and for translating, formatting, or sending and receiving communications over the electronic network to the electronic mailbox, if any, of DHS. DHS is not responsible for providing technical assistance in the processing of an EDI Transaction.

(d) Back-up Files. EDI Submitter shall maintain adequate Data archives and back-up files or other means sufficient to re-create a Data Transmission in the event that such re-creation becomes necessary for any purpose, within a timeframe as required by other state and federal law, or by contractual agreement. Such Data archives or back-up files shall be subject to the terms of these DHS EDI rules to the same extent as the original Data Transmission.

(e) Format of Transmissions. Except as otherwise provided herein, the EDI Submitter shall send and receive all Data Transmissions in the federally mandated format, or (if no federal Standard has been promulgated) such other format as DHS shall designate.

(f) Testing. EDI Submitter shall, prior to the initial Data Transmission and throughout the term of a TPA, test and cooperate with DHS in the testing of Information Systems as DHS considers reasonably necessary to ensure the accuracy, timeliness, completeness and confidentiality of each Data Transmission.

(2) Security and Confidentiality. In addition to the other obligations in these rules, EDI Submitter shall also be specifically obligated to do all of the following:

(a) To refrain from copying, reverse engineering, disclosing, publishing, distributing or altering any Data, Data Transmissions or the contents of an Envelope, except as necessary to comply with the terms of these rules or the TPA, or use the same for any purpose other than that for which the EDI Submitter was specifically given Access and authorization by DHS or the Trading Partner;

(b) To refrain from obtaining Access by any means to any Data, Data Transmission, Envelope or DHS's Information System for any purpose other than that which the EDI Submitter has received express authorization to receive Access. Furthermore, in the event that the EDI Submitter receives Data or Data Transmissions from DHS, which are clearly not intended for the receipt of the EDI Submitter, the EDI Submitter shall immediately notify DHS and make arrangements to return the Data or Data Transmission or re-transmit the Data or Data Transmission to DHS. After such re-transmission, the EDI Submitter shall immediately delete the Data contained in such Data Transmission from its Information System;

(c) To install necessary security precautions to ensure the security of the Information System or records relating to the Information System of either DHS or the EDI Submitter when the Information System is not in active use by the EDI Submitter;

(d) To protect and maintain at all times the confidentiality of Security Access Codes issued by DHS to the EDI Submitter; and

(e) To provide special protection for security and other purposes, where appropriate, by means of authentication, encryption, the use of passwords or by other mutually agreed means. Unless otherwise provided in these DHS EDI rules, the recipient of a Data Transmission so protected shall use at least the same level of protection for any subsequent transmission of the original Data Transmission.

(3) DHS Obligations. In addition to the other obligations of DHS, which are set forth herein, DHS shall also do the following:

(a) Availability of Data. DHS shall, subject to the terms of these DHS EDI Rules, make available to the EDI Submitter by Electronic Media those types of Data and Data Transmissions which the EDI Submitter is authorized to receive.

(b) Notices Regarding Formats. DHS shall inform the EDI Submitter of acceptable formats in which Data Transmissions may be made and shall provide such notices to the EDI Submitter within reasonable time periods consistent with HIPAA Transaction Standards, if applicable, or at least thirty (30) days prior electronic notice of other changes in such formats.

(c) Security Access Codes. DHS shall arrange to provide the EDI Submitter with Security Access Codes which will allow the EDI Submitter

access to DHS's Information System. It is expressly required by these rules that such Security Access Codes are strictly confidential and specifically subject, without limitation, to any and all of the restrictions contained in OAR 410-001-0170. Furthermore, DHS reserves the right to change the designated Security Access Codes at any time and in such manner as DHS in its sole discretion deems necessary. Furthermore, the release of Security Access Codes shall be limited to authorized electronic data personnel of EDI Submitter and DHS with a need to know.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0170

Confidentiality and Security

General Requirements. The Trading Partner and any EDI Submitter or other Agent(s) shall maintain adequate security procedures to prevent unauthorized Access to Data, Data Transmissions, Security Access Codes or the DHS Information System, and shall immediately notify DHS of any and all unauthorized attempts by any person or entity to obtain Access to or otherwise tamper with the Data, Data Transmissions, Security Access Code or the DHS Information System.

(1) Individually Identifiable Health Information. The Trading Partner and EDI Submitter or other Agent(s) and DHS are responsible for ensuring the confidentiality of Individually Identifiable Health Information, consistent with the requirements of the Privacy Statutes and Regulations, and shall take reasonable action to prevent any unauthorized disclosure of Confidential Information by the Trading Partner and any EDI Submitter or other Agent(s). The Trading Partner and EDI Submitter or other Agent(s) shall in their performance under these DHS EDI Rules, comply with any and all applicable Privacy Statutes and Regulations relating to Confidential Information (as defined in these rules).

(2) Notice of Unauthorized Disclosures. The Trading Partner and EDI Submitter will promptly notify DHS of any and all unlawful or unauthorized disclosures of Confidential Information that comes to its attention or to the attention of its Agent(s), and will cooperate with DHS in the event that corrective action is required by DHS. DHS will promptly notify the Trading Partner and EDI submitter of any and all unlawful or unauthorized disclosures of Confidential Information that comes to its attention of the attention of its Agent(s), and will cooperate with the Trading Partner in the event corrective action is required pursuant to contract or Privacy regulations.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0180

Record Retention and Audit

(1) Records Retention. The Trading Partner and EDI Submitter shall maintain, for a period of no less than seven (7) years from the date of its receipt complete, accurate and unaltered copies of any and all Source Documents associated with all Data Transmissions.

(2) Trade Data Log. The EDI Submitter shall establish and maintain a Trade Data Log which shall record any and all Data Transmissions taking place between the EDI Submitter and DHS during the term of a TPA. The Trading Partner and EDI Submitter will take necessary and reasonable steps to ensure that such Trade Data Log constitutes a current, truthful, accurate, complete and unaltered record of any and all Data Transmissions between the Parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Trade Data Log may be maintained on Electronic Media or other suitable means provided that, if it is necessary to do so, the information contained in the Trade Data Log may be timely retrieved and presented in readable form.

(3) Right to Audit. The Trading Partner shall allow, and shall require any EDI Submitter or other Agent to allow, access to DHS, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, or its designees, and the U.S. Department of Health and Human Services, or its designees, to audit those relevant business records, Source Documents, Data, Data Transmissions, Trade Data Log or Information System of the Trading Partner and/or its Agents as necessary to ensure compliance with these DHS EDI Rules. Trading Partner shall allow, and shall require any EDI Submitter or other Agent to allow, Access by DHS or its designees to ensure that adequate security precautions have been made and are implemented by the Trading Partner and its EDI Submitter or other

ADMINISTRATIVE RULES

Agent(s) in order to prevent unauthorized disclosure of any Data, Data Transmissions or other information.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0190

Material Changes

(1) Changes in Any Material Information. Trading Partner shall submit an updated TPA, Application for Authorization or EDI Registration form to DHS within ten (10) business days of any material changes in the information. A material change includes but is not limited to changes in address or email address, Contract number or Contract status (termination, expiration, extension), identification of authorized individuals of the Trading Partner or EDI Submitter, the addition or deletion of authorized Transactions, or any other change that may affect the accuracy of or authority for an EDI Transaction. DHS is authorized to act on Data Transmissions submitted by the Trading Partner and its EDI Submitter(s) based on information on file in the Application for Authorization and EDI Registration forms until an updated form has been received and approved by DHS. Trading Partner's signature or the signature of an authorized EDI Submitter is required to ensure that an updated TPA, Authorization or EDI Registration form is valid and authorized.

(2) Failure to submit a timely updated form may impact the ability of a Data Transaction to be processed without errors. Failure to submit a signed updated form may result in a rejection of a Data Transmission.

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

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

410-001-0200

DHS System Administration

(1) No person or entity shall be registered to conduct an EDI Transaction with DHS except as authorized under these DHS EDI rules. Eligibility and continued participation as a Trading Partner or EDI Submitter in the conduct of Registered Transactions is conditioned on the execution and delivery of the documents required in these DHS EDI Rules, the continued accuracy of that information consistent with OAR 410-001-0190, and compliance with the requirements of these DHS EDI rules. The information disclosed by Trading Partner or any EDI Submitter may be subject to verification. Data, including Confidential Information, governed by these DHS EDI Rules may be used for purposes related to treatment, payment and health care operations and for the administration of programs or services by DHS.

(2) In addition to the requirements of subsection (1) of this Rule, in order to qualify as a Trading Partner:

(a) A person or entity must be a DHS Provider, Prepaid Health Plan, Clinic or Allied Agency pursuant to a current valid Contract; and

(b) The Provider, Prepaid Health Plan, Clinic or Allied Agency must have submitted an executed TPA and all related documentation, including the Application for Authorization that identifies and authorizes the EDI Submitter.

(3) In addition to the requirements of subsection (1) of this Rule, in order to qualify as an EDI Submitter:

(a) A Trading Partner must have identified the person or entity as an authorized EDI Submitter in the Application for Authorization.

(b) If the Trading Partner identifies itself as the EDI Submitter, the Application for Authorization must include the information required in the "Trading Partner Authorization of EDI Submitter" and the "EDI Submitter Information."

(c) If the Trading Partner uses an Agent as the EDI Submitter, the Application for Authorization must include the information described in subsection (b) of this section and the signed EDI Submitter Certification.

(4) The EDI Registration process described in these DHS EDI rules provides DHS with essential profile information that may be used by DHS to confirm that the Trading Partner or EDI Submitter is not otherwise excluded or disqualified from submitting EDI Transactions to DHS.

(5) Nothing in these rules or a TPA prevents DHS from requesting additional information from a Trading Partner or EDI Submitter to determine their qualifications or eligibility for registration as a Trading Partner or EDI Submitter.

(6) DHS shall deny a request for registration as a Trading Partner Agreement or for authorization of an EDI Submitter or an EDI Registration if it finds any of the following:

(a) The Trading Partner or EDI Submitter has substantially failed to comply with the applicable administrative rules or laws; or

(b) The Trading Partner or EDI Submitter has been convicted of (or entered a plea of nolo contendere) a felony or misdemeanor related to a crime or violation of federal or state public assistance laws or Privacy Statutes or Regulations (as defined in these rules);

(c) The Trading Partner or EDI Submitter is excluded from participation in the Medicare program, as determined by the Secretary of Health and Human Services; or

(d) The Trading Partner or EDI Submitter fails to meet the qualifications as a Trading Partner or EDI Submitter.

(7) Failure to comply with the terms of these DHS EDI rules, a Trading Partner Agreement, or EDI Submitter Certification or failure of the Application or Certification to be accurate in any respect may also result in sanctions and/or payment recovery pursuant to the applicable DHS program Contract or DHS rule.

Stat. Auth.: ORS 409.050, 409.110

Stats. Implemented: Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 & sec 264

Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03

Adm. Order No.: OMAP 56-2003

Filed with Sec. of State: 8-28-2003

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Notice Publication Date: 8-1-03

Rules Adopted: 410-120-1210

Rules Amended: 410-120-1195, 410-120-1200

Subject: The General Rules program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Based upon SB5548 and the report of the Joint Committee on Ways and Means, the Department of Human Services is authorized to provide State-funded reimbursement for limited prescription drugs to "certain individuals previously participating in the Medically Needy program and receiving prescription drugs to support organ transplants and remedy HIV-positive symptoms." Qualified individuals identified with specific health related conditions as outlined in the committee report for Senate Bill 5548, will be eligible for a State-funded, limited, prescription drug benefit. The program, originally funded through June 30, 2003, has been extended until December 31, 2003. Rule 410-120-1195 was temporarily amended, effective July 1, 2003 to reflect this extension. Rule 410-120-1200 was temporarily amended and rule 410-120-1210 was temporarily adopted effective July 1, 2003 to clarify language and to be consistent with other applicable OARs reflecting what eligibility categories receive plus and standard benefit package. This is the permanent rule filing for OMAP 45 (T) and OMAP 46(T).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1195

SB 5548 Population

Effective for services rendered between April 1, 2003, and December 31, 2003.

(1) Certain individuals previously participating in the OSIP-MN Medically Needy Program as of January 31, 2003, and who are identified by DHS with specific health-related conditions as outlined in the Joint Ways and Means budget note accompanying Senate Bill 5548 (2003) shall be referred to as SB 5548 clients:

(a) SB 5548 clients are eligible for a State-funded, limited, prescription drug benefit for covered drugs described in subsection (2) of this rule;

(b) the supply of covered drugs for any SB 5548 client may not exceed a dosage supply for a period from April 1, 2003 through December 31, 2003. A calculation of the dosage supply begins on the date a covered prescription is filled, which may not occur before April 1, 2003. Reimbursement may only be made for covered drugs in quantities that will supply daily doses from the date the prescription is filled until December 31, 2003. No carryover doses beyond those dates are subject to reimbursement under this limited prescription drug benefit program.

(2) Eligibility for, and access to, covered drugs for SB 5548 clients:

ADMINISTRATIVE RULES

(a) SB 5548 clients must have been participating in the former OSIP-MN Medically Needy Program as of January 31, 2003, and as of that date had a medical diagnosis of HIV or organ transplant status;

(b) SB 5548 clients receiving anti-retroviral and other prescriptions necessary for the direct support of HIV;

(A) Must agree to participate in the DHS CareAssist Program in order to obtain access to this limited prescription drug benefit; and

(B) Prescriptions are limited to those listed on the CareAssist Formulary which can be found at www.dhs.state.or.us/publichealth/hiv/car-eassist/.

(c) SB 5548 clients receiving Immunosuppressive, anti-infectives and other prescriptions necessary for the direct support of organ transplants:

(A) Drug coverage includes any Medicaid reimbursable Immunosuppressive, anti-infectives or other prescriptions necessary for the direct support of organ transplants, except for those classes listed in Table 120-1195. These classes are restricted to the formulary as outlined in Table 120-1195.

(B) These SB 5548 clients may obtain dosages not to exceed the covered time period from April 1, 2003 to December 31, 2003.

(i) Via mail order three (3) 100 day fill; or

(ii) Via any retail pharmacy choosing to participate in this limited prescription drug benefit program, up to nine (9) 34-day fills.

(3) Reimbursement for covered prescription drugs is limited by the terms and conditions described in this rule. This limited drug benefit provides State-funded reimbursement to pharmacies choosing to participate according to terms and conditions of this rule:

(a) SB 5548 clients will not be sent a medical ID card, however they will be sent a letter from the Department, which will document their eligibility for this limited benefit:

(b) Retail pharmacies choosing to participate will be reimbursed for covered prescription drugs for the direct support of organ transplants described in subsection (2)(c) of this rule at the lesser of billed, Average Wholesale Price (AWP) minus 14% or Oregon Maximum Allowable Cost (OMAC), plus a dispensing fee of \$3.50;

(c) DHS pharmacy benefits manager, First Health, will process retail pharmacy drug benefit reimbursement claims SB 5548 clients;

(d) Mail order reimbursement will be subject to DHS contract rates;

(e) Prescription drugs through the CareAssist program will be subject to DHS contract rates;

(f) Reimbursement for this limited drug benefit is not subject to the following rules;

(a) 410-120-1230 and 410-120-1235, client copayments

(b) 410-121-0300, Federal Upper Limits (FUL) for prescription drugs.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 28-2003(Temp), f. & cert. ef. 4-1-03 thru 9-1-03; OMAP 44-2003, f. & cert. ef. 6-30-03; OMAP 45-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; OMAP 56-2003, f. 8-28-03, cert. ef. 9-1-03

410-120-1200

Excluded Services and Limitations

Certain services or items are not covered under any program or for any group of eligible clients. If the client accepts financial responsibility for a non-covered service, payment is a matter between the provider and the client subject to the requirements of OAR 410-120-1280. No payment will be made for any expense incurred for any of the following services or items:

(1) That are not expected to significantly improve the basic health status of the client as determined by the Medical Assistance Program (e.g., OMAP's Medical Director, medical consultants or Peer Review Organization).

(2) That are not reasonable or necessary for the diagnosis and treatment of disability, illness, or injury.

(3) That are determined not medically appropriate by Medical Assistance Program staff or authorized representatives, including OMPRO or any contracted utilization review organization.

(4) That are not properly prescribed as required by law or administrative rule by a licensed practitioner practicing within his/her scope of practice or licensure.

(5) That are for routine checkups or examinations for individuals age 21 or older in connection with participation, enrollment, or attendance in a program or activity not related to the improvement of health and rehabilitation of the client. Examples include exams for employment or insurance purposes.

(6) That are provided by friends or relatives of eligible clients or members of his/her household, except when the friend, relative or household member is a health professional, acting in a professional capacity, or when the friend, relative or household member is directly employed by the client under Seniors & People with Disabilities (SPD) Home and Community Based Waiver.

(7) That are for services or items provided to a client who is in the custody of a law enforcement agency or an inmate of a nonmedical public institution, including juveniles in detention facilities, except such services as designated by federal statute or regulation as permissible for coverage under the Medical Assistance Program.

(8) Where the need for purchase, repair or replacement of materials or equipment is caused by adverse actions of clients to personally owned goods or equipment or to items or equipment rented or purchased by the Medical Assistance Program.

(9) That are related to a non-covered service; some exceptions are identified in the individual provider rules. If the provision of a service related to a non-covered service is determined by OMAP to be cost-effective, the related medical service may, at OMAP's discretion and with OMAP's prior authorization, be covered.

(10) Which are considered experimental or investigational or which deviate from acceptable and customary standards of medical practice or for which there is insufficient outcome data to indicate efficacy.

(11) That are identified in the provider guide appropriate Administrative Rules, including the Hospital guide, Revenue Codes Section, as not covered.

(12) That are requested by or for a client who has been determined by the Medical Assistance Program to be non-compliant with treatment and who is unlikely to benefit from additional related, identical, or similar services.

(13) That are for copying or preparing records or documents excepting those Administrative Medical Reports requested by the branch offices or OMAP for casework planning or eligibility determinations.

(14) Whose primary intent is to improve appearance.

(15) Which are similar or identical to services or items which will achieve the same purpose at a lower cost and where it is anticipated that the outcome for the client will be essentially the same.

(16) For the purpose of establishing or reestablishing fertility or pregnancy or for the treatment of sexual dysfunction, including impotence, except as specified by the Prioritized List of Health Services (OAR 410-141-0520).

(17) Items or services which are for the convenience of the client and are not medically appropriate.

(18) The collection, processing and storage of autologous blood or blood from selected donors unless a physician certifies that the use of autologous blood or blood from a selected donor is medically appropriate and surgery is scheduled.

(19) Educational or training classes which are not medically appropriate (Lamaze classes, for example).

(20) Outpatient social services except Maternity Case Management services and other social services described in the individual provider rules as covered.

(21) Plasma infusions for treatment of Multiple Sclerosis.

(22) Post-mortem exams or burial costs, or other services subsequent to the death of a client.

(23) Radial keratotomies.

(24) Recreational therapy.

(25) Telephone calls, including but not limited to telephone conferences between physicians or between a physician or other practitioner and a client or representative of the client, except for telephone calls for the purpose of tobacco cessation counseling, as described in OAR 410-130-0190, and Maternity Case Management as described in OAR 410-130-0595.

(26) Transsexual surgery or any related services or items.

(27) Weight loss programs, including, but not limited to Optifast, Nutri-system, and other similar programs. Food supplements will not be authorized for use in weight loss.

(28) Whole blood (whole blood is available at no cost from the Red Cross); the processing, storage and costs of administering whole blood are covered.

(29) Immunizations prescribed for foreign travel.

(30) Services which are requested or ordered but not provided (i.e., an appointment which the client fails to keep or an item of equipment which has not been provided to the client).

(31) DUII-related services already covered by the Intoxicated Driver Program Fund as directed by ORS 813.270(1) and (5).

ADMINISTRATIVE RULES

(32) For transportation to meet a client's personal choice of a provider.

(33) Pain center evaluation and treatment.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76, Renumbered from 461-013-0030; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 103-1982, f. & ef. 11-1-82; AFS 15-1983(Temp), f. & ef. 4-20-83; AFS 31-1983(Temp), f. 6-30-83, ef. 7-1-83; AFS 43-1983, f. 9-2-83, ef. 10-1-83; AFS 61-1983, f. 12-19-83, ef. 1-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 78-1986(Temp), f. 12-16-86, ef. 1-1-87; AFS 10-1987, f. 2-27-87, ef. 3-1-87; AFS 29-1987(Temp), f. 7-15-87, ef. 7-17-87; AFS 54-1987, f. 10-29-87, ef. 11-1-87; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 53-1988(Temp), f. 8-23-88, cert. ef. 9-1-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 70-1988, f. & cert. ef. 12-7-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0055; 461-013-0103, 461-013-0109 & 461-013-0112; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 23-1990(Temp), f. & cert. ef. 7-20-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 27-1991 (Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0420, 410-120-0460 & 410-120-0480; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 6-1996, f. 5-31-96 & cert. ef. 6-1-96; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 12-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 22-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 8-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 17-2003(Temp), f. 3-13-03, cert. ef. 3-14-03 thru 8-15-03; OMAP 46-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; OMAP 56-2003, f. 8-28-03, cert. ef. 9-1-03

410-120-1210

Medical Assistance Benefit Packages

(1) Clients in some Medical Assistance Program categories have limited benefits. These limitations or exclusions are in addition to those limitations or exclusions described in these General Rules (OAR 410-120-1200) and in the individual program provider rules. The Benefit Package Messages on the Medical Care Identification describe the "package" of medical benefits.

(2) Benefit Packages are as follows:

(a) OHP Plus benefit package;

(b) OHP Standard benefit package;

(c) QMB-Qualified Medicare Beneficiary benefit package;

(d) QMB-Qualified Medicare Beneficiary + OHP Plus benefit package;

(e) CAWEM — Citizen/Alien-Waived Emergency Medical benefit package;

(f) Benefits for other client populations.

(3) This section explains who is eligible for each of the packages, any additional limitations or restrictions that may apply. The benefit package and program category are as follows:

(a) OHP Plus Benefit Package:

(A) Effective Feb. 1, 2003, the OHP Plus benefit package is available to recipients who are categorically eligible for medical assistance as defined in federal regulation and the Oregon Health Plan waiver granted on October 15, 2002. A client is categorically eligible for medical assistance if he or she is eligible under a mandatory, selected optional Medicaid program, or the Children's Health Insurance Program, and who are also within the income and other eligibility criteria adopted by DHS;

(B) Service coverage for clients with this Package is based on the Prioritized List of Health Services. Cost sharing may apply to some covered services;

(C) Ancillary services, (see OAR 410-141-0480);

(D) Chemical dependency services provided through local alcohol/drug treatment providers;

(E) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors.

(b) OHP Standard Benefit Package:

(A) Effective February 1, 2003, the OHP Standard benefit package is available to clients eligible for the Oregon Health Plan through the Oregon Health Plan expansion waiver granted on October 15, 2002. These recipients are adults and childless couples, who are also within the income and other eligibility criteria adopted by DHS. The Department identifies these clients through the program acronym, OHP-OPU;

(B) Except as provided in paragraph (D) of this section, service coverage for clients with this package is based on the Prioritized List of Health Services. Cost sharing and benefits limitations may apply to some covered services.

(C) Ancillary services (see OAR 410-141-0480);

(D) The following services are not covered under the Standard Benefit Package:

(i) Non-Emergency medical transportation;

(ii) Vision (frames, contacts, corrective devices and eye exams for the purpose of prescribing glasses or contacts);

(iii) Durable Medical Equipment and Supplies;

(iv) Dental;

(v) Outpatient Chemical Dependency;

(vi) Outpatient Mental Health;

(vii) Other limitations as identified in individual OMAP program administrative rules.

(c) QMB — Qualified Medicare Beneficiary benefit package:

(A) QMB clients are Medicare beneficiaries who have limited income but do not meet the income standard for full Medical Assistance Program coverage. QMB clients have coverage through Medicare Part A and B for most covered services. The Medical Assistance Program provides coverage only for those services that are also covered by Medicare;

(B) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of the coinsurance and deductible, but no more than the Medicare allowable;

(C) QMB clients may be billed by the provider for services that are not covered by Medicare. QMB clients may not be billed by the provider for the deductible and coinsurance amounts due for services that are covered by Medicare.

(d) QMB — Qualified Medicare + OHP Plus Benefit Package: Clients covered by this package are Medicare beneficiaries that have met the income standard for full Medical Assistance Program coverage. Their coverage includes:

(A) Any service covered by Medicare;

(B) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible; and

(C) Service coverage based on the Prioritized List of Health Services (OAR 410-141-0520);

(D) Mental health services;

(E) Chemical dependency services provided through a local alcohol/drug treatment provider.

(e) Citizen/Alien-Waived Emergency Medical Assistance (CAWEM) benefit package:

(A) The client receives a Medical Care Identification, which indicates coverage, and is limited to emergency medical needs or labor and delivery services;

(B) Emergency medical services are covered when a client eligible under the CAWEM program has, after sudden onset, a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. There may be other limitations depending on the eligibility category to which the client is assigned;

(C) The following services are not covered for CAWEMs: Prenatal or postpartum care, sterilization, family planning, preventive care, transplants and transplant-related services, chemotherapy, hospice, home health, private duty nursing, dialysis, dental services provided outside of an emergency room/hospital setting, outpatient drugs or over-the-counter products, non-emergency medical transportation, therapy services, durable medical equipment and medical supplies, and rehabilitation services.

(f) Benefits for other client populations:

(A) Fully Capitated Health Plans, Dental Care Organization and Mental Health Organization Members:

(i) These clients are enrolled in a Prepaid Health Plan for their medical, dental and mental health care;

(ii) Most non-emergency services are obtained from the Prepaid Health Plan or require a referral from the Prepaid Health Plan that is responsible for the provision and reimbursement for the medical, dental or mental health service;

(iii) The name and phone number of the Plan appears on the Medical Care Identification.

(B) Primary Care Case Managers:

(i) These clients are enrolled with a Primary Care Case Manager for their medical care;

(ii) Most non-emergency services provided to clients enrolled with a Primary Care Case Manager (PCCM) require referral from the PCCM.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 46-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; OMAP 56-2003, f. 8-28-03, cert. ef. 9-1-03

ADMINISTRATIVE RULES

Adm. Order No.: OMAP 57-2003

Filed with Sec. of State: 9-5-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-121-0030, 410-121-0140, 410-121-0155, 410-121-0160, 410-121-0190

Subject: The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. 410-121-0030 revision was to update language to clarify process of identifying PMPDP listed drugs; 410-121-0140 revision was to remove specific definition of estimated acquisition cost; 410-121-0155 revision was to add specific definition of estimated acquisition cost and define nursing facility and community based client reimbursement to reimbursement section; 410-121-0160 revision was to define dispensing fees for nursing facility and community based clients; and 410-121-0190 revision was to add modifier to clozapine billing and remove old language.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) Practitioner-Managed Prescription Drug Plan (PMPDP):

(a) PMPDP is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price;

(b) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research. Decisions also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price. The PDL will include other drugs in the class that are Medicaid reimbursable and which the FDA has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL. A copy of the PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is available for the best possible price; and consider any input from the HRC, other FDA approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually or more frequently if in the discretion of DHS, new safety information or the release of new drugs in a class or other information makes this advisable. New drugs will not be added to the PDL until they have been reviewed by the HRC. All changes or revisions to the PDL will be made publicly, using the rulemaking process, and will be published in OMAP's Pharmaceutical Services provider rules.

(4) Relative Cost and Best Possible Price Determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the Health Resources Commission in reaching a final decision.

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0180), in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, the cost of the other FDA approved drugs in the class will be recalculated using EAC for retail pharmacies in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average available rebate. Drugs with prices under the benchmark drug cost will be included on the PDL.

(5) PMPDP Reimbursement: OMAP will only reimburse for the prescription drugs specifically listed in the PMPDP categories on the PDL or those granted an exception through the process in

(6) PMPDP PDL Exception Process:

(a) If the prescribing practitioner, in his/her professional judgement, wishes to prescribe a drug not on the PDL, he/she may request an exception, subject to the requirements of OAR 410-121-0040. The prescribing practitioner must call the Managed Access Program (MAP) Help Desk to request an exception for medically appropriate drugs not listed in the PDL categories.

(b) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155. Table 121-0030-1, PMPDP PDL (updated effective 7/1/2003)

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03

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:

ADMINISTRATIVE RULES

(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) The provider must credit OMAP for all unused medications as established by the State Board of Pharmacy;

(v) OMAP will be billed for the date of dispensing within the timely filing limit;

(vi) Manufacturer's Unit Dose packaging of drugs is not reimbursable.

(b) 30-Day Card:

(A) A 30-day blister pack, bingo or punch card containing multiple sealed single doses of medication. The pharmacy must have a system for

dispensing and recovery of unused doses that has been approved by the State Board of Pharmacy;

(B) A 30-day card system which does not meet the requirements of the State Board of Pharmacy for recovery of unused doses, or for other reasons does not qualify for payment is not considered a True or Modified Unit Dose Delivery System.

(c) True and Modified Unit Dose providers must:

(A) Supply OMAP with a list of the facilities it will serve under this system;

(B) Sign an agreement to abide by the requirements of the program;

(C) Keep a separate, detailed Medication Administration Record (MAR) of all medications dispensed for each facility client served.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03); OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03; OMAP 42-2003(Temp), f. 5-30-03, cert. ef. 6-1-03 thru 11-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03

410-121-0155

Reimbursement

(1) Payment for pharmaceuticals will be the lesser of the amount billed or the Estimated Acquisition Cost (EAC) of the generic form, minus any applicable copayments, plus a professional dispensing fee. Estimated Acquisition Cost (EAC) is the lesser of :

(a) Federal upper limits for drug payment;

(b) Oregon Maximum Allowable Cost (OMAC);

(c) Eighty-five percent of Average Wholesale Price (AWP) for retail pharmacies; eighty-nine percent of AWP for clients identified on DHS files as residing in a Long Term Care Facility when dispensed by an enrolled unit dose, or modified unit dose, pharmacy; or

(d) Mail order pharmacy as specified in vendor contract.

(2) Pharmacies must make available to OMAP any information necessary to determine the pharmacist's actual acquisition cost of pharmaceutical goods dispensed to OMAP clients.

(3) Payment for trade name forms of multisource products will be the lesser of the amount billed or the EAC of the trade name form of the product, plus a professional dispensing fee only if the following criteria are met:

(a) The brand name drug is listed on the Practitioner Managed Prescription Drug Plan (PMPDP) as outlined in OAR 410-121-0030; or

(b) The prescribing practitioner has received a prior authorization for a trade name drug from the Managed Access Program (MAP) Help Desk.

(4) Payment for individual special admixtures, fluids or supplies shall be limited to the lesser of:

(a) Eighty percent of the usual and customary charges to the general public;

(b) The amount Medicare allows for the same product or service;

(c) The amount the agency negotiates with an individual provider, less any amount paid or payable by another third party; or

(d) The amount established or determined by OMAP.

(5) No professional dispensing fee is allowed for dispensing condoms, contraceptive foams, suppositories, inserts, jellies, pill splitters/cutters, and creams, medical supplies and equipment, or oral nutritional supplements:

(a) Over the counter contraceptive drugs and devices will be reimbursed at the lesser of billed amount or EAC, plus fifty percent of EAC;

(b) Oral nutritional supplements will be reimbursed at the lesser of billed amount or EAC, plus one third of EAC.

(c) Pill splitters/cutters with an NDC number will be reimbursed at the lesser of billed amount, or EAC. A practitioner prescription is not required. The limit is one per client in a twelve month period.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 846(Temp), f. & ef. 7-1-77; PWC 858, f. 10-14-77, ef. 11-1-77; PWC 869, f. 12-30-77, ef. 1-

ADMINISTRATIVE RULES

1-78; AFS 15-1979(Temp), f. 6-29-79, ef. 7-1-79; AFS 41-1979, f. & ef. 11-1-79; AFS 15-1981, f. 3-5-81, ef. 4-1-81; AFS 35-1981(Temp), f. 6-26-81, ef. 7-1-81; AFS 53-1981(Temp), f. & ef. 8-14-81; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices. AFS 74-1982 (Temp), f. 7-22-81, ef. 8-1-82; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 113-1982(Temp), f. 12-28-82, ef. 1-1-83; AFS 13-1983, f. & ef. 3-21-83; AFS 51-1983(Temp), f. 9-30-83, ef. 10-1-83; AFS 56-1983, f. 11-17-83, ef. 12-1-83; AFS 18-1984, f. 4-23-84, ef. 5-1-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 52-1986, f. & ef. 7-2-86; AFS 12-1987, f. 3-3-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0101; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0250; HR 20-1990, f. & cert. ef. 4-16-91; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 61-2001(Temp), f. 12-13-01, cert. ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 32-2002, f. & cert. ef. 8-1-02; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03

410-121-0160

Dispensing Fees

(1) Pharmacy providers must apply for an OMAP review of their pharmacy dispensing fee level by completing a Pharmacy Prescription Survey (OMAP 3062) when one of the following situations occurs:

(a) The pharmacy initiates dispensing medications to clients in facilities and the most recent two months worth of dispensing data is available. OMAP will only accept the most recent two months worth of data; or

(b) The pharmacy discontinues dispensing medications to clients in facilities. The pharmacy provider is required to notify OMAP within 60 days and complete a new Pharmacy Prescription Survey with the most recent two-months worth of dispensing data available. OMAP will only accept the most recent two months worth of data; or

(c) A completed Pharmacy Prescription Survey signed by the pharmacist in charge must be submitted to OMAP to initiate a review of dispensing fees.

(2) Unless otherwise provided, the professional dispensing fee allowable for services is as follows:

(a) \$3.50 — Retail Pharmacies;

(b) \$3.91 — Institutional Pharmacies operating with a True or Modified Unit Dose Delivery System as defined by OMAP. This dispensing fee applies to clients identified on DHS case files as residing in a Long Term Care Facility, all other dispensing fees will be at the retail rate.

(3) The True or Modified Unit Dose Delivery System applies to those providers who give this service to over fifty percent of their patient population base associated with a particular Medicaid provider number.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 51-1983(Temp), f. 9-30-83, ef. 10-1-83; AFS 56-1983, f. 11-17-83, ef. 12-1-83; AFS 41-1984(Temp), f. 9-24-84, ef. 10-1-84; AFS 1-1985, f. & ef. 1-3-85; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85; AFS 66-1985, f. 11-5-85, ef. 12-1-85; AFS 13-1986(Temp), f. 2-5-86, ef. 3-1-86; AFS 36-1986, f. 4-15-86, ef. 6-1-86; AFS 52-1986, f. & ef. 7-2-86; AFS 12-1987, f. 3-3-87, ef. 4-1-87; AFS 28-1987(Temp), f. & ef. 7-14-87; AFS 50-1987, f. 10-20-87, ef. 11-1-87; AFS 41-1988(Temp), f. 6-13-88, cert. ef. 7-1-88; AFS 64-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0101; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 20-1990, f. & cert. ef. 7-9-90; Renumbered from 461-016-0260; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 21-1993(Temp), f. & cert. ef. 9-1-93; HR 12-1994, f. 2-25-94, cert. ef. 2-27-94; OMAP 5-1998(Temp), f. & cert. ef. 2-11-98 thru 7-15-98; OMAP 22-1998, f. & cert. ef. 7-15-98; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 50-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 60-2001, f. & cert. ef. 12-11-01; OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03

410-121-0190

Clozapine Therapy

(1) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications. Clozapine Supervision is the management and record keeping of clozapine dispensing as required by the manufacturer of clozapine.

(2) Clozapine supervision:

(a) Pharmacists are to bill for Clozapine Supervision by using code 90862, adding TC modifier.

(b) Providers billing for clozapine supervision must document all of the following:

(A) Exact date and results of White Blood Counts (WBCs), upon initiation of therapy and at recommended intervals per the drug labeling;

(B) Notations of current dosage and change in dosage;

(C) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;

(D) Dates provider sent required information to manufacturer.

(E) Only one provider, either pharmacist or physician, may bill per week per client;

(F) Limited to five units per 30 days per client;

(G) An ICD-9 diagnosis must be shown in Field 21 of the HCFA-1500. The diagnosis code must be shown to the 5th digit on the HCFA-1500 and OMAP 505.

(3) Drug Products — The information required on the 5.1 Universal Claim Form must be included in the billing. The actual drug product may be billed electronically or submitted on the 5.1 Universal Claim Form;

(4) Venipuncture — If the pharmacy performs venipuncture, bill for that procedure on a HCFA-1500 (and OMAP 505 if the client has Medicare coverage). Use Type of Service "S" and Procedure Code G0001.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 17-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 45-2002, f. & cert. ef. 10-1-02; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03

Adm. Order No.: OMAP 58-2003

Filed with Sec. of State: 9-5-2003

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Notice Publication Date: 7-1-03

Rules Amended: 410-125-0115, 410-125-0121, 410-125-0181

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

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0115

Non-Contiguous Area Out-of-State Hospitals

Non-contiguous area hospitals are out-of-state hospitals located more than 75 miles outside the Oregon border. Unless such hospitals have an agreement or contract with OMAP for specialized services, non-contiguous area out-of-state hospitals will receive DRG reimbursement or billed charges whichever is less. The unit value for non-contiguous out-of-state hospitals will be set at the final unit value for the 50th percentile of Oregon hospitals (see Inpatient Rate Calculations from Other Hospitals, DRG Rate Methodology, OAR 410-125-0141 for the methodology used to calculate the unit value at the 50th percentile). No cost outlier, capital or medical education payments will be made. The hospital will receive a disproportionate share reimbursement if eligible (see OAR 410-125-0150).

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0570; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. 11-18-91; Renumbered from 410-125-0840; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03

410-125-0121

Contiguous Area Out-of-State Hospitals

Contiguous area hospitals are out-of-state hospitals located less than 75 miles outside the Oregon border. Unless such hospitals have an agreement or contract with OMAP for specialized services, contiguous area out-of-state hospitals will receive DRG reimbursement or billed charges whichever is less. The unit value for contiguous out-of-state hospitals will be set at the final unit value for the 50th percentile of Oregon hospitals (see Inpatient Rate Calculations for Other Hospitals, DRG Rate Methodology OAR 410-125-0141 for the methodology). Contiguous area out-of-state hospitals are also eligible for cost outlier payments. No capital or medical education payments will be made. The hospital will receive a disproportionate share reimbursement if eligible (see OAR 410-125-0150).

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-

ADMINISTRATIVE RULES

0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0570; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03

410-125-0181

Non-Contiguous and Contiguous Area Out-of-State Hospitals - Outpatient Services

Non-contiguous area hospitals are out-of-state hospitals located more than 75 miles outside the Oregon border. Contiguous area hospitals are out-of-state hospitals located less than 75 miles outside the Oregon border. Unless such hospitals have an agreement with OMAP regarding reimbursement for specialized services, these hospitals will be reimbursed as follows:

(1) Laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services will be reimbursed under an OMAP fee schedule.

(2) Effective for dates of service on or after March 10, 2003 all other outpatient services will be reimbursed at 44 percent of billed charges. There is no cost settlement.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03

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Adm. Order No.: OMAP 59-2003

Filed with Sec. of State: 9-5-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-129-0065, 410-129-0220

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

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-129-0065

Licensing Requirements

(a) ORS 681, 681.420 and 681.460, Board of Examiners in Speech Pathology and Audiology chapter 335, will govern the practice of licensed speech pathologists. Licensed speech pathologists may enroll as providers and be reimbursed for services;

(b) Services of graduate students in speech-language pathology, under supervision of a licensed Speech Pathologist during training or during the Clinical Fellowship Year are reimbursable to the licensed supervising speech pathologist. Graduate speech-language pathologists who are performing a clinical fellowship year need to hold a provisional license issued by the Oregon Board of Examiners in Speech Pathology and Audiology. ORS 681.325 "Issuance of Conditional License Scope of Practice and Renewal";

(c) Services of a licensed speech pathologist while teaching or supervising students in speech pathology will not be reimbursed;

(d) Services of a certified speech-language pathology assistant are reimbursable to the supervising licensed speech-language pathologist. Only covered services within the scope of duties of a certified speech-language pathologist assistant, as defined in OAR 335-095-0060, will be reimbursed.

(2) Audiologists. ORS 681, 681.420 and 681.460, Board of Examiners in Speech Pathology and Audiology chapter 335, will govern the practice of licensed audiologists. Licensed audiologists may enroll as providers and be reimbursed for services.

(3) Hearing Aid Dealers. ORS 694.015 through 694.199, Board of Hearing Aid Dealers licensing program chapter 333 will govern the services by licensed hearing aid dealers. Licensed hearing aid dealers may enroll as providers and be reimbursed for services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 27-1993, f. & cert. ef. 10-1-93; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 59-2003, f. 9-5-03, cert. ef. 10-1-03

410-129-0220

Augmentative Communications System or Device

(1) The Office of Medical Assistance Programs (OMAP) will cover dedicated communication systems or devices and necessary attachments, (i.e. to bed or wheelchair).

(2) All requests for these systems, devices and necessary attachments will be reviewed for medical appropriateness.

(3) All required supporting documentation must be submitted prior to review. A form has been developed that outlines the necessary information required for review. A written narrative should be attached to provide a sufficient level of detail.

(4) If, in the opinion of OMAP, the clinical documentation furnished does not support the services requested, the request will be denied.

(5) Criteria: The following criteria must be met before any request for an augmentative communication system or device will be considered:

(a) A physician's statement of diagnosis and medical prognosis including the necessity to communicate medical needs must be submitted;

(b) A reliable and consistent motor response which can be used to communicate must be identified;

(c) As measured by standardized or observational tools, the individual must have the cognitive ability of:

(A) Object permanence — ability to remember objects and realize they exist when they are not seen;

(B) Means end — ability to anticipate events independent of those currently in progress. The ability to associate certain behaviors with actions that will follow.

(d) The client must be assessed by a team consisting of a Speech Pathologist and when appropriate an Occupational Therapist and/or Physical Therapist. Formal evaluation reports should be included;

(e) Devices evaluated must be documented with an explanation of why this particular device is best suited for this individual and why the device is the lowest level which will meet basic functional communication needs;

(f) There must be a documented trial of the selected device and a report on the success in using this device;

(g) A therapy treatment plan must be developed stating who will program the device, monitor and reevaluate the user on a periodic basis. Indicate the individual who will be responsible for carrying out the plan;

(h) Requests for Augmentative Communications Systems or Devices are sent to Office of Medical Assistance Programs;

(i) A vendor's price quotation for the device must accompany each request including where the device is to be shipped;

(j) Submit with the request for authorization for an augmentative communication system or device:

(A) A formal augmentative communication assessment report — required elements are listed on the reverse of the OMAP 3047 form;

(B) A physician's prescription of diagnosis and prognosis (not a prescription for an augmentative device).

(6) OMAP will reimburse for the lowest level of service that meets the medical need.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 40-1990(Temp), f. & cert. ef. 11-15-90; HR 5-1991, f. 1-18-91, cert. ef. 2-1-91; HR 11-1992, f. & cert. ef. 4-1-92; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 38-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 59-2003, f. 9-5-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

Adm. Order No.: OMAP 60-2003

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Notice Publication Date: 7-1-03

Rules Amended: 410-140-0200

Subject: The Visual Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OAR 410-140-0200 is amended to allow more frequent dispensing and fitting of glasses or contact lenses following corneal transplant.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-140-0200

Fitting and Repair

(1) Prescription of glasses, when required, is a part of general ophthalmological services (eye exams) and is not reported separately. It includes specification of lens type (monofocal, bifocal, other), lens power, axis, prism, absorptive factor, impact resistance, and other factors.

(2) The fitting of glasses is a separate service. The fitting can be billed using only the codes listed below. Fitting of glasses is covered only when glasses are provided by the contractor. Fitting includes measurement of anatomical facial characteristics, the writing of laboratory specifications, and the final adjustment of the spectacles to the visual axes and anatomical topography. Presence of physician or optometrist is not required.

(3) Supply of frames and lenses is a separate service component; it is not part of the service of fitting spectacles.

(4) Fitting of either glasses or contact lenses is limited to once every 24 months for adults (age 21 years and older), except when dispensing glasses within one year following corneal transplantation or within 120 days of cataract surgery. When billing for fitting within 120 days following cataract surgery use an appropriate cataract diagnosis code and document on the claim the date of the cataract surgery. When billing for fitting within one year of corneal transplantation document the date of surgery on the claim. (See OAR 410-140-0160 for information on coverage of contact lenses.) Fitting of glasses is not limited for children (birth through age 20) when documented in the patient's record as medically necessary.

(5) Use fitting codes 92340-92353 only when a complete pair of glasses is dispensed. Repair codes 92370 and 92371 must be billed when replacing parts and can only be billed when the parts have been ordered through the Contractor. A delivery invoice will be included with the parts order. Keep a copy of the delivery invoice in the client's records or document the delivery invoice number in the client's records.

(6) Fitting of spectacle mounted low vision aids, single element systems, telescopic or other compound lens systems is not covered.

(7) Periodic adjustment of frames (including tightening of screws) is included in the dispensing fee and is not covered.

(8) Either the date of order or date of dispensing may be used in the "Date of Service" field; however, glasses must be dispensed prior to billing OMAP. Note: Providers may bill for a fitting or repair on undispensed glasses under the following conditions:

(a) Death of the client prior to dispensing;

(b) Client failure to pick up ordered glasses. Documentation in the client's record must show that serious efforts were made by the provider to contact the client.

(9) All frames have a limited warranty. Check specific frame styles for time limits. All defective frames must be returned to the Contractor. Table 140-0200. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 75-1989, f. & cert. ef. 12-15-89; HR 15-1992, f. & cert. ef. 6-1-92; Renumbered from 461-018-0250; HR 37-1992, f. & cert. ef. 12-18-92; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; HR 15-1996(Temp), f. & cert. ef. 7-1-96; HR 26-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 11-2002, f. & cert. ef. 4-1-02; OMAP 56-2002, f. & cert. ef. 10-1-02; OMAP 60-2003, f. 9-5-03, cert. ef. 10-1-03

Adm. Order No.: OMAP 61-2003

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Notice Publication Date: 7-1-03

Rules Adopted: 410-141-0070

Rules Amended: 410-141-0020, 410-141-0060, 410-141-0065, 410-141-0080, 410-141-0085, 410-141-0110, 410-141-0115, 410-141-0140, 410-141-0180, 410-141-0220, 410-141-0270, 410-141-0280, 410-141-0320, 410-141-0340, 410-141-0405, 410-141-0407, 410-

141-0410, 410-141-0420, 410-141-0480, 410-141-0500, 410-141-0660, 410-141-0680, 410-141-0700, 410-141-0720, 410-141-0760, 410-141-0780, 410-141-0800, 410-141-0820, 410-141-0840, 410-141-0860

Rules Repealed: 410-141-0740

Subject: OMAP revised rules and adopted a new rule, listed above, to be in compliance with the finalized Balanced Budget Act (BBA) Code of Federal Register (CFR) changes which are effective August 1, 2003, the Health Insurance Portability and Accountability Act (HIPAA), and to take care of DHS reorganization and housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0020

Administration of Oregon Health Plan Regulation and Rule Precedence

(1) OMAP may adopt reasonable and lawful policies, procedures, rules and interpretations to promote the orderly and efficient administration of the Oregon Health Plan subject to the rulemaking requirements of Oregon statute and Oregon Administrative Rule procedures.

(2) In the event that OMAP policies, procedures, rules and interpretations are not complimentary, the following order of precedence is to be followed:

(a) Federal Law, regulation and waivers granted OMAP by the Centers for Medicare and Medicaid Services to operate the Oregon Health Plan;

(b) Oregon State law;

(c) Oregon Administrative Rules 410-141-0000 through 410-141-0860, Oregon Health Plan Administrative Rules, inclusive;

(d) Oregon Administrative Rules 410-120-1100 through 410-120-9999, Office of Medical Assistance Programs General Rules, inclusive;

(e) Any other duly promulgated rules issued by OMAP and other offices and Divisions within the Department of Human Services necessary to administer the State of Oregon's Medical Assistance program.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0060

Oregon Health Plan Managed Care Enrollment Requirements

(1) Enrollment of an Oregon Health Plan (OHP) Client, excluding the New/Noncategorical Client (HPN) and Children's Health Insurance Program (CHIP) clients in Prepaid Health Plans (PHPs) shall be mandatory unless exempted from Enrollment by the Department of Human Services (DHS), or unless the OHP Client resides in a Service Area where there is inadequate capacity to provide access to Capitated Services for all OHP Clients through PHPs or Primary Care Managers (PCMs). PHPs include Fully Capitated Health Plans (FCHPs), Dental Care Organizations (DCOs) and Mental Health Organizations (MHOs), and Chemical Dependency Organizations (CDOs).

(2) Enrollment of the New/Noncategorical Client (HPN) and Children's Health Insurance Program (CHIP) Client in PHPs shall be mandatory unless exempted from Enrollment by DHS under the term in 410-141-0060(4). Selection of PHPs in accordance with this rule is a condition of eligibility for HPN and CHIP Clients. If, upon reapplication, an HPN and CHIP Clients do not select PHPs in accordance with this rule, PHPs will be selected for the HPN and CHIP Client by DHS. This selection will be made based on the PHPs in which the HPN and CHIP Clients were previously enrolled.

(3) OHP Clients, except the HPN and CHIP Clients shall be enrolled with PHPs or PCMs according to the following criteria:

(a) Areas with sufficient physical health service capacity through a combination of FCHPs and PCMs shall be called mandatory FCHP/PCM Service Areas. An OHP Client shall select a FCHP or PCM unless exempted from Enrollment in a FCHP, in which case they shall choose a PCM in a mandatory FCHP/PCM Service Area;

(b) Service areas with sufficient physical health service capacity through PCMs alone shall be called mandatory PCM Service Areas. An OHP Client shall select a PCM in a mandatory PCM Service Area;

(c) Service Areas without sufficient physical health service capacity through FCHPs and PCMs shall be called voluntary FCHP/PCM Service Areas. An OHP Client may choose to select a FCHP or PCM in voluntary FCHP/PCM Service Areas if the FCHP or PCM is open for Enrollment, or may choose to remain in the Medicaid Fee-for-Service (FFS) physical health care delivery system;

ADMINISTRATIVE RULES

(d) Service Areas with sufficient dental care service capacity through DCOs shall be called mandatory DCO Service Areas. An OHP Client shall select a DCO in a mandatory DCO Service Area;

(e) Service Areas without sufficient dental care service capacity through DCOs shall be called voluntary DCO Service Areas. An OHP Client may choose to select a DCO in a voluntary DCO Service Area if the DCO is open for Enrollment, or may choose to remain in the Medicaid FFS dental care delivery system;

(f) Service Areas with sufficient mental health service capacity through MHOs shall be called mandatory MHO Service Areas. An OHP Client shall select an MHO in a mandatory MHO Service Area;

(g) Service Areas without sufficient mental health service capacity through MHOs shall be called voluntary MHO Service Areas. An OHP Client may choose to select an MHO in voluntary MHO Service Areas if the MHO is open for Enrollment, or may choose to remain in the Medicaid FFS mental health care delivery system;

(h) When a Service Area changes from mandatory to voluntary, the OMAP Member will remain with their PHP for the remainder of their eligibility period, unless the OMAP Member meets the criteria stated in OAR 410-141-0060(4), or as provided by OAR 410-141-0080.

(4) The following are exemptions to mandatory Enrollment in PHPs which allow OHP Clients, including HPN and CHIP Clients, to enroll with a PCM or remain in the Medicaid FFS delivery systems for physical, dental and/or mental health care:

(a) The OHP Client is covered under a major medical insurance policy, such as a Medicare supplemental policy, Medicare employer group policy or other third party resource (TPR) which covers the cost of services to be provided by a PHP, (excluding dental insurance. An OHP Client shall be enrolled with a DCO even if they have a dental TPR). The OHP Client shall enroll with a PCM if the insurance policy is not a private HMO;

(b) The OHP Client has an established relationship with an OMAP enrolled Practitioner who is not a member of the PHP's Participating Provider panel the OHP Client would be enrolled in, and the PHP cannot negotiate a treatment plan or reimbursement arrangement with the Practitioner that is consistent with the PHP's contracting practices to provide for continuity of care, and it would be detrimental to the health of the OHP Client as determined by DHS to change Practitioners:

(A) When the Practitioner is a Primary Care Practitioner (PCP) enrolled with OMAP as a PCM, the OHP Client shall enroll with this Practitioner as a PCM Member;

(B) Exemptions from mandatory Enrollment in PHPs for this reason may be granted for a period of four months. Extensions may be granted by DHS upon request, subject to review of unique circumstances. A 12 month exemption may be granted if the reason for the exemption is not likely to change or is due to a chronic or permanent condition or disability;

(C) OHP clients shall be exempted from mandatory Enrollment with an FCHP, if the OHP Client became eligible through a hospital hold process and are placed in the Adults/Couples category. The OHP Client shall remain FFS for the first six (6) months of eligibility unless a change occurs with their eligibility or the category. At which time, the exemption shall be removed and the OHP Client shall be placed into a mandatory FCHP. The exemption shall not effect the mandatory Enrollment requirement into a DCO or MHO.

(c) The OHP Client is a Native American or Alaska Native with Proof of Indian Heritage and chooses to receive services from an Indian Health Service facility or tribal health clinic;

(d) The OHP Client is a child in the legal custody of either the Oregon Youth Authority (OYA) or Children, Adults and Families Services (CAFS) (SOSCF services), and the child is expected to be in a substitute care placement for less than 30 calendar days, unless one of the following conditions exist:

(A) There is no fee-for-service access; or

(B) There is continuity of care issues.

(e) The OHP Client is in the third trimester of her pregnancy when first determined eligible for OHP, or at redetermination, and she wishes to continue obtaining maternity services from a Practitioner who is not a Participating Provider with an FCHP in the Service Area:

(A) In order to qualify for such exemption at the time of redetermination, the OHP Client must not have been enrolled with an FCHP during the three months preceding redetermination;

(B) If the OMAP Member moves out of the PHP's Service Area during the third trimester, the OMAP Member may be exempted from Enrollment in the new Service Area for continuity of care if the OMAP Member wants to continue Obstetric-care with her previous physician, and

that physician is within the travel time or distance indicated in 410-141-0220(1)(a) Oregon Health Plan PHP Accessibility;

(C) If the Practitioner is a PCM, the OMAP Member shall enroll with that Practitioner as a PCM Member;

(D) If the Practitioner is not enrolled with OMAP as a PCM, then the OMAP Member may remain in the Medicaid FFS delivery system until 60 days after the birth of her child. After the 60-day period, the OHP Client must enroll in a FCHP.

(f) The OHP Client has End Stage Renal Disease (ESRD). The OHP Client shall not enroll in an FCHP but shall enroll with a PCM unless exempt for some other reason listed in section (4) of this rule;

(g) The OHP Client has been accepted by the Medically Fragile Children's Unit of the Office of Mental Health and Addiction Services (OMHAS);

(h) The OHP Client is a Medicare beneficiary and is in a hospice program shall not enroll in an FCHP that is also a Medicare Cost HMO. The OHP Client may enroll in either an FCHP that does not have a Medicare Cost HMO or with a PCM unless exempt for some other reason listed in section (4) of this rule;

(i) The OHP Client is enrolled in Medicare and the only FCHP in the Service Area is a Medicare HMO. The OHP Client may be exempted from Enrollment in the FCHP if the OHP Client chooses not to enroll;

(j) If an OMAP Member is enrolled in a program participating in the Intensive Treatment Service Pilot Project, the OMAP Member shall remain enrolled in the MHO he/she was enrolled in prior to the placement;

(k) Other just causes as determined by DHS, at its sole discretion which include the following factors:

(A) The cause is beyond the control of the OHP Client;

(B) The cause is in existence at the time that the OHP Client first becomes eligible for OHP;

(C) Enrollment would pose a serious health risk; and

(D) The lack of reasonable alternatives.

(l) A woman eligible for the Breast and Cervical Cancer Medical (BCCM) Program, (refer to BCCM rules established by Children, Adult and Families Services), shall not enroll in an FCHP, DCO or MHO. A woman in the BCCM Program shall remain in the Medicaid fee-for-service delivery system.

(5) The primary person in the household group and benefit group as defined in OAR 461-110-0110, 461-110-0210, and 461-110-0720, respectively, shall select PHPs or PCMs on behalf of all OHP Clients in the benefit group. PHP or PCM selection shall occur at the time of application for the OHP in accordance with section (1) of this rule:

(a) All OHP Clients in the benefit group shall enroll in the same PHP for each benefit type (physical, dental or mental health care) unless exempted under the conditions stated above in section (4). If PCM selection is an option, OHP Clients in the benefit group may select different PCMs;

(b) If the OHP Client is not able to choose PHPs or PCMs on his or her own, the Representative of the OHP Client shall make the selection. The hierarchy used for making Enrollment decisions shall be in descending order as defined under Representative:

(A) If the OHP form 7208M, Medicare+Choice election form is signed by someone other than the OHP Client, the OHP Client's Representative must complete and sign an Addendum. The Addendum is incorporated as part of the 7208M and is located on page four (4) of the form:

(i) If the FCHP does not receive the 7208M within 10 calendar days after the date of Enrollment, the FCHP shall send a letter to the OMAP Member with a copy sent to the Seniors and People with Disabilities (SPD) branch manager. The letter shall:

(I) Explain the need for the completion of the 7208M;

(II) Notify the OMAP Member, if the 7208M is not received within 30 days, the FCHP shall request Disenrollment; and

(III) Instruct the OMAP Member to contact their caseworker for other coverage alternatives.

(ii) If the FCHP has not received the 7208M at the end of 30 days, the FCHP shall notify OMAP's Health Management Unit (HMU). HMU shall disenroll the OMAP Member effective the end of the month following the notification and notify the OMAP Member of the Disenrollment. HMU shall provide SPD with the OHP Client Disenrollment list.

(B) If the OHP Client is a Medicare beneficiary who is capable of making Enrollment decisions, the Representative shall not have authority to select FCHPs which have corresponding Medicare HMO components.

(c) CAF or OYA shall select PHPs or a PCM for a child receiving CAF (SOSCF services) or OYA Services, with the exception of children in subsidized adoptions;

ADMINISTRATIVE RULES

(d) Enrollment in a FCHP of an OHP Client who is receiving Medicare and who resides in a Service Area served by PHPs or PCMs shall be as follows:

(A) If the OHP Client selects a FCHP that has a corresponding Medicare HMO, the OHP Client shall also enroll in the Medicare HMO;

(B) If the OHP Client is enrolled as a private member of a Medicare HMO, the OHP Client may choose to remain enrolled as a private member or to enroll in the FCHP that corresponds to the Medicare HMO:

(i) If the OHP Client chooses to remain as a private member in the Medicare HMO, the OHP Client shall remain in the Medicaid FFS delivery system for physical health care services but shall select a DCO and MHO where available;

(ii) If the OHP Client chooses to discontinue the Medicare HMO enrollment and then, within 60 calendar days of disenrollment from the Medicare HMO, chooses the FCHP that corresponds to the Medicare HMO that was discontinued, the OHP Client shall be allowed to enroll in that FCHP even if the FCHP is not open for Enrollment to other OHP Clients;

(iii) A Dual Eligible (DE) OHP Client who has been exempted from Enrollment in an MHO shall not be enrolled in a FCHP that has a corresponding Medicare HMO unless the exemption was done for a provider who is on the FCHP's panel.

(e) MHO Enrollment options shall be based on the OHP Client's county of residence, the FCHP selected by the OHP Client, and whether the FCHP selected serves as a MHO:

(A) If the OHP Client selects a FCHP that is not a MHO, then the OHP Client shall enroll in the MHO designated as the freestanding MHO for that county;

(B) If the OHP Client selects a FCHP that is a MHO, then the OHP Client shall receive the OHP mental health benefit through that FCHP.

(6) If the OHP Client resides in a mandatory Service Area and fails to select a DCO, MHO, and/or FCHP or a PCM at the time of application for the OHP, OMAP may enroll the OHP Client with a DCO, MHO, and/or FCHP or a PCM:

(a) The OHP Client shall be assigned to and enrolled with a DCO, MHO, and FCHP or PCM which meet the following requirements:

(A) Is open for Enrollment;

(B) Serves the county in which the OHP Client resides;

(C) Has Practitioners located within the Community Standard distance for average travel time for the OHP Client.

(b) Assignment shall be made first to a FCHP and second to a PCM;

(c) DHS shall send a notice to the OHP Client informing the OHP Client of the assignments and the right to change assignments within 30 calendar days of Enrollment. A change in assignment shall be honored if there is another DCO, MHO, and FCHP or PCM open for Enrollment in the county in which the OHP Client resides;

(d) Enrollments resulting from assignments shall be effective the first of the month or week after DHS enrolls the OHP Client and notifies the OHP Client of Enrollment and the name of the PHP or PCM: If Enrollment is initiated by a DHS worker on or before Wednesday, the date of Enrollment shall be the following Monday. If Enrollment is initiated by a DHS worker after Wednesday, the date of Enrollment shall be one week from the following Monday. Monthly Enrollment in a mandatory Service Area where there is only one FCHP, MHO or DCO shall be initiated by an auto-Enrollment program of DHS with effective dates the first of the month following the month-end cutoff. Monthly Enrollment in Service Areas where there is a choice of PHPs, shall be done by HMU according to established assignment protocols.

(7) The provision of Capitated Services to an OMAP Member enrolled with a PHP or a PCM shall begin on the first day of Enrollment with the PHP or a PCM except for:

(a) A newborn whose mother was enrolled at the time of birth. The date of Enrollment shall be the newborn's date of birth;

(b) Persons, other than newborns, who are hospitalized on the date enrolled. The date of Enrollment with a FCHP or MHO shall be the first possible Enrollment date after the date the OHP Client is discharged from inpatient hospital services and the date of Enrollment with a PCM shall be the first of the month for which Capitation Payment is made;

(c) For OMAP Members who are re-enrolled within 30 calendar days of Disenrollment. The date of Enrollment shall be the date specified by DHS that may be retroactive to the date of Disenrollment;

(d) Adopted children or children placed in an adoptive placement. The date of Enrollment shall be the date specified by DHS.

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 8-1994(Temp), f. & cert. ef. 2-1-94; DEQ 24-1994, f. 5-31-94, cert. ef. 6-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert.

ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 29-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 12-2002, f. & cert. ef. 4-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0065

Pharmacy Management Program Enrollment Requirements

(1) Enrollment of an Oregon Health Plan (OHP) Client in a Pharmacy Management Program pharmacy shall be mandatory unless the OHP Client:

(a) Is a Fully Capitated Health Plan (FCHP) OMAP Member;

(b) Has a private major medical insurance policy;

(c) Is a Native American or Alaska Native with proof of Indian heritage;

(d) Is a child in the care and custody of the Department of Human Services;

(e) Is an inpatient or resident in a hospital, nursing facility, or other medical institution.

(2) Pharmacy Management Program clients may change their enrolled pharmacy if:

(a) They move;

(b) They are reapplying for OHP benefits; or

(c) They are denied access to pharmacy services by their selected pharmacy.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0070

Oregon Health Plan Fully Capitated Health Plan (FCHP) Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded/condition treatment pairs. The FCHPs shall pay for prescription drugs except:

(a) As otherwise provided, such as Class 7 & 11 medications (based on the National Drug Code (NDC) as submitted by the manufacturer to First Data Bank);

(b) Those specifically carved out by OMAP; and

(c) Any applicable co-payments.

(2) FCHPs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization. The drug list must:

(a) Include FDA-approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) FCHPs shall provide its Participating Providers and their pharmacy subcontractor with:

(a) Its drug list and information about how to make non-drug listed requests;

(b) Updates the FCHP makes to their drug list within 30 days of a change which may include, but is not limited to:

(A) Addition of a new drug;

(B) Removal of a previously listed drug; and

(C) Generic substitution.

(4) If a drug cannot be approved within the 24-hour time requirement for prior authorization of drugs and the medical need for the drug is immediate, FCHPs must provide for the dispensing of at least a 72-hour supply of a drug that requires prior authorization.

(5) FCHPs shall authorize the provision of a drug requested by the Primary Care Physician (PCP) or referral Provider, if the approved prescriber certifies medical necessity for the drug such as:

(a) The drug listed equivalent has been ineffective in the treatment or

(b) The drug listed causes or is reasonably expected to cause adverse or harmful reactions to the OMAP Member.

(6) Prescriptions for Physician Assisted Suicide under the Oregon Death with Dignity Act are excluded; payment is governed solely by OAR 410-121-0150.

(7) FCHPs shall not authorize payment for any Drug Efficacy Study Implementation (DESI) Less-Than-Effective drugs which have reached the Federal Drug Administration Notice-of-Opportunity-for Hearing stage. The DESI Less-Than-Effective list is available at OMAP's website address: www.state.or.us/policy/healthplan/guides/pharmacy.

Stat. Auth.: ORS 409

ADMINISTRATIVE RULES

Stats. Implemented: ORS 414.065
Hist.: OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0080

Disenrollment from PHPs

(1) OMAP Member Requests for Disenrollment:

(a) All Oregon Health Plan (OHP) OMAP Member-initiated requests for Disenrollment from a Prepaid Health Plan (PHP) must be initiated by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720, respectively. For OMAP Members who are not able to request Disenrollment on their own, the request may be initiated by the OMAP Member's Representative;

(b) Primary person or Representative requests for Disenrollment shall be honored:

(A) Without cause after six months of OMAP Member's Enrollment. The effective date of Disenrollment shall be the end of the month following the request for Disenrollment;

(B) Whenever an OMAP Member's eligibility is redetermined by the Department of Human Services (DHS) and the primary person requests Disenrollment without cause. The effective date of Disenrollment shall be the end of the month following the date that the OMAP Member's eligibility is redetermined by DHS;

(C) OMAP Members who disenroll from a Medicare Health Maintenance Organization (HMO) shall also be Disenrolled from the corresponding Fully Capitated Health Plan (FCHP). The effective date of Disenrollment shall be the same date that the OMAP Member's Medicare HMO Disenrollment is effective;

(D) OMAP Members who are receiving Medicare and who are enrolled in a FCHP that has a corresponding Medicare HMO/Medicare+Choice (M+C) component may disenroll from the FCHP at any time if they also request Disenrollment from the Medicare HMO. The effective date of Disenrollment from the FCHP shall be the end of the month following the date of request for Disenrollment;

(E) At any other time with cause:

(i) OMAP shall determine if sufficient cause exists to honor the request for Disenrollment. The determination shall be made within ten working days;

(ii) Examples of sufficient cause include but are not limited to:

(I) The OMAP Member moves out of the PHP's Service Area;

(II) It would be detrimental to the OMAP Member's health to remain enrolled in the PHP;

(III) The OMAP Member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program or urban clinic and the Fee-For-Service (FFS) delivery system;

(IV) Continuity of care that is not in conflict with any section of 410-141-0060 or 410-141-0080.

(F) If the following conditions are met:

(i) The applicant is in the third trimester of her pregnancy and has just been determined eligible for OHP, or the OHP Client has just been re-determined eligible and was not enrolled in a FCHP within the past 3 months; and

(ii) The new FCHP the OMAP Member is enrolled with does not contract with the OMAP Member's current OB Provider and the OMAP Member wishes to continue obtaining maternity services from that Non-Participating OB Provider; and

(iii) The request to change FCHPs or return to FFS is made prior to the date of delivery.

(c) In addition to the Disenrollment constraints listed in (b), above, OMAP Member Disenrollment requests are subject to the following requirements:

(A) The OMAP Member shall join another PHP, unless the OMAP Member resides in a Service Area where Enrollment is voluntary, or the OMAP Member meets the exemptions to Enrollment as stated in 410-141-0060(4);

(B) If the only PHP available in a mandatory Service Area is the PHP from which the OMAP Member wishes to disenroll, the OMAP Member may not disenroll without cause;

(C) The effective date of Disenrollment shall be the end of the month in which Disenrollment was requested unless retroactive Disenrollment is approved by OMAP.

(2) Prepaid Health Plan requests for Disenrollment:

(a) Causes for Disenrollment:

(A) OMAP may disenroll OMAP Members for cause when requested by the PHP subject to ADA requirements and approval by the Centers for

Medicare and Medicaid Services (CMS), if a Medicare member disenrolled in a FCHP's Medicare HMO/M+C. Examples of cause include, but are not limited to the following:

(i) Missed appointments. The number of missed appointments is to be established by the Provider or PHP. The number must be the same as for commercial members or patients. The Provider must document they have attempted to ascertain the reasons for the missed appointments and to assist the OMAP Member in receiving services. This rule does not apply to Medicare members who are enrolled in a FCHP's Medicare HMO/M+C;

(ii) OMAP Member's behavior is disruptive, unruly, or abusive to the point that his/her Enrollment seriously impairs the Provider's ability to furnish services to either the OMAP Member or other members, except as excluded in (b)(B)(vii);

(iii) OMAP Member commits or threatens an act of physical violence directed at a medical Provider or property, the Provider's staff, or other patients, or the PHP's staff;

(iv) OMAP Member commits fraudulent or illegal acts such as: permitting use of his/her medical ID card by others, altering a prescription, theft or other criminal acts committed in any Provider or PHP's premises. The PHP shall report any illegal acts to law enforcement authorities or to the office for Children, Adults and Families (CAF) Fraud Unit as appropriate;

(v) OHP Clients who have been exempted from mandatory Enrollment with a FCHP, due to the OHP Client's eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060(4)(b)(C).

(vi) OMAP Member fails to pay co-payment(s) for Covered Services as described in OAR 410-120-1230 and/or 410-120-1235.

(B) OMAP Members shall not be disenrolled solely for the following reasons:

(i) Because of a physical or mental disability;

(ii) Because of an adverse change in the OMAP Member's health;

(iii) Because of the OMAP Member's utilization of services, either excessive or lack thereof;

(iv) Because the OMAP Member requests a hearing;

(v) Because the OMAP Member has been diagnosed with End Stage Renal Disease (ESRD);

(vi) Because the OMAP Member exercises his/her option to make decisions regarding his/her medical care with which the PHP disagrees;

(vii) Because of uncooperative or disruptive behavior resulting from the OMAP Member's special needs (except when continued Enrollment seriously impairs the PHP's ability to furnish services to either this OMAP Member or other members.

(C) Requests by the PHP for Disenrollment of specific OMAP Members shall be submitted in writing to their PHP Coordinator for approval. The PHP must document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below must be followed prior to requesting Disenrollment of an OMAP Member (except in cases of threats or acts of physical violence, and fraudulent or illegal acts). In cases of threats or acts of physical violence, OMAP will consider an oral request for Disenrollment, with written documentation to follow: In cases of fraudulent or illegal acts, the PHP must submit written documentation for review by the PHP Coordinators:

(i) There shall be notification from the Provider to the PHP at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the PHP. Such notification shall be documented in the OMAP Member's Clinical Record. The PHP shall conduct Provider education regarding the need for early intervention and the services they can offer the Provider;

(ii) The PHP shall contact the OMAP Member either verbally or in writing, depending on the severity of the problem, to develop an agreement regarding the issue(s). If contact is verbal, it shall be documented in the OMAP Member's record. The PHP shall inform the OMAP Member that his/her continued behavior may result in Disenrollment from the PHP;

(iii) The PHP shall provide individual education, counseling, and/or other interventions in a serious effort to resolve the problem;

(iv) The PHP shall contact the OMAP Member's DHS caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in the resolution;

(v) If the severity of the problem and intervention warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and/or coordinate a case conference. Involvement of Provider, caseworker, OMAP Member, family, and other appropriate agencies is encouraged. If necessary, the PHP shall obtain an authorization for release

ADMINISTRATIVE RULES

of information from the OMAP Member for the Providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it must be documented in the OMAP Member's record;

(vi) If a Primary Care Provider (PCP) terminates the Provider/patient relationship, the PHP shall attempt to locate another PCP on their panel who will accept the OMAP Member as their patient. If needed, the PHP shall obtain an authorization for release of information from the OMAP Member in order to share the information necessary for a new Provider to evaluate if they can treat the OMAP Member. All terminations of Provider/patient relationships shall be according to the PHP's policies and must be consistent with PHP or PCP's policies for commercial members.

(D) If the problem persists, the PHP may request Disenrollment of the OMAP Member by submitting a written request to disenroll the OMAP Member to the PHP's PHP Coordinator, with a copy to the OMAP Member's caseworker. Documentation with the request shall include the following:

(i) The reason the PHP is requesting Disenrollment; a summary of the PHP's efforts to resolve the problem and other options attempted before requesting Disenrollment;

(ii) Documentation should be objective, with as much specific details and direct quotes as possible when problems involve disruptive, unruly, abusive or threatening behaviors;

(iii) Where appropriate, background documentation including a description of the OMAP Member's age, diagnosis, mental status (including their level of understanding of the problem and situation), functional status (their level of independence) and social support system;

(iv) Where appropriate, separate statements from PCPs, caseworker and other agencies, Providers or individuals involved;

(v) If reason for the request is related to the OMAP Member's substance abuse treatment, the PHP shall notify the OHP Coordinator in the Office of Mental Health and Addiction Services;

(vi) If the OMAP Member is disabled, the following documentation shall also be submitted as appropriate:

(I) A written assessment of the relationship of the behavior to the disability including: current medical knowledge or best available objective evidence to ascertain the nature, duration and severity of the risk to the health or safety of others; the probability that potential injury to others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(II) An interdisciplinary team review that includes a mental health professional and/or behavioral specialists to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(III) If warranted, a clinical assessment that the behavior will not respond to reasonable clinical or social interventions;

(IV) Documentation of any accommodations that have been attempted;

(V) Any additional information or assessments requested by the PHP Coordinators.

(E) Requests will be reviewed according to the following process:

(i) If there is sufficient documentation, the request will be evaluated by a team of PHP Coordinators who may request additional information from Ombudsman, mental health or other agencies as needed;

(ii) If there is not sufficient documentation, the PHP Coordinator will notify the PHP what additional documentation is required before the request can be considered;

(iii) The PHP Coordinators will review the request and notify the PHP of the decision within ten working days of receipt. Written decisions, including reasons for denials, will be sent to the PHP within 15 working days from receipt of request;

(iv) If the request is approved, the Disenrollment date is 30 days after the date of approval, except as provided in (F) and (G) below. The PHP must send the OMAP Member a letter within 14 days after the request was approved, with a copy to the OMAP Member's DHS caseworker and OMAP's Health Management Unit (HMU), except in cases where the OMAP Member is also enrolled in a FCHP's Medicare HMO/M+C. The letter must give the Disenrollment date, the reason for Disenrollment, and the notice of OMAP Member's right to file a Grievance (as specified in 410-141-0260) and to an Administrative Hearing;

(v) In cases where the OMAP Member is also enrolled in a FCHP's Medicare HMO/M+C, the letter shall be sent after the approval by CMS and the date of Disenrollment shall be the date of Disenrollment as approved by CMS. If CMS does not approve the Disenrollment, the OMAP Member shall not be disenrolled from the PHP's OHP Plan;

(vi) If the OMAP Member requests a hearing, the OMAP Member will continue to be disenrolled until a hearing decision reversing that Disenrollment has been mailed to the OMAP Member and the PHP;

(vii) The PHP Coordinator will determine when Enrollment in another PHP or with a PCM is appropriate. The PHP Coordinator will contact the OMAP Member's DHS caseworker to arrange Enrollment;

(viii) When the Disenrollment date has been determined, HMU sends a letter to the OMAP Member with a copy to the OMAP Member's DHS caseworker and the PHP. The letter shall inform the OMAP Member of the requirement to be enrolled in another PHP.

(F) If the PHP Coordinator approves a PHP's request for Disenrollment because the OMAP Member threatens or commits an act of physical violence directed at a medical Provider, the Provider's staff, or other patients, the following procedures shall apply:

(i) OMAP shall inform the OMAP Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be disenrolled as of the date of the PHP's request for Disenrollment;

(iii) All OMAP Members in the OMAP Member's benefit group, as defined in OAR 461-110-0720, may be disenrolled if the PHP requests;

(iv) OMAP may require the OMAP Member and/or the benefit group to obtain services from FFS Providers or a PCM until such time as they can be enrolled in another PHP;

(v) At the time of Enrollment into another PHP, OMAP shall notify the new PHP that the OMAP Member and/or benefit group were previously disenrolled from another PHP at that PHP's request.

(G) If the PHP Coordinator approves the PHP's request for Disenrollment because the OMAP Member commits fraudulent or illegal acts as stated in 410-141-0080(2)(a), the following procedures shall apply:

(i) The PHP shall inform the OMAP Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be disenrolled as of the date of the PHP's request for Disenrollment;

(iii) At the time of Enrollment into another PHP, OMAP shall notify the new PHP that the OMAP Member and/or benefit group were previously disenrolled from another PHP at that PHP's request.

(iv) If an OMAP Member who has been disenrolled for cause is re-enrolled in the PHP, the PHP may request a Disenrollment review by the PHP's PHP Coordinator. An OMAP Member may not be disenrolled from the same PHP for a period of more than 12 months. If the OMAP Member is re-enrolled after the 12 month period and is again disenrolled for cause, the Disenrollment will be reviewed by DHS for further action.

(b) Other reasons for the PHP's requests for Disenrollment include the following:

(A) If the OMAP Member is enrolled in the FCHP or MHO on the same day the OMAP Member is admitted to the hospital, the FCHP or MHO shall be responsible for said hospitalization. If the OMAP Member is enrolled after the first day of the inpatient stay, the OMAP Member shall be disenrolled, and the date of Enrollment shall be the next available Enrollment date following discharge from inpatient hospital services;

(B) The OMAP Member has surgery scheduled at the time their Enrollment is effective with the PHP, the Provider is not on the PHP's Provider panel, and the OMAP Member wishes to have the services performed by that Provider;

(C) The Medicare member is enrolled in a Medicare Cost Plan and was receiving Hospice Services at the time of Enrollment in the PHP;

(D) The OMAP Member had End Stage Renal Disease at the time of Enrollment in the PHP;

(E) Excluding the DCO, the PHP determines that the OMAP Member has a third party insurer. If after contacting The Health Insurance Group, the Disenrollment is not effective the following month, PHP may contact HMU to request Disenrollment;

(F) If a PHP has knowledge of an OMAP Member's change of address, PHP shall notify DHS. DHS will verify the address information and disenroll the OMAP Member from the PHP, if the OMAP Member no longer resides in the PHP's Service Area. OMAP Members shall be disenrolled if out of the PHP's Service Area for more than three (3) months, unless previously arranged with the PHP. The effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment from the PHP;

(G) The OMAP Member is an inmate who is serving time for a criminal offense or confined involuntarily in a State or Federal prison, jail, detention facility, or other penal institution. This does not include OMAP Members on probation, house arrest, living voluntarily in a facility after

ADMINISTRATIVE RULES

their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The PHP is responsible for identifying the OMAP Members and providing sufficient proof of incarceration to HMU for review of the Disenrollment request. OMAP will approve requests for Disenrollment from PHPs for OMAP Members who have been incarcerated for at least fourteen (14) calendar days and are currently incarcerated. FCHPs are responsible for inpatient services only during the time an OMAP Member was an inmate;

(H) The OMAP Member is in a state psychiatric institution.

(3) OMAP Initiated Disenrollments:

(a) OMAP may initiate and disenroll OMAP Members as follows:

(A) If OMAP determines that the OMAP Member has sufficient third party resources such that health care and services may be cost effectively provided on a FFS basis, OMAP may disenroll the OMAP Member. The effective date of Disenrollment shall be the end of the month in which OMAP makes such a determination. OMAP may specify a retroactive effective date of Disenrollment if the OMAP Member's third party coverage is through the PHP, or in other situations agreed to by the PHP and OMAP;

(B) If the OMAP Member moves out of the PHP's Service Area(s), the effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment from the PHP;

(C) If the OMAP Member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project or Children's Health Insurance Program, the effective date of Disenrollment shall be the date specified by OMAP;

(D) If the OMAP Member dies, the effective date of Disenrollment shall be the end of the month following the date of death;

(E) When a non-Medicare contracting PHP is assumed by another PHP that is a Medicare HMO/M+C, OMAP Members with Medicare shall be disenrolled from the existing PHP. The effective date of Disenrollment shall be the day prior to the month the new PHP assumes the existing PHP;

(F) If OMAP determines that Contractor's OMAP Member has enrolled with their Employer Sponsored Insurance (ESI) through FHIAP the effective date of the Disenrollment shall be the OMAP Member's effective date of coverage with FHIAP.

(b) Unless specified otherwise in these rules or in the OMAP notification of Disenrollment to the PHP, all Disenrollments are effective the end of the month after the request for Disenrollment is approved by OMAP;

(c) OMAP shall inform the OMAP Members of the Disenrollment decision in writing, including the right to request an Administrative Hearing. Oregon Health Plan Clients may request an OMAP hearing if they dispute a Disenrollment decision by OMAP;

(d) If the OHP Client requests a hearing, the OHP Client will continue to be disenrolled until a hearing decision reversing that Disenrollment has been mailed to the OHP Client.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 11-1997, f. 3-28-97, cert. ef. 4-1-97; HR 14-1997, f. & cert. ef. 7-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0085

Oregon Health Plan Disenrollment from Primary Care Managers

(1) PCM Member requests for Disenrollment:

(a) All PCM Member-initiated requests for Disenrollment from Primary Care Managers must be initiated by the primary person in the benefit group, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720, respectively. For PCM Members who are not able to request Disenrollment on their own, the request may be initiated by the PCM Member's Representative;

(b) Primary Person or Representative requests for Disenrollment shall be honored:

(A) During the first 30 days of Enrollment without cause. The effective date of Disenrollment shall be the first of the month following PCM Member notification to DHS;

(B) After six months of PCM Member's Enrollment without cause. The effective date of Disenrollment shall be the first of the month following PCM Member notification to DHS;

(C) Whenever a PCM Member's eligibility is re-determined by and the primary person requests Disenrollment without cause. The effective

date of Disenrollment shall be the first of the month following the date that PCM Member's eligibility is re-determined by DHS;

(D) At any other time with cause:

(i) OMAP shall determine if sufficient cause exists to honor the request for Disenrollment;

(ii) Examples of sufficient cause include but are not limited to:

(I) The PCM Member moves out of the Primary Care Manager Service Area;

(II) It would be detrimental to the PCM Member's health to remain enrolled with the the Primary Care Manager;

(III) The PCM Member is a Native American or Alaskan Native with proof of Indian heritage who wishes to obtain primary care services from his or her Indian Health Service facility, Tribal Health clinic/program or urban clinic and the fee-for-service delivery system.

(c) In addition to the Disenrollment constraints listed in subsection (b) of this section, PCM Member Disenrollment requests are subject to the following requirements:

(A) The PCM Member shall select another Primary Care Manager or Prepaid Health Plan, unless the PCM Member resides in a Service Area where Enrollment is voluntary;

(B) If the only Primary Care Manager or Prepaid Health Plan available in a PHP, PHP/PCM or PCM mandatory Service Area is the PCM from which the PCM Member wishes to disenroll, the PCM Member may not disenroll without cause.

(2) Primary Care Manager requests for Disenrollment:

(a) Procedures for Primary Care Manager requests for Disenrollment are as follows:

(A) Requests by the Primary Care Manager for Disenrollment of specific PCM Members shall be submitted in writing to OMAP for approval prior to Disenrollment. The Primary Care Manager shall document the reason for the request, provide other records to support the request, and certify that the request is not due to an adverse change in the PCM Member's health. If the situation warrants, OMAP shall consider an oral request for Disenrollment, with written documentation to follow. OMAP shall approve Primary Care Manager requests for Disenrollment that meet OMAP criteria;

(B) OMAP shall respond to Primary Care Manager requests in a timely manner and in no event greater than 30 calendar days;

(C) The Primary Care Manager shall not disenroll or request Disenrollment of any PCM Member because of an adverse change in the PCM Member's health.

(b) OMAP may disenroll PCM Members for cause when requested by the Primary Care Manager:

(A) OMAP shall inform the PCM Member of:

(i) An approved Disenrollment decision;

(ii) Any requirement to select another Primary Care Manager;

(iii) Right to request an OMAP hearing if the Disenrollment decision by OMAP is disputed.

(B) Examples of cause include, but are not limited to the following:

(i) The PCM Member refuses to accept Medically Appropriate treatment and/or follow Medically Appropriate guidelines;

(ii) The PCM Member is unruly or abusive to others or threatens or commits an act of physical violence directed at a medical Provider, the Provider's staff or other patients;

(iii) The PCM Member has permitted the use of his or her OMAP Medical Care Identification by another person or used another person's Medical Care Identification;

(iv) The PCM Member has missed three appointments without cancelling and/or without explanation and the Primary Care Manager has documented attempts to accommodate the PCM Member's needs and to counsel with or educate the PCM Member.

(c) If OMAP approves the Primary Care Manager request for Disenrollment of a PCM Member because the PCM Member is abusive to others or threatens or commits an act of physical violence, the following procedures shall apply:

(A) OMAP shall inform the PCM Member of the Disenrollment decision;

(B) The PCM Member shall be disenrolled. All PCM Members in the PCM Member's benefit group, as defined in OAR 461-110-0720, may be disenrolled;

(C) The effective date of Disenrollment shall be the date of the Primary Care Manager's request for Disenrollment;

(D) OMAP shall require the PCM Member and/or the benefit group to obtain services from fee-for-service Providers for six months;

ADMINISTRATIVE RULES

(E) After six months the PCM Member and/or the benefit group shall be required to select another Primary Care Manager, if available in the Service Area;

(F) OMAP shall notify the new Primary Care Manager that the PCM Member and/or benefit group was previously disenrolled from another Primary Care Manager at the Primary Care Manager's request.

(3) OMAP may initiate and disenroll PCM Members as follows:

(a) If OMAP determines the PCM Member has third party resources through a private HMO, OMAP may disenroll the PCM Member. The effective date of Disenrollment shall be specified by OMAP and shall be the first of the month after OMAP determines the PCM Member should be disenrolled;

(b) If the PCM Member moves out of the Primary Care Manager's Service Area, the effective date of Disenrollment shall be the date specified by OMAP, which may be retroactive up to one month prior to the month OMAP notifies the Primary Care Manager;

(c) If the PCM Member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project, the effective date of Disenrollment shall be the date specified by OMAP;

(d) If the PCM Member dies, the effective date of Disenrollment shall be the date of death.

(4) Unless specified otherwise in this rule or at the time of notification of Disenrollment to the Primary Care Manager by OMAP all Disenrollments are effective the first of the month after the request for Disenrollment is approved by OMAP.

(5) Oregon Health Plan clients may request an OMAP hearing if they dispute a Disenrollment decision by OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0110

Oregon Health Plan Prepaid Health Plan Member Satisfaction Survey

(1) OMAP shall conduct a statistically valid FCHP OMAP Member satisfaction survey each calendar year to survey OMAP Members' satisfaction with respect to:

- (a) Access to care;
- (b) Quality of medical care; and
- (c) General OMAP Member satisfaction.

(2) OMAP may conduct a statistically valid DCO and CDO OMAP Member satisfaction survey to survey OMAP Member satisfaction.

(3) Results of the survey shall be available not more than six months after the survey is conducted.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0115

Oregon Health Plan Primary Care Manager Member Satisfaction Survey

(1) OMAP may conduct a statistically valid PCM member satisfaction survey each calendar year to survey PCM members' satisfaction with respect to:

- (a) Access to care;
- (b) Quality of medical care; and
- (c) General PCM member satisfaction.

(2) Results of the survey shall be available not more than six months after the survey is conducted.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0140

Oregon Health Plan Prepaid Health Plan Emergency and Urgent Care Services

PHPs shall have written policies and procedures and monitoring systems that ensure the provision of appropriate Urgent, Emergency, and Triage services 24-hours a day, 7-days-a-week for all OMAP Members. PHPs shall communicate these policies and procedures to Participating Providers, regularly monitor Participating Providers' compliance with these policies and procedures and take any corrective action necessary to ensure Participating Providers compliance. PHPs shall document all monitoring and corrective action activities:

(1) PHPs shall have written policies and procedures and monitoring processes to ensure that a Practitioner provides a Medically or Dentally

Appropriate response as indicated to urgent or emergency calls consisting of the following elements:

(a) Telephone or face-to-face evaluation of the OMAP Member to determine the nature of the situation and the OMAP Member's immediate need for services;

(b) Capacity to conduct the elements of an assessment that is needed to determine the interventions necessary to begin stabilizing the urgent or emergency situation;

(c) Development of a course of action at the conclusion of the assessment;

(d) Provision of services and/or referral needed to address the urgent or emergency situation, begin Post-Stabilization Care or provide outreach services in the case of an MHO;

(e) Provision for notifying a referral emergency room, when applicable concerning the presenting problem of an arriving OMAP Member, and whether or not the Practitioner will meet the OMAP Member at the emergency room; and

(f) Provision for notifying other Providers requesting approval to treat OMAP Members of the determination.

(2) PHPs shall ensure the availability of an after-hours call-in system adequate to Triage urgent care and emergency calls from OMAP Members. Urgent calls shall be returned appropriate to the OMAP Member's condition but in no event more than 30 minutes after receipt. If information is not adequate to determine if the call is urgent, the call shall be returned within 60 minutes in order to fully assess the nature of the call. If information is adequate to determine the call may be emergent in nature, the call shall be returned immediately;

(3) If a screening examination in an Emergency Room leads to a clinical determination by the examining physician that an actual emergency medical condition exists under the prudent layperson standard as defined in Emergency Services, the FCHP must pay for all services required to stabilize the patient. The FCHP may not require prior authorization for Emergency Services. The FCHP may not retroactively deny a claim for an emergency screening examination because the condition, which appeared to be an emergency medical condition under the prudent layperson standard, turned out to be non-emergency in nature.

(4) When an OMAP Member's Primary Care Provider, designated Practitioner or other health plan representative instructs the OMAP Member to seek emergency care, in or out of the network, the FCHP is responsible for payment of the screening examination and for other Medically Appropriate services. The FCHP is responsible for payment of Post-Stabilization Care that was:

(a) Pre-authorized by the PHP; or

(b) Not pre-authorized by the PHP if the PHP (or the on-call Provider) failed to respond to a request for pre-authorization within one hour of the request being made, or the PHP or Provider on call could not be contacted.

(5) PHPs shall have methods for tracking inappropriate use of emergency care and shall take action, including individual OMAP Member counseling, to improve appropriate use of urgent and emergency care settings. DCOs and MHOs shall be responsible for taking action to improve appropriate use of urgent and emergency care settings for dental or mental health related care when inappropriate use of emergency care is made known to them through reporting or other mechanisms.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

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 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0180

Oregon Health Plan Prepaid Health Plan Record Keeping

(1) Maintenance and Security: PHPs shall have written policies and procedures that ensure maintenance of a record keeping system that includes maintaining the security of records as required by the Health Insurance Portability and Accountability Act (HIPAA), 42 USC § 1320-d et seq., and the federal regulations implementing the Act, and complete Clinical Records that document the care received by OMAP Members from the PHP's primary care and referral providers. PHPs shall communicate these policies and procedures to Participating Providers, regularly monitor Participating Providers' compliance with these policies and procedures and take any corrective action necessary to ensure Participating Provider compliance. PHPs shall document all monitoring and corrective action activities. Such policies and procedures shall ensure that records are secured, safeguarded and stored in accordance with applicable Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).

(2) Confidentiality and Privacy: PHPs and PHP's Participating Provides shall have written policies and procedures to ensure that Clinical

ADMINISTRATIVE RULES

Records related to OMAP Member's Individual Identifiable Health Information and the receiving of services are kept confidential and protected from unauthorized use and disclosure consistent with the requirements of HIPAA and in accordance with ORS 179.505 through 179.507, 411.320, 433.045(3), 42 CFR Part 2, 42, Part 431, Subpart F, 45, 205.50. If the PHP is a public body within the meaning of the Oregon public records law, such policies and procedures shall ensure that OMAP Member privacy is maintained in accordance with ORS 192.502(2), 192.502(8) (Confidential under Oregon law) and 192.502(9) (Confidential under Federal law) or other relevant exemptions:

(a) PHPs and their Participating Providers shall not release or disclose any information concerning an OMAP Member for any purpose not directly connected with the administration of Title XIX of the Social Security Act except as directed by the OMAP Member;

(b) Except in an emergency, PHPs' Participating Providers shall obtain a written authorization for release of information from the OMAP Member or the legal guardian, or the legal Power of Attorney for Health Care Decisions of the OMAP Member before releasing information. The written authorization for release of information shall specify the type of information to be released and the recipient of the information, and shall be placed in the OMAP Member's record. In an emergency, release of service information shall be limited to the extent necessary to meet the emergency information needs and then only to those persons involved in providing emergency medical services to the OMAP Member;

(c) PHPs may consider an OMAP Member, age 14 or older competent to authorize or prevent disclosure of mental health and alcohol and drug treatment outpatient records until the custodial parent or legal guardian becomes involved in an outpatient treatment plan consistent with the OMAP Member's clinical treatment requirements.

(3) Access to Clinical Records:

(a) Provider Access to Clinical Records:

(A) PHPs shall release health service information requested by a Provider involved in the care of an OMAP Member within ten working days of receiving a signed authorization for release of information;

(B) MHOs shall assure that directly operated and subcontracted service components, as well as other cooperating health service Providers, have access to the applicable contents of an OMAP Member's mental health record when necessary for use in the diagnosis or treatment of the OMAP Member. Such access is permitted under ORS 179.505(6).

(b) OMAP Member Access to Clinical Records: Except as provided in ORS 179.505(9), PHPs' Participating Providers shall upon request, provide the OMAP Member access to his/her own Clinical Record, allow for the record to be amended or corrected and provide copies within ten working days of the request. PHPs' Participating Providers may charge the OMAP Member for reasonable duplication costs;

(c) Third Party Access to Records: Except as otherwise provided in this rule, PHPs' Participating Providers shall upon receipt of a written authorization for release of information for the OMAP Member provide access to OMAP Member's Clinical Record. PHPs' Participating Providers may charge for reasonable duplication costs;

(d) DHS Access to Records: PHPs shall cooperate with OMAP, OMHAS, the Medicaid Fraud Unit, and/or OMHAS representatives for the purposes of audits, inspection and examination of OMAP Members' Clinical and Administrative Records.

(4) Retention of Records: All Clinical Records shall be retained for seven years after the date of services for which claims are made. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year period, the Clinical Records must be retained until all issues arising out of the action are resolved.

(5) Requirements for Clinical Records: PHPs shall have policies and procedures that ensure maintenance of a Clinical Record keeping system that is consistent with state and federal regulations to which the PHP is subject. The system shall assure accessibility, uniformity and completeness of clinical information that fully documents the OMAP Member's condition, and the covered and non-covered services received from PHPs' Participating or referred Providers. PHPs shall communicate these policies and procedures to Participating Providers, regularly monitor Participating Providers' compliance with these policies and procedures, and take any corrective action necessary to ensure Provider compliance. PHPs shall document all monitoring and corrective action activities:

(a) A Clinical Record shall be maintained for each OMAP Member receiving services that documents all types of care needed or delivered in all settings whether such services are delivered during or after normal clinic hours;

(b) All entries in the Clinical Record shall be signed and dated;

(c) Errors to the Clinical Record shall be corrected as follows. Incorrect data shall be crossed through with a single line. Correct and legible data shall be added followed by the date corrected and initials of the person making the correction. Removal or obliteration of errors shall be prohibited;

(d) The Clinical Record shall reflect a signed and dated authorization for treatment for the OMAP Member, his/her legal guardian or the Power of Attorney for Health Care Decisions for any invasive treatments;

(e) The PCP's or clinic's Clinical Record shall include data that forms the basis of the diagnostic impression of the OMAP Member's chief complaint sufficient to justify any further diagnostic procedures, treatments, recommendations for return visits, and referrals. The PCP or clinic's Clinical Record of the OMAP Members receiving services shall include the following information as applicable:

(A) OMAP Member's name, date of birth, sex, address, telephone number, and identifying number as applicable;

(B) Name, address and telephone number of next of kin, legal guardian, Power of Attorney for Health Care Decisions, or other responsible party;

(C) Medical, dental or psycho-social history as appropriate;

(D) Dates of service;

(E) Names and titles of persons performing the services;

(F) Physicians' orders;

(G) Pertinent findings on examination and diagnosis;

(H) Description of medical services provided, including medications administered or prescribed; tests ordered or performed and results;

(I) Goods or supplies dispensed or prescribed;

(J) Description of treatment given and progress made;

(K) Recommendations for additional treatments or consultations;

(L) Evidence of referrals and results of referrals;

(M) Copies of the following documents if applicable:

(i) Mental health, psychiatric, psychological, psychosocial or functional screenings, assessments, examinations or evaluations;

(ii) Plans of care including evidence that the OMAP Member was jointly involved in the development of his/her mental health treatment plan;

(iii) For inpatient and outpatient hospitalizations, history and physical, dictated consultations, and discharge summary;

(iv) Emergency department and screening services reports;

(v) Consultation reports;

(vi) Medical education and medical social services provided;

(N) Copies of signed authorizations for release of information forms;

(O) Copies of medical and/or mental health directives.

(f) Based on written policies and procedures, the Clinical Record keeping system developed and maintained by PHPs' Participating Providers shall include sufficient detail and clarity to permit internal and external clinical audit to validate encounter submissions and to assure Medically Appropriate services are provided consistent with the documented needs of the OMAP Member. The system shall conform to accepted professional practice and facilitate an adequate system for follow up treatment;

(g) The PCP or clinic shall have policies and procedures that accommodate OMAP Member's requesting to review and correct or amend their Clinical Record;

(h) Other Records: PHPs' shall maintain other records in either the Clinical Record or within the PHP's administrative offices. Such records shall include the following:

(A) Names and phone numbers of the OMAP Member's prepaid health plans, primary care physician or clinic, primary dentist and mental health Practitioner, if any in the MHO records;

(B) Copies of Client Process Monitoring System (CPMS) enrollment forms in the MHO's records;

(C) Copies of long term psychiatric care determination request forms in the MHO's records;

(D) Evidence that the OMAP Member has received a fee schedule for services not covered under the Capitation Payment in the MHO's records;

(E) Evidence that the OMAP Member has been informed of his or her rights and responsibilities in the MHO records;

(F) ENCC records in the FCHP's records;

(G) Complaint and Grievance records;

(H) Disenrollment Requests for Cause and the supporting documentation.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

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 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

410-141-0220

Oregon Health Plan Prepaid Health Plan Accessibility

(1) Prepaid Health Plans (PHPs) shall have written policies and procedures that ensure access to all covered services for all OMAP Members. PHPs shall communicate these policies and procedures to Participating Providers, regularly monitor Participating Providers' compliance with these policies and procedures, and take any corrective action necessary to ensure Participating Provider compliance. PHPs shall document all monitoring and corrective action activities. PHPs shall not discriminate between OMAP Members and non-OMAP members as it relates to benefits and covered services to which they are both entitled:

(a) PHPs shall have written policies and procedures which ensure that for 90% of their OMAP Members in each Service Area, routine travel time or distance to the location of the PCP does not exceed the Community Standard for accessing health care Participating Providers. The travel time or distance to PCPs shall not exceed the following, unless otherwise approved by OMAP:

(A) In urban areas — 30 miles, 30 minutes or the Community Standard, whichever is greater;

(B) In rural areas — 60 miles, 60 minutes or the Community Standard, whichever is greater.

(b) PHPs shall maintain and monitor a network of appropriate Participating Providers sufficient to ensure adequate service capacity to provide availability of, and timely access to, Medically Appropriate covered services for OMAP Members:

(A) PHPs shall have an access plan that establishes standards for access, outlines how capacity is determined and establishes procedures for monthly monitoring of capacity and access, and for improving access and managing risk in times of reduced Participating Provider capacity. The access plan shall also identify populations in need of interpreter services and populations in need of accommodation under the Americans with Disabilities Act;

(B) PHPs shall make the services it provides including: specialists, pharmacy, hospital, vision and ancillary services, as accessible to OMAP Members in terms of timeliness, amount, duration and scope as those services are to non-OMAP persons within the same Service Area. If the PHP is unable to provide those services locally, it must so demonstrate to OMAP and shall provide reasonable alternatives for OMAP Members to access care that must be approved by OMAP. PHPs shall have a monitoring system that will demonstrate to OMAP or OMHAS, as applicable, that the PHP has surveyed and monitored for equal access of OMAP Members to referral Providers pharmacy, hospital, vision and ancillary services;

(C) PHPs shall have written policies and procedures and a monitoring system to ensure that OMAP Members who are Aged, Blind, or Disabled or who are children receiving CAF (SOSCF services) or OYA services have access to primary care, dental care, mental health Providers and referral, as applicable. These Providers shall have the expertise to treat, take into account and accommodate the full range of medical, dental or mental health conditions experienced by these OMAP Members, including emotional, disturbance and behavioral responses, and combined or multiple diagnoses.

(2) PHPs and Primary Care Managers (PCMs) Enrollment Standards:

(a) PHPs and PCMs shall remain open for Enrollment unless DHS has closed Enrollment because the PHP or PCM has exceeded their Enrollment limit or does not have sufficient capacity to provide access to services as mutually agreed upon by OMAP or OMHAS, as appropriate, and the PHP or PCM;

(b) PHPs Enrollment may also be closed by OMAP or OMHAS, as appropriate due to sanction provisions;

(c) PHPs and PCMs shall accept all OHP Clients, regardless of health status at the time of Enrollment, subject to the stipulations in Contracts/agreements with DHS to provide covered services or Primary Care management services;

(d) PHPs and PCMs may confirm the Enrollment status of an OHP Client by one of the following:

(A) The individual's name appears on the monthly or weekly Enrollment list produced by OMAP;

(B) The individual presents a valid Medical Care Identification that shows he or she is enrolled with the PHP or PCM;

(C) The Automated Information System (AIS) verifies that the individual is currently eligible and enrolled with the PHP or PCM;

(D) An appropriately authorized staff member of DHS states that the individual is currently eligible and enrolled with the PHP or PCM.

(e) FCHPs and DCOs shall have open Enrollment for 30 continuous calendar days during each twelve month period of October through September, regardless of the FCHPs or DCO's Enrollment limit. The open

Enrollment periods for consecutive years may not be more than 14 months apart.

(3) If a PHP is assumed by another PHP, OMAP Members shall be automatically enrolled in the succeeding PHP. The OMAP Member will have 30 calendar days to request Disenrollment from the succeeding PHP. If the succeeding PHP is a Medicare HMO, those OMAP Members who are Medicare beneficiaries shall not be automatically enrolled but shall be offered Enrollment in the succeeding PHP.

(4) If a PHP engages in an activity, such as the termination of a Participating Provider or Participating Provider group which has significant impact on access in that Service Area and necessitates either transferring OMAP Members to other Providers or the PHP withdrawing from part or all of a Service Area, the PHP shall provide DHS at least 90 calendar days written notice prior to the planned effective date of such activity:

(a) A PHP may provide less than the required 90 calendar days notice to DHS upon approval by DHS when the PHP must terminate a Participating Provider or Participating Provider group due to problems that could compromise OMAP Member care, or when such a Participating Provider or Participating Provider group terminates its contract with the PHP and refuses to provide the required 90 calendar days notice;

(b) If DHS must notify OMAP Members of a change in Participating Providers or PHPs, the PHP shall provide DHS with the name, prime number, and address label of the OMAP Members affected by such changes at least 30 calendar days prior to the planned effective date of such activity. The PHP shall provide OMAP Members with at least 30 calendar-days notice of such changes.

(5) PHPs shall have written policies and procedures that ensure scheduling and rescheduling of OMAP Member appointments are appropriate to the reasons for, and urgency of, the visit:

(a) PHPs shall have written policies and procedures and a monitoring system to assure that OMAP Members have access to appointments according to the following standards:

(A) FCHPs:

(i) Emergency Care — The OMAP Member shall be seen immediately or referred to an emergency department depending on the OMAP Member's condition;

(ii) Urgent Care — The OMAP Member shall be seen within 48 hours; and

(iii) Well Care — The OMAP Member shall be seen within 4 weeks or within the Community Standard.

(B) DCOs:

(i) Emergency Care — The OMAP Member shall be seen or treated within 24-hours;

(ii) Urgent Care — The OMAP Member shall be seen within one to two weeks depending on OMAP Member's condition; and

(iii) Routine Care — The OMAP Member shall be seen for routine care within an average of eight (8) weeks and within twelve (12) weeks or the community standard, whichever is less, unless there is a documented special clinical reason which would make access longer than 12 weeks appropriate.

(C) MHOs and CDO's:

(i) Emergency Care — OMAP Member shall be seen within 24-hours or as indicated in initial screening;

(ii) Urgent Care — OMAP Member shall be seen within 48 hours or as indicated in initial screening;

(iii) Non-Urgent Care — OMAP Member shall be seen for an intake assessment within 2 weeks from date of request.

(b) PHPs shall have written policies and procedures to schedule patients and provide appropriate flow of OMAP Members through the office such that OMAP Members are not kept waiting longer than non-OMAP Member patients, under normal circumstances. If OMAP Members are kept waiting or if a wait of over 45 minutes from the time of a scheduled appointment is anticipated, OMAP Members shall be afforded the opportunity to reschedule the appointment. PHPs must monitor waiting time for clients at least through Complaint and Grievance reviews, OMAP termination reports, and OMAP Member surveys to determine if waiting times for clients in all settings are appropriate;

(c) PHPs shall have written procedures and a monitoring system for timely follow-up with OMAP Member(s) when Participating Providers have notified the PHP that the OMAP Member(s) have failed to keep scheduled appointments. The procedures shall address determining why appointments are not kept, the timely rescheduling of missed appointments, as deemed Medically or Dentally Appropriate, documentation in the Clinical Record or non-clinical record of missed appointments, recall or notification efforts, and outreach services. If failure to keep a scheduled appointment is

ADMINISTRATIVE RULES

a symptom of the OMAP Member's diagnosis or disability or is due to lack of transportation to the PHP's Participating Provider office or clinic, PHPs shall provide outreach services as Medically Appropriate;

(d) PHPs shall have policies and procedures that ensure Participating Providers will attempt to contact OMAP Members if there is a need to cancel or reschedule the OMAP Member's appointment and there is sufficient time and a telephone number available;

(e) PHPs shall have written policies and procedures to Triage the service needs of OMAP Members who walk to the PCP's office or clinic with medical, mental health or dental care needs. Such Triage services must be provided in accordance with OAR 410-141-0140, Oregon Health Plan Prepaid Health Plan Emergency and Urgent Care Services;

(f) OMAP Members with non-emergent conditions who walk into the PCP's office or clinic should be scheduled for an appointment as appropriate to the OMAP Member's needs or be evaluated for treatment within two hours by a medical, mental health or dental Provider.

(6) PHPs shall have written policies and procedures that ensure the maintenance of 24-hour telephone coverage (not a recording) either on site or through call sharing or an answering service, unless this requirement is waived in writing by OMAP and/or OMHAS because the PHP submits an alternative plan that will provide equal or improved telephone access:

(a) Such policies and procedures shall ensure that telephone coverage provides access to 24-hour care and shall address the standards for PCPs or clinics callback for emergency, urgent, and routine issues and the provision of interpretive services after office hours;

(b) FCHPs shall have an adequate on-call PCP or clinic backup system covering internal medicine, family practice, OB/Gyn, and pediatrics, as an operative element of FCHP's after-hours care;

(c) Such policies and procedures shall ensure that relevant information is entered into the appropriate Clinical Record of the OMAP Member regardless of who responds to the call or the time of day the call is received. PHPs shall monitor for compliance with this requirement;

(d) Such policies and procedures shall include a written protocol specifying when a medical, mental health or dental Provider must be consulted. When Medically Appropriate, all such calls shall be forwarded to the on-call PCP who shall respond immediately to calls which may be emergent in nature. Urgent calls shall be returned appropriate to the OMAP Member's condition, but in no event more than 30 minutes after receipt. If information is inadequate to determine if the call is urgent, the call shall be returned within 60 minutes;

(e) Such policies and procedures shall ensure that all persons answering the telephone (both for the PHP and the PHP's Participating Providers) have sufficient communication skills and training to reassure OMAP Members and encourage them to wait for a return call in appropriate situations. PHPs shall have written procedures and trained staff to communicate with hearing impaired OMAP Members via TDD/TTY;

(f) PHPs shall monitor compliance with the policies and procedures governing 24-hour telephone coverage and on-call PCP coverage, take corrective action as needed, and report findings to the PHP's Quality Improvement committee;

(g) PHPs shall monitor such arrangements to ensure that the arrangements provide access to 24-hour care. PHPs shall, in addition, have telephone coverage at PHP's administrative offices that will permit access to PHPs' administrative staff during normal office hours, including lunch hours.

(7) PHPs shall develop written policies and procedures for communicating with, and providing care to OMAP Members who have difficulty communicating due to a medical condition or who are living in a household where there is no adult available to communicate in English or where there is no telephone:

(a) Such policies and procedures shall address the provision of qualified interpreter services by phone, in person, in PHP administrative offices, especially those of OMAP Member services and Complaint and Grievance representatives and in emergency rooms of contracted hospitals;

(b) PHPs shall provide or ensure the provision of qualified interpreter services for covered medical, mental health or dental care visits, including home health visits, to interpret for OMAP Members with hearing impairment or in the primary language of non-English speaking OMAP Members. Such interpreters shall be linguistically appropriate and be capable of communicating in English and the primary language of the OMAP Member and be able to translate clinical information effectively. Interpreter services shall be sufficient for the Provider to be able to understand the OMAP Member's complaint; to make a diagnosis; respond to OMAP Member's questions and concerns; and to communicate instructions to the OMAP Member;

(c) PHPs shall ensure the provision of care and interpreter services which are culturally appropriate, i.e., demonstrating both awareness for and sensitivity to cultural differences and similarities and the effect of those on the medical care of the OMAP Member;

(d) PHPs shall have written policies and procedures that ensure compliance with requirements of the Americans with Disabilities Act of 1990 in providing access to covered services for all OMAP Members and shall arrange for services to be provided by Non-Participating referral Providers when necessary:

(A) PHPs shall have a written plan for ensuring compliance with these requirements and shall monitor for compliance;

(B) Such a plan shall include procedures to determine whether OMAP Members are receiving accommodations for access and to determine what will be done to remove existing barriers and/or to accommodate the needs of OMAP Members;

(C) This plan shall include the assurance of appropriate physical access to obtain covered services for all OMAP Members including, but not limited to, the following:

(i) Street level access or accessible ramp into facility;

(ii) Wheelchair access to lavatory;

(iii) Wheelchair access to examination room; and

(iv) Doors with levered hardware or other special adaptations for wheelchair access.

(e) PHPs shall ensure that Participating Providers, their facilities and personnel are prepared to meet the special needs of OMAP Members who require accommodations because of a disability:

(A) PHPs shall have a written plan for meeting the needs of OMAP Members;

(B) PHPs shall monitor Participating Providers for compliance with the access plan and take corrective action, when necessary.

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 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 38-1998, 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 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0270

Oregon Health Plan Marketing Requirements

(1) PHPs may not conduct, directly or indirectly, door-to-door, telephonic, electronic, mail or other cold call marketing practices to entice OHP Clients to enroll into their PHP.

(2) PHPs or their subcontractors shall not seek to influence OHP Client's Enrollment with the PHP. PHPs are allowed to engage in activities for purposes of outreach to existing OMAP Members, health promotion and health education.

(3) Any written communication by the PHP or its subcontractors and providers which is intended solely for OMAP Members and pertains to provider requirements for obtaining services, care at service sites, or benefits, must be approved by OMAP and/or OMHAS prior to distribution.

(4) PHPs may also communicate with providers, caseworkers, community agencies and other interested parties for informational purposes. The intent of these communications should be informational and not to entice or solicit membership. Communication methodologies may include, but are not limited to:

(a) Brochures, pamphlets, newsletters, posters, fliers, web sites, health fairs, or sponsorship of health-related events;

(b) The creation of name recognition, as a result of PHP's health promotion or education activities, shall not be deemed to constitute an attempt by PHPs to influence a OHP Client's Enrollment;

(c) PHP shall cooperate in developing a comprehensive explanation of the services available from PHP under Contract/Agreement with DHS for the OMAP Comparison Charts;

(5) Subcontractors may post a sign listing all OHP PHPs to which the provider belongs and display PHP-sponsored health promotional materials.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0280

Oregon Health Plan Prepaid Health Plan Informational Requirements

(1) Prepaid Health Plans (PHPs) shall develop informational materials for potential OMAP Members:

(a) PHPs shall provide OMAP and/or OMHAS with informational materials sufficient for the potential OMAP Member to make an informed decision about PHP selection and Enrollment. Information on Participating Providers must be made available from the PHP, upon request to potential

ADMINISTRATIVE RULES

OMAP Members, and must include Participating Providers' name, location, qualification and the availability of the PCP, clinic and specialists. Informational materials may be included in the application packet for potential OMAP Members;

(b) PHPs shall ensure that all PHP's staff who have contact with potential OMAP Members are fully informed of PHP and OMAP and/or OMHAS policies, including Enrollment, Disenrollment, Complaint and Grievance policies and the provision of interpreter services including which Participating Providers' offices have bilingual capacity;

(c) PHPs shall cooperate and provide accurate information to OMAP for the updating of the comparison charts.

(2) Informational materials for OMAP Members that PHPs develop shall meet the language requirements of, and be culturally sensitive to the OMAP Membership:

(a) PHPs shall be required to follow OMAP's substantial household criteria required by ORS 411.062, which determines and identifies those populations that are considered non-English speaking households; however, PHP shall only be responsible for those identified languages, if the substantial population is 35 or more non-English speaking households with the same language in its Service Area. The PHP shall be required to provide informational materials, which at a minimum, shall include the OMAP Member handbook and information about Complaints and Grievances in the primary language of each substantial population. Alternative forms may include, but are not limited to audio tapes, close-captioned videos, large type and Braille;

(b) Form correspondence sent to OMAP Members, including but not limited to, Enrollment information, choice and OMAP Member counseling letters and denial of service notices shall include instructions in the appropriate languages of each substantial population of non-English speaking OMAP Members on how to receive an oral translation of the material;

(c) All written informational materials distributed to OMAP Members shall be written at the sixth grade reading level and printed in 12 point print or larger;

(d) PHPs shall provide written notice to affected OMAP Members of any significant changes in program or service sites that impacts the OMAP Members' ability to access care or services from PHP's Participating Providers. Such notice shall be provided at least 30 calendar days prior to the effective date of that change, or as soon as possible if the Participating Provider(s) has not given the PHP sufficient notification to meet the 30 days notice requirement. OMAP and/or OMHAS will review and approve such materials within two working days.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; 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 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0320

Oregon Health Plan Prepaid Health Plan Member Rights and Responsibilities

(1) Prepaid Health Plans (PHPs) shall have written policies and procedures that ensure OMAP Members have the rights and responsibilities included in this rule:

(a) PHPs shall communicate these policies and procedures to Participating Providers;

(b) PHPs shall monitor compliance with policies and procedures governing OMAP Member rights and responsibilities, take corrective action as needed, and report findings to the PHP's Quality Improvement Committee.

(2) OMAP Members shall have the following rights:

(a) To be treated with dignity and respect;

(b) To be treated by Participating providers the same as other people seeking health care benefits to which they are entitled;

(c) To choose a PHP or PCM as permitted in OAR 410-141-0060, Oregon Health Plan Managed Care Enrollment Requirements, a Primary Care Physician (PCP) or service site, and to change those choices as permitted in OAR 410-141-0080, Oregon Health Plan Disenrollment from PHPs, and the PHP's administrative policies;

(d) To refer oneself directly to mental health, chemical dependency or family planning services without getting a referral from a PCP or other Participating provider;

(e) To have a friend, family member, or advocate present during appointments and at other times as needed within clinical guidelines;

(f) To be actively involved in the development of his/her treatment plan;

(g) To be given information about his/her condition and covered and non-covered services to allow an informed decision about proposed treatment(s);

(h) To consent to treatment or refuse services, and be told the consequences of that decision, except for court ordered services;

(i) To receive written materials describing rights, responsibilities, benefits available, how to access services, and what to do in an emergency;

(j) To have written materials explained in a manner that is understandable to the OMAP Member;

(k) To receive necessary and reasonable services to diagnose the presenting condition;

(l) To receive covered services under the Oregon Health Plan which meet generally accepted standards of practice and is Medically Appropriate;

(m) To obtain covered Preventive Services;

(n) To have access to urgent and emergency services 24 hours a day, 7 days a week as described in OAR 410-141-0140, Oregon Health Plan Prepaid Health Plan Emergency and Urgent Care Services;

(o) To receive a referral to specialty practitioners for Medically Appropriate covered services;

(p) To have a clinical record maintained which documents conditions, services received, and referrals made;

(q) To have access to one's own clinical record, unless restricted by statute;

(r) To transfer of a copy of his/her clinical record to another provider;

(s) To execute a statement of wishes for treatment, including the right to accept or refuse medical, surgical, chemical dependency or mental health treatment and the right to execute directives and powers of attorney for health care established under ORS 127 as amended by the Oregon Legislative Assembly 1993 and the OBRA 1990 — Patient Self-Determination Act;

(t) To receive written notices before a denial of, or change in, a benefit or service level is made, unless such notice is not required by federal or state regulations;

(u) To know how to make a Complaint, Grievance or Appeal with the PHP and receive a response as defined in OAR 410-141-0260 — 410-141-0266;

(v) To request an Administrative Hearing with the Department of Human Services;

(w) To receive interpreter services as defined in OAR 410-141-0220, Oregon Health Plan Prepaid Health Plan Accessibility; and

(x) To receive a notice of an appointment cancellation in a timely manner.

(3) OMAP Members shall have the following responsibilities:

(a) To choose, or help with assignment to, a PHP or PCM as defined in 410-141-0060, Oregon Health Plan Enrollment Requirements, and a PCP or service site;

(b) To treat the PHP's, practitioner's, and clinic's staff with respect;

(c) To be on time for appointments made with practitioners and other providers and to call in advance either to cancel if unable to keep the appointment or if he/she expects to be late;

(d) To seek periodic health exams and preventive services from his/her PCP or clinic;

(e) To use his/her PCP or clinic for diagnostic and other care except in an Emergency;

(f) To obtain a referral to a specialist from the PCP or clinic before seeking care from a specialist unless self-referral to the specialist is allowed;

(g) To use urgent and Emergency Services appropriately and notify the PHP within 72 hours of an emergency;

(h) To give accurate information for inclusion in the Clinical Record;

(i) To help the practitioner, provider or clinic obtain Clinical Records from other providers which may include signing an authorization for release of information;

(j) To ask questions about conditions, treatments and other issues related to his/her care that is not understood;

(k) To use information to make informed decisions about treatment before it is given;

(l) To help in the creation of a treatment plan with the provider;

(m) To follow prescribed agreed upon treatment plans;

(n) To tell the practitioner or provider that his/her health care is covered under the Oregon Health Plan before services are received and, if requested, to show the practitioner or other provider the OMAP Medical Care Identification form;

(o) To tell the DHS worker of a change of address or phone number;

ADMINISTRATIVE RULES

- (p) To tell the DHS worker if the OMAP Member becomes pregnant and to notify the DHS worker of the birth of the OMAP Member's child;
- (q) To tell the DHS worker if any family members move in or out of the household;
- (r) To tell the DHS worker if there is any other insurance available;
- (s) To pay for Non-covered services under the provisions described in OAR 410-120-1200 and 410-120-1280;
- (t) To pay the monthly OHP premium on time if so required;
- (u) To assist the PHP in pursuing any third party resources available and to pay PHP the amount of benefits it paid for an injury from any recovery received from that injury;
- (v) To bring issues, or Complaints or Grievances to the attention of the PHP; and
- (w) To sign an authorization for release of medical information so that DHS and the PHP can get information which is pertinent and needed to respond to an Administrative Hearing request in an effective and efficient manner.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.725
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 25-1997, f. & cert. ef. 10-1-97; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0340

Oregon Health Plan Prepaid Health Plan Financial Solvency

(1) Prepaid Health Plans (PHPs) shall assume the risk for providing Capitated Services under their Contracts/agreements with OMAP and/or OMHAS. PHPs shall maintain sound financial management procedures, maintain protections against insolvency, and generate periodic financial reports for submission to OMAP and/or OMHAS, as applicable:

(a) PHPs shall comply with solvency requirements specified in Contracts/agreements with OMAP and/or OMHAS, as applicable. Solvency requirements of PHPs shall include the following components:

(A) Maintenance of restricted reserve funds with balances equal to amounts specified in Contracts/agreements with OMAP and/or OMHAS. If the PHP has Contracts/agreements with both OMAP and OMHAS, separate restricted reserve fund accounts shall be maintained for each Contract/agreement;

(B) Protection against catastrophic and unexpected expenses related to Capitated Services for FCHPs, CDOs and MHOs. The method of protection may include the purchase of stop loss coverage, reinsurance, self-insurance or any other alternative determined acceptable by OMAP and/or OMHAS, as applicable. Self-insurance must be determined appropriate by OMAP and/or OMHAS;

(C) Maintenance of professional liability coverage of not less than \$1,000,000 per person per incident and not less than \$1,000,000 in the aggregate either through binder issued by an insurance carrier or by self insurance with proof of same, except to the extent that the Oregon Tort Claims Act, ORS 30.260 to 30.300 is applicable;

(D) Systems that capture, compile and evaluate information and data concerning financial operations. Such systems shall provide for the following:

- (i) Determination of future budget requirements for the next three quarters;
- (ii) Determination of incurred but not reported (IBNR) expenses;
- (iii) Tracking additions and deletions of OMAP Members and accounting for Capitation Payments;
- (iv) Tracking claims payment;
- (v) Tracking all monies collected from third party resources on behalf of OMAP Members; and
- (vi) Documentation of and reports on the use of incentive payment mechanisms, risk-sharing and risk-pooling, if applicable.

(b) PHPs shall submit the following applicable reports as specified in agreements with OMAP and/or OMHAS:

(A) An annual audit performed by an independent accounting firm, containing, but not limited to:

- (i) A written statement of opinion by the independent accounting firm, based on the firm's audit regarding the PHP's financial statements;
- (ii) A written statement of opinion by an independent actuarial firm about the assumptions and methods used in determining loss reserve, actuarial liabilities and related items;
- (iii) Balance Sheet(s);
- (iv) Statement of Revenue, Expenses and Net Income, and Change in Fund Balance;
- (v) Statements of Cash Flows;
- (vi) Notes to Financial Statements;

(vii) Any supplemental information deemed necessary by the independent accounting firm or actuary; and

(viii) Any supplemental information deemed necessary by OMAP and/or OMHAS.

(B) PHP-specific quarterly financial reports. Such quarterly reports shall include, but are not limited to:

- (i) Statement of Revenue, Expenses and Net Income;
- (ii) Balance Sheet;
- (iii) Statement of Cash Flows;
- (iv) Incurred But Not Reported (IBNR) Expenses;
- (v) Fee-for-service liabilities and medical/hospital expenses that are covered by risk-sharing arrangements;
- (vi) Restricted reserve documentation;
- (vii) Third party resources collections (OMHAS contractors); and
- (viii) Corporate Relationships of Contractors (FCHPs and DCOs) or Incentive Plan Disclosure and Detail (MHOs).

(C) PHP-specific utilization reports;

(D) PHP-specific quarterly documentation of the Restricted Reserve. Restricted reserve funds of FCHPs, DCOs and CDOs shall be held by a third party. Restricted reserve fund documentation shall include the following:

- (i) A copy of the certificate of deposit from the party holding the restricted reserve funds;
- (ii) A statement showing the level of funds deposited in the restricted reserve fund accounts;
- (iii) Documentation of the liability that would be owed to creditors in the event of PHP insolvency;
- (iv) Documentation of the dollar amount of that liability which is covered by any identified risk-adjustment mechanisms.

(2) MHOs shall comply with the following additional requirements regarding restricted reserve funds:

(a) MHOs that subcapitate any work described in agreements with OMHAS may require subcontractors to maintain a restricted reserve fund for the subcontractor's portion of the risk assumed or may maintain a restricted reserve fund for all risk assumed under the agreement with OMHAS. Regardless of the alternative selected, MHOs shall assure that the combined total restricted reserve fund balance meets the requirements of the agreement with OMHAS;

(b) If the restricted reserve fund of the MHO is held in a combined account or pool with other entities, the MHO, and its subcontractors as applicable, shall provide a statement from the pool or account manager that the restricted reserve fund is available to the MHO, or its subcontractors as applicable, and has not been obligated elsewhere;

(c) If the MHO must use its restricted reserve fund to cover services under its agreement with OMHAS, the MHO shall provide advance notice to OMHAS of the amount to be withdrawn, the reason for withdrawal, when and how the restricted reserve fund will be replenished, and steps to be taken to avoid the need for future restricted reserve fund withdrawals;

(d) MHOs shall provide OMHAS access to restricted reserve funds if insolvency occurs;

(e) MHOs shall have written policies and procedures to ensure that, if insolvency occurs, OMAP Members and related clinical records are transitioned to other MHOs or providers with minimal disruption.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.725
Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0405

Oregon Health Plan Fully Capitated Health Plan Exceptional Needs Care Coordination (ENCC)

Fully Capitated Health Plans (FCHP) provide Exceptional Needs Care Coordination (ENCC) under the Oregon Health Plan:

(1) FCHPs shall make available ENCC services as defined in OAR 410-141-0000, Definitions, for all Capitated Services;

(2) FCHPs shall make ENCC services available at the request of the Aged, Blind or Disabled OMAP Member, his or her Representative, a physician, or other medical personnel serving the OMAP Member, or the Aged, Blind or Disabled OMAP Member's agency case manager;

(3) FCHP's shall make Exceptional Needs Care Coordinators available for training, Regional OHP meetings and case conferences involving their Aged, Blind and Disabled OMAP Members in all their Service Areas;

(4) FCHP staff who coordinate or provide ENCC services shall be trained to and exhibit skills in communication with and sensitivity to the unique health care needs of people who are Aged, Blind, Disabled or have

ADMINISTRATIVE RULES

special health care needs. FCHPs shall have a written position description for the staff member(s) responsible for managing ENCC services and for staff who provide ENCC services;

(5) FCHPs shall have written policies that outline how the level of staffing dedicated to ENCC is determined;

(6) FCHPs shall make ENCC services available to OMAP Members who are Aged, Blind, Disabled or having special health care needs during normal office hours, Monday through Friday. Information on ENCC services shall be made available when necessary to an OMAP Member's Representative during normal business hours, Monday through Friday;

(7) FCHPs shall provide the Aged, Blind, Disabled or special health care need OMAP Member or his or her Representative who requests ENCC services with an initial response by the next working day following the request, as appropriate;

(8) FCHPs shall periodically inform all FCHP Practitioners and the Practitioner's staff of the availability of ENCC services, provide training for medical office staff on ENCC services and other support services available for serving the Aged, Blind, Disabled or special need OMAP Members; FCHPs shall assure that the ENCC's name(s) and telephone number(s) are made available to both agency staff and OMAP Members or their Representatives;

(9) FCHPs shall have written procedures that describe how they will respond to ENCC requests;

(10) FCHPs shall make ENCC services available to coordinate the provision of covered services to Aged, Blind and Disabled or special need OMAP Members who exhibit inappropriate, disruptive or threatening behaviors in a Practitioner's office;

(11) Exceptional Needs Care Coordinators shall document ENCC services in OMAP Member medical records as appropriate and/or in a separate OMAP Member case file.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0407

Oregon Health Plan Ombudsman Services

(1) Department of Human Services (DHS) provides Ombudsman services for Aged, Blind and Disabled Oregon Health Plan clients and OMAP Members as defined in OAR 410-141-0000, Definitions.

(2) Department of Human Services (DHS) shall inform all Aged, Blind and Disabled Oregon Health Plan clients and OMAP Members of the availability of Ombudsman Services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0410

Oregon Health Plan Primary Care Managers

(1) Primary Care Managers provide Primary Care Management Services under the Oregon Health Plan. Primary Care Managers provide Primary Care Management Services as defined in OAR 410-141-0000, Definitions, for the following PCM Services:

(a) Preventive services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, federally qualified health centers, county health departments, Indian health service clinics, and tribal health clinics;

(b) Inpatient hospital services;

(c) Outpatient hospital services except laboratory, x-ray and maternity management services.

(2) Services which are not PCM Case Managed Services include, but are not limited to, the following:

(a) Anesthesiology services;

(b) Dental care services;

(c) Durable medical equipment;

(d) Family planning services;

(e) Immunizations, treatment for communicable diseases, and treatment for sexually transmitted diseases provided by a publicly funded clinic;

(f) Laboratory services;

(g) Maternity management services;

(h) Medical transportation services;

(i) Mental health and chemical dependency services;

(j) Pharmacy services;

(k) Physical therapy, occupational therapy, speech therapy, and audiology services;

(l) Preventive services for acquired immune deficiency syndrome and human immuno-deficiency virus;

(m) Routine eye examinations and dispensing of vision materials;

(n) School-based services provided under an Individual Education Plan or an Individual Family Service Plan;

(o) Targeted case management services;

(p) X-ray services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0420

Billing and Payment Under the Oregon Health Plan

(1) All billings for Oregon Health Plan Clients to Prepaid Health Plans (PHPs) and to OMAP, shall be submitted within four (4) months and twelve (12) months, respectively, of the date of service, subject to other applicable OMAP billing rules. Submissions shall be made to PHPs within the four (-)4 month time frame except in the following cases:

(a) Pregnancy;

(b) Eligibility issues such as retroactive deletions or retroactive Enrollments;

(c) Medicare is the primary payor;

(d) Other cases that could have delayed the initial billing to the PHP (which does not include failure of Provider to certify the OMAP Member's eligibility); or

(e) Third Party Resource (TPR). Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payor of last resort and is not considered an alternative resource or TPR.

(2) Providers must be enrolled with OMAP to be eligible for Fee-for-Service (FFS) payment by OMAP. Mental health Providers, except Federally Qualified Health Centers, must be approved by the Local Mental Health Authority (LMHA) and the Office of Mental Health and Addiction Services (OMHAS) before enrollment with OMAP. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260, Provider enrollment.

(3) Providers, including mental health Providers, do not have to be enrolled with OMAP to be eligible for payment for services by PHPs except that Providers who have been excluded as Medicare/Medicaid Providers by OMAP, CMS or by lawful court orders are ineligible to receive payment for services by PHPs.

(4) Providers shall verify, before rendering services, that the OMAP Member is eligible for the Medical Assistance Program on the date of service and that the service to be rendered is covered under the Oregon Health Plan Benefit Package of Covered Services. Providers shall also identify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payor before rendering services. Providers shall inform OMAP Members of any charges for non-covered services prior to the services being delivered.

(5) Capitated Services:

(a) PHPs receive a Capitation Payment to provide services to OMAP Members. These services are referred to as Capitated Services;

(b) PHPs are responsible for payment of all Capitated Services. Such services should be billed directly to the PHP, unless the PHP or OMAP specifies otherwise. PHPs may require Providers to obtain pre-authorization to deliver certain Capitated Services.

(6) Payment by the PHP to Providers for Capitated Services is a matter between the PHP and the Provider, except as follows:

(a) Pre-authorizations:

(A) PHPs shall have written procedures for processing pre-authorization requests received from any Provider. The procedures shall specify time frames for:

(i) Date stamping pre-authorization requests when received;

(ii) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(iii) The specific number of days allowed for follow up on pending pre-authorization requests to obtain additional information;

(iv) The specific number of days following receipt of the additional information that a redetermination must be made;

(v) Providing services after office hours and on weekends that require pre-authorization;

ADMINISTRATIVE RULES

(vi) Sending notice of the decision with Appeal rights to the OMAP Member when the determination is made to deny the requested service as specified in 410-141-0263.

(B) PHPs shall make a determination on at least 95% of Valid Pre-Authorization requests, within two working days of receipt of a pre-authorization or reauthorization request related to urgent services; alcohol and drug services; and/or care required while in a skilled nursing facility. Pre-authorizations for prescription drugs must be completed and the pharmacy notified within 24 hours. If a pre-authorization for a prescription cannot be completed within the 24 hours, the PHP must provide for the dispensing of at least a 72-hour supply if the medical need for the drug is immediate. PHP shall notify Providers of such determination within 2 working days of receipt of the request;

(C) For all other pre-authorization requests, PHPs shall notify Providers of an approval, a denial or a need for further information within 14 calendar working days of receipt of the request. PHPs must make reasonable efforts to obtain the necessary information during that fourteen (14) day period. However, the PHP may use an additional 14 days to obtain follow-up information, if the PHP justifies the need for additional information and how the delay is in the interest of the OMAP Member. The PHP shall make a determination as the OMAP Member's health condition requires, but no later than the expiration of the extension. PHPs shall notify OMAP Members of a denial within five (5) working days from the final determination using an OMAP or OMHAS approved client notice format.

(b) Claims Payment:

(A) PHPs shall have written procedures for processing claims submitted for payment from any source. The procedures shall specify time frames for:

(i) Date stamping claims when received;

(ii) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(iii) The specific number of days allowed for follow up of pending claims to obtain additional information;

(iv) The specific number of days following receipt of additional information that a determination must be made; and

(v) Sending notice of the decision with Appeal rights to the OMAP Member when the determination is made to deny the claim.

(B) PHPs shall pay or deny at least 90% of Valid Claims within 45 calendar days of receipt and at least 99% of Valid Claims within 60 calendar days of receipt. PHPs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(C) PHPs shall provide written notification of PHP determinations when such determinations result in a denial of payment for services, for which the OMAP Member may be financially responsible. Such notice shall be provided to the OMAP Member and the treating Provider within fourteen (14) calendar days of the final determination. The notice to the OMAP Member shall be an OMAP or OMHAS approved notice format and shall include information on the PHPs internal appeals process, and the Notice of Hearing Rights (OMAP 3030) shall be attached. The notice to the Provider shall include the reason for the denial;

(D) PHPs shall not require Providers to delay billing to the PHP;

(E) PHPs shall not require Medicare be billed as the primary insurer for services or items not covered by Medicare, nor require non-Medicare approved Providers to bill Medicare;

(F) PHPs shall not deny payment of Valid Claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the OMAP Member's Clinical Record;

(G) PHPs shall not delay nor deny payments because a co-payment was not collected at the time of service.

(c) FCHPs and MHOs are responsible for payment of Medicare coinsurances and deductibles up to the Medicare or PHP's allowable for covered services the OMAP Member receives within the PHP, for authorized referral care, and for Urgent Care Services or Emergency Services the OMAP Member receives from non-contracted Providers. FCHPs and MHOs are not responsible for Medicare coinsurances and deductibles for non-urgent or non-emergent care OMAP Members receive from non-PHP Providers;

(d) FCHPs shall pay transportation, meals and lodging costs for the OMAP Member and any required attendant for out-of-state services (as defined in General Rules) that the FCHP has arranged and authorized when those services are available within the state, unless otherwise approved by OMAP;

(e) PHPs shall be responsible for payment of covered services provided by a Non-Participating Provider that were not pre-authorized if the following conditions exist:

(A) It can be verified that the Participating Provider ordered or directed the covered services to be delivered by a Non-Participating Provider; and

(B) The covered service was delivered in good faith without the pre-authorization; and

(C) It was a covered services that would have been pre-authorized with a Participating Provider if the PHP's referral protocols had been followed;

(D) The PHP shall be responsible for payment to Non-Participating Providers (Providers enrolled with OMAP that do not have a contract with the PHP) for covered services that are subject to reimbursement from the PHP, the amount that the Provider would be paid from OMAP if the OMAP Member was FFS. This rule does not apply to Providers that are Type A or Type B hospitals, as they are paid in accordance with ORS 414.727.

(7) Other Services:

(a) OMAP Members enrolled with PHPs may receive certain services on an OMAP FFS basis. Such services are referred to as Non-Capitated Services;

(b) Certain services must be authorized by the PHP or the Community Mental Health Program (CMHP) for some mental health services, even though such services are then paid by OMAP on an OMAP FFS basis. Before providing services, Providers should contact the PHPs identified on the OMAP Member's Medical Care Identification or, for some mental health services, the CMHP. Alternatively, the Provider may call the OMAP Provider Services Unit to obtain information about coverage for a particular service and/or pre-authorization requirements;

(c) Services authorized by the PHP or CMHP are subject to the rules and limitations of the appropriate OMAP administrative rules and Provider guides, including rates and billing instructions;

(d) Providers shall bill OMAP directly for Non-Capitated Services in accordance with billing instructions contained in the Provider guides;

(e) OMAP shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions and Provider guides;

(f) OMAP will not pay a Provider for provision of services for which a PHP has received a Capitation Payment unless otherwise provided for in OAR 410-141-0120;

(g) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of OMAP, OMHAS, nor a PHP except as provided for in OMAP rules and Provider guides (e.g., Capitated Services that are not included in the nursing facility all-inclusive rate).

(h) FCHPs that contract with non-public teaching hospitals will reimburse those hospitals for Graduate Medical Education (GME), if the hospitals are:

(A) Neither a type A nor type B hospitals;

(B) Not paid according to a type A or type B payment methodology; and,

(C) In remote areas greater than 60 miles from the nearest acute care hospital, with a graduate medical student teaching program.

(i) FCHPs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the FCHP would make for the same service(s) furnished by a Provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(8) Coverage of services through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for OHP Clients.

(9) OHP Clients who are enrolled with a PCM receive services on a FFS basis:

(a) PCMs are paid a per client/per month payment to provide Primary Care Management Services, in accordance with OAR 410-141-0410, Primary Care Manager Medical Management;

(b) PCMs provide Primary Care access, and management services for Preventive Services, primary care services, referrals for specialty services, limited inpatient hospital services and outpatient hospital services. OMAP payment for these PCM managed services is contingent upon PCCM authorization;

(c) All PCM Managed Services are covered services that shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP Provider guides;

(d) OMAP shall pay at the OMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate Provider guides.

ADMINISTRATIVE RULES

(10) OHP Clients who are not enrolled with a PHP receive services on an OMAP FFS basis:

(a) Services may be received directly from any appropriate enrolled OMAP Provider;

(b) All services shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP Provider guides;

(c) OMAP shall pay at the OMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate Provider guides.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 52-2001, f. & cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

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 appearing on the currently funded lines 1 through 558 of 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.

(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 co-morbid 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 justifi-

ADMINISTRATIVE RULES

cation 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; 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

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, Excluded Services and Limitations. Services that are excluded under the Oregon Medical Assistance program shall be excluded under the Oregon Health Plan unless the services are specifically identified in OAR 410-141-0520, Prioritized List of Health Services;

(b) Any service or item identified in the appropriate provider guides as a non-covered service, unless the service is identified as specifically covered under the Oregon Health Plan Administrative Rules;

(c) Any treatment, service, or item for a condition that is not listed on the currently funded lines 1 through 558 of the Prioritized List of Health Services except as specified in OAR 410-141-0480, OHP Benefit Package of Covered Services, subsection (7);

(d) Services that are currently funded on the Prioritized List of Health Services that are not included in the 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, Excluded Services and Limitations. Services that are limited under the Oregon Medical Assistance program shall be limited under the Oregon Health Plan unless the services are specifically identified in OAR 410-141-0520, Prioritized List of Health Services or elsewhere in this chapter of the Oregon Administrative Rules.

(3) In the case of non-covered condition/treatment pairs, Providers shall ensure that Oregon Health Plan Clients are informed of:

(a) Clinically appropriate treatment that may exist, whether covered or not;

(b) Community resources that may be willing to provide non-covered services;

(c) Future health indicators that would warrant a repeat diagnostic visit.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 26-1995, f. 12-29-95, cert. ef. 1-1-96; HR 19-1996, f. & cert. ef. 10-1-96; HR 1-1997(Temp), f. 1-31-97, cert. ef. 2-1-97; HR 12-1997, f. 5-30-97, cert. ef. 6-1-97; HR 18-1997, f. 7-11-97, cert. ef. 7-12-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 33-2003, f. & cert. ef. 4-15-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0660

Oregon Health Plan Primary Care Manager (PCM) Provision of Health Care Services

Primary Care Managers shall ensure provision of Medically Appropriate covered services, including Preventive Services, in those categories of service included in the agreement with OMAP:

(1) Each Primary Care Manager shall provide primary care, including Preventive Services

(2) Primary Care Managers shall ensure that PCM Members have the same access to the Primary Care Manager PCM referral Practitioners that is available to non-OMAP patients.

(3) Primary Care Managers shall provide primary care to the PCM Members and arrange, coordinate, and monitor other PCM managed services for the PCM Member on an ongoing basis.

(4) Primary Care Managers shall ensure that professional and related health services provided by the Primary Care Manager or arranged through referral by the Primary Care Manager to another Provider are noted in the PCM Member's Clinical Record.

Stat. Auth.: ORS Ch. 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0680

Oregon Health Plan Primary Care Manager Emergency and Urgent Care Medical Services

Primary Care Managers shall ensure the provision of triage services for all PCM Members on a 24-hour, seven-day-a-week basis:

(1) Primary Care Managers shall ensure that appropriate Emergency Services are available to PCM Members on a 24-hour, seven-day-a-week basis.

(2) Primary Care Managers shall ensure the availability of an after-hours call-in system adequate to triage Urgent Care Services and emergency calls from PCM Members.

(3) Primary Care Managers shall have procedures for notifying a referral emergency room concerning an arriving PCM Member's presenting problem, and whether or not the Practitioner will meet the PCM Members there.

(4) During normal hours of operation, Primary Care Managers shall ensure that a health professional is available to triage Urgent Care and emergencies for Members as follows:

(a) PCM Members who walk in for service shall be assessed to determine appropriate action;

(b) PCM Members who telephone shall be assessed to determine appropriate action;

(c) Phone calls from other Providers requesting approval to treat Members shall be assessed to determine appropriate action.

(5) Primary Care Managers shall have procedures for educating PCM Members on how to access Urgent Care and emergency care. Primary Care Managers shall have methods for tracking inappropriate use of outpatient hospital emergency care and shall take action to improve appropriate use of Urgent Care and emergency care settings.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0700

OHP PCM Continuity of Care

(1) Primary Care Managers shall ensure the provision of PCM Managed Services for all PCM Members and note in the PCM Member's

ADMINISTRATIVE RULES

medical record referrals made by the Primary Care Manager to other providers for covered services:

(a) Primary Care Managers shall maintain a network of consultation and referral providers for all PCM Managed Services covered by the Primary Care Manager's agreement with OMAP. Primary Care Managers shall establish and follow procedures for referrals;

(b) Primary Care Managers shall have policies and procedures for the use of urgent care centers and emergency rooms. Primary Care Managers shall ensure that services provided in these alternative settings are documented and incorporated into the PCM Member's medical record;

(c) Primary Care Managers shall have procedures for referrals that ensure adequate notice to referral providers and adequate documentation of the referral in the PCM Member's medical record;

(d) Primary Care Managers shall personally take responsibility for, or designate a staff member who is responsible for, arrangement, coordination and monitoring of the Primary Care Manager's referral system;

(e) Primary Care Managers shall have procedures that ensure that relevant medical information is obtained from referral providers. These procedures shall include:

(A) Review of information by the Primary Care Manager;

(B) Entry of information into the PCM Member's medical record;

(C) Arrangements for periodic reports from ongoing referral appointments; and

41(D) Monitoring of all referrals, where appropriate, to ensure that information is obtained from the referral providers.

(f) Primary Care Managers shall have procedures to orient and train their staff/practitioners in the appropriate use of the Primary Care Manager's referral system. Procedures and education shall ensure use of appropriate settings of care;

(g) Primary Care Managers shall have procedures for processing all referrals made by telephone, whether during or after hours of operation, as a regular referral (e.g., referral form completed, information entered into PCM Member's medical record, information requested from referral source);

(h) Primary Care Managers shall have procedures which ensure that an appropriate health professional will respond to calls from other providers requesting approval to provide care to PCM Members who have not been referred to them by the Primary Care Manager;

(i) Primary Care Managers shall enter medical information from approved emergency visits into the PCM Member's medical record;

(j) If a PCM Member is hospitalized, Primary Care Managers shall ensure that:

(A) A notation is made in the PCM Member's medical record of the reason, date, and expected duration of hospitalization;

(B) A notation is made in the PCM Member's medical record upon discharge of the actual duration of hospitalization and follow-up plans, including appointments for practitioner visits; and

(C) Pertinent reports from the hospitalization are entered in the PCM Member's medical record. Such reports shall include the reports of consulting practitioners and shall document discharge planning.

(k) Primary Care Managers shall have written policies and procedures that ensure maintenance of a record keeping system adequate to document all aspects of the referral process and to facilitate the flow of information to the PCM Member's medical record.

(2) For PCM Members living in residential facilities or homes providing ongoing care, Primary Care Managers shall either provide the PCM Member's primary care or make provisions for the care to be delivered by the facility's "house doctor" for PCM Members who cannot be seen in the Primary Care Manager's office.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0720

Oregon Health Plan Primary Care Manager Medical Record Keeping

Primary Care Manager shall ensure maintenance of a medical record keeping system adequate to fully disclose and document the medical condition of the PCM Member and the extent of covered services and/or PCM Case managed services received by PCM Members from the Primary Care Manager or the Primary Care Manager referral Provider.

(1) Primary Care Manager shall ensure maintenance of a medical record for each PCM Member that documents all types of care delivered whether during or after office hours.

(2) The medical record shall include data that forms the basis of the diagnostic impression or the PCM Member's chief complaint sufficient to

justify any further diagnostic procedures, treatments, recommendations for return visits, and referrals. The medical record shall also include:

(a) PCM Member's name, date of birth, sex, address, phone number;

(b) Next of kin, sponsor, or responsible party; and

(c) Medical history, including baseline data, and preventive care risk assessment.

(3) The medical record shall include, for each PCM Member encounter, as much of the following data as applicable:

(a) Date of service;

(b) Name and title of person performing the service;

(c) Pertinent findings on examination and diagnosis;

(d) Medications administered and prescribed;

(e) Referrals and results of referrals;

(f) Description of treatment;

(g) Recommendations for additional treatments or consultations;

(h) Medical goods or supplies dispensed or prescribed;

(i) Tests ordered or performed and results;

(j) Health education and medical social services provided; and

(k) Hospitalization order and discharge summaries for each hospitalization.

(4) Primary Care Managers shall have written procedures that ensure maintenance of a medical record keeping system that conforms with professional medical practice, permits internal and external medical audit, permits claim review, and facilitates an adequate system for follow-up treatment. All Member medical records shall be maintained for at least four years after the date of medical services for which claims are made or for such length of time as may be dictated by the generally accepted standards for record keeping within the applicable Provider type, whichever time period is longer.

(5) Primary Care Managers shall have written procedures that ensure the maintenance and confidentiality of medical record information and may release such information only to the extent permitted by the Primary Care Manager's agreement with OMAP, by federal regulation **42 CFR 431 Subpart F** and by Oregon Revised Statutes. Primary Care Managers shall ensure that confidentiality of PCM Members' medical records and other medical information is maintained as required by state law, including ORS 433.045(3) with respect to HIV test information.

(6) Primary Care Managers shall cooperate with OMAP representatives for the purposes of audits, inspection and examination of PCM Member medical records.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0760

Oregon Health Plan Primary Care Managers Accessibility

(1) Primary Care Managers shall have written procedures which ensure that primary care, including Preventive Services, is accessible to PCM Members.

(2) The Primary Care Managers shall not discriminate between PCM Members and non-PCM member patients as it relates to benefits to which they are both entitled.

(3) Primary Care Managers shall have procedures for scheduling of PCM Member appointments which are appropriate to the reasons for the visit (e.g., PCM Members with non-emergency needs; PCM Members with persistent symptoms; PCM Member routine visits; new PCM Member initial assessment).

(4) Primary Care Managers are encouraged to establish a relationship with new PCM Members.

(5) Under normal circumstances, Primary Care Managers shall ensure that PCM Members are not kept waiting longer than non-PCM Member patients.

(6) Primary Care Managers shall have procedures for following up of failed appointments, including rescheduling of appointments, as deemed medically appropriate, and documentation in the PCM Member medical record of broken appointments and recall efforts.

(7) Primary Care Managers shall have procedures to ensure the provision of triage of walk-in PCM Members with urgent non-emergency medical need.

(8) When not an emergency, walk-in PCM Members should either be scheduled for an appointment as Medically Appropriate or be seen within two hours.

(9) Primary Care Managers shall have procedures that ensure the maintenance of telephone coverage (not a recording) at all times either on-site or through call sharing or an answering service, unless OMAP waives

ADMINISTRATIVE RULES

this requirement in writing because of the Primary Care Manager's submission of an alternative plan that will provide equal or improved telephone access.

(10) Primary Care Managers shall ensure that the persons responding to telephone calls enter relevant information into the PCM Member's medical record.

(11) Primary Care Managers shall ensure a response to each telephone call within a reasonable length of time. The length of time shall be appropriate to the PCM Member's stated condition.

(12) Primary Care Managers shall have procedures that ensure that all persons answering the telephone have sufficient communication skills to reassure PCM Members and encourage them to wait for a return call in appropriate situations.

(13) Primary Care Managers are expected to have a plan to access qualified interpreters who can interpret in the primary language of each substantial population of non-English speaking PCM Members. The plan shall address the provision of interpreter services by phone and in person. Such interpreters must be capable of communicating in English and the primary language of the PCM Members and be able to translate medical information effectively. A substantial population is 35 non-English speaking households, enrolled with the Primary Care Manager, which have the same language. A non-English speaking household is a household that does not have an adult PCM Member who is capable of communicating in English.

(14) Primary Care Managers shall provide education on the use of services, including Urgent Care Services and Emergency Services. OMAP may provide Primary Care Managers with appropriate written information on the use of services in the primary language of each substantial population of non-English speaking PCM Members enrolled with the Primary Care Manager.

(15) Primary Care Managers shall ensure that when a Medical Practitioner does not respond to a telephone call, there are written protocols specifying when a practitioner must be consulted and if Medically Appropriate, all such calls shall be forwarded to the on-call Medical Practitioner.

(16) Primary Care Managers shall have adequate practitioner backup as an operative element of the Primary Care Manager's after-hours care. Should the Primary Care Manager be unable to act as PCM for the PCM Member, the Primary Care Manager shall designate a substitute Primary Care Manager.

(17) Primary Care Managers shall ensure compliance with requirements of the Americans with Disabilities Act of 1990.

(18) Primary Care Managers shall ensure that services, facilities and personnel are prepared to meet the special needs of visually and hearing impaired PCM Members.

(19) Primary Care Managers shall arrange for services to be provided by referral providers when the Primary Care Manager does not have the capability to serve specific disabled populations.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0780

Oregon Health Plan Primary Care Manager(PCM) Complaint Procedures

(1) PCMs shall have procedures for accepting, processing and responding to all Complaints from PCM Members or their Representatives:

(a) PCMs shall have procedures for resolving all Complaints. PCMs shall afford PCM Members the full use of the procedures, and shall cooperate if the PCM Member decides to pursue a remedy through the OMAP hearing process. Complaints are defined in OAR 410-141-0000, Definitions;

(b) PCMs shall designate PCM staff member or staff members who shall be responsible for receiving, processing, directing, and responding to Complaints;

(c) PCMs shall ensure that all information concerning a PCM Member's Complaint is kept confidential except that OMAP has a right to this information without a signed authorization for release of medical information from the PCM member. If a PCM Member makes a Complaint or files a hearing request, the PCM may ask the PCM Member to sign an authorization for release of medical information to those persons and to the extent necessary to resolve the Complaint or hearing request. The PCM shall inform the PCM Member that failure to sign an authorization for release of medical information may make it impossible to resolve the Complaint or hearing request;

(d) PCMs shall have procedures for informing PCM Members orally and in writing about Complaint procedures, which shall include the following:

(A) Written material describing the Complaint process; and

(B) Assurance in all written and posted material of PCM Member confidentiality in the Complaint process;

(C) Upon request, Office of Medical Assistance Programs shall provide PCMs with standard materials for tracking and documenting PCM Member Complaints.

(e) PCMs shall have procedures for the receipt, disposition and documentation of all Complaints from PCM Members. PCMs shall make available copies of the Complaint forms (OMAP 3001). PCM Members may register a Complaint in the following manner. Complaints: A PCM Member may relate any incident or concern to the) PCM or other staff person by stating this is a Complaint:

(A) If the PCM Member indicates dissatisfaction, the PCM or staff person shall advise the PCM Member that he or she may make a Complaint;

(B) A staff person shall direct the PCM Member to the PCMs staff person designated for receiving Complaints;

(C) A PCM Member may choose to utilize the PCM's internal Complaint procedure in addition to or in lieu of an OMAP hearing. If a PCM Member makes a Complaint to the PCM staff person designated for receiving Complaints, the staff person shall notify the PCM Member that the PCM Member has the right to enter a written Complaint with the PCM or may attempt to resolve the Complaint orally;

(D) Complaints concerning denial of service or service coverage shall be handled as described in subsection (1)(h) of this section in addition to procedures for oral or written Complaints;

(E) All Complaints made to the PCM staff person designated to receive Complaints shall be entered into a log. The log shall identify the PCM Member, the date of the Complaint, the nature of the Complaint, the resolution and the date of resolution;

(F) If the PCM denies a service or service coverage, the) PCM shall notify the PCM Member of the right to a hearing.

(f) Oral Complaints:

(A) If the PCM Member chooses to pursue the Complaint orally through the PCM's internal Complaint procedure, the PCM shall within five working days from the date the oral Complaint was received by the PCM either:

(i) Make a decision on the Complaint; or

(ii) Notify the PCM Member in writing that a delay in the PCM's decision of up to 30 calendar days from the date the oral Complaint was received by the PCM is necessary to resolve the Complaint. The PCM shall specify the reasons the additional time is necessary.

(B) The PCM's decision shall be communicated to the PCM Member orally or in writing no later than 30 calendar days from the date of receipt of the Complaint. A written decision shall have both the Notice of Hearing Rights (OMAP 3030) and the Complaint form (OMAP 3001) attached. An oral communication shall include informing the PCM Member of their right to a hearing;

(C) If the PCM Member indicates dissatisfaction with the decision, the PCM shall notify the PCM Member that the PCM Member may pursue the Complaint further with an OMAP hearing.

(g) Written Complaints: If the PCM Member files a written Complaint with the PCM, which does not concern denial of service or service coverage, the following procedures apply:

(A) The Complaint shall be reviewed, investigated, considered or heard by the PCM;

(B) A written decision shall be made on a PCM Member's written Complaint. The decision shall be sent to the PCM Member no later than 30 calendar days from the date of receipt of the written Complaint, unless further time is needed for the receipt of information requested from or submitted by the PCM Member. If the PCM Member fails to provide the requested information within 30 calendar days of the request by the PCM, or another mutually agreed upon time-frame, the Complaint may be resolved against the PCM Member. The decision on the Complaint shall review each element of the PCM Member's Complaint and address each of those concerns specifically;

(C) The PCM's decision shall have the Notice of Hearing Rights (OMAP 3030) attached.

(h) Complaints concerning denial of service or service coverage: If a Complaint made to the PCM staff person designated to receive Complaints concerns a denial of service or a service coverage decision, the following procedures apply in addition to the regular Complaint procedures. The

ADMINISTRATIVE RULES

PCM staff person shall notify the PCM Member in writing of the decision which denied the service or coverage within five working days. The decision letter shall include at least the following elements:

- (A) The service requested;
- (B) A statement of service denial;
- (C) The basis for the denial;
- (D) A statement that the PCM Member has a right to request an

OMAP hearing, and that in order to request such a hearing the PCM Member must submit a Fair Hearing Request Form (AFS 443) to the PCM Member's DHS office within 45 calendar days of the date of the PCM's decision on an oral or written Complaint concerning denial of service or service coverage;

(E) A statement that an OMAP hearing request may be made in addition to or instead of using the PCM's Complaint procedure;

(F) A copy of the Notice of Hearing Rights (OMAP 3030) and Fair Hearing Request (AFS 443) shall be attached.

(i) PCM Member use of PCM Complaint procedure with request for hearing:

(A) If the PCM Member chooses to use the PCM's Complaint procedure as well as the OMAP hearing process, the PCM shall ensure that either the Complaint procedure is completed prior to the date on which the OMAP hearing is scheduled or obtain the written consent of the PCM Member to postpone the OMAP hearing. If the PCM Member consents to a postponement of the OMAP hearing, the PCM shall immediately send such written consent to OMAP and to the local DHS office;

(B) The PCM staff person shall encourage the PCM Member to use the PCM's Complaint procedure first, but shall not discourage the PCM Member from requesting an OMAP hearing;

(C) If the PCM Member files a request for an OMAP hearing, OMAP shall immediately notify the PCM. The OMAP hearing process cannot be delayed without the PCM Member's consent;

(D) The PCM staff person shall begin the process of establishing the facts concerning the Complaint upon receipt of the Complaint regardless of whether the PCM Member seeks an OMAP hearing or elects the Complaint process, or both;

(E) If an OMAP hearing is requested by a PCM Member, PCM shall cooperate in the hearing process and shall make available, as determined necessary by the hearings officer, all persons with relevant information and all pertinent files and medical records.

(j) Should a PCM Member feel that his or her medical problem cannot wait for the normal PCM review process, including the PCM's final resolution, at the PCM Member's request, the PCM shall submit documentation to OMAP's medical director within, as nearly as possible, two working days for decision as to the necessity of an expedited OMAP hearing. OMAP's medical director shall decide within, as nearly as possible, two working days if that PCM Member is entitled to an expedited OMAP hearing.

(2) The PCM's documentation shall include the log of Complaints, a file of written Complaints and records or their review or investigation and resolution. Files of Complaints shall be maintained for a minimum of two calendar years from date of resolution.

(3) PCMs shall review and analyze all Complaints.

(4) PCMs shall comply with and fully implement OMAP's hearing decision. Neither implementation of an OMAP hearing decision nor a PCM Member's request for a hearing may be a basis for a request by the PCM for Disenrollment of a PCM Member.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0800

Oregon Health Plan Primary Care Manager (PCM) Informational Requirements

(1) OMAP shall provide basic models of informational materials which PCMs may adapt for PCM Members' use.

(2) PCMs shall ensure that all of their staff who have contact with potential PCM Members are fully informed of the PCM and OMAP policies, including Enrollment, Disenrollment and Complaint policies.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0820

Oregon Health Plan Primary Care Manager (PCM) Member Education

PCMs shall have an ongoing process of PCM Member education and information sharing which includes orientation to the PCM, health education and appropriate use of emergency facilities and Urgent Care:

(1) OMAP shall provide basic information about the use of PCM services in a PCM Member Handbook;

(2) PCMs shall provide new PCM Members with written information sufficient for the PCM Member to use the PCM's services appropriately. Written information shall contain, at a minimum, the following elements:

- (a) Location and office hours of the PCM;
- (b) Telephone number to call for more information;
- (c) Use of the appointment system;
- (d) Use of the referral system;
- (e) How to access Urgent Care Services and advice;
- (f) Use of Emergency Services; and
- (g) Information on the Complaint process.

(3) PCMs shall have procedures and criteria for health education designed to prepare PCM Members for their participation in and reaction to specific medical procedures, and to instruct PCM Members in self-management of medical problems and in disease and accident prevention. Health education may be provided by the PCM, by any health Practitioner or by any other individual or program approved by the PCM. The PCM shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from non-dominant cultures;

(4) PCMs shall develop an educational plan for PCM Members for health promotion, disease and accident prevention, and patient self-care. OMAP may assist in developing materials that address specifically identified health education problems to the population in need.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0840

Oregon Health Plan Primary Care Manager (PCM) Member Rights And Responsibilities

(1) Primary Care Managers (PCM) shall ensure that PCM Members are treated with the same privacy, dignity and respect as other patients who receive services from the Primary Care Managers.

(2) PCM Members have both rights and responsibilities as follows:

(a) PCM Members have the right to appropriate access to the Primary Care Manager. PCM Members have the responsibility to keep appointments made with the Primary Care Manager;

(b) PCM Members have the right to Preventive Services. PCM Members have the responsibility to seek periodic health exams for children and adults based on Medically Appropriate guidelines for age, sex and risk factors;

(c) PCM Members have the right to services necessary and reasonable to diagnose the presenting condition of the PCM Member. PCM Members have the responsibility to seek out diagnostic services from the Primary Care Manager except in an emergency.

(d) PCM Members have the right to appropriate Urgent Care Services; and Emergency Services. PCM Members have the responsibility to use the Primary Care Manager whenever possible. PCM Members have the responsibility to use Urgent Care Services before Emergency Services whenever possible;

(A) PCM Members have the right to written information on how to access emergency care and urgent care. PCM Members have the responsibility to use emergency care appropriately. PCM Members have the right to make a Complaint if they believe that a request for payment for Emergency Services has been erroneously denied by the Primary Care Manager. PCM Members may request a hearing before an OMAP representative if their Complaint is not acted on, to their satisfaction, by the Primary Care Manager;

(B) In addition to access to emergency care, PCM Members have the right to the following Triage services:

(i) A service which allows PCM Members to access Primary Care Managed Services and contact the Primary Care Manager on a 24-hour, 7-day-a-week basis, when the PCM Member requires urgent or emergency care;

(ii) To have the referral emergency room notified about the PCM Member's presenting problem, and whether or not the Primary Care Manager will meet the PCM Member there;

ADMINISTRATIVE RULES

(iii) To have a health professional available to Triage urgent care and emergencies for PCM Members during regular working hours. This service includes individuals who walk in for service or who telephone for assessment.

(e) PCM Members have the right to access specialty Practitioners with the Primary Care Manager's referral when their condition warrants a referral. PCM Members have the responsibility to access specialty services through referral by the Primary Care Manager;

(f) PCM Members have the right to maintenance of a medical record which documents the medical condition of the PCM Member and the services received by the PCM Member. The PCM Member has the right of access to his or her own medical record and to request transfer of a copy of his or her own record to another Provider when appropriate. PCM Members have the responsibility to give accurate information for inclusion into the record and to request transfer of a copy of the record to a new Provider when changing Providers;

(g) PCM Members have the right to Medically Appropriate covered services which meet generally accepted standards of practice. PCM Members have the right to information about medical services which permits them to make an informed decision about proposed medical services. PCM Members have the right to refuse any recommended services. PCM Members have the responsibility to use the information to make informed decisions about services. PCM Members have the responsibility to follow prescribed treatment plans, once the PCM Member has agreed to the plan;

(h) PCM Members have the right to execute a statement of their wishes for treatment, including the right to accept or refuse medical or surgical treatment and the right to execute directives and powers of attorney for health care. This right is established and must be adhered to in accordance with ORS 127 as amended by the Oregon Legislative Assembly 1993 and the OBRA 1990 — Patient Self-Determination Act.

(3) PCM Members have the right to Medically Appropriate services covered under the Oregon Health Plan. PCM Members have the responsibility to inform medical Providers of their coverage as PCM Members prior to receiving services

(4) PCM Members enrolled with Primary Care Managers or their Representatives have the right to make Complaints to Primary Care Managers and to request hearings through the OMAP hearings process. PCM Members have the responsibility to attempt resolution of Complaints with the Primary Care Manager and to sign a authorization for release of pertinent files and medical records.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.725
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

410-141-0860

Oregon Health Plan Primary Care Manager Provider Qualification and Enrollment

(1) Primary Care Managers shall be trained and certified or licensed, as applicable under Oregon statutes and administrative rules, in one of the following disciplines:

- (a) Doctors of medicine;
- (b) Doctors of osteopathy;
- (c) Naturopathic physicians;
- (d) Nurse Practitioners;
- (e) Physician assistants.

(2) The following entities may enroll as Primary Care Managers:

- (a) Hospital primary care clinics;
- (b) Rural Health Clinics;
- (c) Community and Migrant Health Clinics;
- (d) Federally Qualified Health Clinics;
- (e) Indian Health Service Clinics;
- (f) Tribal Health Clinics.

(3) Naturopaths must have a written agreement with a physician that is sufficient to support the provision of primary care, including prescription drugs, as well as the necessary referrals for hospital care.

(4) All applicants for enrollment as Primary Care Managers must:

- (a) Be enrolled as Oregon OMAP Providers;
- (b) Make arrangement to ensure provision of the full range of PCM Managed Services, including prescription drugs and hospital admissions;
- (c) Complete and sign the Primary Care Manager Application (OMAP 3119 (12/93)).

(5) If OMAP determines that the Primary Care Manager or an applicant for enrollment as a Primary Care Manager does not comply with the OHP Administrative Rules pertaining to the PCM program and/or OMAP General Rules; or if OMAP determines that the health or welfare of OMAP

Members may be adversely affected or in jeopardy; OMAP may deny the application for enrollment as a Primary Care Manager; close enrollment with an existing Primary Care Manager and/or transfer the care of those PCM Members enrolled with that Primary Care Manager until such time it can be determined that the Primary Care Manager is in compliance. OMAP may also terminate the PCM Agreement without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Except that the Primary Care Manager shall be solely responsible for its obligations or liabilities after the termination date when the obligations or liabilities result from the Primary Care Manager's failure to terminate care for those PCM Members.

[ED. NOTE: Forms 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 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03

Adm. Order No.: OMAP 62-2003

Filed with Sec. of State: 9-8-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Adopted: 410-120-0250

Rules Amended: 410-120-0000, 410-120-1160, 410-120-1260, 410-120-1280, 410-120-1320, 410-120-1340, 410-120-1870, 410-120-1875, 410-120-1920

Subject: The General Rules program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rule 410-120-0250 is adopted to further clarify the use of managed care organizations and that the department has delegated certain authority to Managed Care Organizations (MCOs) as governed by the MCO contracts and state and federal statutes. Rule 410-120-1875 is amended to reflect authority given to the DHS Audit Manager to appear on behalf of the agency in specific classes of hearings. All other rules are being revised to reflect changes from provider guides to administrative rules, add definitions missing in rule, clarifications and housekeeping changes to provider enrollment and TPR.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-0000

Definitions

(1) AAA — Area Agency on Aging.

(2) Acupuncturist — A person licensed to practice acupuncture by the relevant State Licensing Board.

(3) Acupuncture Services — Services provided by a licensed Acupuncturist within the scope of practice as defined under state law.

(4) Acute — A condition, diagnosis or illness with a sudden onset and which is of short duration.

(5) Acquisition Cost — Unless specified otherwise in individual program administrative rules, the net invoice price of the item, supply or equipment, plus any shipping and/or postage for the item.

(6) Adequate Record Keeping — Documentation that supports the level of service billed. See 410-120-1360, Requirements for Financial, Clinical, and Other Records, and the individual provider rules .

(7) Administrative Medical Examinations and Reports — Examinations, evaluations, and reports, including copies of medical records, requested on the OMAP 729 form through the local CAF, SPD, OMHAS branch office or requested and/or approved by OMAP to establish client eligibility for a medical assistance program or for casework planning.

(8) All Inclusive Rate — The nursing facility rate established for a facility. This rate includes all services, supplies, drugs and equipment as described in OAR 411-070-0085, and in the Pharmaceutical Services and the Home Enteral/Parenteral Nutrition and IV Services provider rules, except as specified in OAR 410-120-1340, Payment.

(9) Ambulance — A specially equipped and licensed vehicle for transporting sick or injured persons which meets the licensing standards of the Health Division of the Department of Human Services or the licensing standards of the state in which the provider is located.

(10) Ambulatory Surgical Center (ASC) — A facility licensed as an ASC by the Department of Human Services.

(11) American Indian/Alaska Native clinic — Clinics recognized under Indian Health Services (IHS) law or by the Memorandum of Agreement between IHS and the Centers for Medicare and Medicaid (CMS).

ADMINISTRATIVE RULES

(12) Ancillary Services — Services supportive of or necessary to the provision of a primary service (e.g., anesthesiology is an ancillary service necessary for a surgical procedure).

(13) Anesthesia Services — Administration of anesthetic agents to cause loss of sensation to the body or body part.

(14) Audiologist — A person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology.

(15) Audiology — The application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and hearing aid evaluation, or other behavior related to hearing impairment.

(16) Automated Information System (AIS) — A computer system that provides information on clients' current eligibility status under the Medical Assistance Program.

(17) Benefit Package — The "package" of covered health care services for which the client is eligible.

(18) Billing Provider (BP) — A person, agent, business, corporation, clinic, group, institution, or other entity submits claims to and/or receives payment from the Medical Assistance Program on behalf of a performing provider and has been delegated the authority to obligate or act on behalf of the performing provider.

(19) Buying Up — The practice of obtaining client payment in addition to the OMAP or managed care plan payment to obtain a non-covered service or item. For example, an additional client payment to obtain a gold crown (not covered) instead of the stainless steel crown (covered); an additional client payment to obtain eyeglass frames not on the OMAP or plan contract. If a client wants to purchase a non-covered service or item, they must be responsible for full payment. OMAP or plan payment for a covered service cannot be credited toward the non-covered service.

(20) By Report (BR) — Services designated, as "BR" require operative or clinical and other pertinent information to be submitted with the billing as a basis for payment determination. This information must include an adequate description of the nature, and extent of need for the procedure. Information such as complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care will facilitate evaluation.

(21) Children, Adults and Families (CAF) — a Division of the Oregon Department of Human Services, responsible for administering self-sufficiency and child-protective programs;

(22) Children's Health Insurance Program (CHIP) — A Federal and State funded portion of the Medical Assistance Program established by Title XXI of the Social Security Act and administered in Oregon by the Department of Human Services Office of Medical Assistance Programs (see Medical Assistance Program).

(23) Chiropractor — A person licensed to practice chiropractic by the relevant State Licensing Board.

(24) Chiropractic Services — Services provided by a licensed Chiropractor within the scope of practice, as defined under State law and Federal regulation.

(25) Citizen/Alien-Waived Emergency Medical (CAWEM) — Aliens granted lawful temporary resident status, or lawful permanent resident status under the Immigration and Nationality Act, are eligible only for emergency services and limited service for pregnant women. Emergency Services for CAWEM is defined in OAR 410-120-1200 (2)(b)(F).

(26) Claimant — a person who has requested a hearing.

(27) Clinical Social Worker — A person licensed to practice clinical social work pursuant to State law.

(28) Contiguous Area — The area up to 75 miles outside the border of the State of Oregon.

(29) Contiguous Area Provider — A provider practicing in a contiguous area.

(30) Copayments — The portion of a claim or medical expense that a client must pay out of their own pocket to a provider or a facility for each service. It is usually a fixed amount that is paid at the time service is rendered.

(31) Cost Effective — The lowest cost health care service or item which, in the judgment of Medical Assistance Program staff, meets the medical needs of the client.

(32) Current Dental Terminology (CDT) — A listing of descriptive terms identifying dental procedure codes used by the American Dental Association in the CDT-3.

(33) Current Procedural Terminology (CPT) — The Physicians' Current Procedural Terminology is a listing of descriptive terms and iden-

tifying codes for reporting medical services and procedures performed by physicians and other health care providers.

(34) Date of Receipt of a Claim — The date on which OMAP receives a claim, as indicated by the Internal Control Number (ICN) assigned to a claim. "Date of Receipt" is shown as the Julian date in the 5th through 7th position of the Internal Control Number (ICN).

(35) Date of Service — The date on which the client receives medical services or items, unless otherwise specified in the appropriate provider rules. For items that are mailed or shipped by the provider, the date of service is the date on which the order was received, the date on which the item was fabricated, or the date on which the item was mailed or shipped.

(36) Dental Emergency Services — Dental services provided for severe tooth pain, unusual swelling of the face or gums, or an avulsed tooth.

(37) Dental Services — Services provided within the scope of practice as defined under State law by or under the supervision of a dentist.

(38) Dentist — A person licensed to practice dentistry pursuant to State law of the state in which he/she practices dentistry, or a person licensed to practice dentistry pursuant to Federal law for the purpose of practicing dentistry as an employee of the Federal government.

(39) Denturist — A person licensed to practice denture technology pursuant to State law.

(40) Denturist Services — Services provided, within the scope of practice as defined under State law, by or under the personal supervision of a denturist.

(41) Department of Human Services (DHS) — The Oregon Department of Human Services or any of its divisions, programs, or offices.

(42) Diagnosis Code — As identified in the ICD-CM, the primary diagnosis code is shown in all billing claims, unless specifically excluded in an individual provider rules. Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(43) Disability Services Office (DSO) — Disability Services Office. A branch of Seniors and People with Disabilities Division.

(44) Division — The Office of Medical Assistance Programs of the Department of Human Services.

(45) Division Representative — A person who represents the Division in the hearing and presents the Division's position.

(46) Durable Medical Equipment and Supplies (DME) — Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches and custom built orthopedic braces. Medical supplies are non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages and tubing.

(47) Electronic Eligibility Verification Service (EEVS) — Vendors of medical assistance eligibility information that have met the legal and technical specifications of OMAP in order to offer eligibility information to enrolled providers of OMAP.

(48) Emergency Room — The part of a licensed hospital facility open 24 hours a day to provide care for anyone in need of emergency treatment.

(49) Emergency Medical Services — The health care and services provided for diagnosis and treatment of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of both the woman and her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. If an emergency medical condition is found to exist, emergency medical services necessary to stabilize the condition must be provided. This includes all treatment that may be necessary to assure, within reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(50) Emergency Transportation — Transportation necessary when a sudden, unexpected occurrence creates a medical crisis requiring immediate transportation to a site, usually a hospital, where appropriate emergency medical care is available.

(51) EOB — Explanation of Benefits.

(52) EPSDT (Medicheck) — The Title XIX program of Early and Periodic Screening, Diagnosis and Treatment Services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Medical Assistance Program recipients and their parents or guardians effectively use them.

(53) False Claim — A claim that a provider knowingly submits or causes to be submitted that contains inaccurate or misleading information,

ADMINISTRATIVE RULES

and such inaccurate or misleading information would result, or has resulted, in an overpayment.

(54) Family Planning — Services for clients of child bearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(55) Federally Qualified Health Center (FQHC) — A federal designation for a medical entity which receives grants under Section 329, 330, or 340 of the “Public Health Service Act”; or a facility designated as a FQHC by the Centers for Medicare and Medicaid upon recommendation of the U.S. Public Health Service.

(56) Fee-for-Service Provider — A medical provider who is not reimbursed under the terms of an OMAP contract with a Prepaid Health Plan. A medical provider participating in a Prepaid Health Plan may be considered a Fee-for-Service provider when treating clients who are not enrolled in a Prepaid Health Plan.

(57) General Assistance (GA) — Medical Assistance administered and funded 100% with State of Oregon funds through the Oregon Health Plan.

(58) HCPCS — Healthcare Common Procedure Coding System, a method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level I — American Medical Association’s Physician’s Current Procedural Terminology (CPT), Level II — National codes, and Level III — Local codes. The Medical Assistance Program (OMAP) uses HCPCS codes; however, OMAP uses current Dental Terminology (CDT) codes for the reporting of dental care services and procedures.

(59) Health Maintenance Organization (HMO) — A public or private health care organization which is a federally qualified HMO under Section 1310 of the U.S. Public Health Services Act. HMOs provide health care services on a capitated, contractual basis.

(60) Hearing Aid Dealer — A person licensed by the Board of Hearing Aid Dealers to sell, lease or rent hearing aids in conjunction with the evaluation or measurement of human hearing and the recommendation, selection, or adaptation of hearing aids.

(61) Home Enteral Nutrition — Services provided in the client’s place of residence to an individual who requires nutrition supplied by tube into the gastrointestinal tract, as described in the Home Enteral/Parenteral Nutrition and IV Services provider rules.

(62) Home Health Agency — A public or private agency or organization which has been certified by Medicare as a Medicare Home Health Agency and which is licensed by the Oregon State Health Division as a home health agency in Oregon, and meets the surety bond and capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997.

(63) Home Health Services — Part-time or intermittent skilled nursing services, other therapeutic services (physical therapy, occupational therapy, speech therapy), and home health aide services made available on a visiting basis in a place of residence used as the client’s home.

(64) Home Intravenous (IV) Services — Services provided in the client’s place of residence to an individual who requires that medication (antibiotics, analgesics, chemotherapy, hydrational fluids, or other intravenous medications) be administered intravenously as described in the Home Enteral/Parenteral Nutrition and IV Services rules.

(65) Home Parenteral Nutrition — Services provided in the client’s residence to an individual who is unable to absorb nutrients via the gastrointestinal tract, or for other medical reasons, requires nutrition be supplied parenterally as described in the Home Enteral/Parenteral Nutrition and IV Services rules.

(66) Hospital — A facility licensed by the Office of Public Health Systems as a general hospital which meets requirements for participation in the Medical Assistance Program under Title XVIII of the Social Security Act. Facilities licensed as Special Inpatient Care Facilities under the Office of Public Health System’s definition of hospital are not considered hospitals by OMAP for reimbursement purposes; however, effective April 1, 2000, OMAP will reimburse a Special Inpatient Care Facility if the Centers for Medicare and Medicaid has certified the facility for participation in the Medicare Program as a hospital. Out-of-state hospitals will be considered hospitals for reimbursement purposes if they are licensed as an acute care or general hospital by the appropriate licensing authority within that state, and if they are enrolled as a provider of hospital services with the Medicaid agency within that state.

(67) Hospital-Based Professional Services — Professional services provided by licensed practitioners or staff based on a contractual or employee/employer relationship and reported as a cost on the “Hospital Statement of Reasonable Cost” report for Medicare and the “Calculation of

Reasonable Cost” (OMAP 42) report for the Office of Medical Assistance Programs.

(68) Hospital Laboratory — A laboratory providing professional technical laboratory services as outlined under “laboratory services”, in a hospital setting, as either an inpatient or outpatient hospital service whose costs are reported on the hospital’s cost report to Medicare and the Medical Assistance Program.

(69) ICD-9-CM — The ninth revision of the International Classification of Diseases Clinical Modification, including volumes 1, 2, and 3, as revised annually.

(70) Individual Adjustment Request — Form OMAP 1036 used to resolve an incorrect payment on a previously paid claim, including underpayments or overpayments.

(71) Inpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an inpatient. (See Hospital Services rules for definition of an inpatient.)

(72) Institution for Mental Diseases (IMD) — An institution whose overall character is that of a facility established and/or maintained primarily for the care and treatment of individuals with mental diseases. The following guidelines are used to assist in determining whether an institution is an IMD. No single guideline is necessarily determinative:

(a) The facility is licensed as a psychiatric facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(b) The facility advertises or holds itself out as a facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(c) The facility is accredited as a psychiatric facility by the JCAHO or is licensed by the Office of Public Health Systems as a facility for the treatment of alcohol and drug abuse problems;

(d) The facility specializes in providing psychiatric/psychological care and treatment and/or rehabilitative treatment for alcohol and/or drug abuse problems;

(e) The facility is under the jurisdiction of the State’s Office of Mental Health and Addiction Services Division;

(f) More than 50 percent of all the patients in the facility are being treated for mental diseases and/or alcohol and/or drug abuse problems;

(g) A large proportion of the patients in the facility have been transferred from a State mental institution for continuing treatment of their mental disorders;

(h) Independent review teams report a preponderance of mental illness and/or drug and alcohol abuse diagnoses for the patients in the facility;

(i) Part or all of the facility consists of locked wards.

(73) Institutional Level of Income Standards (ILIS) — Three times the amount SSI pays monthly to a person who has no other income and who is living alone in the community. (Example: If the SSI monthly payment amount were \$434.00, the ILIS would be \$1,302.) This is the standard used to calculate eligibility for long-term nursing care in a Nursing Home or eligibility for services under SPDs Home and Community Based Waiver.

(74) Institutionalized — A patient admitted to a nursing facility or hospital for the purpose of receiving nursing and/or hospital care for a period of 30 days or more.

(75) Laboratory — A facility licensed under ORS 438 and certified by the Centers for Medicare and Medicaid, DHHS, as qualified to participate under Medicare, to provide laboratory services within or a part from a hospital. An entity is considered a laboratory if materials are derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. If an entity performs even one laboratory test, including waived tests for these purposes, it is considered under the Clinical Laboratory Improvement Act (CLIA), to be a laboratory.

(76) Laboratory Services — Those professional and technical diagnostic analyses of blood, urine, and tissue ordered by a physician or other licensed practitioner of the healing arts within his/her scope of practice as defined under State law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent laboratory.

(77) Licensed Direct Entry Midwife — A practitioner licensed by the Oregon Health Division as a Licensed Direct Entry Midwife.

(78) Liability Insurance — Insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowners’ liability insurance, malpractice insurance, product liability insurance, Worker’s Compensation, and general casualty insurance. It also

ADMINISTRATIVE RULES

includes payments under state “wrongful death” statutes that provide payment for medical damages.

(79) Maternity Case Management — A program available to pregnant clients. The purpose of Maternity Case Management is to extend prenatal services to include non-medical services, which address social, economic and nutritional factors. For more information refer to the Medical-Surgical Services rules.

(80) Medicaid — A Federal and State funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, administered in Oregon by the Department of Human Services (see Medical Assistance Program).

(81) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon’s medical assistance program includes Medicaid Services, including the OHP Medicaid demonstration, and the Children’s Health Insurance Program (CHIP):

(a) The Medical Assistance Program is administered by identified Divisions, and the Office of Medical Assistance Programs (OMAP), of the Department of Human Services;

(b) Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs (OMAP).

(82) Medical Assistance Eligibility Confirmation — Verification through AIS, AIS Hot-Line, an authorized DHS representative, or through presentation of a valid Medical Care Identification that a client has an open assistance case, which includes medical benefits.

(83) Medical Services — Care and treatment provided by a licensed medical provider directed at preventing, diagnosing, treating or correcting a medical problem.

(84) Medical Transportation — Transportation to or from covered medical services.

(85) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies which can be safely provided to an OMAP Member or PCCM Member in the PHP’s or Primary Care Case Manager’s judgement.

(86) Medicare — A federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons. This program includes:

(a) Hospital Insurance (Part A) for inpatient services in a hospital or skilled nursing facility, home health care, and hospice care; and

(b) Medical Insurance (Part B) for physicians’ services, outpatient hospital services, home health care, end-stage renal dialysis, and other medical services and supplies.

(87) Medichex for Children and Teens — See EPSDT.

(88) MSO — Multiple Services Office. A branch of the Seniors and People with Disabilities Division.

(89) “Naturopath” — A person licensed to practice naturopathy pursuant to State law.

(90) “Naturopathic Services” — Services provided within the scope of practice as defined under State law.

(91) “Not Covered Services” — Services or items for which the Medical Assistance Program is not responsible for payment. Not-covered services are identified in:

(a) OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations; and,

(b) 410-141-0480, Benefit Package of Covered Services;

(c) 410-141-0520, Prioritized List of Health Services; and

(d) The individual OMAP provider rules.

(92) Nurse Anesthetist, C.R.N.A. — A registered nurse licensed in the State of Oregon who is currently certified by the American Association of Nurse Anesthetists Council on Certification.

(93) Nurse Practitioner — A person licensed as a registered nurse and certified by the Board of Nursing to practice as a nurse practitioner pursuant to State law.

(94) Nurse Practitioner Services — Services provided within the scope of practice of a nurse practitioner as defined under State law and by rules of the Board of Nursing.

(95) Nursing Facility — A facility licensed and certified by the Senior and Disabled Services Division as defined in 411-070-0005.

(96) Nursing Services — Health care services provided to a patient by a registered professional nurse or a licensed practical nurse under the direction of a licensed professional within the scope of practice as defined by State law.

(97) Nutritional Counseling — Counseling which takes place as part of the treatment of a person with a specific condition, deficiency or disease such as diabetes, hypercholesterolemia, or phenylketonuria.

(98) Occupational Therapist — A person licensed by the State Board of Examiners for Occupational Therapy.

(99) Occupational Therapy — The functional evaluation and treatment of individuals whose ability to adapt or cope with the task of living is threatened or impaired by developmental deficiencies, physical injury or illness, aging process, or psychological disability; the treatment utilizes task-oriented activities to prevent or correct physical and emotional difficulties or minimize the disabling effect of these deficiencies on the life of the individual.

(100) Office of Mental Health and Addiction Services — An Office within the Oregon Department of Human Services.

(101) (The) Office of Medical Assistance Programs (OMAP) — An Office of the Oregon Department of Human Services. OMAP is responsible for coordinating the Medical Assistance Program within the State of Oregon.

(102) OMAP — Office of Medical Assistance Programs (see Medical Assistance Programs).

(103) Optometric Services — Services provided, within the scope of practice of optometrists as defined under State law.

(104) Optometrist — A person licensed to practice optometry pursuant to State law.

(105) Oregon Medical Professional Review Organization (OMPRO) — OMPRO is the Oregon Professional Review Organization for Medicare and contracts with OMAP to provide hospital utilization review and other services for the Medical Assistance Program. A Professional Review Organization is an organization established under federal law by the Department of Health and Human Services for the purpose of utilization review and quality assurance.

(106) Oregon Youth Authority — The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(107) Out-of-State Providers — Any provider located outside the borders of Oregon:

(a) Contiguous area providers are those located no more than 75 miles from the border of Oregon;

(b) Non-contiguous area providers are those located more than 75 miles from the borders of Oregon.

(108) Outpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an outpatient. See Hospital Services rules for definition of outpatient.

(109) Overdue Claim — A valid claim that is not paid within 45 days of the date it was received.

(110) Overpayment — Payment(s) made by the Medical Assistance Program to a provider in excess of the correct Medical Assistance Program payment amount for a service. Overpayments are subject to repayment to the Medical Assistance Program.

(111) Overuse — Use of medical goods or services at levels determined by Medical Assistance Program medical staff and/or medical consultants to be medically unnecessary or potentially harmful.

(112) Panel — The Hearing Officer Panel established by section 3, chapter 849, Oregon Laws 1999.

(113) Payment Authorization — Authorization granted by the responsible agency, division, office or organization for payment prior or subsequent to the delivery of services, as described in these General Rules and the appropriate program rules. See the individual program rules for services requiring authorization.

(114) Pharmaceutical Services — Services provided by a pharmacist, including medications dispensed in a pharmacy upon an order of a licensed practitioner prescribing within his/her scope of practice.

(115) Pharmacist — A person licensed to practice pharmacy pursuant to state law.

(116) Physical Capacity Evaluation — An objective, directly observed measurement of a person’s ability to perform a variety of physical tasks combined with subjective analysis of abilities of the person.

ADMINISTRATIVE RULES

(117) Physical Therapist — A person licensed by the relevant State licensing authority to practice physical therapy.

(118) Physical Therapy — Treatment comprising exercise, massage, heat or cold, air, light, water, electricity or sound for the purpose of correcting or alleviating any physical or mental disability, or the performance of tests as an aid to the assessment, diagnosis or treatment of a human being. Physical therapy shall not include radiology or electrosurgery.

(119) Physician — A person licensed to practice medicine pursuant to state law of the state in which he/she practices medicine, or a person licensed to practice medicine pursuant to federal law for the purpose of practicing medicine under a contract with the Federal government.

(120) Physician Assistant — A person licensed as a physician assistant in accordance with ORS 677. Physician Assistants provide medical services under the direction and supervision of an Oregon licensed physician according to a practice description approved by the Board of Medical Examiners.

(121) Physician Services — Services provided, within the scope of practice as defined under state law, by or under the personal supervision of a physician.

(122) Podiatric Services — Services provided within the scope of practice of podiatrists as defined under state law.

(123) Podiatrist — A person licensed to practice podiatric medicine pursuant to state law.

(124) Post-Payment Review — Review of billings and/or other medical information for accuracy, medical appropriateness, level of service or for other reasons subsequent to payment of the claim.

(125) Practitioner — A person licensed pursuant to state law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(126) Primary Care Physician — A physician who has responsibility for supervising, coordinating and providing initial and primary care to patients, initiating referrals for consultations and specialist care, and maintaining the continuity of patient care.

(127) Primary Care Provider — Any enrolled medical assistance provider who has responsibility for supervising, coordinating, and providing initial and primary care within their scope of practice for identified clients. Primary care providers initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medically appropriate client care.

(128) Prior Authorization (PA) — Payment authorization for specified medical services or items given by Medical Assistance Program staff prior to provision of the service. A physician referral is not a prior authorization.

(129) Private Duty Nursing Services — Nursing services provided within the scope of license by a registered nurse or a licensed practical nurse, under the general direction of the patient's physician to an individual who is not in a health care facility.

(130) Provider — An individual, facility, institution, corporate entity, or other organization which supplies health care services or items or bills on behalf of a provider of services. The term "provider" refers to both Performing Providers and Billing Providers unless otherwise specified. Payment can only be made to OMAP-enrolled providers, who have, by signature on the provider enrollment form, agreed to provide services and to bill in accordance with these General Rules and the individual program rules.

(131) Psychiatric Hospital — A hospital licensed by the relevant State licensing authority as a psychiatric hospital and certified as such under Title XVIII and XIX of the Social Security Act or any hospital which meets the federal definition of an Institution for Mental Disorders (IMD).

(132) Public Health Clinic — A clinic operated by county government.

(133) Public Rates — The charge for services and items that providers, including hospitals and nursing facilities, made to the general public for the same service on the same date as that provided to Medical Assistance Program clients.

(134) Qualified Medicare Beneficiary (QMB) — A Medicare beneficiary, as defined by the Social Security Act and its amendments.

(135) Qualified Medicare and Medicaid Beneficiary (QMM) — A Medicare Beneficiary who is also eligible for Medical Assistance Program coverage.

(136) Radiological Services — Those professional and technical radiological and other imaging services for the purpose of diagnosis and treatment ordered by a physician or other licensed practitioner of the healing arts within the scope of practice as defined under state law and provided to a patient by or under the direction of a physician or appropriate licensed

practitioner in an office or similar facility, hospital, or independent radiological facility.

(137) Recipient — A person who is currently eligible for Medical Assistance (also known as a "client").

(138) Recoupment — An accounts receivable system that collects money owed by the provider to the Medical Assistance Program by withholding all or a portion of a provider's future payments.

(139) Referral — The transfer of total or specified care of a client from one provider to another. As used by OMAP, the term "referral" also includes a request for a consultation or evaluation or a request or approval of specific services. In the case of clients whose medical care is contracted through a prepaid health plan, or managed by a primary care physician, a referral is required before non-emergency care is covered by the health plan or the Medical Assistance Program.

(140) Remittance Advice (RA) — The automated notice a provider receives explaining payments or other claim actions. It is the only notice sent to providers regarding claim actions.

(141) Request for Hearing — A clear expression, in writing, by an individual or representative that the person wishes to appeal a Division decision or action and wishes to have the decision considered by a higher authority.

(142) Retroactive Medical Eligibility — Eligibility for Medical Assistance granted to a client retroactive to a date prior to the client's application for Medical Assistance.

(143) Sanction — An action against providers taken by the Medical Assistance Program in cases of fraud, misuse or abuse of Medical Assistance Program requirements.

(144) School Based Health Service — A health service required by an Individualized Education Plan (IEP) during a child's education program which addresses physical or mental disabilities as recommended by a physician or other licensed practitioner.

(145) Senior and People with Disabilities (SPD) — A Division of the Oregon Department of Human Services responsible for the administration of programs that increase the independence of, and help protect, seniors and people with disabilities.

(146) Service Agreement — An agreement between the Medical Assistance Program and a specified provider to provide identified services for a specified rate. Service agreements may be limited to services required for the special needs of an identified client. Service Agreements do not preclude the requirement for a provider to enroll as a provider.

(147) Sliding Fee Schedule — A fee schedule with varying rates established by a provider of health care to make services available to indigent and low-income individuals. The Sliding Fee Schedule is based on ability to pay.

(148) Social Worker — A person licensed by the Board of Clinical Social Workers to practice clinical social work.

(149) Speech-Language Pathologist — A person licensed by the Oregon Board of Examiners for Speech Pathology.

(150) Speech-Language Pathology Services — The application of principles, methods, and procedure for the measuring, evaluating, predicting, counseling or instruction related to the development and disorders of speech, voice, or language for the purpose of preventing, habilitating, rehabilitating, or modifying such disorders in individuals or groups of individuals.

(151) Spend-Down — The amount the client must pay for medical expenses each month before becoming eligible for Medical Assistance under the Medically Needy Program. The spend-down is equal to the difference between the client's total countable income and Medically Needy program income limits.

(152) State Facility — A hospital or training center operated by the State of Oregon, which provides long-term medical or psychiatric care.

(153) Subrogation — Right of the State to stand in place of the client in the collection of third party resources.

(154) Supplemental Security Income (SSI) — A program available to certain aged and disabled persons which is administered by the Social Security Administration through the Social Security office.

(155) Surgical Assistant — A person performing required assistance in surgery as permitted by rules of the State Board of Medical Examiners.

(156) Suspension — A sanction prohibiting a provider's participation in the Medical Assistance Program by deactivation of the provider's billing number for a specified period of time. No payments, Title XIX or State Funds, will be made for services provided during the suspension. The number will be reactivated automatically after the suspension period has elapsed.

ADMINISTRATIVE RULES

(157) Targeted Case Management — Activities which will assist the client in a “target group” in gaining access to needed medical, social, educational and other services. This includes locating, coordinating, and monitoring necessary and appropriate services.

(158) Termination — A sanction prohibiting a provider’s participation in the Medical Assistance Program by canceling the provider’s number and agreement. No payments, Title XIX or State Funds, will be made for services provided after the date of termination. Termination is permanent unless:

- (a) The exceptions cited in 42 CFR 1001.221 are met; or
- (b) Otherwise stated by the Medical Assistance Program at the time of termination.

(159) Third Party Resource (TPR) — A medical or financial resource which, under law, is available and applicable to pay for medical services and items for a Medical Assistance Program client.

(160) Transportation — See “Medical Transportation”.

(161) Type A Hospital — A hospital identified by the Office of Rural Health as a Type A hospital.

(162) Type B AAA Unit — A Type B Area Agency on Aging funded by Oregon Project Independence (OPI), Title III - Older Americans Act, and Title XIX of the Social Security Act.

(163) Type B Hospital — A hospital identified by the Office of Rural Health as a Type B hospital.

(164) Usual Charge (UC) — The lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The provider’s charge per unit of service for the majority of non-Medical Assistance users of the same service based on the preceding month’s charges;

(b) The provider’s lowest charge per unit of service on the same date that is advertised, quoted or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200% of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to third party resources are to be considered.

(165) Utilization Review (UR) — The process of reviewing, evaluating, and assuring appropriate use of medical resources and services. The review encompasses quality, quantity, and appropriateness of medical care to achieve the most effective and economic use of health care services.

(166) Valid Claim — An invoice received by the appropriate Division or Office of the Medical Assistance Program for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the goods or services or from a third party; and

(b) Has been received within the time limitations prescribed in these General Rules

(167) Vision Services — Provision of corrective eyewear, including ophthalmological or optometric examinations for determination of visual acuity and vision therapy and devices.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82, for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 81-1982, f. 8-30-82, ef. 9-1-82; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 13-1987, f. 3-31-87, ef. 4-1-87; AFS 7-1988, f. & cert. ef. 2-1-88; AFS 69-1988, f. & cert. ef. 12-5-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0005; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 11-2000, f. & cert. ef. 6-23-00; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1160

Medical Assistance Programs and Provider Rules

(1) The following services are covered when medically appropriate and within the limitations established by the Medical Assistance Program and set forth in the Oregon Administrative Rules for each category of medical services:

(a) Acupuncture Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(b) Administrative Examinations, as described in the Administrative Examinations and Billing Services provider rules (OAR 410 division 150);

(c) Alcohol and Drug Abuse Treatment Services:

(A) Alcohol and Drug Detoxification inpatient services are covered by the Office of Medical Assistance Programs when provided in an acute care hospital and when hospitalization is considered medically appropriate;

(B) Alcohol and Drug Abuse Treatment inpatient hospital services are not covered by the Office of Medical Assistance Programs;

(C) Non-hospital Alcohol and Drug Detoxification and Treatment services are available on a residential or outpatient basis through the Office of Medical Assistance Programs. Contact the client’s managed care plan, local alcohol/drug treatment provider or local publicly funded alcohol and drug abuse program for information.

(d) Ambulatory Surgical Center Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(e) Anesthesia Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(f) Audiology Services, as described in the Speech-Language Pathology, Audiology and Hearing Aid Services provider rules (OAR 410 division 129);

(g) Chiropractic Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(h) Dental Services, as described in the Dental/Denturist Services provider rules (OAR 410 division 123);

(i) Early and Periodic Screening, Diagnosis and Treatment services (EPSDT, Medichex for children and teens), are covered for individuals under 21 years of age as set forth in the individual program provider rules. OMAP may authorize services in excess of limitations established in the provider guide when it is medically appropriate to treat a condition that is identified as the result of an EPSDT screening;

(j) Family Planning Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130). Family planning services are services and items provided to individuals of childbearing age including minors who can be considered to be sexually active who desire such services and which are intended to prevent pregnancy or otherwise limit family size. Services include annual exams, contraceptive education and counseling to address reproductive health issues, laboratory tests, radiological services, medical procedures, including birth control implants, tubal ligation, and vasectomy, and pharmaceutical supplies and devices;

(k) Federally Qualified Health Centers and Rural Health Clinic, as described in the Federally Qualified Health Center and Rural Health Clinic provider rules (OAR 410 division 147);

(l) Home and Community Based Waiver Services, as described in the rules of the Mental Health and Developmental Disability Services Division and Seniors and People with Disabilities;

(m) Home Enteral/Parenteral Nutrition and IV Services, as described in the Home Enteral/Parenteral Nutrition and IV Services provider rules (OAR 410 division 148);

(n) Home Health Services, as described in the Home Health Services provider rules (OAR 410 division 127);

(o) Hospice Services, as described in the Hospice Services provider rules (OAR 410 division 142);

(p) Indian Health Services, as described in The Indian Health Care Improvement Act and its Amendments (Public Law 102-573), and the OMAP American Indian/Alaska Native provider rules (OAR 410 division 146);

(q) Inpatient Hospital Services, as described in the Hospital Services provider rules (OAR 410 division 125);

(r) Laboratory Services, as described in the Hospital Services and the Medical-Surgical Services provider rules (OAR 410 division 130);

(s) Licensed Direct Entry Midwife Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(t) Maternity Case Management, as described in the Medical-Surgical Services provider rules (OAR 410 Division 130);

(u) Medical Equipment and Supplies, as described in the Hospital Services, Medical-Surgical Services, Durable Medical Equipment, Home Health Care Services, Home Enteral/Parenteral Nutrition and IV Services and other provider rules;

(v) When client’s Medical Care Identification Card indicates a benefit package that includes mental health will be based on the Prioritized List of Health Services. Other Medicaid non-OHP through as described in applicable treatment standard rules;

(w) Naturopathic Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(x) Nutritional Counseling is covered, as described in the Medical/Surgical Services provider rules (OAR 410 division 130);

ADMINISTRATIVE RULES

(y) Occupational Therapy, as described in the Physical and Occupational Therapy Services provider rules (OAR 410 division 131);

(z) Organ Transplant Services, as described in the Transplant Services provider rules (OAR 410 division 124);

(aa) Outpatient Hospital Services, including clinic services, emergency room services, physical and occupational therapy services, and any other outpatient hospital services provided by and in a hospital, as described in the Hospital Services provider rules (OAR 410 division 125);

(bb) Physician, Podiatrist, Nurse Practitioner and Licensed Physician Assistant Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(cc) Physical Therapy, as described in the Physical and Occupational Therapy and the Hospital Services provider rules (OAR 410 division 131);

(dd) Prescription drugs, including home enteral and parenteral nutritional services and home intravenous services, as described in the Pharmaceutical Services, the Home Enteral/Parenteral Nutrition and IV Services and the Hospital Services provider rules (OAR 410 division 121,148 and 125);

(ee) Preventive Services, as described in the Medical-Surgical Services and the Dental/Denturist Services provider rules (OAR 410 division 130 and 123) and prevention guidelines associated with the Health Service Commission's List of Prioritized Health Services (OAR 410-141-0520);

(ff) Private Duty Nursing, as described in the Private Duty Nursing provider rules (OAR 410 division 132);

(gg) Radiology and Imaging Services, as described in the Medical-Surgical Services, the Hospital Services, and Dental and Denturist Services provider rules (OAR 410 division 130,125 and 123);

(hh) Rural Health Clinic Services, as described in the Federally Qualified Health Center and Rural Health Clinic provider rules (OAR 410 division 147);

(ii) School-Based Health Services, as described in the School-Based Health Services provider rules (OAR 410 division 133);

(jj) Speech and Language Therapy as described in the Speech-Language Pathology, Audiology and Hearing Aid Services and Hospital Services provider rules (OAR 410 division 129 and 125);

(kk) Transportation necessary to access a covered medical service or item, as described in the Medical Transportation provider rules (OAR 410 division 136);

(ll) Vision Services as described in the Visual Services provider rules (OAR 410 division 140).

(2) Other Divisions or Offices, including Vocational Rehabilitation, Mental Health and Developmental Disability Services Division, Office of Alcohol and Drug Abuse Programs, State Office for Services to Children and Families, and Seniors and People with Disabilities Services Division may offer services to Medicaid eligible clients, which are not reimbursed by or available through the Office of Medical Assistance Programs.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 14-1979, f. 6-29-79, ef. 7-1-79; AFS 73-1980(Temp), f. & ef. 10-1-80; AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 71-1981, f. 9-30-81, ef. 10-1-81; Renumbered from 461-013-0000; 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 94-1982(Temp), f. & ef. 10-18-82; AFS 103-1982, f. & ef. 11-1-82; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 62-1983, f. 12-19-83, ef. 1-1-84; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 25-1984, f. 6-8-84, ef. 7-1-84; AFS 14-1985, f. 3-14-85, ef. 4-1-85; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 67-1986(Temp), f. 9-26-86, ef. 10-1-86; AFS 76-1986(Temp), f. & ef. 12-8-86; AFS 16-1987(Temp), f. & ef. 4-1-87; AFS 17-1987, f. 5-4-87, ef. 6-1-87; AFS 32-1987, f. 7-22-87, ef. 8-1-87; AFS 6-1988, f. & cert. ef. 2-1-88; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 69-1988, f. & cert. ef. 12-5-88; AFS 70-1988, f. & cert. ef. 12-7-88; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 8-1989(Temp), f. 2-24-89, cert. ef. 3-1-89; AFS 14-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 47-1989, f. & cert. ef. 8-24-89; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0102; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 27-1992(Temp), f. & cert. ef. 9-1-92; HR 33-1992, f. 10-30-92, cert. ef. 11-1-92; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HE 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0440; HR 2-1994, f. & cert. ef. 2-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1260

Provider Enrollment

(1) This rule applies only to providers seeking reimbursement from OMAP, except as otherwise provided in OAR 410-120-1295.

(2) Signing the provider application constitutes agreement by performing and billing providers to comply with all applicable rules of the Medical Assistance Program and federal and state laws and regulations.

(3) A performing provider is the provider of a service or item. A billing provider is a person or business entity who/that submits claims on behalf of a performing provider. All references to "provider" in this and other rules of the Medical Assistance Program include both performing and billing providers.

(4) An individual or organization must meet applicable licensing and/or regulatory requirements set forth by Federal and State statutes, regulations, and rules to be enrolled and to bill as a provider. In addition, all providers of services within the State of Oregon must have a valid Oregon business license if such a license is a requirement of the state, federal, county or city government to operate a business or to provide services.

(5) An individual or organization that is currently subject to sanction(s) by the Medical Assistance Program or Federal government is not eligible for enrollment (see Provider Sanctions).

(6) A performing provider number will be issued to an individual or organization providing covered health care services or items upon:

(a) Completion of the application and submission of the required documents;

(b) The signing of the provider application by the provider or a person authorized by the provider to bind the organization or individual to compliance with these rules;

(c) Verification of licensing or certification. Loss of the appropriate licensure or certification will result in immediate disenrollment of the provider and recovery of payments made subsequent to the loss of licensure or certification;

(d) Approval of the application by OMAP or the Division responsible for enrolling the provider.

(7) Performing providers may be enrolled retroactive to the date services were provided to a Medical Assistance client if:

(a) The provider was appropriately licensed, certified and/or otherwise met all Medical Assistance Program requirements for providers at the time services were provided; and

(b) Services were provided less than 12 months prior to the date of application for Medical Assistance provider status.

(8) Issuance of a provider number establishes enrollment of an individual or organization as a provider for limited category (ies) of services for the Medical Assistance Program.

(9) If a provider changes address, business affiliation, licensure, ownership, certification, billing agents or Federal Tax Identification Number (TIN), the Office of Medical Assistance Programs must be notified in writing within 30 days of the change. Failure to notify OMAP of a change of Federal Tax Identification Number may result in the imposing of a \$50 fine. Changes in business affiliation, ownership, and Federal Tax Identification Number may require the submission of a new application. Payments made to providers who have not furnished such notification may be recovered.

(10) Providers of services outside the state of Oregon will be enrolled under the following conditions:

(a) The provider is appropriately licensed and/or certified and meets standards established within the provider's state for participation in the state's Medicaid program. Disenrollment from the other state's Medicaid program is a basis for disenrollment in the Oregon Medical Assistance Program;

(b) The provider bills only for services provided within the provider's scope of licensure or certification;

(c) For noncontiguous out-of-state providers, the services provided must be for a specific Oregon Medicaid client who is temporarily outside Oregon or the contiguous area of Oregon, or for foster care or subsidized adoption children placed out of state, or the provider is seeking Medicare deductible or coinsurance coverage for QMB clients;

(d) The services for which the provider bills are covered services under the Oregon Medical Assistance Program;

(e) Facilities, including but not restricted to hospitals, rehabilitative facilities, institutions for care of individuals with mental retardation, psychiatric hospitals, and residential care facilities, will be enrolled as providers only if the facility is enrolled as a Medicaid provider in the state in which the facility is located or is licensed as a facility provider of services by the State of Oregon;

(f) Out-of-state providers may provide contracted services per OAR 410-120-1880.

(11) Enrollment of Billing Providers:

(a) A person or business entity who/that submits claims to the Medical Assistance Program and/or receives payments from the Medical Assistance

ADMINISTRATIVE RULES

Program on the behalf of a professional provider (e.g., physician, physical therapist, speech therapist). The person/business entity must be enrolled with OMAP and meet all applicable federal regulations;

(b) A billing provider number will be issued only to billing providers billing on behalf of providers who have signed the provider enrollment form, who have met the licensure or other standards for enrollment as a provider and who have been delegated the authority to act on behalf of an the performing provider and to bill on behalf of the provider of service;

(c) A billing provider must maintain, and make available to the Medical Assistance Program, upon request, records indicating the billing provider's relationship with the provider of service;

(d) The Billing Provider must obtain signed confirmation from the performing provider that the Billing Provider has been authorized by the Performing Provider to submit claims. This authorization must be maintained in the Billing Provider's files for at least five years, following the submission of claims to OMAP.

(12) Enrollment of Locum Tenens:

(a) For purposes of this rule, a locum tenens means a substitute physician retained to take over another physician's professional practice while he/she is absent for reasons such as illness, vacation, continuing medical education, pregnancy, etc.

(b) Locum tenens are not required to enroll with OMAP. The absentee physician must bill with their individual Medicaid provider number and receive payment for covered services provided by the locum tenens physician. Services provided by the locum tenens must be billed with a modifier Q6.

(13) Reciprocal Billing Arrangements:

(a) For purposes of this rule, reciprocal billing arrangements are similar in nature to a locum tenens in that a substitute physician is retained to take over another physician's professional practice on an occasional basis if the regular physician is unavailable;

(b) Providers with reciprocal billing arrangements are not required to enroll with OMAP. The absentee physician must bill with their individual Medicaid provider number and receive payment for covered services provided by the substitute physician. The absentee physician identifies the services provided by the substitute physician by using modifier Q5;

(c) These requirements do not apply to substitute arrangements among physicians in the same medical practice when claims are submitted in the name of the billing provider or group name.

(14) Provider termination:

(a) The provider may terminate enrollment at any time. The request must be in writing, via certified mail, return receipt requested. The notice shall specify the provider number to be terminated and the effective date of termination. Termination of the provider enrollment does not terminate any obligations of the provider for dates of services during which the enrollment was in effect;

(b) OMAP provider terminations or suspensions may be for, but are not limited to the following reasons:

(A) Breaches of provider agreement;

(B) Failure to comply with the statutes, regulations and policies of the Department of Human Services, Federal or State regulations that are applicable to the provider.

(C) When no claims have been submitted in an 18-month period. The provider must reapply for enrollment.

(15) When one or more of the requirements governing a provider's participation in the Medical Assistance program are no longer met, the provider's Medical Assistance Program provider number may be immediately suspended. The provider is entitled to a contested case hearing as outlined in 410-120-1600 through 410-120-1840 to determine whether the provider's Medical Assistance Program number will be revoked.

(16) The provision of health care services or items to clients of the Medical Assistance Program is a voluntary action on the part of the provider. Providers are not required to accept all Medical Assistance clients seeking service.

(17) In the event of bankruptcy proceedings, the provider must immediately notify the Director of OMAP in writing.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-784; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0060; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 73-1989, f. & cert. ef. 12-7-89; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0063, 461-013-0075 & 461-013-0180; HR 19-1990,

f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 51-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 5-1992, f. & cert. ef. 1-16-92; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0020, 410-120-0040 & 410-120-0060; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 9-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1280

Billing

(1) Medicaid Covered Services: The provider must not bill the Medical Assistance Program more than the provider's Usual Charge (see definitions).

(a) A provider enrolled with the Office of Medical Assistance Programs or a Managed Care Plan under the Oregon Health Plan must not seek payment from a client eligible for Medical Assistance benefit, or from a financially responsible relative or representative of that individual, for any services covered by Medicaid fee-for-service or through contracted managed care plans, including any coinsurance, co-pays, and deductibles.

(b) Except under the circumstances described below:

(A) The client did not inform the provider of Medical Assistance Program eligibility, of OHP managed health plan enrollment, or of other third party insurance coverage, either at the time the service was provided or subsequent to the provision of the service or item, and as a result the provider could not bill the Medical Assistance Program, the managed health care plan, or third party payer for any reason, including timeliness of claims, lack of prior authorization, etc. The provider must document attempts to obtain information on eligibility or enrollment;

(B) The client became eligible for Medical Assistance benefits retroactively but did not meet other established criteria described in these General Rules and the appropriate provider rules (i.e., retroactive authorization);

(C) A third party resource made payments directly to the client for services provided;

(D) The client did not have full Medical Assistance benefits. Clients receiving limited Medicaid coverage through the Citizen Alien Waived Emergency Medical Program may be billed for services that are not benefits of those programs. The provider must document that the client was informed that the service or item would not be covered by the medical assistance program;

(E) The client has requested continuation of benefits during the Administrative Hearing process and final decision was not in favor of the client. The client will be responsible for any charges since the effective date of the initial notice of denial;

(F) A client cannot be billed for services/treatment that has been denied due to provider error (i.e. required documentation not submitted, prior authorization not obtained, etc.);

(G) The charge is for a copayment when a client is required to make a copayment as outlined in OMAP General Rules (410-120-1230, 1235) and individual provider rules;

(H) In exceptional circumstances, a client may request to be able to receive a covered service while asserting the right to privately pay for that service. Under this exceptional circumstance, a client can be billed for a covered service if the client is informed in advance of receiving the specific service of all of the following:

(i) That the requested service is a covered service and that the provider would be paid in full for the covered service if the claim is submitted to OMAP or the client's managed care plan, if the client is a member of a managed care plan;

(ii) The estimated cost of the covered service, including all related charges, the amount that OMAP or the client's managed care plan would pay for the service, and that the client cannot be billed for an amount greater than the maximum OMAP reimbursable rate or managed care plan rate, if the client is a member of a managed care plan;

(iii) That the provider cannot require the client to enter into a voluntary payment agreement for any amount for the covered service;

(iv) And that, if the client knowingly and voluntarily agrees to pay for the covered service, the provider will not be able to submit a claim for payment to OMAP or the client's managed care plan;

(v) Provider must be able to document in writing, signed by the client or the client's representative, that the client was provided the information described above; that the client was provided an opportunity to ask questions, obtain additional information and consult with the client's caseworker or client representative; and the client agreed to be responsible for payment by signing an agreement incorporating all of the information described above. The client shall be given a copy of the signed agreement. A provider may not submit a claim for payment for covered services to

ADMINISTRATIVE RULES

OMAP or to the client's managed care plan that are subject to such agreement.

(2) Non-Covered Medicaid Services:

(a) A client may be billed for services that are not covered by the Medical Assistance Program or Managed Care Plan. However, the client must be informed in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must be able to document in writing signed by the client or client's representative, that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment;

(b) Services which are considered non-covered are listed in the following rules (in rule precedence order):

(A) OAR 410-141-0480, Benefit Package of Covered Services; and

(B) OAR 410-141-0520, Prioritized List of Health Services; and

(C) OAR 410-120-1200, Medical Assistance Benefits: Excluded services and limitations.

(3) All claims must be billed on the appropriate form as described in the individual provider rules.

(4) Upon submission of a claim to OMAP for payment, the provider agrees that it has complied with all rules of the Medical Assistance Program. Submission of a claim, however, does not relieve the provider from the requirement of a signed provider agreement.

(5) All billings must be for services provided within the provider's licensure or certification.

(6) It is the responsibility of the provider to submit true and accurate information when billing the Medical Assistance Program. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information.

(7) A claim may not be submitted prior to delivery of service. A claim may not be submitted prior to dispensing, shipment or mailing of the item unless specified otherwise in OMAP's individual provider rules.

(8) A claim is considered a "valid claim" only if all required data is entered on or attached to the claim form. See the appropriate provider guide for specific instructions and requirements. Also, see "Valid Claim" in the Definitions section of these rules.

(9) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims, unless specifically excluded in an individual OMAP medical assistance programs' provider guide;

(b) When billing using ICD-9-CM codes, all diagnosis codes are required to the highest degree of specificity;

(c) Hospitals are always required to bill using the 5th digit, in accordance with methodology used in the Medicare Diagnosis Related Groups.

(10) For claims requiring a procedure code the provider must bill as instructed in the appropriate Medical Assistance provider guide and must use the appropriate CPT, HCPCS, ICD-9-CM, ADA CDT, NDC, which best describes the specific service or item provided. For claims which require the listing of a diagnosis and/or procedure code as a condition of payment, the code listed on the claim form must be the code which most accurately describes the client's condition and the service(s) provided. Providers must use the ICD-9-CM diagnosis coding system when a diagnosis is required unless otherwise specified in the appropriate individual provider guide. Hospitals must follow national coding guidelines:

(a) Where there is no appropriate descriptive procedure code to bill the Medical Assistance Program the provider must use the code for "Unlisted Services". Instructions on the specific use of "unlisted services" are contained in the individual provider rules. A complete and accurate description of the specific care, item, or service must be documented on the claim;

(b) Where there is one CPT, CDT or HCPCS code that according to CPT, CDT and HCPCS coding guidelines or standards, describes an array of services the provider must bill the Medical Assistance Program using that code rather than itemizing the services under multiple codes. Providers must not "unbundle" services in order to increase payment by the Medical Assistance Program.

(11) No person shall submit or cause to be submitted to the Medical Assistance Program:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service which has already been paid;

(c) Any claim upon which payment has been made or is expected to be made by another source unless the amount paid or to be paid by the other party is clearly entered on the claim form;

(d) Any claim for furnishing specific care, item(s), or service(s) which have not been provided.

(12) The provider is required to submit an Individual Adjustment Request, or to refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by the Medical Assistance Program.

(13) A provider who, after having been previously warned in writing by the Medical Assistance Program or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to the Medical Assistance Program for up to triple the amount of the Medical Assistance Program established overpayment received as a result of such violation.

(14) Third Party Resources:

(a) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Office of Medical Assistance Program will be the payor of last resort;

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include, but are not limited to:

(A) Determining the existence of insurance or other resource by asking the recipient;

(B) Using an insurance database such as EEVS available to the provider;

(C) Verifying the client's insurance coverage through AIS or the Medical Care Identification card on each date of service and at the time of billing.

(c) Except as noted in (14)(d)(A through E), when third party coverage is known to the provider, as indicated on the Medical Care Identification or through AIS, or any other means available, prior to billing the Medical Assistance Program:

(A) The provider must bill the third party resource; and

(B) Except for pharmacy claims billed through OMAP's point-of-sale system the provider must have waited 30 days from submission date of a clean claim and have not received payment from the third party;

(C) Complied with the insurer's billing and authorization requirements;

(D) Appealing a denied claim when the service is payable in whole or in part by an insurer.

(d) In accordance with federal regulations the provider must bill the third party resource prior to billing the Medical Assistance Program, except under the following circumstances:

(A) Intermediate Care Facility Services for the mentally retarded;

(B) Institutional services for the mentally and emotionally disturbed;

(C) Prenatal and preventive pediatric services;

(D) Services covered by a third party insurer through an absent parent where the medical coverage is administratively or court ordered;

(E) When another party may be liable for an injury or illness (see definition of Liability Insurance), the provider may bill the insurer or liable party or place a lien against a settlement or the provider may bill the Medical Assistance Program. The provider may not both place a lien against a settlement and bill the Medical Assistance Program. The provider may withdraw the lien and bill the Medical Assistance Program within 12 months of the date of service. If the provider bills the Medical Assistance Program, the provider must accept payment made by the Medical Assistance Program as payment in full. The provider must not return the payment made by the Medical Assistance Program in order to accept payment from a liability settlement or liability insurer or place a lien against that settlement:

(i) In the circumstances outlined in (14)(d)(A through E) above, the provider may choose to bill the primary insurance prior to billing OMAP. Otherwise, OMAP will process the claim and if applicable will pay the OMAP allowable for these services and seek reimbursement from the liable third party insurance plan.

(ii) In making the decision to bill OMAP the provider should be cognizant of the possibility that the third party payor may reimburse the service at a higher rate than OMAP, and that once payment has been made by OMAP no additional billing to the third party is permitted by the provider.

(e) The provider may bill the Medical Assistance Program directly for services that are never covered by Medicare or another insurer on the appropriate form identified in the relevant provider rules. Documentation must be on file in the provider's records indicating this is a non-covered service. See the individual provider rules for further information on services that must be billed to Medicare first:

ADMINISTRATIVE RULES

(A) When a provider receives a payment from any source prior to the submission of a claim to the Medical Assistance Program, the amount of the payment must be shown as a credit on the claim in the appropriate field;

(B) Except as described in (14), any provider who accepts third party payment for furnishing a service or item to a Medical Assistance client shall:

(i) Submit an Individual Adjustment Request per instructions in the individual provider guide, indicating the amount of the third party payment; or

(ii) When the provider has already accepted payment from OMAP for the specific service or item, the provider shall make direct payment of the amount of the third party payment to the Medical Assistance Program. When the provider chooses to directly repay the amount of the third party payment to the Medical Assistance program, the provider must indicate the reason the payment is being made and must submit with the check:

(I) An Individual Adjustment Request which identifies the original claim, name and number of the client, date of service and item(s) or service(s) for which the repayment is made; or

(II) A copy of the Remittance Advice showing the original payment by the Medical Assistance Program.

(f) Providers are required to submit an Individual Adjustment Request showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit the Individual Adjustment Request within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery and/or sanction;

(g) The Medical Assistance Program reserves the right to make a claim against any third party payer after making payment to the provider of service. The Medical Assistance Program may pursue alternate resources following payment if it deems this a more efficient approach. Pursue alternate resources includes, but is not limited to, request the provider bill the third party and refund OMAP in accordance with subsection 14;

(h) For services rendered to a Medicare/Medicaid dual eligible client, The Medical Assistance Program may request the provider to submit a claim for Medicare payment and the provider must honor that request. Under federal regulation a provider agrees not to charge a beneficiary (or the State as the beneficiary's subrogee) for services for which a provider failed to file a timely claim (42 CFR 424) with Medicare despite being requested to do so.

(15) Full Use of Alternate Resources:

(a) The Medical Assistance Program will generally make payment only when other resources are not available for the client's medical needs. Full use must be made of reasonable alternate resources in the local community;

(b) Except as provided in subsection 16 of this rule, alternate resources may be available:

(A) Under a federal or state worker's compensation law or plan;

(B) For items or services furnished by reason of membership in a prepayment plan;

(C) For items or services provided or paid for directly or indirectly by a health insurance plan or as health benefits of a governmental entity, such as:

(i) Armed Forces Retirees and Dependents Act (CHAMPVA);

(ii) Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS); and

(iii) Medicare Parts A and B.

(D) To residents of another state under that state's Title XIX or State funded Medical Assistance Program; or

(E) Through other reasonably available resources.

(16) Exceptions:

(a) Indian Health Services or Tribal Health Facilities. Pursuant to 42 CFR 35.61 subpart G and the Memorandum of Agreement in OAR 310-146-0000, Indian Health Services facilities and tribal facilities operating under a section 638 agreement are payors of last resort, and are not considered an alternate resource or third party resource;

(b) Veterans Administration. Veterans who are also eligible for Medicaid benefits are encouraged to utilize veterans facilities whenever possible. Generally Veterans benefits are for service related conditions and as such is not considered an alternate or third party resource. Table 1280 -TPR Codes. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0050, 461-013-0060, 461-013-0090 & 461-013-0020; AFS 47-1982, f. 4-30-82, & AFS 52-1982, f. 5-28-82,

ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 45-1983, f. 9-19-83, ef. 10-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; AFS 43-1986, f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 14-1987, f. 5-31-87, ef. 4-1-87; AFS 38-1988, f. 5-17-88, cert. ef. 6-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0140, 461-013-0150, 461-013-0175 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0260, 410-120-0280, 410-120-0300 & 410-120-0320; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-10-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 30-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2002, f. 6-14-02 cert. ef. 8-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1320

Authorization of Payment

(1) Some of the services or items covered by the Medical Assistance Program require authorization before payment will be made. Some services require authorization before the service can be provided. See the appropriate provider guide for information on services requiring authorization and the process to be followed to obtain authorization. Services (except medical transportation) for clients identified by OMAP as "medically fragile children", shall be authorized by DHS' Medically Fragile Children's Unit.

(2) Documentation submitted when requesting authorization must support the medical justification for the service. A complete request is one which contains all necessary documentation and meets any other requirements as described in the appropriate provider guide.

(3) The authorizing agency will authorize for the level of care or type of service which meets the client's medical need. Only services which are medically appropriate and for which the required documentation has been supplied may be authorized. The authorizing agency may request additional information from the provider to determine medical appropriateness or appropriateness of the service.

(4) The Department and its authorizing agencies are not required to authorize services or to make payment for authorized services under the following circumstances:

(a) The client was not eligible at the time services were provided. The provider is responsible for checking the client's eligibility each time services are provided;

(b) Upon request by OMAP, the provider cannot produce appropriate documentation to support medical appropriateness, or the appropriate documentation was not submitted to the authorizing agency;

(c) The service has not been adequately documented (see 410-120-1360, Requirements for Financial, Clinical and Other Records); that is, the documentation in the provider's files is not adequate to determine the type, medical appropriateness, or quantity of services provided and/or required documentation is not in the provider's files;

(d) The services billed or provided are not consistent with the information submitted when authorization was requested and/or the services provided are determined retrospectively not to be medically appropriate;

(e) The services billed are not consistent with those provided;

(f) The services were not provided within the timeframe specified on the authorization of payment document;

(g) The services were not authorized or provided in compliance with the rules in these General Rules and in the appropriate provider guide.

(5) Payment made for services described in subsections (a) through (g) of this rule will be recovered (see also Basis for Mandatory Sanctions and Basis for Discretionary Sanctions).

(6) Retroactive Eligibility:

(a) In those instances where clients are made retroactively eligible, authorization for payment may be given if (A) through (C) of this rule are met;

(b) Services provided when a Title XIX client is retroactively disenrolled from a plan or services provided after the client was disenrolled from a plan may be authorized if (A) through (C) of this rule are met:

(A) The client was eligible on the date of service;

(B) The services provided meet all other criteria and Oregon Administrative Rules;

(C) The request for authorization is received by the appropriate DHS branch or OMAP within 90 days of the date of service.

(c) Any requests for authorization after 90 days from date of service require documentation from the provider that authorization could not have been obtained within 90 days of the date of service.

ADMINISTRATIVE RULES

(7) Period of Authorization: Authorization of payment is valid for the time period specified on the authorization notice, but not to exceed 12 months.

(8) Payment Authorization for Clients with Other Insurance or for Medicare Beneficiaries:

(a) Medicare: When Medicare is the primary payer for a service, no payment authorization from OMAP is required, unless specified in the appropriate program provider rules;

(b) Private Insurance or Other Third Party Resources: For clients who have other third party resources (Blue Cross, Champus, etc.), payment authorization is required as specified above and in the appropriate provider guide when the other insurer or resource does not cover the service and/or when the other insurer reimburses less than the OMAP rate;

(c) Managed Care Providers: Authorization for some services for clients in SHMOS (Medicare's Social Health Maintenance Organization) is required by the managed care provider. Services which are covered under the Medical Assistance Program but which are not covered under the SHMO's require authorization as specified above and in the appropriate provider guide.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 14-1979, f. 6-29-79, ef. 7-1-79; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0060; AFS 13-1981, f. 2-27-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; Renumbered from 461-013-0041; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 7-1984(Temp), f. 2-28-84, ef. 3-15-84; AFS 11-1984(Temp), f. 3-14-84, ef. 3-15-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 38-1986, f. 4-29-86, ef. 16-1-86; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0106 & 461-013-0180; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0180; HR 22-1994, f. 5-31-94, cert. ef. 6-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 6-1996, f. 5-31-96, cert. ef. 6-1-96; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1340

Payment

(1) The Medical Assistance Program will make payment only to the enrolled provider who actually performs the service or the provider's enrolled billing provider for covered services rendered to eligible clients. Federal regulations prohibit OMAP from making payment to collection agencies. The Medical Assistance Program may require that payment for services be made only after review by the Medical Assistance Program.

(2) Fee-for-service payment rates are set by the Office of Medical Assistance Programs and/or the Division administering the program under which the billed services or items are provided.

(3) All fee-for-service payment rates will be the lesser of the amount billed, the Medical Assistance Program allowed amount or the reimbursement specified in the individual program provider rules.

(4) Inpatient hospital service will be reimbursed under the DRG methodology for inpatient hospital services, unless specified otherwise in the hospital services rules. Reimbursement for services, including claims paid at DRG rates, will not exceed any Upper Limits established by Federal regulation.

(5) All out-of-state hospital services are reimbursed at Oregon DRG or fee-for-service rates as published in the Hospital Services rules (OAR 410 division 125) unless the hospital provides highly specialized services and has a contract or service agreement with the Office of Medical Assistance Programs for those services.

(6) Payment rates for in-home services provided through SPD will not be greater than the current Medical Assistance rate for nursing facility payment.

(7) Payment rates for out-of-state institutions and similar facilities, such as skilled nursing care facilities, psychiatric and rehabilitative care facilities will be set by Department of Human Services staff at a rate:

(a) That is consistent with similar services provided in the State of Oregon; and

(b) Is the lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Program in that state for that service; or

(c) Is the rate established by SPD for out-of-state nursing facilities.

(8) The Medical Assistance Program will not make payment on claims which have been assigned, sold, or otherwise transferred or on which the billing provider receives a percentage of the amount billed or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

(9) The Medical Assistance Program will not make a separate payment or co-payment to a nursing facility or other provider for services included in the nursing facility's All-Inclusive Rate. The following services are not included in the All-Inclusive Rate and may be separately reimbursed:

(a) Legend drugs, biologicals and hyperalimentation drugs and supplies, and enteral nutritional formula as addressed in the Pharmaceutical Services and Home Enteral/Parenteral Nutrition and IV Services provider rules, OAR 410 division 148;

(b) Physical therapy, speech therapy, and occupational therapy provided by a non-employee of the nursing facility within the appropriate program provider rules, OAR 410 division 131 and 129;

(c) Continuous oxygen which exceeds 1,000 liters per day by lease of a concentrator or concentrators as addressed in the Durable Medical Equipment and Medical Supplies provider rules, OAR 410 division 122;

(d) Influenza immunization serum as described in the Pharmaceutical Services provider rules, OAR 410 division 121;

(e) Podiatry services provided under the rules in the Medical-Surgical Services provider rules, OAR 410 division 130;

(f) Medical services provided by physician or other provider of medical services, such as radiology and laboratory, as outlined in the Medical-Surgical Services provider rules, OAR 410 division 130;

(g) Certain custom fitted or specialized equipment as specified in the Durable Medical Equipment and Medical Supplies provider rules, OAR 410 division 122.

(10) Payment for clients with Medicare:

(a) Payment from the Medical Assistance Program is limited to the Medicaid allowed amount less the Medicare payment up to the Medical Assistance Program allowable rate. The amount paid by the Medical Assistance Program cannot exceed the co-insurance and deductible amounts due;

(b) Payment from the Medical Assistance Program for services, which are covered Medical Assistance services but are not covered by Medicare is made at the Medical Assistance Program allowable rate.

(11) Payment for clients with other third-party resources. Payment is the Medical Assistance Program rate less the third party payment but not to exceed the billed amount.

(12) Payment in Full — Medical Assistance Program payments, including contracted managed care plan payments, unless in error, constitute payment in full, except for limited instances involving allowable spendown or copayments. For the Medical Assistance Program this includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding the Medical Assistance Program's allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain payment authorization in a timely and appropriate manner, or failure to follow other required procedures identified in the individual provider rules.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; Renumbered from 461-013-0061; PWC 833, f. 3-18-77, ef. 4-1-77; Renumbered from 461-013-0061; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0060; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 50-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0081, 461-013-0085, 461-175 & 461-13-180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0040, 410-120-0220, 410-120-0200, 410-120-0240 & 410-120-0320; HR 2-1994, f. & cert. ef. 2-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1870

Client Premium Payments

All non-exempt clients in the benefit group are responsible for payment of premiums as outlined in OAR 461-135-1120. Nonpayment of premium can result in a disqualification of benefits per OAR 461-135-1130.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 7-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

410-120-1875

Agency Hearing Representatives

(1) Subject to the approval of the Attorney General, an agency officer or employee is authorized to appear (but not make legal argument) on behalf of the agency in the following classes of hearings:

- (a) Denial of Medical Assistance service coverage;
- (b) Denial of prior authorization;

(2) Subject to the approval of the Attorney General, the DHS Audit Manager responsible for Medical Assistance Program audits is authorized to appear (but not make legal argument) on behalf of the agency in the following classes of hearings:

- (a) Medical Assistance Program overpayment determinations;
- (b) Medical Assistance Program provider sanction decisions.
- (3) Legal argument as used in ORS 183.452 and this rule has the same meaning as defined in OAR 137-003-0008(1)(c) and (d) 137-003-0545.

(4) When an agency officer or employee, or the DHS Audit Manager, 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, or the DHS Audit Manager, to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

Stat. Auth.: ORS 409

Statutes Implemented: ORS 414.065

Hist.: HR 8-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 34-2003, f. & cert. ef. 5-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

410-120-1920

Institutional Reimbursement Changes

(1) The Medical Assistance Program is required under federal regulations, **42 CFR 447**, to submit specific assurances and related information to the Centers for Medicare and Medicaid Services (CMS) whenever it makes a significant change in its methods and standards for setting payment rates for inpatient hospital services or long-term care facilities.

(2) A "Significant Change" is defined as a change in payment rates which affects the general method of payment to all providers of a particular type or is projected to affect total reimbursement for that particular type of provider by six percent or more during the 12 months following the effective date.

(3) Federal regulation specifies that a public notice will be published in one of the following:

- (a) A state register similar to the Federal register, for the DHS the state register is the Oregon Bulletin as published by the Secretary of State;
- (b) The newspaper of widest circulation in each city with a population of 50,000 or more;
- (c) The newspaper of widest circulation in the state, if there is no city with a population of 50,000 or more.

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

Stat. Auth.: ORS 184.750 & ORS 184.770

Stats. Implemented: ORS 409.010

Hist.: AFS 13-1985, f. 3-4-85, ef. 4-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0006; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0380; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03

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Adm. Order No.: OMAP 63-2003

Filed with Sec. of State: 9-5-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-148-0000, 410-148-0020, 410-148-0060, 410-148-0120, 410-148-0140, 410-148-0160, 410-148-0260, 410-148-0300

Rules Repealed: 410-148-0180, 410-148-0200, 410-148-0220

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

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-148-0000

Foreword

(1) The Home Enteral/Parenteral Nutrition and IV Services rules are a user's manual designed to assist providers in preparing health claims for medical assistance program clients. The Home Enteral/Parenteral Nutrition and IV Services provider rules are to be used in conjunction with the General Rules for Oregon Medical Assistance Programs, the Oregon Health Plan Administrative Rules and the Pharmaceutical Services guide.

(2) Instructions on completing claim forms, administrative rules and examples of some completed forms are included in the Home Enteral/Parenteral Nutrition and IV Services provider rules. A section listing procedure codes and their definitions, restrictions and limitations is also included.

(3) The Office of Medical Assistance Programs (OMAP) endeavors to furnish medical providers with up-to-date billing, procedural information, and guidelines to keep pace with program changes and governmental requirements.

(4) Providers should always follow the OMAP Administrative Rules in effect on the date of service.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 409.010

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0600 OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0020

Home Enteral/Parenteral Nutrition and IV Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription. The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-9-CM diagnosis codes, number of units and length of time needed. The prescription or order must be retained on file by the provider of service for the period of time specified in OMAP General Rules. A new prescription is required once a year for ongoing services. Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump gravity or delivery.

(2) All claims for Enteral/Parenteral Nutrition and IV services require a valid ICD-9-CM diagnosis code. It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) OMAP requires one nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan. This nursing service visit for assessment purposes does not require payment authorization and is not required when the only service provided is oral nutritional supplementation. Nursing service visits provided in the home will be reimbursed by OMAP only when performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(4) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider rules will be made only when provided in the client's place of residence, i.e., home or nursing facility.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0060

Authorization

(1) Authorization of payment is required for the following items or services:

- (a) All enteral/parenteral or IV infusion pumps, the provider is required to submit documentation with each request that other (non-pump) methods of delivery do not meet the client's medical need;
- (b) All nursing service visits, except the assessment nursing visit, associated with home enteral/parenteral nutrition or IV services;
- (c) All oral nutritional supplements;

ADMINISTRATIVE RULES

(d) All drugs/goods identified as requiring payment authorization in the Pharmaceutical Services Guide. Contact First Health Services for those items that require prior authorization.

(2) Approval for payment for the above home enteral/parenteral nutrition and/or IV services entities will be made when considered to be "medically appropriate."

(3) Authorization of payment is required for those services that require authorization even though the client has other insurance that may cover the service. Authorization of payment is not required for Medicare covered services.

(4) For services requiring authorization, providers must contact the Office of Medical Assistance Programs (OMAP) or the Medically Fragile Children's Unit for authorization within five working days following initiation of services. Authorization will be given based on medical appropriateness, appropriateness of level of care given, cost and/or effectiveness.

(5) How to Obtain Payment Authorization:

(a) Services for clients identified as Medically Fragile Children's Unit clients will be authorized by the Department of Human Service's (DHS) Medically Fragile Children's Unit;

(b) Request oral nutrition supplements from First Health Services, Managed Access Program;

(c) All other authorization may be obtained by contacting, either by phone or in writing, the OMAP — Medical Unit;

(d) Payment authorization does not guarantee reimbursement.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 26-1984, f. & ef. 6-19-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 52-1986, f. & ef. 7-2-86; AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0090; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0220; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0680; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0120

Reimbursement Limitations for Clients in a Nursing Facility

(1) The Office of Medical Assistance Programs (OMAP) will not reimburse for the following services/supplies for clients residing in a nursing facility:

(a) Nursing service visits (including assessment visit). Refer to Seniors and People with Disabilities (SPD) administrative rule covering All-Inclusive Rate;

(b) Supplies and items covered in the nursing facility All-Inclusive Rate. Refer to the "Appendices" section of the Home Enteral/Parenteral Nutrition and IV Services provider rules for a listing of those supplies and items;

(c) Oral nutritional supplements that are in addition to consumption of food items or meals.

(2) OMAP will reimburse for the following:

(a) Oral nutritional supplements are covered by OMAP for nursing facility clients when medically appropriate, i.e., the client cannot consume food items or meals;

(b) Tube fed enteral nutrition formula, when medically appropriate;

(c) Patient controlled pump for pain control medication (CADD).

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1993, f. & cert. ef. 10-1-93; HR 34-1993(Temp), f. & cert. ef. 12-1-93; HR 11-1994, f. 2-25-94, cert. ef. 2-27-94; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0730; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0140

Billing Information

(1) For medications:

(a) Those pharmacies billing electronically shall bill through First Health Services point-of-sale. For more information on Point-of-Sale, contact the First Health Service Help Desk;

(b) The 5.1 Universal Claim Form may be used only by those pharmacies and EPIV providers billing manually for any medications and home IV drug ingredients that are not billed through Point-of-Sale;

(c) Providers who bill by paper will be required to complete a new 5.1 Universal Claim Form.

(2) For home enteral/parenteral and IV services other than medications:

(a) Home enteral/parenteral nutrition and IV services identified with a five-digit HCPCS or CPT must be billed on the CMS-1500 using the billing instructions found in the Home Enteral/Parenteral Nutrition and IV Services supplemental materials;

(b) See rule 410-148-0160 for billing clients with Medicare coverage; [Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 9-1992, f. & cert. ef. 4-1-92; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0740; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0160

Billing for Clients Who Have Both Medicare and Basic Health Care Coverage

(1) The Office of Medical Assistance Programs (OMAP) may be billed directly for services provided to a client when the provider has established and clearly documented in the client's record that the service provided does not qualify for Medicare reimbursement.

(2) When the service qualifies for Medicare reimbursement, bill as follows:

(a) When billing for Home Enteral/Parenteral Nutrition Services:

(A) Bill in the usual manner to the local or designated Medicare Intermediary;

(B) After Medicare makes a payment determination, bill OMAP on the OMAP 505 form following the billing instructions and using the procedure codes listed for the Home Enteral/Parenteral Nutrition and IV Services in the fee schedule and supplemental materials;

(b) When billing for Home IV services:

(A) Bill the local Medicare Intermediary in the usual manner;

(B) After Medicare makes payment determination, bill OMAP following the billing instructions and using the procedure codes listed for the Home Enteral/Parenteral Nutrition and IV Services fee schedule and supplemental materials.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0750; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0260

Home Enteral Nutrition

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2) Enteral Nutrition Formula. Use B4150 through B4156 when billing for tube fed nutritional formulae. If the product dispensed is not shown in HCPCS description, select a category equivalent when billing the Office of Medical Assistance Programs (OMAP).

(3) Oral Nutritional Supplements:

(a) Prior authorization is required on all oral supplements;

(b) Oral nutritional supplements can be billed through the on-line Point of Sale pharmacy system, or by paper using the 5.1 Universal Claim Form. Use the product's NDC when billing;

(c) If the product dispensed is not shown in one of the listed categories, select a category which is equivalent when billing OMAP;

(d) Oral nutritional supplements may be approved when the following criteria has been met:

(A) Clients age 6 and above;

(i) Must have a nutritional deficiency identified by one of the following:

(I) Recent low serum protein levels; or

(II) Recent Registered Dietician assessment shows sufficient caloric/protein intake is not obtainable through regular, liquefied or pureed foods.

(ii) And have a recent unplanned weight loss of at least 10%, plus one of the following:

(I) Increased metabolic need resulting from severe trauma; or

(II) Malabsorption difficulties (e.g., short-gut syndrome, fistula, cystic fibrosis, renal dialysis; or

(III) Ongoing cancer treatment, advanced AIDS or pulmonary insufficiency.

(iii) Weight loss criteria may be waived if body weight is being maintained by supplements due to patient's medical condition (e.g., renal failure, AIDS)

(B) Clients under age 6:

ADMINISTRATIVE RULES

(i) Diagnosis of 'failure to thrive';
(ii) Must meet same criteria as above, with the exception of % of weight loss.

(4) Enteral Nutrition Equipment:

(a) All repair and maintenance is subject to rule 410-1480-0080;

(b) Procedure Codes:

(A) S5036, Repair of infusion device (each 15 minutes = 1 unit) — PA;

(B) B9998, Enteral Nutrition Infusion Pump Replacement parts will be reimbursed at provider's acquisition cost (including shipping and handling) — PA/BR;

(C) B9000, Enteral Nutrition Infusion Pump, without alarm — rental (1 month = 1 unit) — PA;

(D) B9002, Enteral Nutrition Infusion Pump, with alarm — rental (1 month = 1 unit) — PA;

(E) E0776, IV Pole — Purchase;

(F) E0776, modifier RR, IV Pole — Rental (1 day = 1 unit);

(G) S9342, Enteral Nutrition via pump (1 day = 1 unit) — PA.

(5) Home Infusion Therapy:

(a) S9325, Home infusion, pain management (do not use with code S9326, S9327 or S9328) — PA

(b) S9326, Home infusion, continuous pain management — PA;

(c) S9327, Home infusion, intermittent pain management — PA;

(d) S9328, Home infusion, implanted pump pain management — PA.

(6) Not Otherwise Classified (NOC):

(a) B9998, NOC For Enteral Supplies — PA/BR;

(b) S9379, Home infusion therapy, NOC — PA/BR.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0840; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

410-148-0300

Other Home IV and Enteral/ Parenteral Administration Services

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2) Catheter Care Kits. All catheter care kit allowable amounts are determined on a per diem basis (1 day = 1 unit):

(a) When performed as a stand alone therapy, or during days not covered under per diem by another therapy, bill using catheter care codes S5497 through S5521;

(b) The following supplies for non-routine catheter procedures may be billed separately from per diem reimbursement:

(A) S5517 Catheter declotting supply kit, 1 day = 1 unit;

(B) S5518 Catheter repair supply kit, 1 day = 1 unit;

(C) S5520 PICC insertion supply kit, 1 day = 1 unit;

(D) S5521 Midline insertion supply kit, 1 day = 1 unit.

(E) E0776 IV Pole — Purchase

(F) E0776 with modifier RR IV Pole — Rental, 1 day = 1 unit

(3) Home Nursing Visits:

(a) When enteral/parenteral services are performed in the home only a single provider of skilled home health nursing services performed in the home may obtain authorization and/or bill for such services for the same dates of service;

(b) Requests made by providers for any intravenous or enteral/parenteral related skilled nursing services, either solely or in combination with any other skilled nursing services in the home are to be reviewed by the OMAP Medical Unit;

(c) Procedure Codes:

(A) S9802, Home infusion/specialty drug administration, nursing services, per visit (up to 2 hours) — 1 visit = 1 unit — PA

(B) S9803, each additional hour. List separately in addition to primary procedure. List S9803 in conjunction with code S9802 — PA/BR

(C) T1001, Home Nursing Visit for Assessment — 1 visit = 1 Unit.

(4) Not Otherwise Classified (NOC) — S9379, NOC for Home IV Supplies — PA/BR.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 46-1990, f. & cert. ef. 12-28-90; HR 26-1993, f. & cert. ef. 10-1-93; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0880; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03

Adm. Order No.: OMAP 64-2003

Filed with Sec. of State: 9-8-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-131-0120, 410-131-0280

Subject: The Physical and Occupational Therapy Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rules 410-131-0120 and 410-131-0280 are amended to delete references to time payment for splint application; delete references to code POA03; revise language on where lists of covered services are located; and eliminate payment authorization for PT/OT therapy services for clients with Medicare and Medical Assistance programs.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-131-0120

Limitations

(1) OARs 410-131-0020 through 410-131-0160 also apply to services delivered by home health agencies and by hospital-based therapists in the outpatient setting. They do not apply to services provided to hospital inpatients. Billing and reimbursement for therapy services delivered by home health agencies and hospital outpatient departments are to be in accordance with the rules in their respective provider guides.

(2) Program Information — A licensed occupational or physical therapist, or a licensed occupational or physical therapy assistant under the supervision of a therapist, must be in constant attendance while therapy treatments are performed:

(a) Duration — Therapy treatments must not exceed one hour per day each for occupational and physical therapy;

(b) Maintenance Therapy — Maintenance therapy means the goals and objectives have been reached, or there is no progress toward the goals and objectives, or the therapy does not require the skills of a therapist, and the client, family, foster parents, or caregiver have been taught and can carry out the therapy regimen. Maintenance therapy is not reimbursable;

(c) Modalities — Up to two modalities may be authorized per day of treatment;

(d) Physical Capacity Examinations — Physical capacity examinations are not a part of the Occupational and Physical Therapy program, but may be reimbursed as Administrative Examinations when ordered by the local branch office. See OAR 410 division 150 for information on Administrative examinations and report billing;

(e) Re-Evaluations — A re-evaluation to reassess or change the treatment plan and retrain the client, family, foster parents, or caregiver is reimbursable;

(f) Splint Fabrication — Supplies and materials for the fabrication of splints must be billed at the acquisition cost, not to exceed \$62.40. Acquisition cost is purchase price plus shipping. Off-the-shelf splints are not included in this service;

(g) Therapy Records — Therapy records must include:

(A) A written order (including type, number and duration of services) and therapy treatment plan signed by the prescribing provider;

(B) Documents, evaluations, re-evaluations and progress notes to support the therapy treatment plan and prescribing provider's written orders for changes in the therapy treatment plan;

(C) Modalities used on each date of service;

(D) Procedures performed and amount of time spent performing the procedures is documented and signed by the therapist;

(E) Documentation of splint fabrication and time spent fabricating the splint.

(h) Training — The therapy treatment plan and regimen will be taught to the client, family, foster parents, or caregiver during the therapy treatments. No extra treatments will be authorized for teaching.

(3) Payment Authorization:

(a) The following services do not require payment authorization for occupational or physical therapy:

(A) Up to two initial evaluations in any 12-month period;

(B) Up to four re-evaluation services in any 12-month period.

(b) All other occupational and physical therapy treatments require payment authorization.

(4) Services Not Covered — The following services are not covered:

(a) Services which are not medically appropriate;

(b) Services for those diagnoses which do not appear on a line of the Health Services Commission's Prioritized List of Health Services which has been funded by the Oregon Legislature (OAR 410-141-0520);

ADMINISTRATIVE RULES

- (c) Work hardening;
- (d) Back school/back education classes;
- (e) Hippotherapy;
- (f) Urinary incontinence therapy;
- (g) Durable medical equipment and medical supplies other than those listed in OAR 410-131-0280.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 28-1993, f. & cert. ef. 10-1-93; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03

410-131-0280

Occupational and Physical Therapy Codes

(1) Occupational therapists and physical therapists should use any of the codes listed in Tabled 280-1 and 280-2 which are applicable according to their Licensure and Professional Standards.

(2) Services which do not require payment authorization are listed in Table 280-1. [Table not included. See ED. NOTE.]

(3) Services which require payment authorization are listed in Table 280-2.

(a) Modalities — need to be billed in conjunction with a therapeutic procedure code;

(b) Supervised — The application of a modality that does not require direct (one-on-one) client contact by the provider. Each individual code in this series may be reported only once for each client encounter: Table 280-2. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 8-1995, f. 3-31-95, cert. ef. 4-1-95; HR 4-1996, f. & cert. ef. 5-1-96; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 16-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 41-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03

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Adm. Order No.: OMAP 65-2003

Filed with Sec. of State: 9-10-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-123-1000, 410-123-1040, 410-123-1085, 410-123-1220, 410-123-1240, 410-123-1260, 410-123-1620, 410-123-1640

Rules Repealed: 410-123-1235

Subject: The Dental Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rules 410-123-1000, 410-123-1040, 410-123-1085, 410-123-1220, 410-123-1240, 410-123-1260, 410-123-1620 and 410-123-1640 are revised and 410-123-1235 is repealed to reflect changes in OHP Standard dental benefits, add new tables, combine multiple small rules into one rule to clarify policy, remove unnecessary language, clarify other rule language and to take care of necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson — (503) 945-6927

410-123-1000

Eligibility

(1) If you plan to bill the Office of Medical Assistance Programs (OMAP) for your services, be sure to verify eligibility before providing any service. It is the responsibility of the dentist to verify the client's eligibility. OMAP will not pay for services provided to an ineligible client even if services were authorized. Always check the client's OMAP Medical Care ID or call the Automated Information System (AIS) to verify eligibility.

(2) The OMAP Medical Care ID guarantees eligibility only for the time period listed on the card. Refer to the front of the OMAP Dental Services rules for instructions on reading an OMAP Medical Care ID.

(3) Billing of Third Party Resources:

(a) A third party resource (TPR) is an alternate insurance resource, other than OMAP, available to pay for medical services and items on behalf of Medical Assistance Program clients. If available to the client, this alternate insurance resource must be billed before OMAP can be billed. Indian

Health Services or Tribal facilities are not considered a TPR pursuant to General Rules (OAR 410-120-1280);

(b) If other health insurance is named in the "Managed Care/TPR" section of the client's OMAP Medical Care ID, it means that the client has other resources that must be billed prior to billing OMAP.

(4) Fabricated Prosthetics: If a dentist provides an eligible client with fabricated prosthetics that require the use of a dental laboratory, and the fabrication is expected to extend beyond the period of eligibility listed on the client's OMAP Medical Care ID, the dentist should use the date of impression as the date of service. This is the only exception to General Rules (OAR 410-120-1280). All other services must bill using the date the service was provided.

(5) Treatment Plans: Being consistent with established dental office protocol and the standard of care within the community, scheduling of appointments is at the discretion of the dentist. The agreed upon treatment plan established by the dentist and patient will establish appointment sequencing. Possession of an OMAP Medical Care ID does not entitle a client to any services or consideration not provided to all clients.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1040

Foreword

(1) The Dental Services provider rules is designed to assist dentists, dental hygienists and denturists to deliver dental care services and prepare dental claims for clients with Medical Assistance Program coverage.

(2) The Dental Services provider rules contains information on policy, services requiring prior authorization, service limitations, service criteria, and billing instructions. All Office of Medical Assistance Programs (OMAP) Rules are intended to be used in conjunction with the OMAP General Rules and the Oregon Health Plan (OHP) Administrative Rules.

(3) Dental services are limited as directed by the General Rules — Medical Assistance Benefits: Excluded Services and Limitations, the Dental Services provider rules, and the Health Services Commission's (HSC) Prioritized List of Health Services (List) as follows:

(a) Coverage for diagnostic services and treatment for those services funded on the HSC List; and

(b) Coverage for diagnostic services only, for those conditions that fall below the funded portion of the HSC List.

(4) The HSC List found in the OHP Administrative Rules (rule 410-141-0520).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1085

Client Copayments for Oregon Health Plus Benefit

(1) OHP Plus: Copayments may be required for certain services. See OAR 410-120-1230 for specific details.

(2) Effective March 1, 2003, dental services are no longer covered under the OHP Standard Benefit. See OAR 410-120-1235 for details.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 76-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1220

Services Not Funded on the Health Services Commission's Prioritized List of Health Services

The following general categories of Dental Services are not funded on the Health Services Commission's (HSC) Prioritized List of Health Services (List) and are not covered for any client:

- (1) Desensitization;
- (2) Implant and implant services;
- (3) Mastique or veneer procedure;
- (4) Orthodontia (except when it is treatment for cleft palate with cleft lip);
- (5) Overhang removal;
- (6) Procedures, appliances or restorations solely for aesthetic/ cosmetic purposes;
- (7) Temporomandibular Joint Dysfunction treatment;
- (8) Tooth bleaching;

ADMINISTRATIVE RULES

(9) Table 123-1260-1 contains all covered dental services. This table is subject to change if there are funding changes to the Health Services Commission List of Prioritized Services.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1240

The Dental Claim Invoice

(1) OMAP requires the use of the ADA claim form for the billing of all dental services. This includes all professional dental services provided in an ASC facility, outpatient hospital setting or inpatient hospital setting except for those dental services outlined in rule 410-123-1440 which require the use of the HCFA-1500 claim form. OMAP requires the 2000 ADA, claim form.

(2) Instructions for the forms referenced in this rule are available from OMAP.

(3) Do not include OMAP copayments when billing for dental services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 76-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1260

Dental Exams, Diagnostic and Procedural Services

(1) Refer to Table 123-1260-1 for information regarding dental services requiring prior authorization and surgical report.

(2) The client's records must include appropriate documentation to support the service and level of care rendered.

(3) Dental services that are not dentally appropriate or are for the convenience of the client is not covered.

(4) Exams:

(a) Codes are based on the American Dental Association CDT-4, except where noted for restorations. Refer to the CDT-4 publication for code descriptions;

(b) Exams (billed as D0120, D0150, D0160 or D0180) by the same practitioner are payable once every twelve months;

(c) For each emergent episode use D0140 for the initial exam. Use D0170 for related dental follow-up exams.

(5) Radiographs:

(a) Routine radiographs are limited to once every 12 months, except panoramic and intraoral complete series (D0210) which are payable once every five years. The exception to these limitations is if the client is new to the office or clinic and the office or clinic was unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records must be included in the client's records. A maximum of six radiographs are payable for any one emergency;

(b) When billing for radiographs, use tooth number "33" and tooth surface code "A" for all films;

(c) The minimum age for billing code D0210 is six years. For clients under age six, radiographs may be billed separately as follows:

(A) D0220 — once;

(B) D0230 — a maximum of five times;

(C) D0270 — a maximum of twice, or D0272 once.

(d) The minimum standards for payment of intraoral complete services are:

(A) For clients age six through 11, a minimum of 10 periapicals and two bitewings for a total of 12 films;

(B) There is a minimum of 10 periapicals and four bitewings for a total of 14 films for ages 12 and older.

(e) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Office of Medical Assistance Programs (OMAP) will pay for complete series;

(f) Bitewing radiographs for routine screening are payable every 12 months;

(g) Payment for routine panoramic films is limited to one every five years. Additional films are covered when medically justified, e.g., fractures;

(h) Payment for some or all multiple radiographs of the same tooth or area may be denied if OMAP determines the number to be excessive;

(i) Note: When billing additional films (D0230 and D0260), do not use a separate line for each additional film. Use only one line: add up the total additional films being billed and enter this number under the Quantity column, or create a "Q" column, depending on which form you use.

(6) Preventive Services:

(a) Prophylaxis — Limited to once every 12 months. Additional prophylaxis benefit provisions are available for persons with high risk oral conditions due to disease process, medications or other medical treatments, severe periodontal disease, rampant caries and/or for persons with disabilities who cannot perform adequate daily oral health care;

(b) Topical Fluoride Treatment (Office Procedure):

(A) The limitations described for prophylaxis also applies to topical fluoride;

(B) These services are not covered for clients over 18 years of age.

(c) Sealants:

(A) Sealants are covered for permanent molars only for children 15 or younger;

(B) Limited to one treatment per tooth every five years except for visible evidence of clinical failure.

(d) Space Management — Removable space maintainers will not be replaced if lost or damaged.

(7) Tobacco Cessation:

(a) Use CDT-4 code D1320 on an American Dental Association (ADA) claim form when billing for tobacco cessation services as outlined. Maximum of 10 services within a three month period;

(b) Follow criteria outlined in OAR 410-130-0190.

(8) Restorations — Amalgam and Composite:

(a) Payment for restorations is limited to the maximum restoration fee of four surfaces per tooth. Refer to American Dental Association Current Dental Terminology for definitions of restorative procedures;

(b) All surfaces must be combined and billed one line per tooth using the appropriate code. For example, tooth #30 has a buccal amalgam and a MOD amalgam — bill MOD, B, using code D2161;

(c) Payment for an amalgam or composite restoration and a crown on the same tooth will be denied;

(d) Payment is made for a surface once in each treatment episode regardless of the number or combination of restorations;

(e) Payment for occlusal adjustment and polishing of the restoration is included in the restoration fee;

(f) Composite or similar restorations in posterior teeth will be reimbursed at the amalgam rate. Use codes D2391-D2394.

(9) Crowns:

(a) Acrylic Heat or Light Cured Crowns — allowed for anterior permanent teeth only;

(b) Prefabricated Plastic Crowns — allowed for anterior teeth only, permanent or primary;

(c) Permanent crowns — allowed for anterior permanent teeth only. Clients must be 16 or older. Radiographs required; history, diagnosis, and treatment plan may be requested;

(d) Payment for crowns for posterior teeth, permanent or primary is limited to stainless steel crowns;

(e) Payment for preparation of the gingival tissue is included in the fee for the crown;

(f) Payment for retention pins is limited to four per tooth;

(g) Crowns are covered only when there is significant loss of clinical crown and no other restoration will restore function. Endodontic therapy alone (with or without a post) is not a consideration, nor are aesthetics;

(h) Crown replacement is limited to one every five years per tooth. Exceptions to this limitation may be made for crown damage due to trauma, based on the following factors:

(A) Extent of crown damage;

(B) Extent of damage to other teeth or crowns; and

(C) Extent of impaired mastication.

(i) Crowns will not be covered in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason.

(10) Endodontics:

(a) Pulp Capping: Direct and indirect pulp caps are included in the restoration fee — no additional payment will be made;

(b) Endodontic Therapy:

(A) Endodontics is covered only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(B) Separate reimbursement for open-and-drain as a palliative procedure is allowed only when the root canal is not completed on the same date

ADMINISTRATIVE RULES

of service, or if the same practitioner or dental practitioner in the same group practice did not complete the procedure;

(C) The client's record must include appropriate documentation to support the services and level of care rendered;

(D) Root canal therapy is not covered for third molars.

(c) Endodontic Therapy on Permanent Teeth — Apexification is limited to a maximum of five treatments on permanent teeth only.

(11) Periodontics:

(a) When billing for quadrants, use quadrant UL, LL, UR or LR to define each tooth number. No surface code is necessary;

(b) D4210 — covered for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., dilantin hyperplasia;

(c) D4220 — allowed once in a two-year period;

(d) D4240 and D4260 — allowed once every three years unless there is a documented medical/dental indication;

(e) D4341 — allowed once every two years. A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances. Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater;

(f) D4910 — allowed once every six months. For further consideration of more frequent periodontal maintenance benefits, office records must clearly reflect clinical indication, i.e., chart notes, pocket depths and radiographs;

(g) Records must clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(h) Surgical procedures include six months routine postoperative care;

(i) Note: The Office of Medical Assistance Programs (OMAP) will not reimburse for the following procedures if performed on the same date of service:

(A) D1110;

(B) D1120;

(C) D4210;

(D) D4220;

(E) D4260;

(F) D4341;

(G) D4355;

(H) D4910.

(12) Removable Prosthodontics:

(a) Removable cast metal prosthodontics and full dentures are limited to clients 16 or older;

(b) Adjustments to removable prosthodontics during the six-month period following delivery to clients are included in the fee;

(c) Replacement:

(A) Replacement of dentures and partials is limited to once every five years when dentally appropriate;

(B) The limitation of once every five years applies to the client regardless of Dental Care Organization (DCO) or Fee-for-Service (FFS) enrollment status. This includes clients that move from FFS to DCO, DCO to FFS, or DCO to DCO. For example: a client receives full dentures on February 1, 2000, while FFS and a year later enrolls in a DCO. The client would not be eligible for another full denture until February 2, 2005, regardless of DCO or FFS enrollment;

(C) Replacement of partial dentures with full dentures is payable five years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant replacement.

(d) Relines:

(A) Reline of complete or partial dentures is allowed once every two years;

(B) Exceptions to this limitation may be made under the same conditions warranting replacement;

(C) Laboratory relines are not payable within five months after placement of an immediate denture.

(e) Tissue Conditioning:

(A) Tissue conditioning is allowed once per denture unit in conjunction with immediate dentures;

(B) One tissue conditioning is allowed prior to new prosthetic placement.

(f) Cast Partial Dentures:

(A) Cast partial dentures will not be approved if stainless steel crowns are used as abutments;

(B) Cast partial dentures must have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) Teeth to be replaced and teeth to be clasped are to be noted in the "remarks" section of the form.

(g) Denture Rebase Procedures:

(A) Rebase should only be done if a reline will not adequately solve the problem. Rebase is limited to once every three years;

(B) Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant rebasing.

(h) Laboratory Denture Reline Procedures — Limited to once every two years.

(13) Maxillofacial Prosthetics:

(A) For clients enrolled in managed care, maxillofacial prosthetics are to be billed using CPT or HCPCS coding on a CMS-1500 to the client's medical managed care organization (FCHP). Maxillofacial prosthetics are included in the FCHP capitation and are not the DCO's responsibility;

(b) For fee-for-service clients, bill the Office of Medical Assistance Programs (OMAP) using CPT or HCPCS codes on a CMS-1500 listed in Table 123-1260-2. Payment is based on the physician fee schedule.

(14) Oral Surgery:

(a) Oral surgical services performed in a dental office setting do not require prior authorization (PA), and include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs and follow-up visits;

(b) Oral surgical services performed in a dental office setting are billed on an American Dental Association (ADA) dental claim form. For clients enrolled in a Dental Care Organization (DCO), the oral surgical services are the responsibility of the DCO;

(c) Oral surgical services performed in an Ambulatory Surgical Center (ASC), inpatient or outpatient hospital setting and related anesthesia services require PA. Oral surgical procedures directly related to the teeth and supporting structures must be billed on an ADA claim form;

(d) If the services requiring hospital dentistry are the result of a medical condition/diagnosis (i.e., fracture, cancer), use appropriate American Medical Association (AMA) CPT-4 procedure codes and bill procedures on a CMS-1500 claim form. For clients enrolled in a Fully Capitated Health Plan (FCHP), the facility charge and anesthesia services are the responsibility of the FCHP. See rule 410-123-1490 Hospital Dentistry for requirements;

(e) All codes listed as By Report require an operative report;

(f) Payment for tooth reimplantation is covered only in cases of traumatic avulsion where there are good indications of success;

(g) Surgical Assistance:

(A) Reimbursement for surgical assistance is restricted to services provided by dentists and physicians;

(B) Surgical assistance will be reimbursed only when the assistant's services qualify as a dental or medical necessity;

(C) Only one surgical assistant will be reimbursed unless clinical justification is submitted for an additional assistant;

(D) Primary surgeons, assistant surgeons, anesthesiologists, and nurse anesthetists not in common practice must bill separately for their services.

(h) Extractions — Includes local anesthesia and routine postoperative care;

(i) Surgical Extractions:

(A) Includes local anesthesia and routine post-operative care;

(B) The following codes are limited to treatment for symptomatic pain, infection, bleeding, or swelling:

(i) D7220;

(ii) D7230;

(iii) D7240;

(iv) D7241 — By Report;

(v) D7250.

(j) Note: The following procedures on the Health Services Commission's (HSC) Prioritized List of Health Services (List) are covered as medical procedures. Bill on a CMS-1500, using CPT coding. If a client is enrolled in a Fully Capitated Health Plan (FCHP) it is the responsibility

ADMINISTRATIVE RULES

of the provider to contact the FCHP for any required authorization before the service is rendered:

- (A) D7430;
- (B) D7431;
- (C) D7460;
- (D) D7461;
- (E) D7810;
- (F) D7820;
- (G) D7830.

(15) Orthodontia:

(a) Orthodontia services are limited to eligible clients for the ICD-9-CM diagnosis of cleft palate with cleft lip;

(b) Prior authorization (PA) is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate/lip must be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record must include diagnosis, length and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontia treatment for cleft palate/cleft lip is evaluated as two phases. Each phase is reimbursed individually (separately);

(f) Payment for orthodontia will be made in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist must refund to the Office of Medical Assistance Programs (OMAP) any unused amount of payment, after applying the following formula: Total payment minus \$300.00 (for Banding) multiplied by the percentage of treatment remaining;

(g) The length of the treatment plan from the original request for authorization will be used to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment no refund will be required even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8999 — PA required.

(16) Anesthesia:

(a) General anesthesia or IV sedation is to be used only for those clients with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure (D9220, D9221, and D9240);

(b) General anesthesia is paid using D9220 for the first 30 minutes and use D9221 for each additional 15-minute period, up to three hours on the same day of service. When using D9221, use care when entering quantity. Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(c) Nitrous oxide is paid per date of service, not by time;

(d) IV sedation is paid per date of service;

(e) Oral premedication anesthesia for conscious sedation:

(A) Limited to clients through 12 years of age;

(B) Limited to four times per year;

(C) Monitoring and nitrous oxide included in the fee; and

(D) Use of multiple agents is required to receive payment.

(f) Upon request, providers must submit to the Office of Medical Assistance Programs (OMAP) a copy of their permit to administer anesthesia, analgesia and/or sedation;

(g) Anesthesia — For the purpose of Title XIX and Title XXI, D9630 is limited to those oral medications used during a procedure and is not intended for "take home" medication.

(17) D9430 is limited to three visits per year.

Table 123-1260-1 [Table not printed. See ED. NOTE.]

Table 123-1260-2 [Table not printed. See ED. NOTE.]

[ED. NOTE: Tables are available from the Agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1620

ICD-9-CM

(1) Diagnosis codes are not required for dental claims submitted on an American Dental Association (ADA) form. Diagnosis codes are required for dental services that require by rule to be submitted on a CMS-1500 claim form.

(2) The appropriate code or codes from 001.0 through V82.9 must be used to identify diagnoses, symptoms, conditions, problems, complaints, or other reason(s) for the encounter/visit. Diagnosis codes are required on all claims, including those submitted by independent laboratories and portable x-ray providers. Always provide the client's diagnosis to ancillary service providers when prescribing services, equipment and supplies.

(3) The principal diagnosis is listed in the first position; the principal diagnosis is the code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Up to three additional diagnosis codes may be listed on the claim for documented conditions that co-exist at the time of the encounter/visit and require or affect patient care, treatment, or management.

(4) The diagnosis codes must be listed using the highest degree of specificity available in the ICD-9-CM. A three-digit code is used only if it is not further subdivided. Whenever fourth-digit subcategories and/or fifth-digit subcategories are provided, they must be assigned. A code is invalid if it has not been coded to its highest specificity.

(5) The Office of Medical Assistance Programs (OMAP) requires accurate coding and applies the national standards that are in effect for Calendar Year 2003 and 2004 set by the ADA, the American Hospital Association and the American Medical Association. OMAP has unique coding and claim submission requirements for Administrative Examinations; specific diagnosis coding instructions are provided in the Administrative Examination Rules which is available on OMAP's website.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00;

OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

410-123-1640

Prescriptions

(1) Follow criteria outlined in OAR 410-121-0144.

(2) Practitioner-Managed Prescription Drug Plan (PMPDP) — Follow criteria outlined in PMPDP — OAR 410-121-0030.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 39-2002, f. 9-13-02, cert. ef. 9-15-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03

Adm. Order No.: OMAP 66-2003

Filed with Sec. of State: 9-10-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-136-0340, 410-136-0360

Rules Repealed: 410-136-0380

Subject: The Medical Transportation Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP removed information that is instructional (forms completion instruction) in nature and not necessary in rule. This eliminates unnecessary rule filings in the future. Therefore, 410-136-0340 is amended and 410-136-0380 is repealed and information necessary to keep in rule is placed into 410-136-0360, which is written.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-136-0340

Billing for Clients Who Have Both Medicare and Medicaid Coverage

(1) For services provided to clients with both Medicare and Medical Assistance Program coverage, bill Medicare first, except when the items are not covered by Medicare.

(2) OMAP services not covered by Medicare should be billed directly to OMAP on either the OMAP-505 or CMS-1500.

(3) OMAP may be billed directly (on an OMAP-505) for Aid Call.

(4) OMAP may be billed directly (on a CMS-1500) for the following medical transportation services:

(a) Taxi;

(b) Secured Transport;

(c) Wheelchair Car/Van;

ADMINISTRATIVE RULES

(d) Stretcher Car (including stretcher car services provided by an ambulance).

(5) Except for Aid Call, all services listed above require authorization by the appropriate Department of Human Services office.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; HR 14-1996(Temp), f. & cert. ef. 7-1-96; HR 25-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 66-2003, f. 9-10-03 cert. ef. 10-1-03

410-136-0360

Billing

The CMS-1500 and the OMAP-505 forms are the required billing forms for medical transportation. Refer to the appropriate Department of Human Services website for information on completion of both forms.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; HR 30-1993, f. & cert. ef. 10-1-93; OMAP 66-2003, f. 9-10-03 cert. ef. 10-1-03

Adm. Order No.: OMAP 67-2003

Filed with Sec. of State: 9-10-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 410-150-0000, 410-150-0080, 410-150-0120, 410-150-0200, 410-150-0300

Rules Repealed: 410-150-0100, 410-150-0140, 410-150-0180, 410-150-0220, 410-150-0260, 410-150-0280

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

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-150-0000

Purpose

The Administrative Examination and Report rules are provided to use in conjunction with the General Rules of the Office of Medical Assistance Programs (OMAP) to assist providers in completing examinations requested and in preparing claims for administrative evaluations and reports. These rules do not apply to managed care plans.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 67-2003, f. 9-10-03 cert. ef. 10-1-03

410-150-0080

Billing Instructions for Administrative Examinations

(1) Medical and ancillary services providers must bill on a CMS-1500.

(2) Hospital services must be billed on a UB-92.

(3) Copies of records by a copy service provider must be billed on a CMS-1500.

(4) Do not attach the OMAP 729 or any documents to the CMS -1500. Send the examination or copies of the reports to the branch office shown on the OMAP 729.

(5) For Administrative Examination billing, the following are required on the appropriate billing form:

- The procedure code specified on the OMAP 729;
- The description as it appears on the OMAP 729;
- The correct type of service (TOS) per Procedure Code Tables; and
- The diagnosis V68.89.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 67-2003, f. 9-10-03 cert. ef. 10-1-03

410-150-0120

Procedure Code Table — Medical and Ancillary Services Providers

Table — 150-0120 identifies the codes available for Administrative Examinations and Reports.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 7-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 47-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 15-2002, f. & cert. ef. 4-1-02; OMAP 60-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 67-2003, f. 9-10-03 cert. ef. 10-1-03

410-150-0200

Billing Instructions — Licensed Polygrapher

(1) Billing for licensed polygrapher services must be in writing on a CMS-1500.

(2) A polygraph does not qualify as a health care service and is therefore not subject to Health Insurance Portability and Accountability Act (HIPAA) regulations.

(3) Do not attach the OMAP 729 or any documents to the CMS-1500. Send the test results to the requesting branch office address shown on the OMAP 729.

(4) Send completed CMS-1500 claim form to OMAP.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 67-2003, f. 9-10-03 cert. ef. 10-1-03

410-150-0300

Procedure Code Table — Copy Services

Table — 150-0300. (Table rewritten) [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2002, f. & cert. ef. 4-1-02; OMAP 67-2003, f. 9-10-03 cert. ef. 10-1-03

Adm. Order No.: OMAP 68-2003

Filed with Sec. of State: 9-12-2003

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Rules Adopted: 410-146-0022

Rules Amended: 410-146-0040, 410-146-0060, 410-146-0075, 410-146-0080, 410-146-0120, 410-146-0130

Rules Repealed: 410-146-0260, 410-146-0320

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

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-146-0022

OHP Standard Benefit for AI/AN Clients

Once OMAP receives authorization to implement SB 878 from the Centers for Medicare and Medicaid Services, OHP Standard AI/AN clients have the following benefits:

(1) AI/AN Clients eligible for the OHP Standard Benefit are allowed by the authority of SB 878 to receive all services allowed under the OHP Plus Benefit that are reimbursed by CMS at 100% FPL;

(2) AI/AN Clients eligible for the OHP Standard Benefit do not change eligibility group unless allowed by OAR. For example OHP Standard female client becomes pregnant and moves into OHP Plus during pregnancy;

(3) Excluded Services: Transportation.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0040

ICD-9-CM Diagnosis Codes

(1) The appropriate code or codes from 001.0 through V82.9 must be used to identify diagnoses, symptoms, conditions, problems, complaints, or other reasons for the encounter/visit. Diagnosis codes are required on all claims, including those submitted by independent laboratories and portable radiology including nuclear medicine and diagnostic ultrasound providers.

ADMINISTRATIVE RULES

Always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(2) The principal diagnosis is listed in the first position; the principal diagnosis is the code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Up to three additional diagnosis codes may be listed on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(3) The diagnosis codes must be listed using the highest degree of specificity available in the ICD-9-CM. A three-digit code is used only if it is not further subdivided. Whenever fourth-digit subcategories and/or fifth-digit subcategories are provided, they must be assigned. A code is invalid if it has not been coded to its highest specificity.

(4) The Office of Medical Assistance Programs (OMAP) requires accurate coding and applies the national standards in effect for calendar years 2003 and 2004 set by the American Hospital Association, American Medical Association, and Centers for Medicare and Medicaid Services (CMS). OMAP has unique coding and claim submission requirements for Administrative Exams; specific diagnosis coding instructions are provided in the Administrative Examination and Report Billing provider rules.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00;

OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01;

OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0060

Prior Authorization

(1) No prior authorization (PA) is required for services provided within an American Indian/Alaska Native (AI/AN) Health Care Facility with the sole exception of pharmacy, DME and Hospital Dentistry services. Refer to the Pharmacy and DME program rules for more detailed information.

(2) If a client is enrolled in a managed care plan there may be PA requirements for some services that are provided through the managed care plan. Contact the client's managed care plan for specifics.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01;

OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0075

Client Copayments

(1) American Indian/Alaska Native (AI/AN) are not required to pay copayments for services provided through Indian Health Services (IHS), a Federally recognized Indian Tribe or Tribal Organization. This includes any health care services provided to the AI/AN member and is defined as provided directly, by referral, or under contracts or other arrangements between IHS, a Federally recognized Indian Tribe, Tribal Organization or an Urban Tribal Health Clinic and another health care provider.

(2) AI/AN are not required to pay copayments for services provided at an Urban Tribal Health Clinic.

(3) AI/AN Tribal Health Facilities may not charge copayments to non-AI/AN Medical Assistance Program clients receiving care at the Tribal Health Facility.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 89-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-

03; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0080

Professional Services

(1) Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or, Home Health services are not limited except as directed by the General Rules — Medical Assistance Benefits: Excluded Services and Limitations and the Health Services Commission's (HSC) Prioritized List of Health Services (List) as follows:

(a) Coverage for diagnostic services and treatment for those services funded on the HSC List, and;

(b) Coverage for diagnostic services only, for those conditions that fall below the funded portion of the HSC List;

(c) The date of service determines the appropriate version of the General Rules and the HSC List to determine coverage;

(d) The OHP Standard Benefit Package is a limited benefit package. See OAR 410-120-1235 for details.

(2) American Indian/Alaska Native (AI/AN) Health Care Facilities are eligible under the Memorandum of Agreement (MOA) for reimburse-

ment of professional services. These services are billed on CMS-1500 using diagnoses that meet national coding standards, or as specifically directed in rule.

(3) Encounter:

(a) An encounter is defined as "A face-to-face contact between a health care professional and an Indian Health Services (IHS) beneficiary eligible for the Medical Assistance Program for the provision of Title XIX/CHIP defined services in an AI/AN Health Care Facility within a 24-hour period ending at midnight, as documented in the client's medical record";

(b) An encounter can occur either within or through the AI/AN Health Care Facility;

(c) The following encounters are reimbursable under the MOA encounter rate: Physicians, Licensed Physician Assistants, Nurse Practitioners, Nurse Midwives, Dentists, Pharm D, or other health care professionals to provide: Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or Home Health Services;

(d) Professional services provided in a hospital setting;

(e) Services outside of the encounter rate include but not limited to Pharmacy, DME, Lab, Radiology, Targeted Case Management, Administrative Examinations, and Medical Transportation. These services are reimbursed under the OMAP fee-for service system;

(f) Effective March 1, 2003, the OHP Standard Benefit has limited services. See OAR 410-120-1235 for detailed list of non-covered services.

(4) Multiple Encounters:

(a) Multiple encounters may occur on the same date of service. Any of these encounters could occur and be reported separately:

(A) For Dental refer to **Table 146-0080-2**;

(B) Mental Health;

(C) Alcohol and Drug;

(D) Vision;

(E) Medical: More than one outpatient visit with a medical professional within a 24-hour period for the same diagnosis constitutes a single encounter. More than one outpatient visit with a medical professional within a 24-hour period for different diagnoses is reported as two or more encounters;

(F) Physical or Occupational Therapy.

(b) If a client has multiple encounters on the same date of service, list the appropriate codes on separate lines. For example, if a client comes into the clinic for a tetanus shot and has a vision exam on the same day, the office visit code is listed on line 1 in Field 24 and the vision exam code is listed on line 2 in Field 24;

(c) If a client has multiple medical professional encounters on the same date of service, then list the most appropriate Evaluation and Management code on line 1 in Field 24 and indicate the total number of encounters in Field 24G (Days or Units);

(d) In Field 21 of the CMS-1500, 1-4 (Diagnosis or Nature of Illness or Injury), code the medical diagnosis according to national coding guidelines to the highest degree of specificity available;

(e) When there are multiple encounters and one of the services is a medical service, always code that service first and then list any other diagnoses as space permits (there is a maximum of four diagnoses available on the CMS-1500). If the medical condition requires the use of all four-diagnosis fields then do not code the other services. If there is not a medical service, for example the client had two encounters, dental and vision, no specific order for the diagnosis codes is required.

(5) Codes for AI/AN and Non-Native OMAP Client Encounters — Due to the unique billing and payment methodology and the implementation of the Health Insurance Portability and Accountability Act (HIPAA), OMAP has converted from using a single OMAP unique procedure code to report an encounter with selected CPT/HCPCS codes. The billing guidelines provided in the AI/AN billing rules limits AI/AN Health Care Facilities to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This does not apply to ICD-9-CM diagnosis coding. Bill OMAP with the procedure codes indicated in each service category for services included in the AI/AN encounter rate. For services that are not included in the encounter rate or under the MOA please refer to the Services Not Eligible Under the MOA section of the AI/AN billing rules for billing instructions:

(6) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code ranges shown in **Table 146-0080-1**.

ADMINISTRATIVE RULES

(7) It is the HSC's intent to cover reasonable diagnostic services to determine diagnoses on the HSC List, regardless of their placement on the HSC List.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00;

OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01;

OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP

68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0120

Maternity Case Management Services

(1) American Indian/Alaska Native Health Care Facilities are eligible for reimbursement for Maternity Case Management (MCM) services. These services are billed on a CMS-1500 using diagnoses that meet national coding standards, HCPCS code G9012, and type of service "1."

(2) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies. MCM services are intended to target pregnant women early during the prenatal period and can only be initiated when the client is pregnant and no later than the day prior to delivery. MCM services cannot be initiated the day of delivery, during postpartum or for newborn evaluation. Clients are not eligible for MCM services if the MCM initial evaluation has not been completed prior to the day of delivery.

(3) This program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two month post-partum period;

(c) Is an additional set of services over and above medical management of pregnant clients;

(d) Allows for billing for intensive nutritional counseling services.

(4) Any time there is a significant change in the health, economic, social, or nutritional factors of the client the prenatal care provider must be notified.

(5) Note: In situations where multiple providers are seeing one client for MCM or other Targeted Case Management services, the case manager must coordinate care to ensure claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(6) Definitions:

(a) Case Management — An ongoing process to assist the client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A client encounter that must include two or more specific training and education topics and provides on-going relationship development between the client and the case manager. May be provided in the client's home or other site;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Case Management — Intensive case management services provided to a client identified and documented by the maternity case manager or prenatal care provider as being high risk;

(e) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco, or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment instrument;

(f) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(g) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral, developmental, educational, mobility, environmental, nutritional, and emotional areas. Data sources may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(h) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the following documented conditions:

(A) Chronic disease, e.g., diabetes, renal disease;

(B) Hematocrit (Hct) less than 34 (Hemoglobin (Hgb) 11) first trimester, Hct 32 (Hgb10) second or third trimester;

(C) Pre-gravida weights under 100 lbs or over 200 lbs;

(D) Pregnancy weight gain outside WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (preeclampsia);

(I) Other conditions identified by the maternity case manager, physician, or perinatal care provider for which adequate services are not accessible through another program.

(i) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and or postnatal services to the client;

(j) Telephone Contact — A non-face-to-face client encounter between a maternity case manager and the client, initiated by the maternity case manager, providing education or training related to the CSP.

(7) Maternity Case Manager Qualifications:

(a) Maternity case managers must be:

(A) Currently licensed as a:

(i) Physician;

(ii) Physician Assistant;

(iii) Nurse Practitioner;

(iv) Certified Nurse Midwife;

(v) Direct Entry Midwife;

(vi) Social Worker; or

(vii) Registered Nurse with a minimum of two years related and relevant work experience.

(B) Other para-professionals (including Community Health Representatives (CHR) under the supervision of one of the above practitioners, or a licensed direct entry midwife) may provide specific services while working under the supervision of one of the practitioners listed in (7)(a)(A) of this rule.

(b) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(8) Nutritional Counselor Qualifications — A nutritional counselor must:

(a) Be a registered dietician; or

(b) Have a bachelor's degree in a nutrition-related field with two years of related work experience.

(9) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with OMAP General Rules 410-120-1360;

(b) A correctly completed OMAP form 2470, 2471, and 2472 or their equivalents meet minimum documentation requirements for MCM services.

(10) Initial Assessment:

(a) Includes:

(A) Client assessment as outlined in the "Definitions" section of this rule;

(B) Development of a CSP which addresses needs identified;

(C) Making referrals as needed;

(D) Assisting with a referral to a prenatal care provider as needed;

(E) Forwarding of the initial assessment and other relevant information to the on-going maternity case manager and prenatal care provider;

(F) Communicating pertinent information to other professionals participating in the clients' medical and social care.

(b) Client's record must reflect the date and to whom the initial assessment was sent.

(11) Case Management (Full Service) — Includes:

(a) Face-to-face client contacts;

(b) Implementation and monitoring of a CSP:

(A) The client's records must include a CSP and written updates to the plan;

(B) The CSP activities involve determining the client's strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.

(c) Referral to services included in the CSP:

(A) Make referrals, provide information and assist the client in self-referral;

(B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.

ADMINISTRATIVE RULES

(d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling as indicated;

(e) Training, information, and education contained in Table 146-0120-1;

(f) Linkage to labor and delivery services;

(g) Linkage to family planning services as needed;

(h) CSP coordination as follows:

(A) Contact with Department of Human Services worker, if assigned;

(B) Contact with prenatal care provider; and

(C) Contact with other community resources/agencies to address needs.

(i) Advocate for client as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;

(j) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive.

(12) Nutritional Counseling:

(a) Available for clients who have at least one of the documented conditions listed in the "Definitions" section of this rule;

(b) Documentation must include all of the following:

(A) Nutritional assessment;

(B) Nutritional care plan; and

(C) Regular client follow-up.

(13) Home/Environment Assessment — Includes an assessment of the health and safety of the client's living conditions with training and education as indicated Table 146-0120-1 and must include all topics applicable to the client.

(14) Telephone Contact — A non-face-to-face client encounter between a maternity case manager and the client, initiated by the maternity case manager, providing education or training related to the CSP when a face-to-face case management visit is not possible or practical.

(15) Case Management Visits — Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and training, information and education regarding at least two topics from Table 146-0120-1.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

410-146-0130

Modifiers

(1) The Office of Medical Assistance Programs (OMAP) uses nationally recognized modifiers for many services. The modifiers listed in the American Indian/Alaska Native (AI/AN) billing rules are required.

(2) Refer to OAR 410-146-0080 Billing Codes Table 146-0080-1 for list of required modifiers.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03

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Adm. Order No.: OMAP 69-2003

Filed with Sec. of State: 9-12-2003

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Notice Publication Date: 7-1-03

Rules Amended: 410-130-0160, 410-130-0180, 410-130-0190, 410-130-0200, 410-130-0220, 410-130-0240, 410-130-0562, 410-130-0580, 410-130-0585, 410-130-0680, 410-130-0700

Rules Repealed: 410-130-0145, 410-130-0150, 410-130-0250, 410-130-0260, 410-130-0280, 410-130-0300, 410-130-0400, 410-130-0420, 410-130-0440, 410-130-0460, 410-130-0480, 410-130-0500, 410-130-0530, 410-130-0540, 410-130-0590, 410-130-0660, 410-130-0760, 410-130-0780, 410-130-0920, 410-130-0965

Rules Renumbered: 410-130-0370 to 410-130-0225, 410-130-0900 to 410-130-0230, 410-130-0940 to 410-130-0365

Rules Ren. & Amended: 410-130-0080 to 410-130-0245, 410-130-0100 to 410-130-0595, 410-130-0800 to 410-130-0255, 410-130-0960 to 410-130-0165

Subject: The Medical Surgical Rule program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. With the above list of rules to be

amended OMAP added new tables, combined multiple rules into one, repositioned codes requiring PA, moved NC/BND codes to PA and NC/BND rules with the addition of tables to list codes moved from individual rules. Rules are repealed or renumbered to remove unnecessary code descriptions and forms instructions, and rules are adopted to replace language in order to support OMAP Medical/Surgical policies and provide a more efficient way of locating information.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0160

Codes

(1) ICD-9-CM Diagnosis Codes:

(a) Always use the principal diagnosis code in the first position to the highest degree of specificity. List up to three additional diagnosis codes if the claim includes charges for services that relate to the additional diagnoses. However, it is not necessary to include more than one diagnosis code per procedure code;

(b) Diagnosis codes are required on all billings including those from independent laboratories and portable radiology including nuclear medicine and diagnostic ultrasound providers;

(c) Always supply the ICD-9-CM diagnosis code to ancillary service providers when prescribing services, equipment and supplies.

(2) CPT, and HCPCS Codes:

(a) Use only codes from the current year for CPT and HCPCS codes. For services provided between January 1, and March 31, use the previous year or the new codes effective January 1 of a given year;

(b) A grace period from January 1st through March 31st of the next year is allowed for codes deleted January 1st. During this grace period, do not use both a current and new code for the same service;

(c) CPT category III codes (codes with fifth digit "T") are not Medical Assistance Program covered services;

(3) The Medical-Surgical Service rules list the 2003 HCPCS/CPT codes that require authorization, or have limitations. The Health Services Commission's Prioritized List of Health Services (rule 410-141-0520) determines covered services.

(4) Use the most applicable CPT or HCPCS code. Do not fragment coding when services can be included in a single code (see the "Bundled Services" section of this rule). Do not use both CPT and HCPCS codes for the same procedure. This would be duplicate billing.

(5) For determining the appropriate level of service code for Evaluation and Management services, read the definitions in the CPT and HCPCS codebook. Use the definitions to verify your level of service, especially for office visits. Unless otherwise specified in the Medical-Surgical provider rule, use the guidelines from CPT and HCPCS.

(6) Must submit all claims either electronically or paper using CMS 1500 claim form. For claim form(s) and modifier requirements — See the Medical-Surgical Services section in the billing instructions;

(7) For multiple surgical procedures for the same CPT code in the 19000-69999 CPT series bill each on separate lines with different billed amounts. For example, bill CPT 26135 on one line for \$290.00 then on second line bill CPT 26135 with \$289.99. This includes bilateral procedures.

(8) Bundled Services — Reimbursements for some services are "bundled" into the payment for another service (e.g., payment for obtaining a PAP smear is bundled into the payment for the office visit). Bundled services cannot be billed separately to OMAP or the client. The abbreviation "BND" in the code lists in the OMAP Medical-Surgical Services provider rule indicates the procedure is bundled into another one.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0610; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0165

Client Copayments

(1) OHP Plus:

(a) Copayments may be required for certain services. See OAR 410-120-1230 for specific details.

(2) OHP Standard:

ADMINISTRATIVE RULES

(a) A client receiving the OHP Standard Benefit Package may be subject to copayments for Medical-Surgical services. See General Rules, 410-120-1235 for additional information;

(b) For procedure codes where there are both professional (modifier-26) and technical components (modifier-TC), there is a copayment for the technical component only if two different providers are billing for each component. There is no copayment for the professional component alone. The copayment applies only to the technical service. If the same provider performs both professional and technical components, the copayment applies.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 82-2002, f. 12-24-02, cert. ef. 1-1-03; Renumbered from 410-130-960, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0180

Drugs

(1) Not covered services include:

- (a) Laetrile;
- (b) Home pregnancy kits and products designed to promote fertility;
- (c) DMSO, except for instillation into the urinary bladder for symptomatic relief of interstitial cystitis. This service does not require prior authorization;

(d) Infertility drugs.

(2) Drug Administration. Reimbursement is limited to drugs administered by the prescribing practitioner in the office, clinic or home settings. Drugs for self-administration by the client are not billable, EXCEPT contraceptives such as birth control pills, spemicides and patches:

(a) Use an appropriate CPT therapeutic injection code for administration of injections;

(b) Use an appropriate HCPCS code for the specific drug. Do not bill for drugs under code 99070;

(c) When billing unclassified drugs and other drug codes listed below, bill at acquisition cost (purchase price plus postage) and use the following codes:

- (A) J1815-J1816;
- (B) J3490;
- (C) J7699;
- (D) J7799;
- (E) J8499;
- (F) J9999;

(G) Include the name of the drug, NDC number, and dosage.

(d) Epoetin Alpha (EPO) Codes Q9920-Q9940 are covered;

(e) Do not bill for local anesthetics. Reimbursement is included in the payment for the tray and/or procedure.

(3) For Not Covered/Bundled services or Prior Authorization Requirements refer to OAR 410-130-0200 Table 130-0200-1 and OAR 410-130-0220 Table 130-0220-1.

(4) Follow criteria outlined in the following:

- (a) Billing Requirements — OAR 410-121-0150;
- (b) Brand Name Pharmaceuticals — OAR 410-121-0155;
- (c) Prior Authorization Procedures — OAR 410-121-0060;
- (d) Drugs and Products Requiring Prior Authorization — OAR 410-121-0040;

(e) Drug Use Review — OAR 410-121-0100;

(f) Participation in Medicaid's Prudent Pharmaceutical Purchasing Program — OAR 410-121-0157.

(4) Clozapine Therapy:

(a) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications;

(b) Clozapine Supervision is the management and record keeping of Clozapine dispensing as required by the manufacturer of Clozapine:

(A) Providers billing for Clozapine supervision must document all of the following:

- (i) Exact date and results of White Blood Counts (WBC), upon initiation of therapy and at recommended intervals per the drug labeling;
- (ii) Notations of current dosage and change in dosage;
- (iii) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;
- (iv) Dates provider sent required information to manufacturer.

(B) Only one provider (either a physician or pharmacist) may bill per week per client;

(C) Limited to five units per 30 days per client;

(D) Use code 90862 with modifier TC to bill for Clozapine supervision.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0620; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 33-2002, f. & cert. ef. 8-1-02; OMAP 39-2002, f. 9-13-02, cert. ef. 9-15-02; OMAP 52-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0190

Tobacco Cessation

(1) Tobacco treatment interventions may include one or more of these services: basic, intensive, and telephone calls.

(2) Basic tobacco cessation treatment includes the following services:

(a) Ask — systematically identify all tobacco users — usually done at each visit;

(b) Advise — strongly urge all tobacco users to quit;

(c) Assess — willingness to attempt to quit using tobacco within 30 days;

(d) Assist — with brief behavioral counseling, treatment materials and the recommendation/prescription of tobacco cessation therapy products (e.g., nicotine patches, oral medications intended for tobacco cessation treatment and gum);

(e) Arrange — follow-up support and/or referral to more intensive treatments, if needed;

(3) When providing basic treatment, a brief discussion should be sufficient to address client concerns and provide the support, encouragement, and counseling needed to assist with tobacco cessation efforts. These brief interventions generally are provided during a visit for other conditions, and additional billing is not appropriate.

(4) Intensive tobacco cessation treatment is on the Health Services Commission's Prioritized List of Health Services and is covered if a documented quit date has been established. This treatment is limited to ten sessions every three months. Treatment should be reserved for those clients who are not able to quit using tobacco with the basic intervention measures.

(5) When billing for tobacco cessation counseling use G9016 and for tobacco cessation treatment use S9075.

(6) Intensive tobacco cessation treatment includes the following services:

(a) Multiple treatment encounters (up to ten in a 3 month period);

(b) Behavioral and tobacco cessation therapy products (e.g., nicotine patches, oral medications intended for tobacco cessation treatment and gum);

(c) Individual or group counseling.

(7) Telephone calls: A telephone call intended as a replacement for face-to-face contact with clients who are in intensive treatment may be reimbursed as it is considered a reasonable adjunct to, or replacement for, scheduled counseling sessions:

(a) The call may last five to ten minutes and provides support and follow-up counseling;

(b) The call should be conducted by the provider or other trained staff under the direction or supervision of the provider;

(c) Proper documentation of the service must be entered in the client's chart;

(d) One or two telephone calls associated with basic tobacco cessation services may also be appropriate. The same guidelines for supervision and documentation apply.

(8) Diagnosis Code ICD-9-CM 305.1 (Tobacco Use Disorder):

(a) Use as the principal diagnosis code when the client is enrolled in a tobacco cessation program or if the primary purpose of the visit is for tobacco cessation services;

(b) Use as a secondary diagnosis code when the primary purpose of this visit is not for tobacco cessation or when the tobacco use is confirmed during the visit.

(9) Billing Information: Managed care plans may have tobacco cessation services and programs. This rule shall not limit or prescribe services a managed care plan provides to clients receiving the Basic Health Care Package.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065

Hist.: HR 36-1992, f. & cert. ef. 12-1-92; OMAP 15-1998, f. & cert. ef. 5-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

410-130-0200

Prior Authorization

(1) If the client is covered by a managed care plan, contact the appropriate managed care plan for prior authorization (PA) requirements and instructions for billing the plan.

(2) If the client has both Medicare and Medical Assistance Program coverage, PA is not required from OMAP for services covered by Medicare, except for most transplants.

(3) Kidney and cornea transplants do not require PA unless they are performed out-of-state.

(4) Contact the Office of Medical Assistance Programs (OMAP) Medical Director's Office for PA for transplants other than kidney and cornea, and requests for non-emergent, non-urgent out-of-state services. Refer to the OMAP Transplant Services rule for further information on transplants and refer to the General Rules for further information concerning out-of-state services.

(5) Services for clients of the Medically Fragile Children's Unit must be authorized by that Unit.

(6) All other procedures listed in the Medical-Surgical Services provider rule with a PA indicator must be prior authorized by the Oregon Medical Professional Review Organization (OMPRO) when performed in any setting. A second opinion may be requested by OMAP or OMPRO before authorization of payment is given for a surgery.

(7) Hospital admissions do not require PA unless the procedure requires PA.

(8) PA is not required for emergent or urgent procedures or services.

(9) Treating and performing practitioners are responsible for obtaining PA.

(10) Refer to **Table 130-0200-1** for all services/procedures requiring prior authorization.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 868, f. 12-30-77, ef. 2-1-78; AFS 65-1980, f. 9-23-80, ef. 10-1-80; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 23-1986, f. 3-19-86, ef. 5-1-86; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0045; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0630; HR 25-1990(Temp), f. 8-31-90, cert. ef. 9-1-90; HR 44-1990, f. & cert. ef. 11-30-90; HR 17-1991(Temp), f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0220

Not Covered/Bundled Services

(1) Refer to the Oregon Health Plan Administrative Rules (rule 410-141-0520) and General Rules (chapter 410, division 120) for coverage of services. Refer to **Table 130-0220-1** for additional information regarding not covered services or for services that are considered by OMAP to be bundled. The following are examples of not covered services:

(a) "After hours" visits during regularly scheduled hours;

(b) Psychotherapy services (covered only through local Mental Health Clinics and Mental Health Organizations);

(c) Room charges (only services and supplies covered);

(d) Routine postoperative visits (included in the payment for the surgery) during 90 days following major surgery (global period) or 10 days following minor surgery;

(e) Services outside the practitioner's office or unusual office hours at the client's request;

(f) Telephone calls, for purposes other than tobacco cessation, and maternity case management.

(2) This is not an inclusive list. Specific information is included in the Office of Medical Assistance Programs (OMAP) General Rules, Medical Assistance Benefits: Excluded Services and Limitations (rule 410-120-1200).

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0640; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 16-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 30-1998, f. & cert. ef. 9-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0225

Teaching Physicians

(1) Supervising faculty physicians in a teaching hospital may not bill the Office of Medical Assistance Programs (OMAP) on a HCFA-1500 when serving as an employee of the hospital during the time the service is provided or when the hospital reports the service as a direct medical education cost on the Medicare and OMAP cost report.

(2) For requirements for the provision of services, including documentation requirements, follow Medicare guidelines for Teaching Physician Services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; Renumbered from 410-130-0370, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0230

Administrative Medical Examinations and Reports

(1) This rule does not apply to Managed Health Care plans.

(2) These services are covered only when requested by an CAF, SPD OMHAS, OYA, SCF branch office or approved by OMAP. The branch office may request an administrative medical examination or a medical report (OMAP 729) to establish client eligibility for an assistance program or casework planning.

(3) See the Administrative Examination and Report Billing rule for complete billing instructions.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 36-1992, f. & cert. ef. 12-1-92; HR 6-1994, f. & cert. ef. 2-1-94; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97
Hist.: HR 36-1992, f. & cert. ef. 12-1-92; HR 6-1994, f. & cert. ef. 2-1-94; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; Renumbered from 410-130-0900, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0240

Medical Services

(1) All medical and surgical services requiring prior authorization (PA) are listed in OAR 410-130-0200 PA Table 130-0200-1 and services that are Not Covered/Bundled services are listed in OAR 410-130-0220 Table 130-0220-1. Table 130-0220-1 only contains clarification regarding some services that are not covered. Refer to the Health Services List of Prioritized Services for additional information regarding not covered services.

(2) Acupuncture may be performed by a physician, a physician's employee-acupuncturist under the physician's supervision, or a licensed acupuncturist, and bill using CPT 97780 or 97781.

(3) Anesthesia is not covered for procedures that are below the funding line on the Health Services Commission's Prioritized List of Health Services:

(a) Reimbursement is based on the base units listed in the current American Society of Anesthesiology Relative Value Guide plus one unit per 15 minutes. Exceptions — anesthesia for neuraxial labor analgesia/anesthesia must be billed at the base rate plus one unit for each additional 15 minutes of anesthesia;

(b) Bill total quantity on one line of the base units plus one unit for each 15 minutes of anesthesia time. For the last fraction of time under 15 minutes, bill one unit for 8-14 minutes. Do not bill a unit for 1-7 minutes of time;

(c) Reimbursement for qualifying circumstances codes 99100-99140 and modifiers P1-P6 is bundled in the payment for codes 00100-01999. Do not add charges for 99100-99140 and modifiers P1-P6 in charges for 00100-01999;

(d) A valid consent form is required for all hysterectomies and sterilizations. Use appropriate CPT anesthesia codes for abortions, hysterectomies, and sterilization;

(e) If prior authorization (PA) was not obtained on a procedure that requires PA, then the anesthesia services may not be paid. Refer to OAR 410-130-0200 PA Table 130-0200-1;

(f) Anesthesia services are not payable to the provider performing the surgical procedure except for conscious sedation.

(4) Chiropractic services must be billed using 99202 and 99212 for the diagnostic visits and 98940-98942 for manipulation. Use CPT lab and radiology codes, which most accurately identifies the services performed.

(5) For Maternity Care and Delivery use Evaluation and Management codes when providing three or fewer antepartum visits:

(a) For births performed in a clinic or home setting, use CPT codes that most accurately describe the services provided. HCPCS supply code

ADMINISTRATIVE RULES

S8415 may be billed in addition to the CPT procedure code. Code S8415 includes all supplies, equipment, staff assistance, birthing suite, newborn screening cards, topical and local anesthetics. Bill medications (except topical and local anesthetics) with HCPCS codes that most accurately describe the medications;

(b) For labor management only, bill 59899 and attach a report;

(c) For multiple births, bill the highest level birth with the appropriate CPT code and the other births under the delivery only code. For example, for total OB with cesarean delivery of twins, bill 59510 for the first delivery and 59514 for the second deliver.

(6) Mental Health and Psychiatric Services:

(a) Administrative Exams and reports for Psychiatric or psychological evaluations refer to the Administrative Exam rules;

(b) Psychiatrists can be reimbursed by OMAP for symptomatic diagnosis and services which are somatic (physical) in nature. Contact the local Mental Health Department for covered psychiatric and psychological services;

(c) Mental Health Services — Must be provided by local Mental Health Clinics or a client's Mental Health Organization (MHO). Not payable to private physicians, psychologists, and social workers.

(7) Neonatal Intensive Care Unit (NICU) procedure codes are reimbursed only to neonatologists and pediatric intensivists for services provided to infants when admitted to a Neonatal or Pediatric Intensive Care Unit (NICU/PICU). All other pediatricians must use other CPT codes when billing for services provided to neonates and infants:

(a) Consultations by specialists other than neonatologists and pediatric intensivists are payable in addition to these codes;

(b) Neonatal intensive care codes are not payable for infants on Extracorporeal Membrane Oxygenation (ECMO). Use specific CPT ECMO codes.

(8) Neurology/Neuromuscular — Payment for polysomnographs and multiple sleep latency test (MSLT) are each limited to two in a 12-month period.

(9) Ophthalmology Services — Routine eye exams for the purpose of glasses or contacts are limited to one examination every 24 months for adults. All materials and supplies must be obtained from OMAP's contractor. Refer to the Vision Program Rules for more information.

(10) Special Services and Reports — OMAP will pay for procedure codes 99052 or 99054 only when the service provided is outside the practitioner's usual or scheduled working hours. These services are not payable to emergency room based physicians.

(11) Speech & Hearing — HCPCS codes V5000-V5299 are limited to speech-language pathologists, audiologists, and hearing aid dealers:

(a) Refer to the Speech and Hearing Program Rules for detailed information;

(b) Payment for hearing aids and speech therapy must be authorized before the service is delivered;

(c) CPT 92593 and 92595 Covered for children under age 21.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 839(Temp), f. & ef. 4-28-77; PWC 849, f. 7-15-77, ef. 8-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 14-1978(Temp), f. 4-14-78, ef. 4-15-78; AFS 31-1978, f. & ef. 8-1-78; AFS 26-1980, f. 5-21-80, ef. 6-1-80, AFS 56-1980(Temp), f. 8-29-80, ef. 9-1-80; AFS 2-1981, f. 1-9-81, ef. 2-1-81; AFS 36-1981, f. 6-29-81, ef. 7-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1983, f. & ef. 8-1-83; AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0021 & 461-014-0056; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0650, 461-014-0690 & 461-014-0700; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 18-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 18-1992, f. & cert. ef. 7-1-92; HR 36-1992, f. & cert. ef. 12-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94; Renumbered from 410-130-0320, 410-130-0340, 410-130-0360 & 410-130-0740; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0245

EPSDT Program

(1) The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program, formerly called Medichex, offers "well-child" medical exams with referral for medically appropriate comprehensive diagnosis and

treatment for all children (birth through age 20) covered by the Basic Health Care benefit package.

(2) Screening Exams:

(a) Physicians (MD or DO), nurse practitioners, licensed physician assistants and other licensed health professionals may provide EPSDT services. Screening services are based on the definition of "Preventive Services" in OAR 410-141-0000;

(b) Periodic EPSDT screening exams must include:

(A) A comprehensive health and developmental history including assessment of both physical and mental health development;

(B) Assessment of nutritional status;

(C) Comprehensive unclothed physical exam including inspection of teeth and gums;

(D) Appropriate immunizations;

(E) Lead testing for children under age 6 as required. See the "Blood Lead Screening" section of this rule;

(F) Other appropriate laboratory tests (such as anemia test, sickle cell test, and others) based on age and client risk;

(G) Health education including anticipatory guidance;

(H) Appropriate hearing and vision screening.

(c) The provider may bill for both lab and non-lab services using the appropriate CPT and HCPCS codes. Immunizations must be billed according to the guidelines listed in OAR 410-130-0255;

(d) Inter-periodic EPSDT screening exams are any medically appropriate encounters with a physician (MD or DO), nurse practitioner, licensed physician assistant, or other licensed health professional within their scope of practice.

(3) Referrals:

(a) If, during the screening process (periodic or inter-periodic), a medical, mental health, substance abuse, or dental condition is discovered, the client may be referred to medical providers, Mental Health and Developmental Disabilities Services Division, Office of Alcohol and Drug Abuse Programs, or dental providers for further diagnosis and/or treatment;

(b) The screening provider shall explain the need for the referral to the client, client's parent, or guardian;

(c) If the client, client's parent, or guardian agrees to the referral, assistance in finding an appropriate referral provider and making an appointment should be offered;

(d) The caseworker/local branch will assist in making other necessary arrangements.

(4) Blood Lead Screening: All children ages 12 months to 72 months are considered at risk. Children ages 12 months to 72 months with Medical Assistance Program coverage must be screened for possible exposure to lead poisoning. Because the prevalence of lead poisoning peaks at age two, children screened or tested at age one should be re-screened or re-tested at age two. Screening consists of a Lead Screening/Testing Questionnaire (OMAP 9033) and/or blood lead tests as indicated.

(5) Lead Screening/Testing Questionnaire: Complete the Lead Screening/Testing Questionnaire (OMAP 9033) found in the "Appendix" section of the Medical-Surgical Services provider rule. The questionnaire must be used at each EPSDT exam beginning at one year of age to assess the potential for lead exposure. Retain this questionnaire in the client's medical record. Do not attach this form to the claim for reimbursement. OMAP does not stock this form; photocopy the form and the instructions from the Medical-Surgical Services rule.

(6) Blood Lead Testing: Any "yes" or "don't know" answer in Part B, questions 1-8 on the Lead Screening/Testing Questionnaire (OMAP 9033) means that the child should receive a screening blood lead test. An elevated blood lead level is defined as $\geq 10 \mu\text{g/dL}$. Children with an elevated blood lead screening test should have a diagnostic blood lead test performed according to the schedule described in Table 130-0245-1. If the diagnostic blood lead test is elevated, follow-up blood lead tests should be performed approximately every three months until two consecutive test results are less than $10 \mu\text{g/dL}$. Comprehensive follow-up services based on the results of the diagnostic blood lead test are described in **Table 130-0245-2**.

(7) Method of Blood Collection: Either venipuncture or capillary draw is acceptable for the screening blood lead test. All diagnostic blood lead tests must be obtained by venipuncture. Erythrocyte protoporphyrin (EP) testing is not a substitute for either a screening or a diagnostic blood lead test.

(8) Additional Lead-Related Services: Families should be provided anticipatory guidance and lead education prenatally and at each well-child visit, as described in **Tables 130-0245-3** and **130-0245-4**.

ADMINISTRATIVE RULES

(9) Target Zip Codes — The following applies to Multnomah County only:

(a) All children (as defined in the “Blood Lead Screening” section of this rule) who live in certain Multnomah County zip codes must have a screening blood lead test performed, and follow-up as described in this rule;

(b) Those zip codes are: 97201 through 97206, 97209 through 97220, 97227, 97231, 97232 and 97266;

(c) While the Lead Screening/Testing Questionnaire (OMAP 9033) is not mandatory for these children, the blood lead sample must be accompanied by all identifying and demographic information on the questionnaire. **Table 130-0245-1, Table 130-0245-2, Table 130-0245-3, Table 130-0245-4, Table 130-0245-5.**

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 16-1993, f. & cert. ef. 7-2-93; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; Renumbered from 410-130-0080, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0255

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) Synagis (palivizumab-rsv-igm) is covered only for high-risk infants and children as defined by the American Academy of Pediatric guidelines. Use 90378 for Synagis.

(3) Vaccines for Children Program:

(a) The Office of Medical Assistance Programs (OMAP) implemented the Vaccines for Children (VFC) Program on April 1, 1996. Under this federal program, certain immunizations are free for clients ages 0 through 18. As a result, OMAP no longer reimburses the cost of vaccine serums covered by this federal program;

(b) Use the following procedures when billing immunizations included in the VFC Program:

(A) When the sole purpose of the visit is to administer a VFC immunization(s), the provider should bill the appropriate immunization procedure code(s) with modifier -26, or SL for each injection. Do not bill CPT code 90471 - 90474 or 99211;

(B) When the immunization is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate immunization code with modifier -26, or SL for each injection. In addition to the Evaluation and Management code.

(c) Refer to **Table 130-0255-1** for immunization codes included in the VFC Program for clients ages 0 through 18.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.06

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0800, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0365

Ambulatory Surgical Center and Birthing Center Services

(1) Ambulatory Surgical Centers (ASC) and Birthing Centers (BC) must be licensed by the Oregon Health Division. ASC and BC services are items and services furnished by an ASC or BC in connection with a covered surgical procedure as specified in the Medical-Surgical Services rule or in the Dental Services rule. Reimbursement is made at all-inclusive global rates based on the surgical procedure codes billed.

(2) If the client has Medicare and Medicare does not allow the specific surgery in an ASC or BC then the surgery may not be performed in an ASC or BC.

(3) Global Rates include:

(a) Nursing services, services of technical personnel, and other related services;

(b) Any support services provided by personnel employed by the ASC or BC facility;

(c) The use by the client of the ASC's or BC's facilities (includes the operating room and recovery room);

(d) Drugs, biologicals, surgical dressings, supplies, splints, casts, appliances, and equipment (related to the provision of care);

(e) Diagnostic or therapeutic items and services (related to the surgical procedure);

(f) Administrative, record-keeping, and housekeeping items and services;

(g) Blood, blood plasma, platelets;

(h) Materials for anesthesia;

(i) Items not separately identified in section (4) of this rule.

(4) Items and Services Not Included in ASC or BC Global Rate:

(a) Practitioner services such as those performed by physicians, licensed physician assistants, nurse practitioners, certified nurse anesthetists, dentists, and podiatrists;

(b) The sale, lease, or rentals of durable medical equipment to ASC or BC clients for use in their homes;

(c) Prosthetic devices;

(d) Ambulance services;

(e) Leg, arm, back and neck brace, or other orthopedic appliances;

(f) Artificial legs, arms, and eyes;

(g) Services furnished by a certified independent laboratory.

(5) ASCs and BCs will not be reimbursed for services that are normally provided in an office setting unless the practitioner has justified the medical appropriateness of using an ASC or BC through documentation submitted with the claim. Practitioner's justification is subject to review by OMAP. If payment has been made and the practitioner fails to justify the medical appropriateness for using an ASC or BC facility, the amount paid is subject to recovery by OMAP.

(6) Procedure Coding:

(a) For reduced or discontinued procedures, use CPT instructions and add appropriate modifiers;

(b) Attach a report to the claim when billing an unlisted code;

(c) For billing instructions regarding multiple procedures, see rule 410-130-0380.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0940, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0562

Abortion

For medically induced abortions by oral ingestion of medication use S0199 for all visits, counseling, lab tests, ultrasounds, and supplies. S0199 is a global package except for medication:

(1) Bill medications with codes S0190-S0191 and appropriate HCPCS codes.

(2) For surgical abortions use CPT codes 59840 through 59857:

(3) For services related to surgical abortion such as lab, ultrasound and pathology bill separately. Add modifier U4 (an OMAP modifier) for surgical abortion related services.

(4) Use the most appropriate ICD-9 diagnosis code.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0580

Sterilizations

(1) Refer to OAR 410-130-0200 Prior Authorization Table 130-0200-1 and 410-130-0220 Not Covered/Bundled Services Table 130-0220-1.

(2) Hysterectomies performed for the sole purpose of sterilization are not covered.

(3) All hysterectomies except radical hysterectomies require prior authorization (PA).

(4) A properly completed Hysterectomy Consent form (OMAP 741) or a statement signed by the performing physician depending upon the following circumstances is required for all hysterectomies:

(a) When a woman is capable of bearing children:

(A) Prior to the surgery, the person securing authorization to perform the hysterectomy must inform the woman and her representative, if any, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing;

(B) The woman or her representative, if any, must sign the consent to acknowledge she received that information.

(b) When a woman is sterile prior to the hysterectomy, the physician who performs the hysterectomy must certify in writing that the woman was already sterile prior to the hysterectomy and state the cause of the sterility;

(c) When there is a life-threatening emergency situation that requires a hysterectomy in which the physician determines that prior acknowledg-

ADMINISTRATIVE RULES

ment is not possible, the physician performing the hysterectomy must certify in writing that the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible and describe the nature of the emergency.

(5) In cases of retroactive eligibility:

(a) The physician who performs the hysterectomy must certify in writing one of the following:

(A) The woman was informed before the operation that the hysterectomy would make her permanently incapable of reproducing;

(B) The woman was previously sterile and states the cause of the sterility;

(C) The hysterectomy was performed because of a life-threatening emergency situation in which prior acknowledgment was not possible and describes the nature of the emergency.

(b) Additional supplies of the Hysterectomy Consent form (OMAP 741) may be obtained through the DHS Distribution Center.

(6) Do not use the Consent to Sterilization form (OMAP 742) for hysterectomies.

(7) Mail a copy of the Hysterectomy consent form to OMAP-HFO, Claims Management.

(8) Do not submit a copy of the Hysterectomy consent form with the claim.

(9) Sterilization Male & Female: A copy of a properly completed Consent to Sterilization form (OMAP 742), the consent form in the federal brochure DHHS Publication No. (05) 79-50062 (Male), DHHS Publication No. (05) 79-50061 (Female), or another federally approved form must be submitted to the Office of Medical Assistance Programs (OMAP) for all sterilization. The original consent form must be retained in the clinical records. Prior authorization is not required.

(10) Voluntary Sterilization:

(a) Consent for sterilization must be an informed choice. The consent is not valid if signed when the client is:

(A) In labor;

(B) Seeking or obtaining an abortion; or

(C) Under the influence of alcohol or drugs.

(b) Age 15 and over:

(A) At least 30 days, but not more than 180 days, must have passed between the date of the informed written consent (date of signature) and the date of the sterilization except:

(i) In the case of premature delivery by vaginal or cesarean section the consent form must have been signed at least 72 hours before the sterilization is performed and more than 30 days before the expected date of confinement;

(ii) In cases of emergency abdominal surgery (other than cesarean section), the consent form must have been signed at least 72 hours before the sterilization was performed.

(B) The client must sign and date the consent form before the person obtaining the consent signs and dates the consent. The date of signature must meet the above criteria. The person obtaining the consent must sign the consent form anytime after the client has signed but before the date of the sterilization. If an interpreter is provided to assist the individual being sterilized, the interpreter must also sign the consent form on the same date as the client;

(C) The person must be legally competent to give informed consent. The physician performing the procedure, and the person obtaining the consent if other than the physician, must review with the person the detailed information appearing on the Consent to Sterilization form regarding effects and permanence of the procedure, alternative birth control methods, and explain that withdrawal of consent at any time prior to the surgery will not result in any loss of other program benefits.

(c) Under age 15 — The parent or guardian must sign the consent form more than 30 days before the date of the procedure.

(11) Involuntary Sterilization — Minors (15 years to 21 years) and incapacitated clients:

(a) Only the Circuit Court of the county in which the client resides can determine that the client is unable to give informed consent;

(b) The Circuit Court must determine that the client requires sterilization;

(c) When the court orders sterilization, it issues a Sterilization Order. The order must be attached to the billing invoice. No waiting period or additional documentation is required.

(12) Submitting the Consent to Sterilization Form:

(a) After the sterilization is performed, a copy of the completed Consent to Sterilization form (OMAP 742) should be mailed by the performing surgeon to OMAP-HFO, Claims Management, in Salem;

(b) OMAP will review the form for errors and either call the provider or mail the form back if there are discrepancies. The Consent to Sterilization form must be completed in full. Consent forms submitted to OMAP without the client's signature or the date of signature by the client are invalid; clients may not sign or date the consent form retroactively;

(c) Do not submit the OMAP 742 with the claim;

(d) Initial claims by the surgeon, anesthesiologist and hospital will be paid without review for the consent form. All sterilization claims will be reviewed during a post-payment audit. If the OMAP 742 is missing or invalid, payments directly related to the sterilization will be recouped from the surgeon, anesthesiologist and hospital.

(13) How to Complete the Consent to Sterilization Form:

(a) Enter the client's name, sex, and recipient number where indicated;

(b) Client's Statement:

(A) 1 — Enter the name of the doctor or clinic;

(B) 2 — Enter the name of the surgical procedure;

(C) 3 — Check the appropriate age box and enter the birth date;

(D) 4 — Enter the client's name, the name of the doctor performing the procedure, and the name of the operation to be performed;

(E) 5 — Optional;

(F) 6 — The client must sign and date the consent.

(c) Interpreter's Statement — Complete only if an interpreter is required:

(A) 7 — Enter the name of the language used to explain the consent to the client;

(B) 8 — The interpreter must sign and date the consent on the same date as the client.

(d) Statement of Person Obtaining Consent:

(A) 9 — Enter the client's name and the name of the procedure to be performed;

(B) 10 — Check appropriate age box;

(C) 11 — The person obtaining the consent must sign, date, and enter the name and full address of the physician or facility. The date of signature must be on or after the date the client signs the consent, but before the procedure is performed.

(e) Physician's Statement:

(A) 12 — Enter the client's name, the date the procedure was performed, and the name of the procedure to be performed;

(B) 13 — Check the appropriate age box;

(C) 14 — Check the appropriate box. If the second box is checked, check the appropriate circumstance and provide further information;

(D) 15 — The performing physician must sign this consent. The date of signature must be either the date the sterilization was performed or a date following the sterilization.

(f) Mail a copy of the Consent to Sterilization form to: OMAP — POS, Claims Resolution.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 803(Temp), f. & ef. 7-1-76; PWC 813, f. & ef. 10-1-76; PWC 834, f. 3-31-77, ef. 5-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 4-1979(Temp), f. & ef. 3-8-79; AFS 11-1979, f. 6-18-79, ef. 7-1-79; AFS 50-1981(Temp), f. & ef. 8-5-81; AFS 79-1981, f. 11-24-81, ef. 12-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 42-1985, f. & ef. 7-1-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; Renumbered from 461-014-0030; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0840; HR 43-1991, f. & cert. ef. 10-1-91; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0585

Family Planning Services

(1) Family planning services are available to individuals of child-bearing age (including minors who can be considered to be sexually active) who desire such services. Family planning services are those intended to prevent or delay pregnancy, or otherwise control family size. Counseling services, laboratory tests, medical procedures, and pharmaceutical supplies and devices are covered if provided for family planning purposes. Bill these services using appropriate CPT and HCPCS codes.

(2) Family planning clinics will be reimbursed only for services related to family planning.

(3) Family planning methods include natural family planning, abstinence, intrauterine device, cervical cap, prescriptions, subdermal implants, condoms, and diaphragms.

ADMINISTRATIVE RULES

(4) Bill all family planning with the most appropriate ICD-9-CM diagnosis codes in the V25 series (Contraceptive Management) and add modifier FP to all procedure codes.

(5) For annual family planning visits use CPT Preventative Medicine series (9938X - 9939X) and add modifier FP. These codes include comprehensive contraceptive counseling.

(6) When comprehensive contraceptive counseling is the only service provided at the encounter, use the appropriate code from the Preventative Medicine, Individual Counseling series (99401-99404) and add modifier FP.

(7) Contraceptive Supplies. See **Table 130-0585-1** for contraceptive supply HCPCS codes.

(8) Where there are no specific CPT or HCPCS codes, use an appropriate unlisted HCPCS code and add modifier — FP. Bill at acquisition cost.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0595

Maternity Case Management (MCM)

(1) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies. MCM services are tailored to the individual client needs. These services are provided face-to-face, unless specifically indicated in this rule, throughout the clients' pregnancy.

(2) This program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month postpartum period;

(c) Must be initiated during the pregnancy and before delivery;

(d) Is an additional set of services over and above medical management of pregnant clients;

(e) Allows for billing for intensive nutritional counseling services.

(3) Any time there is a significant change in the health, economic, social, or nutritional factors of the client, the prenatal care provider must be notified.

(4) NOTE: In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(5) Definitions:

(a) Case Management — An ongoing process to assist the individual client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A face-to-face encounter between a maternity case manager and the client that must include two or more specific training and education topics, addresses the CSP and provides ongoing relationship development between the client and the case manager;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Case Management — Intensive case management services provided to a client identified and documented by the maternity case manager or prenatal care provider as being high risk;

(e) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment instrument;

(f) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(g) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral,

developmental, educational, mobility, environmental, nutritional, and emotional areas. Data sources may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(h) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the following documented conditions:

(A) Chronic disease, e.g., diabetes, renal disease;

(B) Hematocrit (Hct) less than 34, (Hemoglobin (Hgb) 11) first trimester, Hct 32 (Hgb10) second or third trimester;

(C) Pre-gravida weight under 100 lbs or over 200 lbs;

(D) Pregnancy weight gain outside the appropriate WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (pre-eclampsia);

(I) Other conditions identified by the maternity case manager, physician or prenatal care provider for which adequate services are not accessible through another program.

(i) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and/or postnatal services to the client.

(j) Telephone Case Management Visit — A non-face-to-face encounter between a maternity case manager and the client providing identical services of a Case Management Visit (G9012).

(6) Maternity Case Manager Qualifications:

(a) Maternity case managers must be:

(A) Currently licensed as a:

(i) Physician;

(ii) Physician Assistant;

(iii) Nurse Practitioner;

(iv) Certified Nurse Midwife;

(v) Direct Entry Midwife;

(vi) Social Worker; or

(vii) Registered Nurse;

(viii) All of the above must have a minimum of two years related and relevant work experience.

(B) Other paraprofessionals may provide specific services while working under the supervision of one of the practitioners listed in

(6)(a)(A) of this rule.

(b) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(7) Nutritional Counselor Qualifications — Nutritional counselors must:

(a) Be a registered dietician; or

(b) Have a bachelor's degree in a nutrition-related field with two years of related work experience.

(8) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with OMAP General Rules 410-120-1360; and

(b) A correctly completed OMAP form 2470, 2471, and 2472, or their equivalents meet minimum documentation requirements for Maternity Case Management Services.

(9) G9001 — Initial Assessment, includes:

(a) Client assessment as outlined in the "Definitions" section of this rule;

(b) Development of a CSP which addresses needs identified;

(c) Making referrals as needed;

(d) Assisting with a referral to a prenatal care provider as needed;

(e) Forwarding of the initial assessment and other relevant information to the on-going maternity case manager and prenatal care provider;

(f) Communicating pertinent information to others participating in the client's medical and social care.

(g) The client's record must reflect the date and to whom the initial assessment was sent;

(h) Paid one time per pregnancy per provider. No other MCM service can be performed until after an initial assessment has been completed. No other maternity management codes except a Home/Environmental Assessment (G9006) and a Case Management Visit (G9012) may be billed the same day as an initial assessment.

(10) G9002 — Case Management (Full Service) — Includes:

ADMINISTRATIVE RULES

- (a) Face-to-face client contacts;
- (b) Implementation and monitoring of a CSP;
- (A) The client's records must include a CSP and written updates to the plan;
- (B) The CSP activities involve determining the client's strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.
- (c) Referral to services included in the CSP:
- (A) Make referrals, provide information and assist the client in self-referral;
- (B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.
- (d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling as indicated;
- (e) Training, information, and education. Refer to Table 130-0595-1;
- (f) Linkage to labor and delivery services;
- (g) Linkage to family planning services as needed;
- (h) CSP coordination as follows:
- (A) Contact with Department of Human Services worker, if assigned;
- (B) Contact with prenatal care provider;
- (C) Contact with other community resources/agencies to address needs.
- (i) Client advocacy as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;
- (j) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive;
- (k) Paid one time per pregnancy. Bill after delivery when more than three months of service were provided. Services must be initiated prenatally and carried through the date of delivery.
- (11) G9009 — Case Management (Partial Service):
- (a) Can be billed when the CSP has been developed and case management services (G9002) were initiated prenatally and partially completed;
- (b) Served client three months or less.
- (12) G9005 — High Risk Case Management (Full Service):
- (a) Requires at least eight case management visits;
- (b) Paid one time per pregnancy after delivery when more than three months of services were provided to the client;
- (c) Served client more than three months;
- (d) Can be billed in addition to G9002.
- (13) G9010 — High Risk Case Management (Partial Service):
- (a) Payable when the client becomes "high risk" during the latter part of the pregnancy or intensive high risk MCM services were initiated and partially completed but not carried through to the date of delivery;
- (b) Served client three months or less;
- (c) Can be billed in addition to G9002 or G9009.
- (14) S9470 — Nutritional Counseling:
- (a) Available for clients who have at least one of the documented conditions listed in the "Definitions" section of this rule;
- (b) Documentation must include all of the following:
- (A) Nutritional assessment;
- (B) Nutritional care plan;
- (C) Regular client follow-up.
- (c) May be billed in addition to other MCM services;
- (d) Paid one time per pregnancy.
- (15) G9006 — Home/Environment Assessment:
- (a) Includes an assessment of the health and safety of the client's living conditions with training and education as indicated in Table 130-0595-1 and must include all topics);
- (b) One Home/Environment Assessment may be billed per pregnancy. Additional Home/Environment Assessments may be billed with documentation of problems and necessary follow-up or when client moves. Documentation must be submitted with the claim to support the additional home/environment assessment.
- (16) G9011 — Telephone Case Management Visit:
- (a) A non-face-to-face encounter between a maternity case manager and the client, meeting all requirements of a Case Management Visit (G9012) and when a face-to-face Case Management Visit is not possible or practical;
- (b) In lieu of a Case Management visit and counted towards the total number of Case Management Visits (see G9012 for limitations).
- (17) G9012 — Case Management Visit:

(a) Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and training, information and education regarding at least two topics in **Table 130-0585-1**;

(b) Four Case Management Visits may be billed per pregnancy. Telephone contacts (G9011) are included in this limitation;

(c) Six additional Case Management Visits may be billed if the client is identified as High Risk. These additional visits may not be billed until after delivery. Bills for these additional six visits may only be submitted with or after High-Risk Full (G9005) or Partial (G9010) case management has been billed. Telephone contacts (G9011) are included in this limitation;

(d) May be provided in the client's home or other site. **Table 410-147-0595-1**

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0200 & 461-014-0201; AFS 54-1989(Temp), f. 9-28-89, cert. ef. 10-1-89; AFS 71-1989, f. & cert. ef. 12-1-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0580; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 34-1998, f. & cert. ef. 10-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0100; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0680

Laboratory and Radiology

(1) Refer to OAR 410-130-0200 Prior Authorization Table 130-0200-1 and 410-130-0220 Not Covered/Bundled Services Table 130-0220-1.

(2) Payment for newborn screening kits and collection and handling for newborn screening (NBS) tests performed by the Oregon State Public Health Laboratory (OSPHL) is considered bundled into the delivery fee. Replacement of lost NBS kits may be billed with code S3620 with modifier TC if the loss is documented in the client's medical record. Newborn screening confirmation tests performed by reference laboratories at the request of the OSPHL shall be reimbursed only to the OSPHL.

(3) Transplant lab codes are covered only if the transplant is covered and if the transplant service has been authorized.

(4) All lab tests must be specifically ordered by, or under the direction of licensed medical practitioners within the scope of their license.

(5) If a lab sends a specimen to a reference lab for additional testing, the reference lab may not bill for the same tests as provided by the referring lab.

(6) The claim must indicate the date of the specimen collection as the date of service (DOS) regardless of the actual date the test was performed.

(7) A provider who sends a specimen to another provider for testing may bill the Office of Medical Assistance Programs (OMAP) only for drawing a blood sample through venipuncture or capillary puncture or collecting a urine sample by catheterization:

(a) Venipuncture or capillary puncture and urinary catheterization are payable only once per day regardless of the frequency performed;

(b) Collection and/or handling of other specimens (such as PAP or other smears, voided urine samples, or stool specimens) are considered bundled into the exam and/or lab procedures and are not payable in addition to the laboratory test.

(8) Pass-along charges from the performing laboratory to another laboratory, medical practitioner, or specialized clinics do not qualify for payment and are not to be billed to OMAP.

(9) Charges for tests performed by independent clinical laboratories may only be billed by and paid to the performing provider or a designated billing agent.

(10) Laboratory Certification — Laboratory services are reimbursable only to facilities with a current, valid Oregon State clinical laboratory license issued by the Oregon Health Division or to laboratories outside of Oregon which are certified by the Centers for Medicare and Medicaid Services (CMS) and meets the requirements of the Clinical Laboratory Improvement Amendments (CLIA) and the provider has notified OMAP of the assigned ten-digit CLIA number. Payment is limited to the level of testing authorized by the state license or CLIA certificate at the time of test performance.

(11) Organ Panels:

(a) OMAP will only reimburse panels as defined by the CPT codes for the year the laboratory service was provided. Tests within a panel may not be billed individually even when ordered separately. The same panel may be billed only once per day per client;

ADMINISTRATIVE RULES

(b) Payment will be made at the panel maximum allowable rate if two or more tests within the panel are billed separately and the total reimbursement rate of the combined codes exceeds the panel rate even if all the tests listed in the panel are not ordered or performed.

(12) CLIA requires all entities that perform even one test, including waived tests on... "materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings" to meet certain Federal requirements. If an entity performs tests for these purposes, it is considered under CLIA to be a laboratory.

(13) Radiology:

(a) Provision of diagnostic and therapeutic radionuclide(s), HCPCS A9500 - A9699, is payable only when used in conjunction with diagnostic nuclear medicine procedures (CPT codes 78000 through 78999) or radiation therapy and radiopharmaceutical procedures (CPT codes 77401-77799 and 79000-79999);

(b) Bill routine screening mammography under CPT code 76092;

(c) HCPCS codes R0070 through R0076 are covered.

(14) Contrast and diagnostic-imaging agents — Reimbursement is bundled in the radiologic procedure except for low osmolar contrast materials (LOCM). Supply of LOCM (A4644-A4646) may be billed in addition to the radiology procedure only when the following criteria are met:

(a) Prior adverse reaction to contrast material, with the exception of a sensation of heat, flushing or a single episode of nausea or vomiting;

(b) History of asthma or significant allergies;

(c) Significant cardiac dysfunction including recent or imminent cardiac decompensation, severe arrhythmia, unstable angina pectoris, recent myocardial infarction or pulmonary hypertension;

(d) Decrease in renal function;

(e) Diabetes;

(f) Dysproteinemia;

(g) Severe dehydration;

(h) Altered blood brain barrier (i.e., brain tumor, subarachnoid hemorrhage);

(i) Sickle cell disease, or;

(j) Generalized severe debilitation.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; Renumbered from 461-014-0056; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0800; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 27-1992(Temp), f. & cert. ef. 9-1-92; HR 33-1992, f. 10-30-92, cert. ef. 11-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 15-1998, f. & cert. ef. 5-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

410-130-0700

HCPCS Supplies and DME

(1) Use appropriate HCPCS codes to bill all supplies and DME.

(2) For items that do not have specific HCPCS codes, use unlisted HCPCS code and bill at acquisition cost, purchase price plus postage.

(3) CPT code 99070 is no longer billable for supplies and materials. Use HCPCS codes.

(4) Use S3620 with modifier — TC for lost newborn screening (NBS) kits.

(5) Reimbursement for office surgical suites and office equipment is bundled in the surgical procedures.

(6) Contraceptive Supplies — Refer to OAR 410-130-0585.

(7) A4000 - A8999 HCPCS codes listed in Table 130-0240-1 is covered.

(8) DME/Supply services in the HCPCS series A4000 - A9999 not listed in Table 130-0240-1 must be referred to a Durable Medical Equipment (DME) provider.

(9) A4570, A4580, and A4590 are no longer covered, use specific HCPCS codes for splints and cast materials from the Q4001-Q4051 series.

(10) A9500 - A9999 (administrative, investigational, and miscellaneous) are not covered, except for A9500 - A9699. Refer to OAR 410-130-0660.

(11) B4000-B9999: HCPCS codes B4034 - B4036 and B4150 - B9999 are not covered for medical-surgical providers. Refer these services to home enteral/parenteral providers.

(12) E0100-E1799: Only the following DME HCPCS codes are covered for medical-surgical providers when provided in an office setting:

(a) E0100 - E0116;

(b) E0602;

(c) E0191;

(d) E1399;

(e) Refer all other items with "E" series HCPCS codes to DME providers.

(13) J0000 - J9999 HCPCS codes - Refer to OAR 410-130-0180 for coverage of drugs.

(14) K0000 - K9999 HCPCS codes - Refer all items with "K" series to DME providers.

(15) L0000-L9999 Refer to the DME program Administrative rules for coverage criteria for orthotics and prosthetics. Refer to Table 130-0220-1 for a list of not covered DME:

(a) Reimbursement for orthotics is a global package, which includes:

(A) Measurements;

(B) Moldings;

(C) Orthotic items;

(D) Adjustments;

(E) Fittings;

(F) Casting and impression materials.

(b) Evaluation and Management codes are covered only for the diagnostic visit where the medical appropriateness for the orthotic is determined and for follow-up visits unrelated to the fitting of the orthotic. **Table 130-0700-1**

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; Renumbered from 461-014-0056; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0830; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03

Adm. Order No.: OMAP 70-2003(Temp)

Filed with Sec. of State: 9-15-2003

Certified to be Effective: 10-1-03 thru 3-15-04

Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0030 will be temporarily revised to remove the requirement for physicians to obtain an exception prior to getting a non-Practitioner-Managed Prescription Drug Plan (PMPDP) listed drug, as directed by Legislative action.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) Practitioner-Managed Prescription Drug Plan (PMPDP):

(a) PMPDP is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price;

(b) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research. Decisions also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price. The PDL will include other drugs in the class that are Medicaid reimbursable and which the FDA has deter-

ADMINISTRATIVE RULES

mined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL. A copy of the PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is available for the best possible price; and consider any input from the HRC, other FDA approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually or more frequently if in the discretion of DHS, new safety information or the release of new drugs in a class or other information makes this advisable. New drugs will not be added to the PDL until they have been reviewed by the HRC. All changes or revisions to the PDL will be made publicly, using the rulemaking process, and will be published in OMAP's Pharmaceutical Services provider rules.

(4) Relative Cost and Best Possible Price Determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the Health Resources Commission in reaching a final decision.

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0180), in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, the cost of the other FDA approved drugs in the class will be recalculated using EAC for retail pharmacies in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average available rebate. Drugs with prices under the benchmark drug cost will be included on the PDL.

(5) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155. Table 121-0030-1, PMPDP PDL (updated effective 7/1/2003)

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04

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Adm. Order No.: OMAP 71-2003

Filed with Sec. of State: 9-15-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Adopted: 410-147-0610

Rules Amended: 410-147-0020, 410-147-0040, 410-147-0060, 410-147-0080, 410-147-0085, 410-147-0120, 410-147-0160, 410-147-0200, 410-147-0280, 410-147-0320, 410-147-0340, 410-147-0360, 410-147-0380, 410-147-0400, 410-147-0420, 410-147-0460, 410-147-0480, 410-147-0500

Rules Repealed: 410-147-0300, 410-147-0580, 410-147-0600

Subject: The FQHC/RHC program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Rules above are amended or repealed, and a rule is adopted, to reflect the following changes: add new tables, billing code and modifier requirements, and education/training topics to Maternity Case Management for Oral Health education and Fetal Alcohol; combine several rules into one for clarification of language; clarify PPS encounter rate effective dates, Primary Care Coordinator Management, and Re-basing; clarify reasonable costs allowed for FQHC for the Outstationed Eligibility Worker payment; remove OHP Standard Dental Benefit rules; remove billing instruc-

tions (found on OMAP's website) and take care of necessary house-keeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-147-0020

Professional Services

(1) Medical, EPSDT, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or Home Health services are not limited except as directed by rules contained in the Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) rules, the General Rules (OAR 410-120-1200), the Oregon Health Plan (OHP) Administrative Rules, and the Health Services Commission's (HSC) Prioritized List of Health Services (List) as follows:

(a) Coverage for diagnostic services and treatment for those services funded on the HSC List; and

(b) Coverage for reasonable diagnostic services to determine a diagnosis for those conditions that falls below the funded portion of the HSC List.

(2) FQHCs and RHCs are eligible for reimbursement of professional services as allowed within the scope of the clinic and within the scope of the practitioner.

(3) All services provided are to be billed using diagnoses that meet national coding standards unless otherwise directed in rule.

(4) Primary Care Case Manager (PCCM) case managed services, as defined in OHP Administrative Rules (OAR 410-141-0000), are included in the above listing of professional services, but cannot be billed as a separate encounter. These services are included in the financial cost reports required during an adjustment to the clinic rate based on change in clinic scope of services.

(5) The date of service determines the appropriate version of the FQHC and RHC rules, General Rules, and HSC List to determine coverage.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0500; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0140; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0040

ICD-9-CM Diagnosis Codes

(1) The appropriate diagnosis code or codes from 001.0 through V99.9 must be used to identify:

(a) Diagnoses;

(b) Symptoms;

(c) Conditions;

(d) Problems;

(e) Complaints; or

(f) Other reasons for the encounter/visit.

(2) Diagnosis codes are required on all claims, including those submitted by independent laboratories and portable radiology including nuclear Medicine and diagnostic ultrasound providers. Always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(3) The principal diagnosis is listed in the first position; the principal diagnosis is the code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Up to three additional diagnosis codes may be listed on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(4) The diagnosis codes must be listed using the highest degree of specificity available in the ICD-9-CM. A three-digit code is used only if it is not further subdivided. Whenever fourth-digit subcategories and/or fifth-digit subcategories are provided, they must be assigned. A code is invalid if it has not been coded to its highest specificity.

(5) The Office of Medical Assistance Programs (OMAP) requires accurate coding and applies the national standards in effect for calendar years 2003 and 2004 set by the American Hospital Association, the American Medical Association, and the Centers for Medicare and Medicaid Services (CMS) unless otherwise directed in rule.

(6) OMAP has unique coding and claim submission requirements for Administrative Exams and Death With Dignity services. Specific diagnosis coding instructions for these services are provided in OAR 410-147-0240 and 410-147-0260.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-

ADMINISTRATIVE RULES

28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0020; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0060; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0060

Prior Authorization

(1) Prior Authorization (PA) is not required for services provided within a Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC) with the exception of pharmacy services and hospital dentistry. Refer to the "Drugs" section of the FQHC and RHC rules for more information.

(2) Clients who are enrolled in a managed care organization (MCO) can receive family planning services, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention services (excludes any treatment for HIV or AIDS) through an FQHC or RHC without PA from the MCO as provided under the terms of Oregon's Section 1115 (CMS) Waiver. If the FQHC or RHC does not have a contract or other arrangements with an MCO, these services will be reimbursed under the encounter rate through the Office of Medical Assistance Programs (OMAP) (see OAR 410-141-0120).

(3) If a client is enrolled in an MCO there may be PA requirements for some services that are provided through the MCO. Contact the client's MCO for specifics.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0640; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0080; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0080

Managed Care Organizations (MCOs)

(1) Clinics serving eligible Medical Assistance Program clients who are enrolled in a Managed Care Organization (MCO) require authorization from that MCO prior to providing MCO covered services or case management services. Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) must request an authorization or referral before providing any services to clients enrolled in an MCO unless the FQHC or RHC have contracted with the MCO to provide MCO covered services. If an FQHC or RHC has an arrangement or contract with an MCO the clinic is responsible for all MCO rules and prior authorization requirements.

(2) Payment for these services is a matter between the FQHC or RHC and the MCO authorizing the services except as otherwise provided in OAR 410-141-0410. If arrangements were not made with the MCO prior to providing the service, the FQHC or RHC will not be reimbursed under the encounter rate, except as outlined in section (3) of this rule (see OAR 410-141-0120).

(3) FQHCs and RHCs can provide family planning services or HIV/AIDS prevention services to eligible Medical Assistance Program clients enrolled in MCOs without authorization or a referral from the MCO. The FQHC and RHC must bill the MCO first. If the MCO will not reimburse for the service, then the clinic may bill OMAP.

(4) MCOs shall execute agreements with publicly funded providers for payment of point-of-contact services as provided in the terms of Oregon's Section 1115 (CMS) Waiver, unless cause can be demonstrated to the Office of Medical Assistance Programs' (OMAP) satisfaction why such an agreement is not feasible, and are billed directly to the appropriate MCO for the following services:

- (a) Immunizations;
- (b) Sexually transmitted diseases; and
- (c) Other communicable diseases.
- (5) MCOs are responsible for interpretation services.
- (6) Maternity Case Management (MCM) services:

- (a) Providing MCM services is optional for MCOs;
- (b) Before providing MCM services to a client enrolled in an MCO:
 - (A) Determine if the MCO provides MCM services;
 - (B) Request the necessary authorizations. Authorization is not necessary for MCOs that do not provide MCM services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0155; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0100; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0085

Client Copayments

(1) American Indian/Alaska Natives (AI/AN) are not required to pay copayments for services provided through Indian Health Services (IHS), a Federally recognized Indian Tribe, Tribal Organization or services provided at an Urban Tribal Health Clinic. This includes any health care services provided to the AI/AN member and is defined as provided directly, by referral, or under contracts or other arrangements between IHS, a Federally recognized Indian Tribe, Tribal Organization or an Urban Tribal Health Clinic and another health care provider. Refer to OAR 410-120-1230 and 410-120-1235 in the General Rules, and OAR 410-146-0075 in the AI/AN program administrative rules.

(2) Copayments for clients on the Oregon Health Plan (OHP) Plus benefit package:

(a) Copayments may be required for certain services. See OAR 410-120-1230 for specific details;

(b) Copayments for Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) visits are \$5.00 for dental services and \$3.00 for all other services, except as excluded in OAR 410-120-1230.

(3) Copayments for clients on the OHP Standard benefit package:

(a) Clients on OHP Standard may be subject to copayments for services provided by an FQHC or RHC;

(b) The client's OMAP Medical Care ID will indicate if the client is covered on the OHP Standard benefit package;

(c) FQHCs and RHCs are required to collect copayments from OHP Standard clients, including those enrolled in managed care, for any services requiring a copayment;

(d) A client may have more than one copayment during a 24-hour period. For example, if a client is seen for a medical exam and also has a mental health appointment, the client would be required to pay a copayment for both services. The service categories in the FQHC and RHC rules that can incur multiple copayments in a 24-hour period are:

- (A) Primary care services;
- (B) Ophthalmological services for medical reasons;
- (C) Physical therapy;
- (D) Occupational therapy;
- (E) Effective March 1, 2003, some services are no longer covered in the OHP Standard benefit package Refer to OAR 410-120-1200 and OHP Rule 410-141-0500 for a complete description of services that are excluded from the OHP Standard Benefit.

(e) Evaluation & Management clinic encounters require a \$5.00 copayment;

(f) Surgical or medical treatment provided in the clinic requires a \$10.00 copayment;

(g) Dental encounter visits require \$10.00 copayment;

(h) Laboratory and radiology services require a \$3.00 copayment;

(i) Services exempt from copayment requirements see OAR 410-120-1235.

(4) Managed Care Organization (MCO) clients. It is the responsibility of the FQHC or RHC clinic to collect the appropriate copayment for clients enrolled in an MCO (see OAR 410-120-1235 and 410-123-1085).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 90-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0120

Encounter

(1) Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) encounters that are billed to the Office of Medical Assistance Programs (OMAP) must meet the definition below and are limited to services covered by OMAP. These services include ambulatory services included in the State Plan under Title XIX or Title XXI of the Social Security Act.

(2) An encounter is defined as: "A face-to-face contact (except for telephone contacts as outlined in OAR 410-147-0220 and 410-147-0200 — see section (3) for more information) between a health care professional and a beneficiary eligible for Medical Assistance Program coverage for the provision of Title XIX and Title XXI defined services through an FQHC or RHC within a 24-hour period ending at midnight, as documented in the client's medical record."

(3) Telephone contacts must include all the components of the service when provided face-to-face. Telephone contacts are not at the exclusion of face-to-face.

(4) See OAR 410-147-0140 for information about multiple encounters.

ADMINISTRATIVE RULES

(5) The following services may be considered reimbursable encounters and include any related medical supplies provided during the course of the encounter:

- (a) Medical;
- (b) Diagnostic: Reasonable diagnostic services are covered for services below the funding line. Once a diagnosis is established and falls below the funding line, no other services are allowed. For example, a client is seen in the clinic, and the diagnosis is a cold, the office visit is covered; however, any additional treatment is not covered.
- (c) Addiction, Dental, Medical and Mental Health Screenings;
- (d) Dental;
- (e) Vision;
- (f) Physical Therapy;
- (g) Occupational Therapy;
- (h) Podiatry;
- (i) Mental Health;
- (j) Alcohol and Drug;
- (k) Maternity Case Management;
- (l) Speech;
- (m) Hearing;
- (n) Home Health (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations, 405.2417). Home visits for assessment, diagnosis, treatment or Maternity Case Management is not considered home health services and is considered an encounter;

(o) Professional services provided in a hospital setting;

(p) Other Title XIX or XXI services as allowed under Oregon's Medicaid State Plan Amendment and OMAP Administrative Rules.

(6) The following practitioners are recognized by OMAP:

- (a) Physicians;
- (b) Licensed Physician Assistants;
- (c) Dentists;
- (d) Pharm Ds;
- (e) Nurse Practitioners;
- (f) Nurse Midwives;
- (g) Other specialized nurse practitioners;
- (h) Registered nurses under the supervision of an MD; and

(i) Other certified or licensed health care professionals or para-professionals including but not limited to mental health and alcohol and drug practitioners for services that are within the practitioner's scope of practice.

(7) Drugs or medication treatments provided during a clinic visit are part of the encounter rate. For example, a client has come into the clinic with high blood pressure and is treated at the clinic with a hypertensive drug or drug samples are included in the encounter rate. Prescriptions are not included in the encounter rate and must be billed through the pharmacy program by a qualified enrolled pharmacy.

(8) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (other than drugs and biologicals) furnished on a part-time or intermittent basis to home-bound clients (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations 405.2417), and any other ambulatory services covered by OMAP are also reimbursable as permitted within the clinic's scope of services (see OAR 410-147-0020).

(9) Excluded from the definition of OMAP FQHC or RHC encounters are:

(a) Lab, Radiology including nuclear medicine and diagnostic ultrasound services;

(b) Venipuncture for lab tests is considered part of the lab procedure and cannot be billed separately or with an encounter code. For example, when a client is seen at the clinic for a lab test only. Use the appropriate CPT lab code. This visit is not considered a clinic encounter;

(c) Durable medical equipment or medical supplies not generally provided during the course of a clinic visit. For example, diabetic supplies. However, gauze, band-aids, or other disposable products used during an office visit are considered as part of the cost of an encounter and cannot be billed separately under fee-for-service;

(d) Pharmaceutical or biologicals not generally provided during the clinic visit. For example, sample medications are part of the encounter but dispensing a prescription is billed separately under the fee-for-service pharmacy program;

- (e) Administrative medical examinations and report services;
- (f) Death with Dignity services;

(g) Other services that are not defined in this rule or the State Plan under Title XIX or Title XXI of the Social Security Act.

(10) Encounters for MCO covered services provided to eligible Medical Assistance Program clients enrolled in MCOs except family planning services or HIV/AIDS prevention services may not be billed to OMAP as an encounter. However, MCO covered services are included in the MCO Supplemental Payment process done by OMAP quarterly. Refer to OAR 410-147-0460 for specific details.

(11) Codes for Encounters:

(a) Due to the unique billing and payment methodology and the implementation of the Health Insurance Portability and Accountability Act (HIPAA), OMAP has converted from using a single OMAP unique procedure code to report an encounter to selected CPT/HCPCS codes. The billing guidelines provided in the FQHC and RHC rules limits FQHCs and RHCs to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This applies only to procedure codes not diagnosis codes. Bill OMAP with the procedure codes indicated in **Table 147-0120-1** for FQHC and RHC services included in the encounter rate. For services that are not included in the encounter rate, refer to the appropriate OMAP provider rules for billing instructions. Refer to **Table 147-0120-1 Billing Codes for an Encounter**;

(b) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code from the code ranges listed in Table 147-0120-1.

(12) It is the Health Services Commission's (HSC) intent to cover reasonable diagnostic services to determine diagnoses on the HSC Prioritized List of Health Services (List), regardless of their placement on the HSC List.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1993, f. & cert. ef. 71-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0390; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0150; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0160

Modifiers

(1) The Office of Medical Assistance Programs (OMAP) uses nationally recognized modifiers for many services. The modifiers listed in the Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) rules represent those that are required.

(2) For a list of all required modifiers: Refer to OAR 410-147-0120 Table 147-0120-1.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0200

Maternity Case Management Services

(1) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are eligible for reimbursement for Maternity Case Management (MCM) services. These services are billed using HCPCS code G9012 for each MCM encounter.

(2) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies. MCM services are intended to target pregnant women early during the prenatal period and can only be initiated when the client is pregnant and no later than the day prior to delivery. MCM services cannot be initiated the day of delivery, during postpartum or for newborn evaluation. Clients are not eligible for MCM services if the MCM initial evaluation has not been completed prior to the day of delivery.

(3) Multiple MCM encounters in a single day cannot be billed as multiple encounters. A prenatal visit and a MCM service on the same day can be billed as two encounters only if the MCM service is the initial evaluation visit. After the initial evaluation visit the nutritional counseling MCM service can be billed on the same day as a prenatal visit.

(4) The MCM program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month post-partum period;

(c) Is an additional set of services over and above medical management, including perinatal services of pregnant clients;

(d) Allows for billing for intensive nutritional counseling services.

(5) MCM case managers are required to notify the:

(a) Prenatal care provider when:

ADMINISTRATIVE RULES

(A) MCM services have been initiated; and
(B) Any time there is a significant change in the health, economic, social, or nutritional factors of the client.

(b) Health Division for all first born babies.

(6) MCM services are not to occur on the same date of service as prenatal services except the initial assessment and nutritional counseling.

(7) Note: In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(8) Definitions:

(a) Case Management — An ongoing process to assist the client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A client encounter that must include two or more specific training and education topics and provides on-going relationship development between the client and the case manager. May be provided in the client's home or other site;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco, or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment instrument;

(e) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(f) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral, developmental, educational, mobility, environmental, nutritional, and emotional areas. Data sources may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(g) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the following documented conditions:

(A) Chronic disease, e.g., diabetes, renal disease;

(B) Hematocrit (Hct) less than 34, (Hemoglobin (Hgb) 11) first trimester, Hct 32 (Hgb10) second or third trimester;

(C) Pre-gravida weights under 100 lbs or over 200 lbs;

(D) Pregnancy weight gain outside WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (preeclampsia);

(I) Other conditions identified by the maternity case manager, physician, or perinatal care provider for which adequate services are not accessible through another program.

(h) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and postnatal services to the client;

(i) Telephone Contact — A non-face-to-face client encounter between a maternity case manager and the client, initiated by the maternity case manager, providing education or training related to the CSP and are limited to Case Management Visits only. Telephone contacts must include all the components of the service when provided face-to-face. Telephone contacts are not at the exclusion of face-to-face. Services excluded from telephone contacts are the Initial Assessment, Home Assessment and Nutritional Counseling.

(9) Maternity Case Manager Qualifications:

(a) Maternity case managers must be currently licensed as a:

(A) Physician;

(B) Physician Assistant;

(C) Nurse Practitioner;

(D) Certified Nurse Midwife;

(E) Direct Entry Midwife;

(F) Social Worker; or

(G) Registered Nurse with a minimum of two years related and relevant work experience.

(b) Other para professionals may provide specific services while working under the supervision of one of the providers listed in (9)(a) of this rule;

(c) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(10) Nutritional Counselor Qualifications — A nutritional counselor must:

(a) Be a registered dietician; or

(b) Have a bachelor's degree in a nutrition-related field with two years of related work experience.

(11) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with OMAP General Rules OAR 410-120-1360; and

(b) A correctly completed OMAP form 2470, 2471, and 2472, or their equivalents meet minimum documentation requirements for MCM services.

(12) Initial Assessment — Is required of all clients prior to other MCM services. Initial Assessments can be done on the same date of service as a prenatal visit:

(a) Includes:

(A) Client assessment as outlined in the "Definitions" section of this rule;

(B) Development of a CSP which addresses needs identified;

(C) Making referrals as needed;

(D) Assisting with a referral to a prenatal care provider as needed;

(E) Forwarding of the initial assessment and other relevant information to the on-going maternity case manager and prenatal care provider;

(F) Communicating pertinent information to others participating in the client's medical and social care.

(b) Client's record must reflect the date and to whom the initial assessment was sent;

(c) Paid one time per pregnancy per provider.

(13) Case Management — Includes:

(a) Face-to-face client contacts;

(b) Implementation and monitoring of a CSP;

(A) The client's records must include a CSP and written updates to the plan;

(B) The CSP activities involve determining the client's strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.

(c) Referral to services included in the CSP:

(A) Make referrals, provide information and assist the client in self-referral;

(B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.

(d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling as indicated;

(e) For training, information, and education requirements: Refer to

Table 147-0200-1;

(f) Linkage to labor and delivery services;

(g) Linkage to family planning services as needed;

(h) CSP coordination as follows:

(A) Contact with Department of Human Services worker, if assigned;

(B) Contact with prenatal care provider;

(C) Contact with other community resources/agencies to address needs.

(i) Advocate for client as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;

(j) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive.

(14) Nutritional Counseling — May be provided on the same date of service as a prenatal visit:

(a) Available for clients who have at least one of the documented conditions listed in the "Definitions" section of this rule;

(b) Documentation must include all of the following:

(A) Nutritional assessment;

(B) Nutritional care plan;

(C) On-going regular client follow-up.

(c) Paid one time per pregnancy.

(15) Home/Environment Assessment:

ADMINISTRATIVE RULES

(a) Includes an assessment of the health and safety of the client's living conditions with training and education as indicated in **Table 147-0200-1**;

(b) One Home/Environment Assessment may be billed per pregnancy. Additional Home/Environment Assessments may be billed with documentation of problems and necessary follow-up or when client moves.

(16) Telephone Contact:

(a) A non-face-to-face client encounter between a maternity case manager and the client, initiated by the maternity case manager, providing education or training related to the CSP when a face-to-face case management visit is not possible or practical;

(b) If the telephone contact is more than half of the allowed home visits the client records must have specific details on why the case manager could not provide more face-to-face contacts;

(c) Telephone contact in the MCM program is a tool to improve client contact for case management services when specific barriers prevent adequate face-to-face services and are not for the convenience of the case manager;

(d) Telephone contacts must include all the components of the service when provided face-to-face;

(e) Telephone contacts are not at the exclusion of face-to-face.

(17) Case Management Visit:

(a) Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and training, information and education regarding at least two in **Table 147-0200-1**;

(b) Four Case Management Visits may be billed per pregnancy;

(c) Six additional Case Management Visits may be billed if the client is identified as High Risk.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0560; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0180; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0280

Drugs

Follow criteria outlined in the following:

(1) Not Covered Services — OAR 410-121-0147.

(2) Brand Name Pharmaceuticals — OAR 410-121-0155.

(3) Drugs and Products Requiring Prior Authorization — OAR 410-121-0040.

(4) Prior Authorization Procedures — OAR 410-121-0060.

(5) Clozapine Therapy — OAR 410-121-0190.

(6) Follow criteria outlined in Notation on Prescription — OAR 410-121-0144.

(7) Practitioner-Managed Prescription Drug Plan (PMPDP) — Follow criteria outlined in OAR 410-121-0030.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 39-2002, f. 9-13-02, cert. ef. 9-15-02; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0600; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0240; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0320

FQHC/RHC Enrollment

(1) Note: The term "required financial documents" in this rule refers to:

(a) Cost Statement (OMAP 3027) or Medicare Cost Report for Rural Health Clinics (RHC);

(b) Cost Statement Worksheet (OMAP 3032);

(c) A copy of the clinic's trial balance;

(d) Audited financial statements if more than \$250,000 total Medicaid funds in a calendar year;

(e) Depreciation schedules;

(f) Overhead cost allocation schedules; and

(g) A list of all clinic provider numbers and any other provider numbers associated with the Federally Qualified Health Center (FQHC) or RHC. See OAR 410-147-0340 for details;

(h) Complete copy of the grant proposal detailing the clinic's service and geographic scope for FQHCs only.

(2) FQHC Enrollment:

(a) To be eligible for payment under the Prospective Payment System (PPS) encounter rate methodology and to be enrolled as an FQHC, all FQHCs must meet the following criteria:

(A) Centers receiving Public Health Services (PHS) grant funds under authority of Section 330 — Migrant Health Centers, Community Health Centers, or Services to Homeless Individuals, must submit: a copy of the notice of current grant award, an Office of Medical Assistance Programs (OMAP) Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents;

(B) For non-federally funded health centers that PHS recommends, and the Centers for Medicare and Medicaid Services (CMS) (formerly the Health Care Financing Administration (HCFA)) determines should be designated as an FQHC (i.e., "Look Alikes"), the clinic must submit: a copy of the letter from CMS designating the facility as a "Look Alike" or designating the facility as a non-federally funded health center, an OMAP Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents;

(C) For non-federally funded health centers that CMS determines may, for good cause, qualify through waivers of CMS requirements, the clinic must submit: a copy of the letter from CMS designating the facility as a "Look Alike," an OMAP Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents. Waivers may be granted for up to two years;

(D) For outpatient health programs or facilities operated by an American Indian tribe under the Indian Self-Determination Act and for certain facilities serving urban American Indians, the clinic must submit: a copy of the award/contract from the Indian Health Services with an OMAP Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents.

(b) The OMAP Provider Application (OMAP 3117) and the required financial documents will be reviewed by OMAP for compliance with program rules prior to enrollment as an FQHC;

(c) Submit completed Cost Statements (OMAP 3027), Cost Statement Worksheets (OMAP 3032), and the required financial documents to: OMAP;

(d) If an FQHC provides mental health services the clinic must submit a copy of their certification from the Office of Mental Health and Addiction Services (OMHAS);

(e) If an FQHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(f) A list of all MCO contracts;

(g) List of all OMAP provider numbers of practitioners working within the FQHC;

(h) List of all clinics affiliated or owned by the FQHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(3) RHC Enrollment:

(a) To be eligible for payment under the PPS encounter rate methodology and to enroll as an RHC, all RHCs must meet the following criteria:

(A) The RHC must be designated as an independent RHC. If your clinic is a provider-based RHC in a small rural hospital of less than 50 beds refer to the OMAP Hospital Services guide for rules on enrollment, billing and reimbursement methodology;

(B) For those RHCs that are certified by CMS, the clinic must submit a copy of Medicare's certification as an RHC, an OMAP Provider Application (OMAP 3117), and the required financial documents;

(C) The RHC must maintain Medicare certification and must be in compliance with all Medicare requirements for certification.

(b) The OMAP Provider Application (OMAP 3117) and the required financial documents will be reviewed by OMAP for compliance with program rules prior to enrollment as an RHC;

(c) Submit one of the following to OMAP:

(A) The clinic's completed Medicare Cost Report; or

(B) A completed Cost Statement (OMAP 3027), Cost Statement Worksheets (OMAP 3032), the OMAP Provider Application (OMAP 3117), and the required financial documents to: OMAP.

(d) If an RHC provides mental health services the clinic must submit a copy of their certification from the OMHAS;

(e) If an RHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(f) A list of all MCO contracts;

(g) List of all OMAP provider numbers of practitioners working within the RHC;

ADMINISTRATIVE RULES

(h) List of all clinics affiliated or owned by the RHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(4) Tribal Facility Enrollment:

(a) Any Indian Health Service facility, federally recognized Indian tribe, tribal organization or FQHCs with a 638 designation, excluding Urban Tribal Clinics, that provides health care services as defined in rule may choose to enroll as either an FQHC or an American Indian/Alaska Native (AI/AN) clinic provider;

(b) If the FQHC eligible Tribal Facility chooses to enroll as an FQHC provider the clinic must follow the enrollment and program rules contained in the FQHC and RHC rules. As an FQHC the clinic is not eligible for benefits under the Memorandum of Agreement;

(c) If the FQHC eligible Tribal Facility chooses to enroll as an AI/AN provider that clinic must follow the enrollment and program rules contained in the AI/AN billing rules;

(d) Tribal administrative match is not allowed under the FQHC program and is considered a part of costs associated with Medicaid services contained in the encounter rate;

(e) Any FQHC with a Title V designation serving as an Indian Tribal Health Center must enroll as an FQHC. Refer to the FQHC enrollment requirements.

(5) Sub-recipient contracts with an FQHC must enroll either as an FQHC and submit the same required documentation as outlined under the enrollment sections of this rule.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0010; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0340

FQHC and RHC Clinic Provider Numbers

(1) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are allowed one clinic number only. Multiple sites are not allowed additional clinic provider numbers unless each site has a different tax identification number.

(2) OMAP may grant exception to section (1) of this rule upon written request. The request needs to include documentation describing in detail the need for multiple provider numbers and outlining the mechanisms in place to assure no duplication of billings. If multiple clinic numbers are provided and OMAP finds evidence of duplicate billings or failure to use the billing provider number as required, the exception for multiple provider numbers will be terminated upon written notice to the clinic. Contact the OMAP's FQHC/RHC Program Manager for details.

(3) FQHCs and RHCs are required to submit to the OMAP all provider numbers associated with non-FQHC and non-RHC clinics and provider numbers for practitioners that have or had a private practice with an active OMAP provider number upon enrollment and annually each October thereafter. In addition a list of all OMAP provider numbers of all employees of the FQHC or RHC including any inactive provider numbers.

(4) To request an exemption write to OMAP — Attn: FQHC/RHC Program Manager. Include an explanation about why the FQHC or RHC should be exempt.

(5) If OMAP grants an exception to section (1) of this rule the FQHC or RHC will be issued a billing provider number for the main administrative site and a separate performing provider number for each clinic site. If the main administrative site also has a clinic at that same site that clinic will have two numbers: a billing provider number and a clinic site provider number. When granted multiple provider numbers clinics are required to enter the billing provider number in Field 33, and the clinic site provider number in Field 24K of the CMS-1500 when submitting claims to OMAP. The main administrative office with a clinic site must list the billing provider number in Field 33 and their clinic provider number in Field 24K.

(6) If an FQHC or RHC has several clinic sites and one or more of the clinics are not designated as an FQHC or RHC, the non-FQHC or non-RHC (each individual clinic) must apply for:

(a) A billing provider number, and;

(b) Performing provider numbers for each practitioner.

(7) If an FQHC or RHC operates a retail pharmacy or provides durable medical equipment, prosthetics, orthotics, and supplies (DME-POS), i.e., diabetic supplies, the clinic must apply for a pharmacy provider number and/or apply for a DME provider number. These provider numbers may only be used when billing for either retail pharmacy or DMEPOS services. The clinic must meet all pharmacy or DME enrollment requirements

and must use the rules from the appropriate program billing rules. These services are not included in the encounter rate.

(8) Clinic provider number(s) will not be issued until after the encounter rate is established.

(9) Previous clinic/provider numbers for the clinic will be closed the day the FQHC/RHC clinic number is issued.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0360

Initial Encounter Rate Determination

(1) An encounter rate must be determined prior to enrollment with the Office of Medical Assistance Programs (OMAP) as a Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC).

(a) Payment under PPS is effective the date a clinic's encounter rate is determined and cannot be used to bill for services provided prior (retroactive) to the established encounter rate;

(b) For new FQHC or RHC clinics, and OHP covered services provided prior to the establishment of the clinics encounter rate under PPS, can be billed fee-for-service.

(2) Financial records must be filed prior to enrollment to determine an encounter rate for any new FQHC or RHC providing services for Title XIX or Title XXI clients that wants to enroll with OMAP for Title XIX or Title XXI services and is seeking payment as an FQHC or RHC.

(3) To determine an encounter rate as an:

(a) FQHC, submit the following:

(A) Cost Statement (OMAP 3027);

(B) Cost Statement Work Sheet (OMAP 3032);

(C) A copy of the grant or other documents showing FQHC status;

(D) A copy of documentation showing the clinic's scope of services;

(E) A copy of documentation showing the geographic scope of services;

(F) If an FQHC provides mental health services the clinic must submit a copy of their certification from the Office of Mental Health and Addiction Services (OMHAS);

(G) If an FQHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(H) A list of all MCO contracts;

(I) List of all OMAP provider numbers of practitioners working within the FQHC;

(J) List of all clinics affiliated or owned by the FQHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(b) RHC, submit the items listed in (A) or (B):

(A) A copy of:

(i) Uncertified Medicare Cost Report;

(ii) Certification as an RHC;

(iii) Documentation that shows the clinic's scope of services;

(iv) Documentation that shows the clinic's geographic scope of services.

(B) A copy of:

(i) Cost Statement (OMAP 3027);

(ii) Cost Statement Work Sheet (OMAP 3032);

(iii) Certification or other documents showing RHC status;

(iv) Documentation showing the clinic's scope of services;

(v) Documentation showing the geographic scope of services;

(vi) If an RHC provides mental health services the clinic must submit a copy of their certification from the OMHAS;

(vii) If an RHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(viii) A list of all MCO contracts;

(ix) List of all OMAP provider numbers of practitioners working within the RHC;

(x) List of all clinics affiliated or owned by the RHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(4) If the RHC chooses to submit a copy of their Medicare Cost Report there may be additional information OMAP will request.

(5) FQHCs or RHCs that have several clinic sites must file the required financial documentation for each clinic site unless specifically exempted in writing by OMAP. See OAR 410-147-0340 regarding multiple provider numbers.

(6) FQHCs and RHCs cannot include costs associated with non-FQHC or non-RHC sites.

ADMINISTRATIVE RULES

(7) FQHCs and RHCs cannot include costs not associated with Medicaid services.

(8) For out-of-state FQHCs or RHCs the Cost Statements (OMAP 3027) or Medicare Cost Reports for RHCs can only include financial documents for the clinic sites that see Medical Assistance Program clients and only for services provided to Medical Assistance Program clients. Costs associated with other clinics or sites including non-FQHC or RHC, that do not serve Medical Assistance Program clients cannot be included in the Cost Statements (OMAP 3027) or Medicare Cost Reports for RHCs.

(9) Effective January 1, 2001, OMAP determines FQHC and RHC encounter rates based on the requirements of the Balanced Budget Act of 1997, the Budget Refinement Act of 1999 Prospective Payment System (PPS) payment methodology and BIPA.

(10) The rate per encounter for an FQHC or RHC, where no previous cost expense exists, will be established from estimated clinic costs on the Cost Statement (OMAP 3027), or Medicare Cost Report for RHCs, or can be established based on a clinic of similar size and scope.

(11) At any time, if OMAP determines that the costs provided when establishing the encounter rate were inflated, OMAP may:

(a) Request corrected cost reports and any other financial documents in order to review and adjust the encounter rate; and

(b) Sanctions may be imposed as defined in OAR 410-147-0560.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0380

Accounting and Record Keeping

(1) General Requirements:

(a) The following rules and regulations apply to clinics reimbursed under the Federally Qualified Health Center (FQHC) and Rural Health Clinic Program;

(b) In cases of conflict between the rules contained in section (2) and

(3) of this rule, section (2) will prevail over section (3);

(c) FQHCs and RHCs must use the cost principles contained in OMB Circular A-87 or A-122 to determine reasonable costs. Use the circular appropriate to your clinic;

(d) Must adhere to acceptable accounting standards.

(2) Rules and Regulations:

(a) FQHC and RHC Administrative Rules;

(b) The Office of Medical Assistance Programs (OMAP) General Rules;

(c) Oregon Health Plan (OHP) Administrative Rules;

(d) All other applicable OMAP provider rules.

(3) Cost Principles for State and Local Governments, OMB Circular A-87 and A-122.

(4) Each FQHC and RHC shall:

(a) Maintain internal control over and accountability for all funds, property and other assets;

(b) Maintain complete client documentation;

(c) Adequately safeguard from duplicate billings or other routine billing errors;

(d) Adequately safeguard all such assets and assure that they are used solely for authorized purposes;

(e) Prepare Cost Statements (OMAP 3027) or Medicare Cost Reports for RHCs in conformance with:

(A) Generally accepted accounting principles;

(B) The provisions of the FQHC and RHC Administrative Rules; and

(C) All other applicable rules listed in sections (2) and (3).

(f) Maintain for a period of not less than five years from the end of the fiscal year:

(A) Cost Statement (OMAP 3027) or Medicare Cost Report for RHCs;

(B) Cost Statement Worksheet (OMAP 3032);

(C) A copy of the clinic's trial balance;

(D) Audited financial statements;

(E) Depreciation schedules;

(F) Overhead cost allocation schedules; and

(G) Financial and clinical records for the period covered by the Cost Statement (OMAP 3027) or Medicare Cost Report for RHCs.

(g) Maintain adequate records to thoroughly explain how the amounts reported on the Cost Statement (OMAP 3027) were determined. If there are unresolved audit questions at the end of the five-year period, the records must be maintained until the questions are resolved;

(h) Adequately document expenses reported as allowable costs in the records of the clinic or they will be disallowed. Documentation for travel

and education expenses must include a summary of costs for each employee stating the purpose of the trip or activity, the dates, name of the employee, and a detailed breakdown of expenses. Receipts must be attached for expenses over \$25;

(i) Prepare special work papers or reports to support or explain data reported on the Cost Statement (OMAP 3027) or Medicare Cost Report for RHCs for current or previous periods at OMAP's request. These work papers/reports must be completed within 30 days of OMAP's request. An extension of up to 30 days may be granted if the request is made before the end of the original 30 day period. Extensions must be requested in writing;

(j) Ensure that the Cost Statement (OMAP 3027) or Medicare Cost Report for RHCs is reconcilable to the audited financial records and encounters must be reconcilable to the Uniform Data Set (UDS) form or other reasonable data OMAP may request. If the Cost Statement (OMAP 3027) or Medicare Cost Report for RHCs cannot be reconciled, the UDS numbers will be used or other appropriate data sets as determined by OMAP;

(k) Do not submit financial documentation to OMAP for FQHC or RHC sites that:

(A) Are not designated as an FQHC or RHC, and/or;

(B) Do not serve Medical Assistance Program clients.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0080; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0400

Compensation for Outstationed Eligibility Workers

(1) Compensation may be provided for clinics that are eligible for an Outstationed Outreach Eligibility Worker (OSEW).

(2) Clinics must submit a budget each October to OMAP for review of the clinic OSEW costs for approval before any OSEW compensation is applied to the encounter rate:

(a) Any change to the OSEW rate, based on the October budget submission, will be effective January 1st of each year;

(b) If, it is determined that the OSEW rate is inflated, the clinics OSEW rate will be adjusted effective immediately.

(3) To determine which part of the OSEW expense should be charged to OMAP, calculate the percentage of the OSEW total time spent performing eligibility services and multiply it by the total reasonable expenses of the OSEW. This portion of the wages and benefits may be charged to OMAP on the Cost Statement (OMAP 3027) or Medicare Cost Report for Rural Health Clinics.

(4) Expenses allowed for OSEW reimbursement:

(a) Travel necessary for OMAP training on OSEW activities;

(b) Phone bills, if a dedicated line. Otherwise an estimate of telephone usage and resulting costs;

(c) Wages for OSEW;

(d) Reasonable equipment necessary to perform outreach activities; and

(e) Facility costs. Include a description of the facility area used and if its used for any other activity.

(5) OSEW reimbursement is not applied to managed care organization (MCO) visits and will not be included in the quarterly MCO Supplemental Payment.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1993, f. & cert. ef. 7-1-93; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0330; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0420

Rebasing

(1) Determination of encounter rates effective January 1, 2001 as directed by the Balanced Budget Act (BBA) of 1997 and the Budget Refinement Act of 1999 Prospective Payment System (PPS) was changed for Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) clinics. PPS eliminates annual cost reports and retrospective settlements except for managed care organization (MCO) Supplemental Payments.

(2) As directed by the BBA and PPS, the federal government will notify states when clinics can re-base clinic rates. No specific date has been determined by the federal government at this time.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

410-147-0460

Managed Care Organization Supplemental Payments

(1) Effective January 1, 2001 as directed by the Balanced Budget Act of 1997, the Budget Refinement Act of 1999 Prospective Payment System (PPS), and BIPA, Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) may be eligible for managed care organization (MCO) Supplemental Payments from the Office of Medical Assistance Programs (OMAP). MCO Supplemental Payments are paid retrospectively on a quarterly basis for services provided during the previous 12 months.

(2) To receive managed care supplemental payments from OMAP the FQHC or RHC must submit the following:

(a) To MCOs:

(A) Claims within the required timelines outlined in the contract with the MCO;

(B) The FQHC or RHC clinic number must be used when submitting all claims to the MCOs.

(b) To OMAP:

(A) Total payments for all services including lab and radiology including nuclear Medicine and diagnostic ultrasound received from the MCO excluding any bonus or incentive payments;

(B) The total number of actual encounters, excluding all lab or radiology including nuclear Medicine and diagnostic ultrasound encounters. The total number of encounters is not the total number of clients assigned to the FQHC or RHC;

(C) All performing provider numbers that any practitioner associated with the FQHC or RHC has. Association refers to a practitioner that works for the FQHC or RHC and has or had a private practice and billed OMAP for services;

(D) A current list of all MCO contracts. Must be updated annually and submitted to OMAP each October.

(3) MCO Supplemental Payment process:

(a) On a quarterly basis OMAP will send FQHCs and RHCs all MCO encounter data received by OMAP electronically in a spreadsheet format along with an explanation letter;

(b) The FQHC or RHC must review the encounter data and determine if it is complete within 30 days. If it is incomplete, the clinic needs to:

(A) Add the missing data to the electronic file and return it with any documentation that can support the missing data to OMAP and the MCO, and;

(B) Verify that the MCO has the correct provider number for the clinic's claims.

(c) Once the data is reviewed and deemed correct by the FQHC or RHC, an interim check will be issued within 30 days for all encounters that OMAP can verify. A letter outlining the settlement and any other pertinent information will accompany the interim check;

(d) The data must be submitted within the timelines provided by OMAP. See the FQHC and RHC rules for the timelines schedule.

(4) The data provided to the FQHCs and RHCs must be carefully reviewed in a timely fashion. If any missing data is not brought to OMAP's attention within the time frames outlined, OMAP will not recalculate an adjustment.

(5) Requests for MCO Supplemental Payments cannot be filed after the end of the required reporting period for that quarter.

(6) Excluded from MCO supplemental payments for clinic services provided to a managed care client when: The clinic does not have a contract or agreement with the MCO and the client is not a patient of record with that clinic. This does not apply to family planning services, or HIV or AIDS prevention services. For example:

(a) Jane Doe is enrolled with MCO X and is seeking care for the flu at the FQHC or RHC. The FQHC or RHC has a contract with MCO W but not with MCO X and the client is not a patient of record with the FQHC or RHC; this encounter would not be counted in the MCO Supplemental Payments;

(b) John Doe is enrolled with MCO X and is seeking family planning services at the FQHC or RHC. The FQHC or RHC has a contract with MCO W but not with MCO X and the client is not a patient of record with the FQHC or RHC; however, a family planning service would be counted in the MCO Supplemental Payments.

(7) It is the responsibility of the FQHC or RHC to refer managed care clients back to their MCO practitioner.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0480

Cost Statement (OMAP 3027) Instructions

(1) The Cost Statement (OMAP 3027) is a required form for Federally Qualified Health Center (FQHC) reimbursements.

(2) Rural Health Clinics (RHC) have a choice of submitting either their Medicare Cost Report or the Cost Statement (OMAP 3027). If the RHC files a Medicare Cost Report additional data may be requested by the Office of Medical Assistance Programs (OMAP).

(3) Reimbursement is based upon the actual reasonable allowable cost per encounter as defined in the FQHC and RHC rules. The Cost Statement (OMAP 3027) must be submitted to OMAP:

(a) For established clinics during an adjustment to the clinic's rate based on change in scope of clinic services;

(b) For new clinics refer to OAR 410-147-0360;

(c) If there is a change of ownership the Cost Statement (OMAP 3027) or Medicare Cost Report must be submitted within 30 days from the date of change of ownership.

(4) The Cost Statement (OMAP 3027) must include all documents required by OAR 410-147-0320.

(5) Each section must be completed if applicable.

(6) Page 1 — Statistical Information:

(a) Enter the full name of the FQHC or RHC, the address and telephone number, the fiscal reporting period, the OMAP provider number, and the name of the persons or organizations having legal ownership of the FQHC or RHC;

(b) List all other FQHCs or RHCs, medical practitioners, and suppliers, or entities owned by the FQHC or RHC by the OMAP provider number;

(c) List all physicians and health care practitioners furnishing services to the FQHC or RHC by the OMAP individual provider number;

(d) The Cost Statement (OMAP 3027) must be prepared and signed by the FQHC or RHC accountant and an authorized responsible officer.

(7) Page 2 — Part A — FQHC or RHC Practitioner Staff and Visits:

(a) FTE Personnel: List the total number of staff by position and enter a total on line 20;

(b) Encounters: List the number of on-site and off-site encounters by staff and enter a total on line 20.

(8) Pages 3-4 — Reclassification and Adjustment of Trial Balance of Expenses:

(a) Covered health care costs, non-reimbursable program costs, allowable overhead costs, and non-reimbursable overhead costs;

(b) Record expenses for covered medical costs, non-reimbursable program costs, allowable overhead costs and non-reimbursable overhead costs provided by cost centers in columns 1-5 and enter the totals in column 6. Attach expense documentation from financial accounting records and an explanation for allocations, and allocation method used;

(c) Enter any reclassified expenses, adjustments (increase/decrease) of actual expenses in accordance with the FQHC and RHC Administrative rules on allowable costs in column 7. Attach documentation/explanation;

(d) Enter the combined reclassified trial balance with the amount of adjustment in column 8;

(e) Enter the totals from each column under Covered Medical Costs on line 21;

(f) Enter the totals from each column under Non-Reimbursable Program Costs on line 29;

(g) Enter totals from each column under Allowable Overhead Costs on line 48;

(h) Enter totals from each column under Non-Reimbursable Overhead Costs on line 61;

(i) Enter the combined totals from lines 21, 29, 48 and 61 on line 62.

(9) Page 5 — Determinations — Determination of Overhead Applicable to FQHC and RHC Services:

(a) Part A and B: Enter all totals from the previous pages of the Cost Statement (OMAP 3027) as requested under overhead applicable to FQHC or RHC services and FQHC or RHC rate;

(b) Part C: If applicable, complete by entering the wages for Outstationed Eligibility Workers on line C1, divide the wages by the number of billable Medical Assistance Program encounters to determine the rate per encounter.

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0400; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

ADMINISTRATIVE RULES

410-147-0500

Total Encounters for Cost Reports

(1) Each Federally Qualified Health Center (FQHC) is required to report total encounters as defined in the Bureau of Primary Health Care's Uniform Data System Manual, Definitions. Each Rural Health Clinic is required to report total encounters as defined by Medicare definitions. All encounters, which meet this definition including encounters for clients who are enrolled in a managed care organization, must be included in total encounters. Except for section (2) of this rule. Report total encounter on the required financial documents shown in OAR 410-147-0320. Encounters must be reconcilable with UDS or other comparable reports.

(2) WIC encounters and all costs approved under the WIC contract must be excluded from the cost statement. All encounters generated by patient advocates/ombudsmen and Outstationed Eligibility Workers employed by or under contract with the FQHC or RHC and salary and fringe benefits or contract cost attributable to such workers must be excluded from the required financial documents shown in OAR 410-147-0320. Cost allocation methods must be clearly documented.

(3) All documents, including original tally sheets and summary sheets used to calculate total encounters, and must be maintained for five years:

- (A) The original tally sheets must contain the following information:
 - (A) Client's name;
 - (B) Date of service; and
 - (C) Chart number and/or the patient number.

(b) The tally sheets must agree with the summary sheets and the summary sheets total must be the same as the amount reported on the required financial documents shown in OAR 410-147-0320.

(4) All encounters for the Expanded Family Planning Program are included for the total number of encounters.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0380; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

410-147-0610

Targeted Case Management (TCM)

(1) TCM is excluded from the FQHC/RHC encounter rate.

(2) If the FQHC or RHC is participating in a TCM program, HCPCS code T2023 must be used with the appropriate modifier. Refer to Table 147-0120-1 for specific details regarding modifiers used for TCM:

(3) If the appropriate modifier is not used with T2023 the claim will be denied.

(4) If the FQHC or RHC is participating in a TCM program, the clinic must notify OMAP in writing and must include the description of the TCM program.

(5) A client may only participate in a single TCM program. Multiple TCM billings will not be allowed. This includes Maternity Case Management (MCM).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03

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Department of Human Services, Self-Sufficiency Programs Chapter 461

Adm. Order No.: SSP 21-2003(Temp)

Filed with Sec. of State: 8-29-2003

Certified to be Effective: 9-1-03 thru 9-30-03

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 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 Division will make to help the client complete the plan. Completing a *case plan* is an *activity* of the *program entry component*.

(5) *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.

(6) *Job readiness:* A *component* designed to prepare clients to compete in the local labor market. The sole *activity* is *life skills*.

(7) *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.

(8) *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*.

(9) *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.

(10) *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.

(11) *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 Division, usually at 50 percent of the participant's wages, for those training costs.

(12) *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*.

(13) *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.

(14) *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.

(15) *UN work program:* A *component* in which TANF clients work in *unsubsidized employment* and may also participate in another JOBS work site training activity.

(16) *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.

(17) *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.

(18) *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 Division subsidizes the participant's wages by diverting up to \$200 per month of the participant's cash

ADMINISTRATIVE RULES

benefits to the employer. Participants who do not have medical coverage through their employer remain eligible for ADCM-BAS 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

Adm. Order No.: SSP 22-2003(Temp)
Filed with Sec. of State: 9-15-2003
Certified to be Effective: 9-15-03 thru 12-31-03
Notice Publication Date:

Rules Amended: 461-135-1130
Subject: Rule 461-135-1130 is filed as a temporary rule 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.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1130

Disqualification for Nonpayment of OHP Premium

(1) Disqualification for failure to pay a premium on time: Clients are disqualified from receiving OHP benefits for failure to pay an OHP premium required by OAR 461-135-1120. Clients who are disqualified are ineligible under the OHP-OPU program. The disqualification affects only non-exempt HPN clients applying for or receiving benefits under the OHP-OPU program as follows:

(a) A non-exempt HPN applicant is disqualified if the applicant has an OHP premium arrearage.

(b) All non-exempt HPN recipients in a benefit group are disqualified if a required OHP premium for the group is not paid on time.

(c) A non-exempt HPN applicant is disqualified when joining an OHP filing group that includes a person with an OHP premium arrearage.

(2) Duration of the disqualification:

(a) A disqualification resulting from a premium arrearage incurred prior to February 1, 2003, remains in effect until the arrearage is paid or is waived in accordance with this rule.

(b) A disqualification resulting from a premium billed after February 1, 2003, remains in effect until the premium is paid and for a minimum of six months. The six-month disqualification period starts the first day of the month after the month in which the payment was required to be paid to be considered on time.

(c) A disqualification resulting from a non-exempt HPN applicant joining an OHP filing group that includes a person with a premium arrearage remains in effect until the arrearage is paid unless the entire arrearage was incurred prior to February 1, 2003, and is waived in accordance with this rule.

(3) Only for premiums billed before February 1, 2003, an arrearage is canceled and there is no disqualification based on the arrearage if the applicant is otherwise eligible for OHP and any of the following is true:

(a) The financial group has no income in the budget month and had no income in the prior two months.

(b) One of the following occurred either during the certification period in which the arrearage occurred or during the current budget month:

(A) A member of the filing group was the victim of a crime resulting in the loss of income or resources.

(B) A member of the filing group was the victim of domestic violence.

(C) The filing group was the victim of a natural disaster.

(D) A member of the filing group died.

(E) The filing group was homeless or lost their housing.

(c) The arrearage was incurred while the client was exempt from the requirement to pay a premium (see OAR 461-135-1120).

(d) The arrearage is a debt that has been stayed in a bankruptcy proceeding.

(e) The arrearage is over three years old.

(4) Any premium arrearage over three years old is canceled and no disqualification is based on the arrearage.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, ORS 414.025

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99,

cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2003(Temp), f. & cert. ef. 9-15-03 thru 12-31-03

Department of Transportation, Highway Division Chapter 734

Adm. Order No.: HWD 1-2003

Filed with Sec. of State: 8-21-2003

Certified to be Effective: 8-21-03

Notice Publication Date: 6-1-03

Rules Amended: 734-071-0005, 734-071-0010, 734-082-0009

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

Rules Coordinator: Brenda Trump—(503) 945-5228

734-071-0005

Scope

(1) Oregon's statutes are basically quite restrictive in establishing length of vehicles, loads, and combinations of vehicles. The lengths established are for those vehicles or combinations which can be operated safely upon any highway including older highways not reconstructed to present day standards.

(2) Nearly all of the state highway system can safely accommodate vehicles and combinations with lengths in excess of those established under the basic statutes. The statutes recognize this by allowing longer lengths on designated highways subject to special permits issued pursuant to ORS Chapters 810 and 818 or under the authority of administrative rules adopted by the Oregon Department of Transportation.

(3) OAR 734-071-0005 through 734-071-0030 do not apply to vehicles authorized by the Surface Transportation Assistance Act of 1982 when operating on National Network Highways or highways where reasonable access beyond one mile has been granted. These vehicles are authorized by OAR chapter 734, divisions 73 and 74.

(4) OAR 734-071-0005 through 734-071-0030 do not apply to vehicles licensed, or which can be used as recreational vehicles as defined by ORS 446.003(36), or to any combination of more than two vehicles not used exclusively for commercial purposes and subject to ORS chapter 823 and 825.

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

Stats. Implemented: ORS 810.060

Hist.: 1 OTC 5-1980, f. & ef. 3-27-80; 2HD 8-1983, f. & ef. 3-30-83; HWY 2-1995, f. & cert. ef. 10-16-95; HWY 5-1997, f. & cert. ef. 5-9-97; HWD 1-2003, f. & cert. ef. 8-21-03

734-071-0010

Designated Highways and Definitions

(1) The types of vehicles, combinations of vehicles, or loads listed in **Table 1** may operate without special permit upon Group 1, Group 2 and Group 3 highways as shown on Group Map 1 as published by the Department when the dimensions do not exceed those listed in **Table 1** for the corresponding highway group. Group Map 1, revised November 2001 is adopted by reference and made a part of division 71 rules.

(2) Definitions for the purpose of division 71 rules:

(a) "Auxiliary axle" is an axle that qualifies as a booster axle, flip axle or lift axle;

(b) "Booster axle" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning;

ADMINISTRATIVE RULES

(c) "Dromedary truck-tractor" means a motor vehicle having more than 15,000 pounds GVWR designed to carry a load on a dromedary box, plate or deck, not exceeding 12'06" in length inclusive of load and designed to pull a semitrailer;

(d) "Flip axle" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length and hauling capacity of the trailer;

(e) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298;

(f) "Lift axle" means an axle that can be raised from or lowered to the surface of the ground;

(g) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation;

(h) "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers, and having more than 15,000 pounds GVWR;

(i) "Overall length" includes the vehicle or combination of vehicles and any load overhangs. Overall length does not include a:

(A) Small fork lift (commonly known as a "spyder") designed to be attached to a semitrailer, which is used exclusively for the loading and unloading of the semitrailer. For purposes of this rule any attachment bracket used to secure the fork lift not in excess of 24 inches shall be excluded from the semitrailer length measurement provided it carries no load other than the fork lift. This fork lift may be attached to the rear of a semitrailer and not be included in determining overall length if:

(i) In a truck tractor and semitrailer combination the fork lift, including attachment brackets, does not extend beyond the rear of the semitrailer by more than seven feet, does not cause the overall length of the semitrailer including fork lift and attachment brackets to exceed 56 feet and does not cause rear overhang to exceed one-third of the wheelbase of the combination;

(ii) In a truck tractor, semitrailer and trailer combination, or truck-tractor, semitrailer and semitrailer combination (B train), the fork lift is attached to the rear of the lead semitrailer or to the rear of the second trailer providing the fork lift does not extend beyond the rear of the semitrailer or trailer by more than seven feet including attachment brackets. The semitrailer or trailer length, inclusive of the forklift, shall not exceed 40 feet. The distance between the front of the first semitrailer and the rear of the second semitrailer or trailer, inclusive of the fork lift, shall not exceed 68 feet. The longer of the two trailers, inclusive of the fork lift, shall be placed ahead of the shorter of the two trailers.

(B) Motor attached to the front of a concrete mixer truck manufactured prior to January 1, 2000, that is used to turn the mixer drum, including a protective bumper for the motor, that does not exceed four feet in length from the foremost point of the vehicle exclusive of the motor and protective bumper; or

(C) Pump attached to the front of a concrete pump truck manufactured prior to January 1, 2000, including a protective bumper for the pump, that does not exceed two feet in length from the foremost point of the vehicle exclusive of the pump and protective bumper.

(j) "Passenger vehicle" or "light vehicle" means a motor vehicle, regardless of design or intended use, having 15,000 pounds or less GVWR;

(k) "Pickup truck" means a motor vehicle designed to carry passengers and to carry a load, having 15,000 pounds or less GVWR and which shall not tow more than one vehicle, except as provided in OAR 734-071-0030(2);

(l) "Stinger-steered" is as defined in ORS 801.507; and

(m) "Truck-tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn and having more than 15,000 pounds GVWR.

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

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

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

Hist.: 1 OTC 5-1980, f. & cert. ef. 3-27-80; 2HD 5-1982(Temp), f. & cert. ef. 10-5-82; 2HD 8-1983, f. & cert. ef. 3-30-83; HWY 3-1993(Temp), f. & cert. ef. 7-13-93, HWY 3-1994(Temp), f. & cert. ef. 5-19-94, cert. ef. 5-20-94; HWY 2-1995, f. & cert. ef. 10-16-95; HWY 5-1997, f. & cert. ef. 5-9-97; TO 5-1998, f. & cert. ef. 4-16-98; TO 2-2001, f. & cert. ef. 6-14-01; TO 10-2002, f. & cert. ef. 12-13-02; HWD 1-2003, f. & cert. ef. 8-21-03

734-082-0009

Fire Apparatus Authorization

(1) Fire apparatus are authorized to operate with a variance permit that is not subject to the maximum limits established in Division 82 when:

(a) Operating within the fire district boundary of the owner of the apparatus, including any "mutual aid" agreement area;

(b) Operating in response to any emergency act declared by the Governor; or

(c) Maintaining, deploying or re-deploying such fire apparatus.

(2) Fire apparatus operations conducted under a variance permit are subject to the terms of the variance permit.

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

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; HWD 1-2003, f. & cert. ef. 8-21-03

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Adm. Order No.: MCTD 4-2003

Filed with Sec. of State: 8-21-2003

Certified to be Effective: 8-21-03

Notice Publication Date: 6-1-03

Rules Repealed: 740-045-0160

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

Rules Coordinator: Brenda Trump—(503) 945-5278

Department of Veterans' Affairs Chapter 274

Adm. Order No.: DVA 9-2003(Temp)

Filed with Sec. of State: 8-21-2003

Certified to be Effective: 8-21-03 thru 2-17-04

Notice Publication Date:

Rules Amended: 274-040-0030

Subject: 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 \$300 to \$500.

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;

ADMINISTRATIVE RULES

(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 \$500.

(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 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 by 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

Occupational Therapy Licensing Board Chapter 339

Adm. Order No.: OTLB 2-2003

Filed with Sec. of State: 9-11-2003

Certified to be Effective: 9-11-03

Notice Publication Date: 7-1-03

Rules Amended: 339-010-0005, 339-020-0020, 339-020-0030, 339-020-0040, 339-020-0050, 339-020-0060, 339-020-0070, 339-020-0100

Subject: These amendments redefine mentorship; they further define continuing education categories and CE points to be awarded. They also delete the requirement for CE from two categories.

Rules Coordinator: Peggy G. Smith—(503) 731-4048

339-010-0005

Definitions

(1) "Supervision", is a process in which two or more people participate in a joint effort to promote, establish, maintain and/or evaluate a level of performance. The occupational therapist is responsible for the practice outcomes and documentation to accomplish the goals and objectives. Levels of supervision:

(a) "Close Supervision" requires daily, direct contact in person at the work site;

(b) "Routine Supervision" requires the supervisor to have direct contact in person at least every two weeks at the work site with interim supervision occurring by other methods, such as telephone or written communication.

(c) "General Supervision" requires the supervisor to have at least monthly direct contact in person with the supervisee at the work site with supervision available as needed by other methods.

(2) "Leisure", as it is used in ORS 675.210(3) means occupational behavior that is developed as part of an individual occupational therapy evaluation and treatment process. This process is goal oriented toward the maximum health of the patient by the interaction of self-care, work and leisure, and is not used as an isolated recreation activity. The use in this way does not include leisure activities as used by therapeutic recreation specialists.

(3) "Licensed occupational therapy practitioner", for purposes of these rules, means an individual who holds a current occupational therapist or occupational therapy assistant license.

(4) "Occupational therapy aide", as it is used in OAR 339-010-0055, means an unlicensed worker who is assigned by the licensed occupational therapy practitioner to perform selected tasks.

(5) "Mentorship", as it is used in these rules, is a collaborative experience of no less than 40 hours of direct contact between an applicant and a currently licensed occupational therapy practitioner for the purpose of updating professional skills of the applicant. Mentorship may include, but is not limited to, mentee observation of the mentor's practice, classroom work, case review and discussion, and review and discussion of professional literature.

Stat. Auth.: ORS 675.320(11), (13) & (14)

Stats. Implemented: ORS 675.210(4) & ORS 675.320(13)

Hist.: OTLB 1-1979, f. & ef. 6-7-79; OTLB 1-1988, f. & cert. ef. 1-29-88; OTLB 2-1990, f. & cert. ef. 12-20-90; OTLB 1-1996, f. & cert. ef. 4-16-96; OTLB 1-1999, f. & cert. ef. 10-27-99; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0020

CE Categories and Credit

Credit for CE shall be calculated on a point basis in the following categories and must relate to occupational therapy services. It is the responsibility of the licensee to demonstrate how specific classes contribute to the development of the occupational therapy skills. "Application to OT Services" (CE Log) must be included for credit. Unless stated otherwise, one point equals one contact hour. Eight to 15 required CE points must come from categories 1-11. A limit of 7 of the required CE points may be accrued from categories 12-17.

(1) Attendance at university, college or vocational technical adult education courses at or above practice level: Four points per credit hour. Documentation of successful completion required.

(2) Attendance at seminars, workshops, or institutes: One point per direct hour of content.

(3) Completion of educational telecommunication network or on-line courses: Points as awarded by certificate or per credit, see (1). Certificate of successful completion required.

(4) Attendance at educational sessions relating to occupational therapy sponsored by OTAO, AOTA, AOTA approved providers, and NBCOT or professional academic institutions relating to occupational therapy: One point per hour of attendance. Certificate of attendance required.

(5) Satisfactory completion of American Occupational Therapy Association approved courses/materials or courses/materials offered by AOTA approved providers: Points per certificate on completion. Documentation of satisfactory completion required.

(6) Publication — Copy of publications required.

(a) Publication of article in non-peer reviewed publication (e.g. OT Practice, SIS Quarterly, Advance, etc.): Five points per article.

(b) Publication of article in peer-reviewed professional publication (e.g. journals, book chapter, research paper): Ten points per article.

(c) Publication of chapter(s) in occupational therapy or related textbook: Ten points per chapter.

(7) Professional presentation (person presenting): Presentation must be at practice level for credit, e.g. CNA training would not be acceptable: Two points per hour with no additional points for subsequent presentation of same content. Course outline must be provided.

(8) Development of alternative media (computer software, video or audio tapes): Three points/hr of finished product. Outline required.

(9) Completing requirements for occupational therapy specialty certification (initial or recertification one time only for each specialty): 12 points. Copy of certificate required.

(10) Research, provided an abstract of the research is retained to prove participation:

ADMINISTRATIVE RULES

- (a) Principal — Eight points.
- (b) Associate — Six points.

(11) Development and implementation of a school approved Level II student program (one time only and completed within a year): Four points. Copy of program must be provided.

(12) In-service training: One point per hour of attendance.

(13) Attendance at videotaped presentations of educational courses, seminars, workshops or institutes (group viewing with discussion): One-half point per direct hour of viewing with additional points for discussion, not to exceed seven points.

(14) Student supervision, Level I Fieldwork: One-half point per student per week (or portion of a week) of supervision.

(15) Student supervision, Level II Fieldwork: One point per student per week (or any portion of a week) of supervision.

(16) Mentoring as defined in OAR-339-020-0100: One point for every eight hours contract mentoring with documentation.

(17) Professional leadership — Volunteer services to organizations, populations, and individuals that advance the reliance on and use of one's occupational therapy skills and experiences to the volunteer setting or experience: 10 hours equal two points. Up to four points a year with documentation.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented: ORS 675.210(4), ORS 675.240(1) & (2), ORS 675.250(2) & (3), ORS 675.300(1)(a) & ORS 675.320(11)
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 1-1999, f. & cert. ef. 10-27-99; OTLB 1-2003, f. & cert. ef. 3-4-03; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0030

CE Requirements for Current Licensees

(1) A current licensee is defined as a licensee whose license has not expired.

(2) A current licensee shall obtain 15 points of CE from Board approved categories during the year immediately preceding the date of the license renewal.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented:
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0040

CE Requirements for New Graduate Licensees

(1) A new graduate licensee is defined as a licensee who applied for initial licensure within one year of successfully completing the certification exam.

(2) A new graduate licensee shall obtain a minimum of 15 points of CE from Board approved categories during the year immediately preceding the date of the third license renewal.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented:
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0050

CE Requirements for Initial Licensees (Except New Graduates)

A person who applies for a license from another state or territory shall obtain 15 points of CE from Board approved categories during the year immediately preceding the date of the licensee's second license renewal.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented:
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 1-1995, f. 2-15-95, cert. ef. 4-1-95; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0060

CE Requirements for Lapsed Licensees (Three Years or Less)

A person who applies for a license who was previously licensed in any jurisdiction and whose license has lapsed for three years or less from the time the application is filed shall obtain 15 points of CE for each year in which the license has been in the lapsed status from Board approved categories during the year immediately preceding license renewal.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented:
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 1-2001, f. & cert. ef. 1-12-01; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0070

CE Requirements for Non-Licensees (More Than Three Years)

(1) A person who applies for a license who has previously passed the certification examination, but has not been previously licensed in any jurisdiction nor practiced during the three years prior to filing the application, shall obtain 45 points of CE from Board approved categories and shall complete a mentorship to qualify for licensure during the year immediately preceding the application for licensure.

(2) A person who applies for a license who has passed the certification examination, but who was previously licensed in any jurisdiction and whose prior license lapsed more than three years prior to filing the application, shall obtain 45 points of CE from Board approved categories and shall complete a mentorship to qualify for licensure during the year immediately preceding the application for licensure.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented: ORS 675.320(12)
Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 1-1995, f. 2-15-95, cert. ef. 4-1-95; OTLB 1-1996, f. & cert. ef. 4-16-96; OTLB 1-2001, f. & cert. ef. 1-12-01; OTLB 2-2003, f. & cert. ef. 9-11-03

339-020-0100

Mentorship

(1) For purposes of mentorships between licensees and non-licensees under OAR 339-020-0070:

(a) In order for the mentor and the mentee to receive mentorship credit they shall:

(A) Enter into a written mentorship agreement signed by both parties that includes a detailed description of the planned and collaborative experience and the goals to be achieved under the plan;

(B) Obtain the Board's approval of the mentorship agreement before beginning the mentorship;

(C) Complete the mentorship as described in the mentorship agreement; and

(D) Certify to the Board in writing, signed and dated by both parties, that the mentorship was successfully completed.

(b) During the mentorship the mentee shall not practice occupational therapy.

(2) For purposes of mentorships between licensed occupational therapy practitioners:

(a) In order for the mentor and the mentee to receive mentorship CE credit they shall:

(A) Enter into a written mentorship agreement signed by both parties that includes a detailed description of the planned and collaborative experience and the goals to be achieved under the plan;

(B) Provide written documentation signed and dated by both parties that the mentorship was successfully completed, if requested by the Board.

(b) During the mentorship the licensed mentee may practice occupational therapy if the mentee meets all the experience requirements mandated for practice at the mentorship site.

Stat. Auth.: ORS 675.320(11) & (12)
Stats. Implemented: ORS 675.320(12)
Hist.: OTLB 1-1996, f. & cert. ef. 4-16-96; OTLB 2-2003, f. & cert. ef. 9-11-03

Office of Energy, Energy Facility Siting Council Chapter 345

Adm. Order No.: EFSC 1-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 9-3-03

Rules Adopted: 345-024-0680

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

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

In addition, the Council adopts amendments to OAR 345-022-0000(2), which is the rule language interpreting the Council's authority under ORS 469.501(3) to balance the overall public benefits of

ADMINISTRATIVE RULES

a proposed energy facility against the damage to resources protected by any Council standard the facility does not meet.

Other adopted rule amendments correct minor errors in the Council's rules, clarify rules and make a limited number of substantive rule changes based on knowledge gained from recent energy facility siting experience. The substantive rule changes include definitions in OAR 345-001-0010, procedural rules regarding expedited review of special criteria facilities (OAR 345-015-0310 and -0320), site certificate application requirements (OAR 345-021-0010(1)), amendment of a site certificate application (OAR 345-021-0090), procedural rules regarding amendment of a site certificate (OAR 345-027-0060 and -0070) and procedural rules regarding site certificate termination.

Rules Coordinator: Loretta Kohanes—(503) 378-2843

345-001-0010

Definitions

In this chapter, the following definitions apply unless the context requires otherwise or a term is specifically defined within a division or a rule:

(1) "Adjusted to ISO conditions" means carbon dioxide emissions and net electric power output as determined at 59 degrees Fahrenheit, 14.7 pounds per square inch atmospheric pressure and 60 percent humidity.

(2) "Analysis area" means the area or areas, specifically described in the project order issued under 345-015-0160(1), containing resources that the proposed facility may significantly affect. The analysis area is the area for which the applicant shall describe the proposed facility's impacts in the application for a site certificate. A proposed facility may have different analysis areas for different types of resources. For the purpose of submitting an application for a site certificate in an expedited review granted under OAR 345-015-0300 or 345-015-0310, the analysis areas are the study areas defined in this rule, subject to modification in the project order.

(3) "Applicant" means any person who submits an application for a site certificate as described in OAR chapter 345, division 21, or, if an application has not been submitted, a person who has submitted, or intends to submit, a notice of intent or a request for expedited review.

(4) "Associated transmission lines" means new transmission line or lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(5) "Average electric generating capacity" means the peak generating capacity of the facility divided by one of the factors in subsections (a) through (c). For the purpose of this definition, "peak generating capacity" means the nominal electric generating capacity as defined in this rule.

(a) For wind or solar energy facilities, 3.00.

(b) For geothermal energy facilities, 1.11.

(c) For all other energy facilities, 1.00.

(6) "Background radiation" means the direct radiation (gamma) and concentrations of potential radionuclide contaminants in construction materials and the environment in the vicinity of the plant not associated with the nuclear operation and retirement of the facility. Background shall be determined as follows:

(a) For direct radiation, the results of any background measurements taken prior to operation of the facility shall be provided and 6 to 10 measurements shall be taken in areas in the vicinity of the site with materials and/or geological formations representative of the site that have not been affected by the operation and retirement of the facility. Background shall be calculated at the average and at the 95% confidence level.

(b) Environmental samples shall be taken for soil, sediment, water, and other materials present at the facility site that could have been affected by facility operations and retirement. Measurements for these samples shall be calculated at the average and 95% confidence levels, based on 6 to 10 measurements. Background environmental samples shall be taken at locations on site or in the immediate vicinity of the site which are unaffected by plant operations. Background shall be calculated at the average and 95% confidence levels, based on 6 to 10 measurements at each location.

(c) For construction material such as concrete, asphalt, block, brick and other materials used to construct the buildings and systems at the site, representative samples of materials unaffected by site operations shall be selected and surveyed. Six to ten samples of each material shall be taken to determine the level of naturally occurring and artificially induced concentrations of naturally occurring radioactivity present. Measurements shall include direct radiation (beta-gamma and alpha), wipes, and qualitative and

quantitative laboratory analyses. Concentrations of fission and activation products from historical fallout shall be characterized as well.

(d) All measurements shall be made using appropriate instruments, properly calibrated, and in sufficient number to determine compliance with requirements.

(7) "Base load gas plant" means a generating facility that is fueled by natural gas, except for periods during which an alternative fuel may be used and when such alternative fuel use shall not exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and where the applicant requests and the council adopts no condition in the site certificate for the generating facility that would limit hours of operation other than restrictions on the use of alternative fuel. The Council shall assume a 100-percent capacity factor for such plants and a 30-year life for the plants for purposes of determining gross carbon dioxide emissions.

(8) "Certificate holder" means the person to whom a site certificate has been granted by the Council pursuant to this chapter.

(9) "Chair" means the chairman or chairwoman of the Energy Facility Siting Council.

(10) "Committed firm energy and capacity resources" means generating facilities or power purchase contracts that are assured to be available to the energy supplier over a defined time period. Committed firm energy and capacity resources include existing generating facilities, existing power purchase contracts and planned generating facilities that sponsors have made firm commitments to develop.

(11) "Construction" means work performed on a site the cost of which exceeds \$250,000. It does not include surveying, exploration or other activities to define or characterize the site.

(12) "Corridor" means a continuous area of land not more than one-half mile in width and running the entire length of a proposed transmission line or pipeline.

(13) "Council" means the Energy Facility Siting Council established under ORS 469.450.

(14) "Department" means the Office of Energy or the Department of Energy created under ORS 469.030.

(15) "Direct cost" means the discounted sum of all monetary costs to the ultimate consumer over the lifetime of the facility or resource plan or resource strategy.

(16) "Energy facility" means an energy facility as defined in ORS 469.300, including a small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210.

(17) "Energy supplier" means:

(a) A retail electric utility, a federal power marketing agency, or a local gas distribution company; or

(b) A person or public agency generating electric energy for its own consumption, lawfully purchasing electric energy directly from a generator for its own consumption, or transmitting or distributing natural or synthetic gas from an energy facility for its own consumption.

(18) "Existing corridor" means the right-of-way of an existing transmission line, not to exceed 100 feet on either side of the physical center line of the transmission line or 100 feet from the physical center line of the outside lines if the corridor contains more than one transmission line.

(19) "Facility" means an energy facility defined in ORS 469.300, including a small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210, together with any related or supporting facilities.

(20) "Facility substantially similar to the proposed facility" means:

(a) A facility that uses the same fuel and substantially similar technology, that has substantially the same in-service date, and that has a direct cost not substantially greater than that of the proposed facility; or

(b) A facility that is demonstrated to provide as good a mix of reliability, compatibility with the power system, strategic flexibility, environmental impact and direct cost as the proposed facility taking into account reasonable trade-offs among such factors.

(21) "Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials that is used to produce useful energy.

(22) "Fossil-fueled power plant" means a generating facility that produces electric power from natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material.

(23) "Fuel chargeable to power heat rate" means the net heat rate of electric power production during the first twelve months of commercial operation. A fuel chargeable to power heat rate is calculated with all factors adjusted to the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate using the formula, $FCP = (FI - FD) / P$, where:

ADMINISTRATIVE RULES

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input to the facility applicable to the cogeneration process in British thermal units (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a cogeneration facility instead of from an alternate source, in British thermal units (higher heating value).

(d) P = Annual net electric output of the cogeneration facility in kilowatt-hours.

(24) "Generating facility" means those energy facilities that are defined in ORS 469.300(10)(a)(A), (B) and (D).

(25) "Gross carbon dioxide emissions" means the predicted carbon dioxide emissions of the proposed energy facility. The Council shall measure the gross carbon dioxide emissions of a fossil-fueled power plant on a new and clean basis. For nongenerating energy facilities that emit carbon dioxide, the Council shall measure the gross carbon dioxide emissions as described in OAR 345-024-0620(1).

(26) "High efficiency cogeneration facility" means an energy facility, except coal and nuclear power plants, that sequentially produces electrical and useful thermal energy from the same fuel source and under normal operating conditions has a useful thermal energy output of no less than 33 percent of the total energy output or:

(a) For an energy facility with a nominal electric generating capacity of 50 megawatts or more, a fuel chargeable to power heat rate of no greater than 5550 Btu per kilowatt-hour (higher heating value);

(b) For an energy facility with a nominal electric generating capacity of less than 50 megawatts, a fuel chargeable to power heat rate of no greater than 6000 Btu per kilowatt-hour (higher heating value).

(27) "Land use approval" means a final quasi-judicial decision or determination made by a local government that:

(a) Applies existing comprehensive plan provisions or land use regulations to a proposed facility;

(b) Amends a comprehensive plan map or zoning map to accommodate a proposed facility;

(c) Amends comprehensive plan text or land use regulations to accommodate a proposed facility;

(d) Applies the statewide planning goals to a proposed facility; or

(e) Takes an exception to the statewide planning goals adopted by the Land Conservation and Development Commission for a proposed facility.

(28) "Local government" means a city or county.

(29) "Mitigation" means taking one or more of the following actions listed in order of priority:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Partially or completely rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures;

(e) Partially or completely compensating for the impact by replacing or providing comparable substitute resources or environments; or

(f) Implementing other measures approved by the Council.

(30) "Natural gas" means all gas and all other fluid hydrocarbons not defined as oil in ORS 520.005(6), including condensate originally in the gaseous phase in the reservoir.

(31) "Natural gas fired facility" means an energy facility that is intended to be fueled by natural gas except for infrequent periods when the natural gas supply is interrupted, during which an alternate fuel may be used. Such alternate fuel use shall not exceed 10 percent of expected fuel use in British thermal units, higher heating value on an annual basis.

(32) "Net carbon dioxide emissions" means gross carbon dioxide emissions of the proposed energy facility, less carbon dioxide emissions avoided, displaced or sequestered by any combination of cogeneration or offsets.

(33) "Net electric power output" means the electric power produced or capacity made available for use. Calculation of net electric power output subtracts losses from on-site transformers and power used for any on-site electrical loads from gross capacity as measured or estimated at the generator terminals for each generating unit.

(34) "New and clean basis" means the average carbon dioxide emissions rate per hour and net electric power output of the energy facility, without degradation. The site certificate holder shall determine the new and clean basis:

(a) By a 100-hour test at full power that the site certificate holder completes during the first 12 months of commercial operation of the energy facility, unless the Council specifies a different testing period for a non-base load power plant (or power augmentation) or a nongenerating energy facility. A 100-hour test performed for purposes of the certificate holder's commercial acceptance of the facility may suffice in lieu of testing after beginning commercial operation;

(b) With the results adjusted for the average annual site condition for temperature, barometric pressure and relative humidity and use of alternative fuels unless the Council specifies that the results for a non-base load power plant (or power augmentation) or a nongenerating energy facility be adjusted for the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate;

(c) Using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value); and

(d) Using a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value), if such fuel use is proposed by the applicant.

(e) Notwithstanding subsection (a) and including subsections (b) through (d), for a facility that employs major power generating equipment that has previously been used, the new and clean basis shall mean average carbon dioxide emissions rate and net electric power output for the first use of the equipment at the site, as determined by historical data from the previous usage or by testing on site.

(35) "Nominal electric generating capacity" means the maximum net electric power output of an energy facility based on the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate.

(36) "Non-base load power plant" means a fossil-fueled generating facility that is limited by the site certificate to an average number of hours of operation per year of not more than 6,600 hours. The Council shall assume a 30-year life for the plants for purposes of determining gross carbon dioxide emissions, unless the applicant requests and the Council approves a shorter operational life, the certificate holder shall operate the facility for no longer than the approved operational life or, before the expiration of the approved operational life, shall request an amendment of the site certificate to extend the operational life.

(37) "Nongenerating facility" means those energy facilities that are defined in ORS 469.300(10)(a)(C) and (E) to (I).

(38) "Office of Energy" and "Office" mean the Oregon Office of Energy and the Oregon Department of Energy.

(39) "Offset" means an action that will be implemented by the applicant, a third party or through a qualified organization to avoid, sequester or displace emissions of carbon dioxide.

(40) "Offset funds" means the amount of funds determined by the Council to satisfy the applicable carbon dioxide emissions standard pursuant to OAR 345-024-0560(3), 345-024-0600(3) or 345-024-0630(2) and (4).

(41) "Owner" means owner or lessee under a capital lease.

(42) "Permit" means any permit, license, certificate or other approval required by state statute, state administrative rule or local government ordinance.

(43) "Person" means an individual, partnership, joint venture, private or public corporation, association, cooperative, firm, public service company, political subdivision, municipal corporation, government agency, people's utility district, or any other entity, public or private, however organized.

(44) "Power augmentation" means technologies that increase the capacity and the heat rate of the plant above the capacity and heat rate of the base load gas plant. These include, but are not limited to, duct burning and some forms of steam augmentation.

(45) "Project order" means the order, including any amendments, issued by the Office of Energy under ORS 469.330.

(46) "Qualified organization" means an organization that:

(a) Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996;

(b) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do business in the State of Oregon;

(c) Has in effect articles of incorporation that:

(A) Require that offset funds received under OAR 345-024-0710(3) are used for offsets that will result in the direct reduction, elimination, sequestration or avoidance of carbon dioxide emissions;

ADMINISTRATIVE RULES

(B) Require that decisions on the use of such funds are made by a body composed of seven voting members of which three are appointed by the Council, three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental nonprofit organization named by the body, and one is appointed by the applicants for site certificates that are subject to OAR 345-024-0550, 345-024-0590, and 345-024-0620 and the holders of such site certificates; and

(C) Require nonvoting membership on the decision-making body for holders of site certificates that have provided funds not yet disbursed under OAR 345-024-0710(3);

(d) Has made available on an annual basis, beginning after the first year of operation, a signed opinion of an independent certified public accountant stating that the qualified organization's use of funds pursuant to ORS 469.503 conforms with generally accepted accounting procedures except that the qualified organization shall have one year to conform with generally accepted accounting principles in the event of a nonconforming audit;

(e) Has to the extent applicable, except for good cause, entered into contracts obligating at least 60 percent of the offset funds to implement offsets within two years after the commencement of construction of the facility; and

(f) Has to the extent applicable, except for good cause, complied with OAR 345-024-0710(3).

(47) "Related or supporting facilities" means any structure proposed to be built in connection with the energy facility, including but not limited to pipeline valves, regulators, compressors, vaults, enclosures, switching stations, substations, associated equipment, associated transmission lines, reservoirs, intake structures, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures or other structure proposed by the applicant to be constructed or substantially modified in connection with the construction or operation of the energy facility. "Related or supporting facilities" does not include geothermal or natural gas reservoirs, production, injection, withdrawal, or monitoring wells, or wellhead equipment or pumps. The Council interprets the terms "proposed to be built in connection with" as meaning that a structure is a related or supporting facility if it would not be built but for construction or operation of the energy facility. "Related or supporting facilities" does not include any structure existing prior to construction of the energy facility, unless such structure must be significantly modified solely to serve the energy facility.

(48) "Significant" means having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact.

(49) "Site" means all land upon which a facility is located or proposed to be located. "Energy facility site" means all land upon which an energy facility is located or proposed to be located. "Related or supporting facilities site" means all land upon which related or supporting facilities for an energy facility are located or proposed to be located.

(50) "Site certificate" means the binding agreement between the State of Oregon and the applicant authorizing the applicant to construct and operate a facility on an approved site, incorporating all conditions imposed by the state on the applicant.

(51) "Special nuclear material" means plutonium, uranium-233 or uranium enriched in the isotope 233 or in the isotope 235.

(52) "Strategic flexibility" means the value of a resource as part of a strategy to manage variance in costs or risks caused by future uncertainty.

(53) "Study area" means an area defined in this rule. For a notice of intent, the study areas are the minimum areas for which an applicant shall assess environmental impacts. For an application for a site certificate in an expedited review granted under OAR 345-015-0300 or 345-015-0310, the applicant shall use these study areas as analysis areas, subject to modification in the project order. For the purposes of this definition, "site boundary" means the perimeter of the site of the proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and, for a facility that is a pipeline or a transmission line, all corridors proposed by the applicant. Except as specified in subsections (g) through (j), the study area is an area that includes all the area within the site boundary and the area within the following distances from the site boundary:

(a) For surface water and groundwater quality and availability impacts, 5 miles or the distance to the point of withdrawal, whatever is greater.

(b) For impacts to threatened and endangered plant and animal species, 5 miles.

(c) For impacts to scenic and aesthetic areas and public services, 30 miles.

(d) For land use impacts, one-half mile.

(e) For impacts on recreational opportunities, 5 miles.

(f) For impacts to protected areas described in OAR 345-022-0040, 20 miles.

(g) The distance stated in subsection (a) above does not apply to electric power generating plants using solar or wind energy exclusively or to surface facilities related to an underground gas storage reservoir.

(h) The distance stated in subsection (b) above does not apply to surface facilities related to an underground gas storage reservoir.

(i) The distances stated in subsections (a), (b) and (e) above do not apply to pipelines or transmission lines.

(j) If the facility is a biomass, oil-fired or coal-fired electric power generating plant, a synthetic fuel plant or a storage facility for liquefied natural gas, the following distances apply:

(A) For surface water quality and availability impacts, the distance to the point of withdrawal or one mile upstream and 15 miles downstream, whichever is greater, and for groundwater quality and availability impacts, 10 miles.

(B) For impacts to wildlife and wildlife habitat and to threatened and endangered plant and animal species, 10 miles.

(C) For impacts on recreational opportunities, 10 miles.

(54) "Substantial loss of steam host" means the thermal energy user associated with a high efficiency cogeneration facility has made such long-term changes in its manner and magnitude of operation as to result in the loss of one or more work shifts for at least a year, accompanied by at least a 30 percent resultant reduction in the use of thermal energy.

(55) "Substantial loss of fuel use efficiency" means an increase in the fuel chargeable to power heat rate at a high efficiency cogeneration facility to greater than 7000 Btu per kilowatt-hour (higher heating value), or reduction of the fraction of energy output going to the thermal energy user associated with the facility to less than 20 percent, as a result of a substantial loss of steam host. Substantial loss of fuel use efficiency does not include efficiency losses due to equipment wear or condition.

(56) "Surface facilities related to an underground gas storage reservoir" means structures or equipment adjacent to and associated with an underground gas storage reservoir that are proposed to be built in connection with an underground gas storage reservoir and include, but are not limited to:

(a) Facilities such as stripping plants, main line dehydration stations, offices, warehouses, equipment shops, odorant storage and injection equipment, and compressors;

(b) Pipelines, such as gathering lines and liquid collection lines; and

(c) Roads and road maintenance equipment housing at the reservoir site.

(57) "Thermal power plant" means an electrical facility using any source of thermal energy with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of electricity, and associated transmission lines, including but not limited to, a nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power plant the principal use of which is to supply power in emergencies. "Thermal power plant" includes a nuclear-fueled thermal power plant that has ceased to operate.

(58) "Total energy output" means the sum of useful thermal energy output and useful electrical energy output.

(59) "Underground gas storage reservoir" means any subsurface sand, strata, formation, aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage and withdrawal of natural gas or other gaseous fuel substances including a pool as defined in ORS 520.005.

(60) "Useful thermal energy" means the verifiable thermal energy used in any industrial or commercial process, heating or cooling application;

(61) "Utility" includes:

(a) An individual, a regulated electrical company, a people's utility district, a joint operating agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;

(b) A person or public agency generating electric energy from an energy facility for its own consumption; and

ADMINISTRATIVE RULES

(c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

(62) "Vice-chair" means the vice-chairman or vice-chairwoman of the Energy Facility Siting Council.

(63) "Waste disposal facility" means a geographical site in or upon which radioactive waste is held or placed but does not include a site at which radioactive waste used or generated pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power plant used for the temporary storage of radioactive waste from that plant for which a site certificate has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste from a reactor operated by a college, university or graduate center for research purposes and not connected to the Northwest Power Grid. As used in this section, "temporary storage" includes storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site certificate has been issued until a permanent storage site is available by the Federal Government.

Stat. Auth.: ORS 469.373 & ORS 469.470

Stats. Implemented: ORS 469.300 - ORS 469.570, ORS 469.590 - ORS 469.619 & ORS 469.992

Hist.: EFSC 1-1980, f. & ef. 2-28-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 8-1981, f. & ef. 10-29-81; EFSC 4-1982, f. & ef. 5-3-82; EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0025, 345-100-0025, 345-111-0020 & 345-125-0025; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-001-0090

Interpretation of Added Capacity — Existing Facilities

(1) Expansion or modification of a facility for which the Council has issued a site certificate is subject to the provisions of, and must be undertaken under, division 27 of this chapter.

(2) Energy facilities for which the Council has not issued a site certificate that had operable generating equipment on August 2, 1993, are exempt from the requirement to obtain a site certificate for a modification that uses the same fuel type and increases electric generating capacity if:

(a) The site is not enlarged; and

(b) The ability of the facility to use fuel for electricity production under peak steady state operating conditions is not more than 200 million Btu per hour (higher heating value) greater than it was on August 2, 1993, or the facility expansion is called for in the short-term plan of action of an energy resource plan that has been acknowledged by the Public Utility Commission of Oregon.

(3) In a proceeding to issue a site certificate for an existing energy facility under this rule, the Council shall limit its consideration to the effects that may result from the proposed expansion of the facility.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.320

Hist.: EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0085

Hearing Officer's Proposed Contested Case Order

(1) The hearing officer shall allow any party, including any limited party, to propose site certificate conditions that the party believes are necessary or appropriate to implement the policy of ORS 469.310 or to meet the requirements of any other applicable statute, administrative rule or local government ordinance. Parties shall submit proposed site certificate conditions to the hearing officer in writing according to a schedule set by the hearing officer.

(2) In a contested case proceeding on an application for a site certificate or on a proposed site certificate amendment, any party or limited party may present evidence relating to the appropriateness, scope or wording of any other party's proposed site certificate conditions and may present written proposed findings of fact, briefs and other argument concerning proposed conditions.

(3) After the hearing in a contested case proceeding on an application for a site certificate or on a proposed site certificate amendment, the hearing officer shall issue a proposed contested case order stating the hearing officer's findings of fact, conclusions of law, and recommended site certificate conditions on the issues in the contested case. The hearing officer shall serve the proposed order on all parties and limited parties. In the proposed order, the hearing officer shall include recommended resolutions of objections to the local land use record, if any. The hearing officer's recommendations are part of the decision record for the application but are not part of the Council's order.

(4) After the hearing in a contested case proceeding on any matter other than an application for a site certificate or proposed site certificate

amendment, the hearing officer shall issue a proposed order stating the hearing officer's findings of fact and conclusions of law. The hearing officer shall serve the proposed order on all parties and limited parties.

(5) Parties and limited parties may file exceptions to the proposed order within the time set by the hearing officer, not to exceed 30 days after the hearing officer issues the proposed order. A party filing exceptions shall serve a copy of the exceptions on all other parties and limited parties. In an exception, the party shall specifically identify the finding of fact, conclusion of law or, in contested case proceedings on an application for a site certificate or a proposed site certificate amendment, recommended site certificate condition to which the party excepts and shall state the basis for the exception.

(6) Parties and limited parties may file responses to exceptions within the time set by the hearing officer, not to exceed 15 days after the time set for filing exceptions. A party filing responses to exceptions shall serve a copy of the responses to exceptions on all other parties and limited parties.

(7) After the period for filing responses to exceptions, the Council shall issue a final order. The Council may adopt, modify or reject the hearing officer's proposed order.

(8) Following a contested case proceeding on an application for a site certificate, the Council, in its final order, shall either grant or deny issuance of a site certificate. If the Council grants issuance of a site certificate, the Council shall issue a site certificate. The site certificate becomes effective upon execution by the Council and by the applicant. However, for purposes of identification, the Office may refer to a site certificate by the date of the Council action.

(9) Following a contested case proceeding on a proposed site certificate amendment, the Council, in its final order, shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate. The amended site certificate becomes effective upon execution by the Council and by the applicant. However, for purposes of identification, the Office may refer to a site certificate by the date of the Council action.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 183.415, ORS 469.370, ORS 469.405, ORS 469.440, ORS 469.605, ORS 469.615 & ORS 469.992

Hist.: EFSC 8-1980, f. & ef. 10-31-80; EFSC 6-1986, f. & ef. 9-12-86; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-015-0053; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0110

Public Notice of a Notice of Intent

(1) After receiving a notice of intent (NOI), the Office of Energy shall issue a public notice of the NOI by:

(a) Mailing notice to persons on the Council's general mailing list and any special mailing list set up for the proposed project;

(b) Mailing notice to the owners of property whose names and addresses the applicant has supplied as required by OAR 345-020-0011;

(c) Except as provided in subsection (d), publishing notice in a newspaper of general circulation available in the vicinity of the proposed facility; and

(d) If the energy facility is a transmission line or a pipeline or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, publishing notice in one or, if possible, two newspapers of general circulation in the vicinity of the proposed facility.

(2) In the public notice of the NOI, the Office shall include the following information:

(a) A description of the proposed facility.

(b) The location of the site of the proposed facility.

(c) The date when the applicant expects to submit an application for a site certificate.

(d) A brief description of the Council's review process, including an explanation of the difference between the informational meetings described in OAR 345-015-0130 and 345-015-0190(10) and the public hearing described in 345-015-0220.

(e) An explanation that the applicant may choose to meet the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval from the affected local government and that, if the applicant chooses to obtain local land use approval, any person interested in land use issues should participate in that affected local government's land use process if it is not yet complete.

(f) The date, time and location of any informational meeting on the NOI that the Office has scheduled or an explanation of how interested persons may request an informational meeting.

ADMINISTRATIVE RULES

(g) The final date for submission of written comments on the NOI to the Office.

(h) For persons wanting more information about the NOI, the address of the Office.

(i) If the applicant has identified one or more proposed corridors in Exhibit D of the NOI, as required by OAR 345-020-0011(1)(d):

(A) An explanation that the corridor proposed by the applicant in the NOI is subject to change and that the applicant may propose adjustments to the proposed corridor(s) in the application;

(B) An explanation that the applicant may present adjustments to the proposed corridor(s) at the informational meeting; and

(C) An explanation that, in selecting one or more corridors for analysis in the application for a site certificate, the applicant shall consider public comments on the corridor(s) proposed in the NOI and on any corridor adjustments the applicant presents at the informational meeting.

(3) It is Council policy to encourage public participation in local land use decisions on energy facilities. To that end, the Council encourages the Office to send notice to the Council's mailing list if the Office learns that an applicant has applied for local land use approval.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.350

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0190

Determination and Public Notice of Completeness

(1) Within 60 days after receipt of an application for a site certificate, the Office of Energy shall notify the applicant whether the application is complete. In the notification, the Office shall:

(a) State that the application is complete and state the date of determination of completeness;

(b) State that the application is incomplete, describe any information needed to complete the application, to the extent known to the Office at the time of the notification, and ask the applicant to submit the needed information; or

(c) Explain the reasons why the Office cannot determine completeness and estimate the additional time the Office will need to make a determination of completeness.

(2) If the Office finds that the applicant did not give adequate consideration to public concerns about the corridors the applicant identified in Exhibit D of the notice of intent or corridor adjustments presented at the informational hearing described in OAR 345-015-0130, the Office may find the application incomplete and notify the applicant as described under section (1)(b).

(3) The Office may specify a date by which the applicant must submit additional information needed to complete the application. At the request of the applicant, the Office may extend the deadline for submission of the information. If the applicant does not submit the information by the deadline specified by the Office, including any allowed extension, the Council may reject the application. The rejection of an application is subject to appeal under ORS 469.403(3).

(4) When the Office determines the application contains adequate information for the Council to make findings on all applicable Council standards and to impose conditions as described in ORS 469.373(10) and 469.501(4), the Office may determine the application complete, regardless of whether the application contains all information required under OAR 345-021-0000 and 345-021-0010.

(5) If the Office does not notify the applicant as described in section (1), the application is deemed complete and the date of filing is the ending date of the applicable time period.

(6) The date of filing is the date the Office determines the application is complete.

(7) Notwithstanding a determination that an application is complete, the Office may require additional information from the applicant if the Office identifies a need for that information during its review of the application. In submitting such information, the applicant is not subject to the provisions of OAR 345-021-0090(2), requiring approval to amend the application.

(8) The Office shall inform the public of the date of filing of the application for a site certificate by publishing notice in a newspaper of general circulation available in the vicinity of the proposed facility. The Office shall provide for notice to those property owners listed in Exhibit F of the application. The Office shall mail notice to persons on the Council's general mailing list and any special mailing list set up for the proposed facility.

(9) In the public notice of the date of filing of an application for a site certificate, the Office shall include the following information:

(a) A description of the proposed facility;

(b) The location of the site of the proposed facility;

(c) If the proposed facility is a nongenerating facility for which the applicant must demonstrate need under OAR 345-023-0005, a summary of the applicant's analysis of need for the proposed facility;

(d) A summary of significant potential impacts of construction and operation of the proposed facility;

(e) A description of the procedure for review of the application, including the date, time and location of any informational meeting that has been scheduled on the application and an explanation of the difference between the informational meeting and the public hearing described in OAR 345-015-0220;

(f) Addresses of locations where the public may review copies of the application;

(g) For persons wanting more information about the application, the name, address and telephone number of the Office of Energy project officer;

(h) If the applicant has elected to seek local land use approvals pursuant to ORS 469.503(2)(a), a statement of the status of the land use approvals, and the name, address and telephone number of the local governments(s) making or having made the land use determination;

(i) If the proposed facility is an energy facility that must comply with a carbon dioxide emissions standard adopted by the Council, a summary of the applicant's proposed means of compliance with the standard.

(10) The Office of Energy may hold one or more informational meetings on the application after the date of filing and before issuing a draft proposed order. The purpose of an informational meeting would be to inform the public about the proposed facility as described in the application. An informational meeting is not a public hearing as described in ORS 469.370(2) or a contested case hearing as described in ORS 469.370(5).

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.350

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0310

Request for Expedited Review of Special Criteria Facilities

(1) Any person proposing to construct and operate a special criteria facility, as defined in section (2), who chooses to request expedited review of an application for a site certificate shall submit to the Office of Energy a request for expedited review as described in section (3) with the fee required by the fee schedule established under ORS 469.441, payable to the Oregon Office of Energy.

(2) "Special criteria facility" means a facility that meets the criteria stated in ORS 469.373(1).

(3) In the request for expedited review, the applicant shall provide documentation that the proposed facility is a special criteria facility, as defined in section (2), and:

(a) A description of the facility and the proposed site.

(b) The applicant's name and address.

(c) A schedule stating when the applicant expects to submit an application for a site certificate.

(d) A list of all statutes, rules and ordinances applicable to the facility.

(4) Within 14 days after receiving the request for expedited review, the Office shall determine, on a preliminary, non-binding basis, whether the proposed facility qualifies for expedited review under this rule and shall notify the applicant. The Office may decide, on a preliminary, non-binding basis, that the proposed location of associated transmission lines or new natural gas pipelines outside of existing rights of way imposes no significant impact. The Office shall provide to the applicant a mailing list of persons including but not limited to the agencies listed in ORS 469.373(4).

(5) After the Office has made the determination described in section (4), the applicant may submit an application for a site certificate, as described in OAR 345-021-0000 and 345-021-0010. The applicant shall submit the original application for a site certificate and ten copies to the Office. In addition to the printed copies, the applicant shall submit the text (including appendices and graphical information to the extent practical) of the application in electronic format suitable to the Office. The applicant shall send a copy of the application to persons on the mailing list described in section (4). The applicant shall provide additional copies of the submitted application to the Office upon request and copies or access to copies to any person requesting copies.

(6) Within 30 days after receiving an application for a site certificate, the Office shall issue a project order. In the project order, the Office may

ADMINISTRATIVE RULES

make changes to the analysis areas. The project order is not a final order. The Council or the Office may amend the project order at any time.

(7) Within 30 days after receiving an application for a site certificate, the Office shall either:

(a) Notify the applicant that the application is complete; or

(b) Notify the applicant that the application is not complete and describe the information needed to complete the application, to the extent known to the Office at the time of the notification.

(8) If additional information is needed to complete the application, the applicant shall submit the information to the Office. The Office may specify a date by which the applicant must submit additional information needed to complete the application. At the request of the applicant, the Office may extend the deadline for submission of the information. If the applicant does not submit the information by the deadline specified by the Office, including any allowed extension, the Council may reject the application. The rejection of an application is subject to appeal under ORS 469.403(3).

(9) When the Office determines the application contains information adequate for the Council to make findings on all applicable Council standards and to impose conditions as described in ORS 469.373(10), the Office shall notify the applicant that the application is complete. The Office may determine the application complete, regardless of whether the application contains all information required under OAR 345-021-0000 and 345-021-0010. Notwithstanding the requirements stated in section 345-021-0010(1)(e)(F), the Office shall not require evidence that an application for a National Pollution Discharge Elimination System permit has been submitted before finding an application complete.

(10) The date of filing is the date the Office determines the application is complete.

(11) Notwithstanding a determination that an application is complete, the Office may require additional information from the applicant if the Office identifies a need for that information during its review of the application. In submitting such information, the applicant is not subject to the provisions of OAR 345-021-0090(2), requiring approval to amend the application.

(12) In the notification to the applicant that the application is complete, as described in section (7)(a) or (9), the Office shall instruct the applicant to prepare a supplement or revised application, as described in OAR 345-021-0055 and to send a copy of the supplement or revised application with a copy of the notice described in section (13) to specified persons including but not limited to the agencies listed in ORS 469.373(4).

(13) The Office shall prepare a notice that:

(a) States that the application is complete and specifies the date of filing,

(b) Requests the agency reports as described in OAR 345-015-0200,

(c) Includes the statements required by ORS 469.373(4)(a) and (b).

(14) At the time specified in section (15), the Office shall issue a public notice, including but not limited to:

(a) A description of the proposed facility and the general location of the energy facility;

(b) The date, time and location of a public informational meeting on the application,

(c) A statement that the application has been filed;

(d) Addresses of locations where the public may review copies of the application; and

(e) The name of an Office of Energy representative to contact and the telephone number at which people may obtain additional information.

(15) At least 14 days before the meeting described in section (16), the Office shall:

(a) Submit the notice described in section (14) for publication in a newspaper of general circulation available in the vicinity of the proposed facility; and

(b) Mail the notice described in section (14) to persons on the Council's general mailing list and any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application.

(16) The Office shall hold a public informational meeting on the application.

(17) Within 90 days after the date of filing, the Office shall issue a draft proposed order including, but not limited to:

(a) A description of the proposed facility;

(b) A list of the permits, licenses and certificates that are addressed in the application and that are required for the construction or operation of the proposed facility;

(c) A list of the statutes, rules and local ordinances that are the standards and criteria for approval of any permit, license or certificate

addressed in the application and that are required for the construction or operation of the proposed facility; and

(d) Proposed findings regarding compliance with the applicable standards and criteria for approval of a site certificate and specifying conditions that are required for the facility to comply.

(18) The Council shall review the draft proposed order at a meeting. The Council does not permit public comment on the draft proposed order during this meeting.

(19) After the Council's review as described in section (18), the Office shall issue a proposed order.

(20) At the time specified in section (21), the Office shall issue a public notice, including but not limited to:

(a) A description of the facility and its general location.

(b) The name of an Office of Energy representative to contact and the telephone number at which people may obtain additional information.

(c) A statement that the Office has issued a proposed order and that copies of the application and proposed order are available for inspection at no cost and will be provided at reasonable cost.

(e) The date, time and location of a public hearing on the proposed order.

(f) A statement that the record for public comment on the application will close at the conclusion of the hearing and that failure to raise an issue in person or in writing prior to the close of the record with sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes consideration of the issue in a contested case or by a court on judicial review of the Council's decision.

(g) A statement that to raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

(h) A statement that the hearing is the only opportunity for the public to make a factual record for review and that persons having objection to the proposed order must appear at the hearing in person or in writing and present factual evidence, including any expert testimony, and legal argument.

(21) At least 20 days before the hearing described in section (22), the Office shall:

(a) Submit the notice described in section (20) for publication in a newspaper of general circulation available in the vicinity of the proposed facility; and

(b) Mail the notice described in section (20) to persons on the Council's general mailing list and any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application.

(22) The Council shall hold at least one public hearing on the proposed order in the area affected by the proposed facility according to the procedures described in OAR 345-015-0320.

(23) Before the conclusion of the hearing described in section (22), the applicant may either:

(a) Request an opportunity to present additional written evidence, arguments or testimony regarding the application; or

(b) Request a contested case hearing on the application. Not later than 7 days after making a request in the public hearing, the applicant shall submit the request to the Council in writing, including evidence sufficient to show good cause for the contested case hearing.

(24) Except as described in section (27), following the close of the record of the public hearing, the Office shall issue a draft final order for the Council. In preparing the draft final order, the Office shall take into account the entire record, including the summary prepared by the hearing officer described in OAR 345-015-0320.

(25) Except as described in section (27), within six months after the date of filing, the Council shall make its decision on the record and the draft final order. The Council shall:

(a) Grant the site certificate;

(b) Grant the site certificate with conditions;

(c) Deny the site certificate; or

(d) Determine that the proposed facility is not a special criteria facility as defined in section (2) and is not eligible for expedited review under this rule.

(26) The Council shall issue a site certificate for the proposed facility if the Council determines that the proposed facility, with any required conditions to the site certificate, will comply with:

(a) The requirements for expedited review as specified in this rule.

(b) The standards adopted by the Council pursuant to ORS 469.501(1)(a), (c) to (e), (g), (h) and (L) to (o).

(c) The requirements of ORS 469.503(3).

(d) The requirements of ORS 469.504(1)(b).

ADMINISTRATIVE RULES

(27) If the applicant requests a contested case hearing as described in section (23)(b), the Council, after considering the request in a public meeting, may grant the request if the Council finds that the applicant has shown good cause for a contested case hearing.

(28) If the Council grants the request for a contested case hearing, the Office shall issue a notice of a contested case on the proposed order as described in OAR 345-015-0014. The Council shall then consider the application under the same contested case procedures used for a nonexpedited application for a site certificate.

(29) If, as described in section (25), the Council determines that the proposed facility is not a special criteria facility and is not eligible for expedited review under this rule, then the Council shall consider the application under the same review procedures used for a nonexpedited application from the point of the applicant's submission of an application. The Office shall treat the application before the Council at the time of the determination as a submitted application for the purpose of review under OAR 345-015-0190, except that within 30 days after the Council's determination, the Office shall determine whether the application is complete. The Office shall notify the applicant as described in OAR 345-015-0190(1) and the Office shall issue an amended project order that includes the Council standards that were not applicable under expedited review. For the purpose of the land use standard, the applicant must obtain a Council determination as described under OAR 345-022-0030(2)(b), and the Council shall apply the applicable substantive criteria in effect on the date the application was originally submitted under section (5).

(30) The applicant may withdraw its request for expedited review under this rule at any time and request that the Council consider its application under the same review procedures used for a nonexpedited application. After such a request, the Office shall treat the application as a submitted application for the purpose of review under OAR 345-015-0190 as described in section (29). For the purpose of the land use standard, the applicant must obtain a Council determination as described under OAR 345-022-0030(2)(b), and the Council shall apply the applicable substantive criteria in effect on the date the application was originally submitted under section (5).

Stat. Auth.: ORS 469.373 & ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0320

Public Hearing Procedures for Special Criteria Facilities

(1) The Council shall appoint a hearing officer to conduct the public hearing described in OAR 345-015-0310(22). The Council may appoint a Council member, an employee of the Office of Energy or other person.

(2) The duties of the hearing officer are to:

- (a) Ensure a full, fair and impartial hearing.
- (b) Facilitate presentation of evidence.
- (c) Comply with statutory time limits on Council decisions.
- (d) Maintain order.
- (e) Assist the Council in making its decision.

(f) Prepare a summary of the evidence presented on the record of the public hearing addressing the factual and legal issues raised in the hearing, including findings related to the credibility of witnesses, as necessary. The hearing officer shall submit the summary and the record of the hearing to the Council within 7 days after the close of the record.

(3) During the public hearing, the Office shall present the following information either orally or by written handout:

- (a) A description of the proposed facility.
- (b) A description of the Council standards, including those standards on which the Council may base site certificate conditions.
- (c) An explanation of the application process, including the means and opportunities for the general public to participate in the process.

(4) At the commencement of the public hearing, the hearing officer shall state that:

(a) The record for public comment on the application will close at the conclusion of the hearing and that failure to raise an issue in person or in writing prior to the close of the record with sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes consideration of the issue in a contested case or by a court on judicial review of the Council's decision.

(b) To raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

(c) The hearing is the only opportunity for the public to make a factual record for review and that persons having objection to the proposed order must appear at the hearing in person or in writing and present factual evidence, including any expert testimony, and legal argument.

(5) Any person may present information regarding the pending application without administration of an oath.

(6) The Council or its hearing officer shall record all presentations made during the public hearing, and the presentations are part of the decision record for the application. The hearing officer shall maintain a record of all exhibits received and any rulings made during the course of the hearing.

(7) If the applicant requests an opportunity to present written evidence, arguments or testimony as described in OAR 345-015-0310, the hearing officer shall leave the record open for that purpose only for a specified period not to exceed 14 days after the date of the hearing or any continuance.

(8) The hearing officer is authorized to carry out the duties assigned in this rule, including but not limited to:

- (a) Adopting special rules of procedure to govern the proceeding.
- (b) Setting reasonable time limits for oral presentations.
- (c) Receiving evidence and ruling on offers of proof.
- (d) Requiring persons to submit written testimony in lieu of oral testimony if the hearing officer determines that a reasonable opportunity for oral presentation has been provided.
- (e) Asking questions of commenters.
- (f) Requiring expert witnesses to submit a statement of qualifications in writing

(g) Continuing the hearing during a period not exceeding 7 days from the commencement of the hearing. Notwithstanding this time limit, the hearing officer shall leave the record open for the purpose described in section (7).

(h) Continuing the hearing beyond any continuance allowed under subsection (g) for the limited purpose of allowing the applicant reasonable time to review written material submitted to the record before making the request described in section (7).

(i) Taking any other action consistent with the statutes governing expedited review of special criteria facilities and the applicable Council's rules.

(9) A request by the applicant for a contested case as provided in OAR 345-015-0310(23)(b), does not suspend the public hearing, and the hearing officer shall continue to accept evidence from interested persons until the close of the hearing.

(10) Notwithstanding the provisions of OAR 137-003-0055(1), following the issuance of a notice of the public hearing, the hearing officer shall enter into the record the substance of any significant contact with the applicant, the Office of Energy staff or a commenter from that point forward concerning facts in the record.

(11) The Council may remove a hearing officer if it determines that the hearing officer is not competent, is biased or is otherwise unable to conduct the proceeding.

(12) If any person engages in conduct that interferes with the hearing officer's duty in connection with any aspect of a public hearing or fails to obey an order of the hearing officer, the hearing officer may suspend the hearing or order such person excluded from the hearing temporarily or permanently. If the hearing officer issues an order permanently excluding a person from further participation in a public hearing, the hearing officer shall issue the order in writing and shall state in the order the grounds for the order. The order is final unless the person subject to the order submits an appeal to the Council within seven days after the date of the order.

(13) Upon the request of a governing body of a city, county or tribe, the Office of Energy shall offer, and the hearing officer shall receive in evidence, a certified copy of a resolution of the governing body. The hearing officer shall receive such resolutions subject to rebuttal as to the authenticity of the resolution or the circumstances surrounding its procurement. The hearing officer shall receive such resolutions only for the purpose of showing the expression of official action of the resolving body with respect to matter contained in the resolution. Such resolutions are not proof of facts related to the subject of the resolution.

Stat. Auth.: ORS 469.373 & ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0350

Council Determination of Exemption

The Council shall, upon request, determine whether a proposed facility or proposed expansion of a facility is exempt from the requirement to obtain a site certificate. A site certificate is not required for:

(1) A facility for which no site certificate has been issued that, on August 2, 1993, had operable electric generating equipment for a modifi-

ADMINISTRATIVE RULES

cation that uses the same fuel type and increases electric generating capacity, if the site is not enlarged and:

(a) The ability of the facility to use fuel for electricity production under peak steady state operating conditions is not more than 200 million Btu per hour (higher heating value) greater than it was on August 2, 1993; or

(b) The facility expansion is called for in the short-term plan of action of an energy resource plan that has been acknowledged by the Public Utility Commission of Oregon.

(2) Construction or expansion of any interstate natural gas pipeline or associated underground natural gas storage facility authorized by and subject to the continuing regulation of the Federal Energy Regulatory Commission or successor agency.

(3) A high efficiency cogeneration facility, as defined in OAR 345-001-0010.

(4) A small generating plant or an expansion to a small generating plant, as defined in OAR 345-001-0210, if the Council finds that the accumulated effects do not have a magnitude similar to a single generating plant with an average electric generating capacity of 35 megawatts or more, as described in OAR 345-001-0210(3).

(5) An energy facility as defined in ORS 469.300(10)(a)(G), if the facility:

(a) Uses biomass exclusively from grain, whey or potatoes as the source of material for conversion to a liquid fuel;

(b) Has received local land use approval under the applicable acknowledged comprehensive plan and land use regulations of the affected local government and the facility complies with any statewide planning goals or rules of the Land Conservation and Development Commission that are directly applicable to the facility under ORS 197.646(3);

(c) Requires no new electric transmission lines or gas or petroleum product pipelines that would require a site certificate; and

(d) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling facility located within one mile of the facility or is transported from the facility by rail or barge.

(6) A temporary energy generating facility as defined under ORS 469.320(8)(b).

(7) A standby generation facility as defined under ORS 469.320(8)(a).

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.320

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 4-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-015-0360

Contents of Request for Exemption

(1) Any person wishing to construct and operate a facility exempt from Council jurisdiction shall submit a request for exemption to the Office of Energy before beginning construction. A person shall not construct or expand a facility as defined in OAR 345-001-0010 unless the Council has granted an exemption as described in OAR 345-015-0370 or has issued a site certificate or an amendment to an existing site certificate.

(2) In a request for an exemption under OAR 345-015-0350(1)(a) for a modification of a facility for which no site certificate has been issued that will not increase the ability of the facility to use fuel for electricity production under peak steady state operating conditions to more than 200 million Btu per hour (higher heating value) greater than it was on August 2, 1993, the person shall provide the following information in support of the request:

(a) A detailed description of the proposed upgrade or expansion;

(b) The proposed and current facility fuel use;

(c) The proposed and current nominal electric generating capacity;

(d) The proposed and current related or supporting facilities and site boundary;

(e) The proposed and current heat rate; and

(f) Verification that the facility had operable electric generating equipment on August 2, 1993.

(3) In a request for an exemption under OAR 345-015-0350(1)(b) for modification of a facility for which no site certificate has been issued that has been acknowledged by the Public Utility Commission of Oregon, the person shall provide the following information in support of the request:

(a) The information described in subsections (2)(a) through (f) of this rule;

(b) Identification and discussion of the portion of the short-term plan of action of an energy resource plan that calls for the facility expansion; and

(c) The Public Utility Commission of Oregon Order acknowledging the plan described in subsection (b).

(4) In a request for an exemption under OAR 345-015-0350(2) for construction or expansion of an interstate natural gas pipeline or associated underground natural gas storage facility authorized by and subject to the continuing regulation of the Federal Energy Regulatory Commission, the person shall provide a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission for the proposed pipeline or associated underground natural gas storage facility, or other comparable evidence that the proposed pipeline or storage facility is within that agency's jurisdiction.

(5) In a request for an exemption based on a very efficient use of fuel (high efficiency cogeneration) under OAR 345-015-0350(3), the person shall provide the following information in support of the request:

(a) Detailed information on proposed fuel use, power plant design, steam or heat output to the thermal host and proposed electric output;

(b) Detailed information on the current facility, including fuel to be displaced, current steam or heat use and current electric output if any;

(c) A detailed engineering assessment of fuel efficiency, showing that the proposed facility is a high efficiency cogeneration facility under the definition in OAR 345-001-0010. The person shall provide calculations in sufficient detail to facilitate independent review by the Office. The person shall state the underlying assumptions necessary to support the calculation including assumptions concerning the energy content of fuel displaced; and

(d) A description of the facility, including the thermal host, the proposed energy facility, the location by address as well as township and range and any associated linear equipment needed.

(6) In a request for an exemption of a small generating plant or expansion of a small generating plant, as defined in OAR 345-001-0210, the person shall include the following information:

(a) A description of the proposed small generating plant or proposed expansion to a small generating plant and a description of related or supporting facilities;

(b) Identification of the person or persons who will construct, operate and own the plant;

(c) An analysis of the factors described in OAR 345-001-0210(3); and

(d) Any other information the Office of Energy determines the Council needs to make the finding described in OAR 345-001-0210(3).

(7) In a request for an exemption under OAR 345-015-0350(5) for a plant that converts biomass to a liquid fuel, the person shall include the following information:

(a) A description of the proposed plant, including, but not limited to, the location, acreage and annual production capacity of the proposed plant and the type of liquid fuel the plant will produce;

(b) A statement verifying that the facility will use biomass exclusively from grain, whey or potatoes as the source of material for conversion to a liquid fuel;

(c) The identity of the affected local government that has given land use approval under the applicable acknowledged comprehensive plan and land use regulations and copies of all land use approval documents the local government has issued;

(d) The statewide planning goals or rules of the Land Conservation and Development Commission that are directly applicable to the facility and evidence to support a finding by the Council that the facility complies with those goals and rules;

(e) A description of the expected electrical loads and fuel needs of the facility and a statement verifying that the facility requires no new electric transmission lines or gas or petroleum product pipelines that would require a site certificate; and

(f) A statement verifying that the plant will produce synthetic fuel, at least 90 percent of which will be used in an industrial or refueling facility located within one mile of the facility or will be transported from the facility by rail or barge and evidence that adequate rail and barge facilities are available to serve the proposed site.

(8) In a request for an exemption under OAR 345-015-0350(6) for a temporary energy generating facility, the person shall include the following information:

(a) A description of the proposed temporary generating facility.

(b) Identification of the person or persons who will construct, operate and own the plant.

(c) Commitment to provide funds to a qualified organization, before beginning construction, in an amount determined by the Council to be sufficient to produce any required reductions in carbon dioxide as specified in ORS 469.501.

(d) Proof acceptable to the Council that shows the contracted nominal electric generating capacity of the facility and the contracted heat rate in higher heating value.

ADMINISTRATIVE RULES

(9) In a request for an exemption under OAR 345-015-0350(7) for a standby generation facility, the person shall include the following information:

- (a) A description of the proposed standby generation facility.
- (b) Identification of the person or persons who will construct, operate and own the plant.
- (c) Verification that the facility has received local land use approval under the applicable acknowledged comprehensive plan and land use regulations of the affected local government and that the facility complies with all statewide planning goals and applicable rules of the Land Conservation and Development Commission.
- (d) Verification, as described in ORS 469.320(2), that the standby generators have been approved by the Department of Environmental Quality as having complied with all applicable air and water quality requirements.
- (e) Verification, as described in ORS 469.320(2), that the standby generators are electrically incapable of being interconnected to the transmission grid.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.320

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 4-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-020-0011

Contents of a Notice of Intent

(1) The applicant shall, to the extent reasonably practicable, include in the notice of intent (NOI) the information described in the following subsections. If the applicant proposes alternative sites, the applicant shall describe each alternative separately. The applicant shall designate the information with the appropriate exhibit label identified in the following subsections.

(a) **Exhibit A.** Information about the applicant and participating persons, including:

(A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address and telephone number of the contact person for the NOI, and if there is a contact person other than the applicant, the name, title, mailing address and telephone number of that person;

(B) The contact name, address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.

(C) If the applicant is a corporation, it shall give:

(i) The full name, official designation, mailing address and telephone number of the officer responsible for submitting the NOI;

(ii) The date and place of its incorporation;

(iii) A copy of its articles of incorporation and its authorization for submitting the NOI; and

(iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(D) If the applicant is a wholly owned subsidiary of a company, corporation, or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners;

(E) If the person submitting the NOI is an association of citizens, a joint venture or a partnership, it shall give:

(i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the NOI;

(ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;

(iii) Proof of registration to do business in Oregon;

(iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and

(v) If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member;

(F) If the applicant is a public or governmental entity, it shall give:

(i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the NOI; and

(ii) Written authorization from the entity's governing body to submit an NOI;

(G) If the applicant is an individual, the individual shall give his or her mailing address and telephone number;

(b) **Exhibit B.** Information about the proposed facility, including:

(A) A description of the proposed energy facility, including as applicable:

(i) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy;

(ii) Methods for waste management and waste disposal, including, to the extent known, the amount of wastewater the applicant anticipates, the applicant's plans for disposal of wastewater and storm water, and the location of disposal;

(iii) For thermal power plants and electric generating facilities producing energy from wind, solar or geothermal energy:

(I) A discussion of the source, quantity, availability, and energy content of all fuels (higher heating value) or the wind, solar or geothermal resource used to generate electricity or useful thermal energy. For the purpose of this sub-paragraph, "source" means the coal field, natural gas pipeline, petroleum distribution terminal or other direct source;

(II) Methods for disposal of waste heat;

(III) Approximate nominal electric generating capacity;

(iv) For transmission lines, approximate transmission line voltage, load carrying capacity and type of current;

(v) For pipelines, approximate operating pressure and delivery capacity in thousand cubic feet per day;

(vi) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors;

(vii) For facilities to store liquefied natural gas, the approximate volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour;

(B) A description of major components, structures and systems of each related or supporting facility;

(C) The approximate dimensions of major facility structures and visible features;

(c) **Exhibit C.** A description of the location of the proposed energy facility site and the proposed site of each related or supporting facility, including the approximate land area of each and identification of the Oregon Building Code Seismic Zone designation;

(d) **Exhibit D.** If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, identification of at least two proposed corridors, as defined in OAR 345-001-0010, or identification of a single proposed corridor with an explanation of why alternate corridors are unlikely to better meet the applicant's needs and satisfy the Council's standards. The applicant shall include an explanation of the basis for selecting the proposed corridor(s) and, for each proposed corridor, the information described in subsections (e), (g), (i), (j), (k), (n) and (p) that is available from existing maps, aerial photographs, and a search of readily available literature;

(e) **Exhibit E.** Identification of all federal, state and local government permits needed before construction and operation the proposed facility, legal citation of the statute, rule or ordinance governing each permit, and the name, address and telephone number of the agency or office responsible for each permit;

(f) **Exhibit F.** A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the proposed corridor(s) the applicant has identified in subsection (d) and property located within or adjacent to the site of the proposed facility. In addition to incorporating the list in the NOI, the applicant shall submit the list to the Office of Energy in electronic format suitable to the Office for the production of mailing labels. Property adjacent to the proposed site or corridor means property that is:

(A) Within 100 feet of the site or corridor, where the site or corridor is within an urban growth boundary;

(B) Within 250 feet of the site or corridor, where the site or corridor is outside an urban growth boundary and not within a farm or forest zone; and

(C) Within 500 feet of the site or corridor, where the site or corridor is within a farm or forest zone;

(g) **Exhibit G.** A map or maps showing:

ADMINISTRATIVE RULES

(A) The proposed locations of the energy facility site, and all related or supporting facility sites, in relation to major roads, water bodies, cities and towns, important landmarks and topographic features;

(B) The proposed locations of the corridors the applicant has identified under subsection (d) in relation to major roads, water bodies, cities and towns, important landmarks and topographic features;

(C) The study area(s) for the proposed facility as defined in OAR 345-001-0010;

(D) The topography of the study area(s) including streams, rivers, lakes, major roads and contour lines;

(E) All protected areas in the study area as defined in OAR 345-001-0010 for impacts to protected areas; and

(F) The location of any wetlands identified in the Statewide Wetland Inventory of the Division of State Lands that are on or adjacent to the site;

(h) **Exhibit H.** If the proposed facility is a non-generating energy facility for which the applicant must demonstrate need under OAR 345-023-0005, identification of the rule in Division 23 of this chapter under which the applicant intends to demonstrate need and a summary statement of the need and justification for the proposed facility;

(i) **Exhibit I.** A statement indicating whether the applicant intends to satisfy the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval under ORS 469.504(1)(a) or by seeking a Council determination under ORS 469.504(1)(b).

(j) **Exhibit J.** Identification of significant potential environmental impacts of construction and operation of the proposed facility on the study areas, including those impacts affecting air quality, surface and ground water quality and availability, wildlife and wildlife habitat, threatened and endangered plant and animal species, historic, cultural and archaeological resources, scenic and aesthetic areas, recreation, and land use;

(k) **Exhibit K.** Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of communities in the study area to provide the services listed in OAR 345-022-0110;

(L) **Exhibit L.** Information about water requirements the applicant anticipates for construction and operation of the proposed facility, including:

(A) A description of each source of water and the applicant's estimate of the amount of water the facility will need from each source;

(B) If a new water right is required, the approximate location of the points of diversion and the estimated quantity of water to be taken at each point;

(C) For operation, the source of cooling water and the estimated consumptive use of cooling water, based on annual average conditions;

(m) **Exhibit M.** If the proposed facility would emit carbon dioxide, an estimate of the gross rate of carbon dioxide emissions, a table listing all the factors that form the basis for calculating the estimate, and a statement of the means by which the applicant intends to comply with the applicable carbon dioxide emissions standard under OAR 345-024-0560, 345-024-0600, or 345-024-0630.

(n) **Exhibit N.** Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall analyze and describe any problems the applicant foresees in satisfying the requirements of any such statute, rule or ordinance.

(o) **Exhibit O.** A schedule stating when the applicant expects to submit an application for a site certificate;

(p) **Exhibit P.** Evidence of consultation with the State Commission on Indian Services to identify each appropriate tribe to consult with regarding the proposed facility's possible effects on Indian historic and cultural resources;

(2) Documents prepared in connection with an environmental assessment or environmental impact statement for the proposed facility under the National Environmental Policy Act of 1970, if any, may contain some of the information required by section (1) of this rule. The applicant may copy relevant sections of such documents into the appropriate exhibits of the NOI. The applicant may otherwise submit full copies of those documents and include, in the appropriate exhibits of the NOI, cross-references to the relevant sections of those documents. The applicant may use such documents only to avoid duplication. The applicant shall include additional information in the NOI as needed to meet the requirements of section (1) of this rule.

(3) In each NOI submitted to the Office of Energy, the applicant shall include an index or table of contents clearly identifying by page number the location of each exhibit required by this rule. The applicant shall submit the original NOI and ten copies to the Office and shall prepare and distribute additional copies of the NOI as required by OAR 345-020-0040. In addition to the printed copies, the applicant shall submit the text (and graphical information to the extent practical) of the NOI in electronic format suitable to the Office.

(4) The applicant or the applicant's representative shall attend all public informational meetings on the NOI as described in OAR 345-015-0130 to discuss the proposed facility and to answer questions from the public. If the applicant has identified one or more proposed corridors in Exhibit D of the NOI as required by section (1)(d), the applicant may present adjustments to the proposed corridor(s) at any public informational meeting. An adjustment is any change that is outside the boundaries of the corridors proposed in the NOI and may include an entirely new corridor.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.330

Hist.: EFSC 13, f. & ef. 6-11-76; EFSC 2-1991(Temp), f. & cert. ef. 6-5-91; EFSC 1-1992(Temp), f. & cert. ef. 3-4-92; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 5-1995, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-021-0000

General Requirements

(1) Except for facilities that the Council has determined exempt as described in OAR 345-015-0350 to 345-015-0370 or for which a separate site certificate is not required according to ORS 469.320(5), a person shall not construct or expand a facility unless the Council has granted a site certificate or an amendment to an existing site certificate.

(2) Notwithstanding the definition of "energy facility," a person may elect to apply for a site certificate for an electric power generating plant with an average electric generating capacity of less than 35 megawatts from wind energy.

(3) An applicant shall not submit an application for a site certificate before the Office of Energy has issued a project order for the proposed facility as described in OAR 345-015-0160. Not later than 30 days after the public comment period described in the public notice issued under OAR 345-015-0110, the applicant may submit to the Office a written request for waiver or modification of requirements in OAR 345-021-0010 that the applicant believes are not applicable to the proposed facility. If the applicant chooses, the applicant may submit a draft application before the issuance of a project order. The applicant must submit the application before the expiration of the notice of intent.

(4) Notwithstanding the requirement of section (3), in the case of an expedited review granted under OAR 345-015-0300 or OAR 345-015-0310, the applicant may submit an application for a site certificate any time after the Office of Energy determines the request for expedited review satisfies the requirements for expedited review as described in those rules.

(5) In addition to the application for a site certificate described in OAR 345-021-0010, the applicant shall submit to the Office of Energy three copies of each application for a state or local government agency permit for which the Council must determine compliance with applicable standards and three copies of federally-delegated permit applications, unless the applicant chooses to incorporate copies of the permit applications as part of the application for a site certificate. The requirements of this section do not apply to third-party permits. The applicant may submit the site certificate application before submitting copies of each permit application if the applicant submits a schedule of the dates by which the applicant intends to submit the copies of permit applications. The permit applications and letters described in this section are part of the decision record for the Office of Energy's proposed order, described in OAR 345-015-0230. The Office shall not find the site certificate application to be complete before receiving copies of all permit applications described in this section and:

(a) For non-federally-delegated permit applications for which the Council must determine compliance with applicable standards, a letter or other indication from each responsible agency stating that the permit application received from the applicant provides an adequate basis for a permit decision; and

(b) For federally-delegated permit applications, a letter or other indication from each responsible agency stating that the agency has received a permit application from the applicant, identifying any additional information the agency is likely to need from the applicant based on the agency's review of the application as submitted, and estimating the date when the agency will complete its review and issue a permit decision.

ADMINISTRATIVE RULES

(6) If the proposed facility is a non-generating facility for which the applicant must demonstrate need under OAR 345-023-0005, in addition to the application for a site certificate described in OAR 345-021-0010, the applicant shall submit to the Office three copies of each energy resource plan or combination of plans on which the applicant relies to demonstrate need under OAR 345-023-0020, unless the applicant chooses to incorporate copies of the plan(s) as part of the application for a site certificate. The applicant shall submit the plan(s) to the Office with the site certificate application. The Office shall not find the site certificate application to be complete before receiving copies of the plan(s). The plan or plans described in this section are part of the decision record for the Office of Energy's proposed order, described in OAR 345-015-0230.

(7) The applicant shall submit an application for a site certificate to the Office with 25 percent of the fee the Office determines necessary for review of the application under ORS 469.421(3), payable to the Oregon Office of Energy. The applicant shall pay the balance of the fee periodically, as specified by the Office.

Stat. Auth.: ORS 469.373 & ORS 469.470
Stats. Implemented: ORS 469.350, ORS 469.370 & ORS 469.421
Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-95; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 2-2001(Temp), f. & cert. ef. 9-17-01 thru 3-10-02; Administrative correction 3-14-02; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-021-0010

Contents of Application

(1) The project order described in OAR 345-015-0160(1) identifies the provisions of this rule applicable to the application for the proposed facility, including any appropriate modifications to applicable provisions of this rule. The applicant shall include in its application for a site certificate information that addresses each provision of this rule identified in the project order. The applicant shall designate the information with the appropriate exhibit label identified in the following subsections. If the same information is required in each of several exhibits the applicant may provide the required information in one exhibit and include appropriate references in the others. For the purpose of submitting an application for a site certificate in an expedited review granted under OAR 345-015-0300 or 345-015-0310, the applicant shall include information that addresses all provisions of this rule. In such expedited reviews, analysis areas addressed in this rule are the study areas defined in OAR 345-001-0010, subject to later modification in the project order.

(a) **Exhibit A.** Information about the applicant and participating persons, including:

(A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address and telephone number of the contact person for the application, and if there is a contact person other than the applicant, the name, title, mailing address and telephone number of that person;

(B) The contact name, address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and, if known, other persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.

(C) If the applicant is a corporation, it shall give:

(i) The full name, official designation, mailing address and telephone number of the officer responsible for submitting the application;

(ii) The date and place of its incorporation;

(iii) A copy of its articles of incorporation and its authorization for submitting the application; and

(iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(D) If the applicant is a wholly owned subsidiary of a company, corporation, or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners;

(E) If the applicant is an association of citizens, a joint venture or a partnership, it shall give:

(i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the application;

(ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;

(iii) Proof of registration to do business in Oregon;

(iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and

(v) If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member;

(F) If the applicant is a public or governmental entity, it shall give:

(i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the application; and

(ii) Written authorization from the entity's governing body to submit an application;

(G) If the applicant is an individual, the individual shall give his or her mailing address and telephone number;

(b) **Exhibit B.** Information about the proposed facility, construction schedule and temporary disturbances of the site, including:

(A) A description of the proposed energy facility, including as applicable:

(i) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy;

(ii) A site plan and general arrangement of buildings, equipment and structures;

(iii) Fuel and chemical storage facilities, including structures and systems for spill containment;

(iv) Equipment and systems for fire prevention and control;

(v) Structures, systems and equipment for waste management and waste disposal, including, to the extent known, the amount of wastewater the applicant anticipates and the applicant's plans for disposal of wastewater and storm water. If the applicant has submitted any permit applications to the Office, as described in OAR 345-021-0000(4), that contain this information, the applicant may copy relevant sections of those documents into this exhibit or include in this exhibit cross-references to the relevant sections of those documents;

(vi) For thermal power plants and electric generating facilities producing energy from wind, solar or geothermal energy:

(I) A discussion of the source, quantity, availability, and energy content of all fuels (Btu, higher heating value) or the wind, solar or geothermal resource used to generate electricity or useful thermal energy. For the purpose of this subparagraph, "source" means the coal field, natural gas pipeline, petroleum distribution terminal or other direct source;

(II) Fuel cycle and usage including the maximum hourly fuel use at net electrical power output at average annual conditions for a base load gas plant and the maximum hourly fuel use at nominal electric generating capacity for a non-base load power plant or a base load gas plant with power augmentation technologies, as applicable;

(III) The gross capacity as estimated at the generator output terminals for each generating unit. For a base load gas plant, gross capacity is based on the average annual ambient conditions for temperature, barometric pressure and relative humidity. For a non-base load plant, gross capacity is based on the average temperature, barometric pressure and relative humidity at the site during the times of year when the facility is intended to operate. For a baseload gas plant with power augmentation, gross capacity in that mode is based on the average temperature, barometric pressure and relative humidity at the site during the times of year when the facility is intended to operate with power augmentation.

(IV) A table showing a reasonable estimate of all on-site electrical loads and losses greater than 50 kilowatts, including losses from on-site transformers, plus a factor for incidental loads, that are required for the normal operation of the plant when the plant is at its designed full power operation.

(V) Process flow, including power cycle and steam cycle diagrams to describe the energy flows within the system;

(VI) Equipment and systems for disposal of waste heat;

(VII) The maximum number of hours per year and energy content (Btu per year, higher heating value) of alternate fuel use;

(VIII) The nominal electric generating capacity;

(IX) The fuel chargeable to power heat rate;

(vii) For transmission lines, the rated voltage, load carrying capacity, and type of current;

(viii) For pipelines, the operating pressure and delivery capacity in thousand cubic feet per day;

(ix) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors; and

ADMINISTRATIVE RULES

(x) For facilities to store liquefied natural gas, the volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour;

(B) A description of major components, structures and systems of each related or supporting facility;

(C) The approximate dimensions of major facility structures and visible features;

(D) If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, a corridor selection assessment explaining how the applicant selected the corridor(s) for analysis in the application. In the assessment, the applicant shall evaluate the corridor adjustments the Office has described in the project order, if any. The applicant may select any corridor for analysis in the application and may select more than one corridor. However, if the applicant selects a new corridor, then the applicant must explain why the applicant did not present the new corridor for comment at an informational meeting under OAR 345-015-0130. In the assessment, the applicant shall discuss the reasons for selecting the corridor(s), based upon evaluation of the following factors:

(i) Least disturbance to streams, rivers and wetlands during construction;

(ii) Least percentage of the total length of the pipeline or transmission line that would be located within areas of Habitat Category 1, as described by the Oregon Department of Fish and Wildlife;

(iii) Greatest percentage of the total length of the pipeline or transmission line that would be located within or adjacent to public roads, as defined in ORS 368.001, and existing pipeline or transmission line rights-of-way;

(iv) Least percentage of the total length of the pipeline or transmission line that would be located within lands that require zone changes, variances or exceptions;

(v) Least percentage of the total length of the pipeline or transmission line that would be located in a protected area as described in OAR 345-022-0040;

(vi) Least disturbance to areas where historical, cultural or archaeological resources are likely to exist; and

(vii) Greatest percentage of the total length of the pipeline or transmission line that would be located to avoid seismic, geological and soils hazards;

(viii) Least percentage of the total length of the pipeline or transmission line that would be located within lands zoned for exclusive farm use;

(E) For the corridor(s) the applicant selects under paragraph (D) and for any related or supporting facility that is a pipeline or transmission line, regardless of size:

(i) The length of the pipeline or transmission line;

(ii) The proposed right-of-way width of the pipeline or transmission line, including to what extent new right-of-way will be required or existing right-of-way will be widened;

(iii) If the proposed corridor follows or includes public right-of-way, a description of where the facility would be located within the public right-of-way, to the extent known. If the applicant might choose to locate all or part of the facility adjacent to but not within the public right-of-way, describe the reasons the applicant would use to justify locating the facility outside the public right-of-way. The application must include a set of clear and objective criteria and a description of the type of evidence that would support locating the facility outside the public right-of-way, based on those criteria.

(iv) The diameter and location, above or below ground, of each pipeline; and

(v) A description of transmission line structures and their dimensions;

(F) A construction schedule including the date by which the applicant proposes to begin construction and the date by which the applicant proposes to complete construction. Construction is defined in OAR 345-001-0010. The applicant shall describe in this exhibit all work on the site that the applicant intends to begin before the Council issues a site certificate. The applicant shall include an estimate of the cost of that work. For the purpose of this exhibit, "work on the site" means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor, that the applicant anticipates or has performed as of the time of submitting the application;

(G) A map showing all areas that may be temporarily disturbed by any activity related to the design, construction and operation of the proposed facility;

(c) **Exhibit C.** Information about the location of the proposed facility, including:

(A) A map or maps, including a 7.5-minute quadrangle map, showing the proposed locations of the energy facility site, and all related or supporting facility sites, in relation to major roads, water bodies, cities and towns, important landmarks and topographic features; and

(B) A description of the location of the proposed energy facility site and the proposed site of each related or supporting facility, including the approximate land area of each. If a proposed pipeline or transmission line is to follow an existing road, pipeline or transmission line, the applicant shall state to which side of the existing road, pipeline or transmission line the proposed facility will run, to the extent this is known;

(d) **Exhibit D.** Information about the organizational expertise of the applicant to construct and operate the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0010, including:

(A) The applicant's previous experience, if any, in constructing and operating similar facilities;

(B) The qualifications of the applicant's personnel who will be responsible for constructing and operating the facility, to the extent that the identities of such personnel are known when the application is submitted;

(C) The qualifications of any architect, engineer, major component vendor, or prime contractor upon whom the applicant will rely in constructing and operating the facility, to the extent that the identities of such persons are known when the application is submitted;

(D) The past performance of the applicant, including but not limited to the number and severity of any regulatory citations in constructing or operating a facility, type of equipment, or process similar to the proposed facility;

(E) If the applicant has no previous experience in constructing or operating similar facilities and has not identified a prime contractor for construction or operation of the proposed facility, other evidence that the applicant can successfully construct and operate the proposed facility. The applicant may include, as evidence, a warranty that it will, through contracts, secure the necessary expertise; and

(F) If the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program, a description of the program;

(G) If the applicant relies on mitigation to demonstrate compliance with any standards of Division 22 or 24 of this chapter, evidence that the applicant can successfully complete such proposed mitigation, including past experience with other projects and the qualifications and experience of personnel upon whom the applicant will rely, to the extent that the identities of such persons are known at the date of submittal.

(e) **Exhibit E.** Information about permits needed for construction and operation of the facility, including:

(A) Identification of all federal, state and local government permits needed before construction and operation of the proposed facility, legal citation of the statute, rule or ordinance governing each permit, and the name, address and telephone number of the agency or office responsible for each permit.

(B) A description of each permit and the reasons the permit is needed for construction or operation of the facility.

(C) For state or local government permits or approvals for which the Council must determine compliance with applicable standards, evidence to support findings by the Council that construction and operation of the proposed facility will comply with all statutes, rules and standards applicable to the permit. The applicant may show this evidence:

(i) In Exhibit J for permits related to wetlands;

(ii) In Exhibit O for permits related to water rights.

(D) For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.

(E) If the applicant will not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit;

(ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit; and

ADMINISTRATIVE RULES

(iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.

(F) If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit;

(ii) Evidence that the responsible agency has received a permit application; and

(iii) The estimated date when the responsible agency will complete its review and issue a permit decision.

(G) The applicant's proposed monitoring program, if any, for compliance with permit conditions.

(f) **Exhibit F.** A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the corridor(s) the applicant has selected for analysis as described in subsection (b) and property located within or adjacent to the site of the proposed facility. The applicant shall submit an updated list of property owners as requested by the Office of Energy before the Office issues notice of any public hearing on the application for a site certificate as described in OAR 345-015-0220. In addition to incorporating the list in the application for a site certificate, the applicant shall submit the list to the Office in electronic format suitable to the Office for the production of mailing labels. Property adjacent to the proposed site of the facility or corridor means property that is:

(A) Within 100 feet of the site or corridor, where the site or corridor is within an urban growth boundary;

(B) Within 250 feet of the site or corridor, where the site or corridor is outside an urban growth boundary and not within a farm or forest zone; and

(C) Within 500 feet of the site or corridor, where the site or corridor is within a farm or forest zone;

(g) **Exhibit G.** A materials analysis including:

(A) An inventory of substantial quantities of industrial materials flowing into and out of the proposed facility during construction and operation;

(B) The applicant's plans to manage hazardous substances during construction and operation, including measures to prevent and contain spills; and

(C) The applicant's plans to manage non-hazardous waste materials during construction and operation;

(h) **Exhibit H.** Information from reasonably available sources regarding the geological and soil stability of the site and vicinity, providing evidence to support findings by the Council as required by OAR 345-022-0020, including:

(A) A description of the geological features and topography of the site and vicinity;

(B) A description of site specific geological and geotechnical work performed or planned to be performed before construction. The applicant shall include:

(i) A proposed schedule for geotechnical work;

(ii) A description of the nature and extent of the work with a discussion of the methods used to assess the expected ground response, including amplification, at the site;

(iii) A list of the professional literature relied on in characterizing the site; and

(iv) The names of the personnel responsible for the work and a description of their relevant experience;

(C) For all transmission lines, a description of locations along the proposed route where the applicant proposes to perform site specific geotechnical work, including but not limited to railroad crossings, major road crossings, river crossings, dead ends, corners, and portions of the proposed route where geologic reconnaissance and other site specific studies provide evidence of existing landslides or marginally stable slopes that could be made unstable by the planned construction;

(D) For all pipelines that would carry explosive, flammable or hazardous materials, a description of locations along the proposed route where the applicant proposes to perform site specific geotechnical work, including but not limited to railroad crossings, major road crossings, river crossings and portions of the proposed alignment where geologic reconnaissance and other site specific studies provide evidence of existing landslides or marginally stable slopes that could be made unstable by the planned construction;

(E) A map showing the location of existing and significant potential geological and soil stability hazards and problems, if any, on the site and in

its vicinity that could adversely affect, or be aggravated by, the construction and operation of the proposed facility;

(F) An assessment of seismic hazards. For the purposes of this assessment, the maximum probable earthquake (MPE) is the maximum earthquake that could occur under the known tectonic framework with a 10 percent chance of being exceeded in a 50-year period. If seismic sources are not mapped sufficiently to identify the ground motions above, the applicant shall provide a probabilistic seismic hazard analysis to identify the peak ground accelerations expected at the site for a 500 year recurrence interval and a 5000 year recurrence interval. In the assessment, the applicant shall include:

(i) Identification of the Oregon Building Code Seismic Zone designation for the site;

(ii) Identification and characterization of all earthquake sources capable of generating median peak ground accelerations greater than 0.05g on rock at the site. For each earthquake source, the applicant shall assess the magnitude and minimum epicentral distance of the maximum credible earthquake (MCE) and the MPE;

(iii) A description of any recorded earthquakes within 50 miles of the site and of recorded earthquakes greater than 50 miles from the site that caused ground shaking at the site more intense than the Modified Mercalli III intensity. The applicant shall include the date of occurrence and a description of the earthquake that includes its magnitude and highest intensity and its epicenter location or region of highest intensity;

(iv) Assessment of the median ground response spectrum from the MCE and the MPE and identification of the spectral accelerations greater than the design spectrum provided in the Oregon Building Code. The applicant shall include a description of the probable behavior of the subsurface materials and amplification by subsurface materials and any topographic or subsurface conditions that could result in expected ground motions greater than those characteristic of the Oregon Building Code Seismic Zone identified above; and

(v) An assessment of seismic hazards expected to result from reasonably probable seismic events. As used in this rule "seismic hazard" includes ground shaking, landslide, lateral spreading, liquefaction, tsunami inundation, fault displacement, and subsidence;

(G) An assessment of soil-related hazards such as landslides, flooding and erosion which could, in the absence of a seismic event, adversely affect or be aggravated by the construction or operation of the facility;

(H) An explanation of how the applicant will design, engineer and construct the facility to avoid dangers to human safety from the seismic hazards identified in paragraph (F). The applicant shall include proposed design and engineering features, applicable construction codes, and any monitoring for seismic hazards; and

(I) An explanation of how the applicant will design, engineer and construct the facility to adequately avoid dangers to human safety presented by the hazards identified in paragraph (G);

(i) **Exhibit I.** Information from reasonably available sources regarding soil conditions and uses of the site and vicinity, providing evidence to support findings by the Council as required by OAR 345-022-0022, including:

(A) Identification and description of the major soil types at the site and its vicinity;

(B) Identification and description of any land uses on the proposed site and in its vicinity, such as growing crops, that require or depend on productive soils;

(C) Identification and assessment of significant potential adverse impact to soils from construction, operation and retirement of the facility, including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills;

(D) A description of any measures the applicant proposes to avoid or mitigate adverse impact to soils; and

(E) The applicant's proposed monitoring program, if any, for impact to soils;

(j) **Exhibit J.** Information based on literature and field study, as appropriate, about significant potential impacts of the proposed facility on wetlands that are within state jurisdiction under ORS Chapter 196, including:

(A) A determination, as defined in OAR 141-090-0020, of whether construction or operation of the proposed facility would affect any waters of the state, including wetlands, and, if so, a wetland delineation report, as defined in OAR 141-090-0020, describing how those waters would be affected;

ADMINISTRATIVE RULES

(B) A wetland map, as defined in OAR 141-090-0020, showing the location of any wetlands under state jurisdiction on or near the site and the source of the water for the wetlands, including any wetlands identified in the Statewide Wetland Inventory of the Division of State Lands;

(C) A description of each wetland identified in (A);

(D) A description of significant potential impact to each wetland, if any, including the nature and amount of material the applicant would remove from or place in each wetland and the specific locations where the applicant would remove or fill that material;

(E) Evidence that all required fill and removal permits of the Oregon Division of State Lands can be issued to the proposed facility in compliance with ORS 196.800 et seq., including:

(i) A discussion and evaluation of the factors listed in ORS 196.825 and OAR chapter 141 division 85; and

(ii) A description of the steps the applicant proposes to mitigate impacts to wetlands; and

(F) The applicant's proposed monitoring program, if any, for impacts to wetlands;

(k) **Exhibit K.** Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Notwithstanding OAR 345-021-0090(2), once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall:

(A) Include a map showing the comprehensive plan designations and land use zones of the facility site, all areas that may be temporarily disturbed by any activity related to the design, construction and operation of the proposed facility and property adjacent to the site;

(B) If the applicant elects to obtain local land use approvals:

(i) Identify the affected local government(s) from which land use approvals will be sought;

(ii) Describe the land use approvals required in order to satisfy the Council's land use standard;

(iii) Describe the status of the applicant's application for each land use approval; and

(iv) Provide an estimate of time for issuance of local land use approvals;

(C) If the applicant elects to obtain a Council determination on land use:

(i) Identify the affected local government(s);

(ii) Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria;

(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes;

(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals; and

(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2); and

(D) If the proposed facility will be located on federal land:

(i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land;

(ii) Explain any differences between state or local land use requirements and federal land management requirements;

(iii) Describe how the proposed facility complies with the applicable federal land management plan;

(iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval;

(v) Provide an estimate of time for issuance of federal land use approvals; and

(vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver;

(L) **Exhibit L.** Information about the proposed facility's impact on protected areas, providing evidence to support a finding by the Council as required by OAR 345-022-0040, including:

(A) A map showing the location of the proposed facility in relation to the protected areas listed in OAR 345-022-0040 located within the analysis area;

(B) A description of significant potential impacts of the proposed facility, if any, on the protected areas including, but not limited to, potential impacts such as:

(i) Noise resulting from facility construction or operation;

(ii) Increased traffic resulting from facility construction or operation;

(iii) Water use during facility construction or operation;

(iv) Wastewater disposal resulting from facility construction or operation;

(v) Visual impacts of facility structures, including cooling tower or other plumes, if any; and

(vi) Visual impacts from air emissions resulting from facility construction or operation, including, but not limited to, impacts on Class 1 visual resources as described in OAR 340-204-0050;

(m) **Exhibit M.** Information about the applicant's financial capability, providing evidence to support a finding by the Council as required by OAR 345-022-0050(2). Nothing in this subsection shall require the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant shall include:

(A) An opinion or opinions from legal counsel stating that, to counsel's best knowledge, the applicant has the legal authority to construct and operate the facility without violating its bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements;

(B) The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050; and

(C) Evidence that the applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed in paragraph (B), before beginning construction of the facility;

(n) **Exhibit N.** If the proposed facility is a non-generating facility for which the applicant must demonstrate need under OAR 345-023-0005, information about the need for the facility, providing evidence to support a finding by the Council as required by OAR 345-023-0005, including:

(A) Identification of the rule in Division 23 of this chapter under which the applicant chooses to demonstrate need;

(B) If the applicant chooses to demonstrate need for the proposed facility under OAR 345-023-0020(1), the least-cost plan rule:

(i) Identification of the energy resource plan or combination of plans on which the applicant relies to demonstrate need;

(ii) The name, address, and telephone number of the person responsible for preparing each energy resource plan identified in subparagraph (i);

(iii) For each plan reviewed by a regulatory agency, the agency's findings and final decision, including:

(I) For a plan reviewed by the Oregon Public Utility Commission, the acknowledgment order; or

(II) For a plan reviewed by any other regulatory agency, a summary of the public process including evidence to support a finding by the Council that the agency's decision process included a full, fair and open public participation and comment process as required by OAR 345-023-0020(1)(L), and the location of and means by which the Office of Energy can obtain a complete copy of the public record;

(iv) Identification of the section(s) of the short-term action plan(s) that call(s) for the acquisition of the proposed facility or a facility substantially similar to the proposed facility; and

(v) The attributes of the proposed facility that qualify it as one called for in the short-term action plan of the energy resource plan or combination of plans identified in subparagraph (i) or a demonstration that a facility substantially similar to the proposed facility is called for in the plan(s);

(C) In addition to the information described in paragraph (B), if the applicant chooses to demonstrate need for the proposed facility under OAR 345-023-0020(1), the least-cost plan rule, and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon:

ADMINISTRATIVE RULES

(i) The names, addresses and telephone numbers of members of any public advisory groups that participated in the preparation and review of each plan identified in paragraph (B);

(ii) A discussion of how the plan or combination of plans conforms to the standards in OAR 345-023-0020(1)(a) through (L) including citations to relevant portions of the plan documents or other supporting evidence; and

(iii) The expected annual emissions in tons of nitrogen oxides, PM-10 particulate, sulfur dioxide, carbon dioxide and mercury and a discussion of other environmental impacts, as compared to resources in the applicable energy resource plan;

(D) In addition to the information described in paragraphs (B) and (C), if the applicant chooses to demonstrate need for a proposed natural gas pipeline or storage facility for liquefied natural gas under OAR 345-023-0020(1), the least-cost plan rule, and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon, the applicant shall include the information described in paragraph (G) of this subsection if the energy resource plan or combination of plans does not contain that information. If the energy resource plan or combination of plans contains the information described in paragraph (G), the applicant shall provide a list of citations to the sections of the energy resource plan(s) that contain the information;

(E) In addition to the information described in paragraphs (B) and (C), if the applicant chooses to demonstrate need for a proposed electric transmission line under OAR 345-023-0020(1), the least-cost plan rule and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon, the applicant shall include the information described in paragraph (F) of this subsection if the energy resource plan or combination of plans does not contain that information. If the energy resource plan or combination of plans contains the information described in paragraph (F), the applicant shall provide a list of citations to the sections of the energy resource plan(s) that contain the information;

(F) If the applicant chooses to demonstrate need for a proposed electric transmission line under OAR 345-023-0030, the system reliability rule:

(i) Load-resource balance tables for the area to be served by the proposed facility. In the tables, the applicant shall include firm capacity demands and existing and committed firm resources for each of the years from the date of submission of the application to at least five years after the expected in-service date of the facility.

(ii) Within the tables described in subparagraph (i), a forecast of firm capacity demands for electricity and firm annual electricity sales for the area to be served by the proposed facility. The applicant shall separate firm capacity demands and firm annual electricity sales into loads of retail customers, system losses, reserve margins and each wholesale contract for firm sale. In the forecast, the applicant shall include a discussion of how the forecast incorporates reductions in firm capacity demand and firm annual electricity sales resulting from:

(I) Existing federal, state, or local building codes, and equipment standards and conservation programs required by law for the area to be served by the proposed facility;

(II) Conservation programs provided by the energy supplier;

(III) Conservation that results from responses to price; and

(IV) Retail customer fuel choice;

(iii) Within the tables described in subparagraph (i), a forecast of existing and committed firm resources used to meet the demands described in subparagraph (ii). The applicant shall include, as existing and committed firm resources, existing generation and transmission facilities, firm contract resources and committed new resources minus expected resource retirements or displacement. In the forecast, the applicant shall list each resource separately;

(iv) A discussion of the reasons each resource is being retired or displaced if the forecast described in subparagraph (iii) includes expected retirements or displacements;

(v) A discussion of the annual capacity factors assumed for any generating facilities listed in the forecast described in subparagraph (iii);

(vi) A discussion of the reliability criteria the applicant uses to demonstrate the proposed facility is needed, considering the load carrying capability of existing transmission system facilities supporting the area to be served by the proposed facility; and

(vii) A discussion of reasons why the proposed facility is economically reasonable compared to the alternatives described below. In the discussion, the applicant shall include a table showing the amounts of firm capacity and firm annual electricity available from the proposed facility and each alternative and the estimated direct cost of the proposed facility and each alternative. The applicant shall include documentation of assumptions

and calculations supporting the table. The applicant shall evaluate alternatives to construction and operation of the proposed facility that include, but are not limited to:

(I) Implementation of cost-effective conservation, peak load management, and voluntary customer interruption as a substitute for the proposed facility;

(II) Construction and operation of electric generating facilities as a substitute for the proposed facility;

(III) Direct use of natural gas, solar or geothermal resources at retail loads as a substitute for use of electricity transmitted by the proposed facility; and

(IV) Adding standard sized smaller or larger transmission line capacity;

(viii) The earliest and latest expected in-service dates of the facility and a discussion of the circumstances of the energy supplier that determine these dates; and

(G) If the applicant chooses to demonstrate need for a proposed natural gas pipeline or a proposed facility for storing liquefied natural gas under OAR 345-023-0040, the economically reasonable rule:

(i) Load-resource balance tables for the area to be served by the proposed facility. In the tables, the applicant shall include firm demands and resource availability for each of the years from the date of submission of the application to at least five years after the expected in-service date of the proposed facility. In the tables, the applicant shall list flowing supply and storage supply separately;

(ii) Within the tables described in subparagraph (i), a forecast of firm capacity demands for the area to be served by the proposed facility. The applicant shall separate firm capacity demands into firm demands of retail customers, system losses and each wholesale contract for firm sale. The applicant shall accompany the tables with load duration curves of firm capacity and interruptible demands for the most recent historical year, the year the facility is expected to be placed in service and the fifth year after the expected in-service date. In the forecast of firm capacity demands, the applicant shall include a discussion of how the forecast incorporates reductions in firm capacity demand resulting from:

(I) Existing federal, state, or local building codes and equipment standards and conservation programs required by law for the area to be served by the proposed facility;

(II) Conservation programs provided by the energy supplier;

(III) Conservation that results from responses to price; and

(IV) Retail customer fuel choice;

(iii) Within the tables described in subparagraph (i), a forecast of existing and committed firm resources used to meet the demands described in subparagraph (ii). The applicant shall include, as existing and committed firm capacity resources, existing pipelines, storage facilities, and scheduled and budgeted new facilities minus expected resource retirements or displacement. In the forecast, the applicant shall list each committed resource separately;

(iv) A discussion of the reasons each resource is being retired or displaced if the forecast described in subparagraph (iii) includes expected retirements or displacements;

(v) A discussion of the capacity factors assumed for any storage facilities listed in the forecast described in subparagraph (iii);

(vi) A discussion of the reliability criteria the applicant uses to demonstrate the proposed facility is needed, considering the capacity of existing gas system facilities supporting the area to be served by the proposed facility;

(vii) A discussion of reasons why the proposed facility is economically reasonable compared to the alternatives described in subparagraphs (viii) or (ix). In the discussion, the applicant shall include a table showing the amounts of firm capacity available from the proposed facility and each alternative and the estimated direct cost of the proposed facility and each alternative. The applicant shall include documentation of assumptions and calculations supporting the table;

(viii) In an application for a proposed natural gas pipeline, an evaluation of alternatives to construction and operation of the proposed facility including, but not limited to:

(I) Implementation of cost-effective conservation, peak load management, and voluntary customer interruption as a substitute for the proposed facility;

(II) Installation of propane storage systems, facilities to store liquefied natural gas and underground gas storage reservoirs as a substitute for the proposed facility;

ADMINISTRATIVE RULES

(III) Direct use of electricity, solar or geothermal resources at retail loads as a substitute for use of natural gas supplied by the proposed facility; and

(IV) Adding standard sized smaller or larger pipeline capacity.

(ix) In an application for a proposed liquefied natural gas storage facility, an evaluation of alternatives to construction and operation of the proposed facility including, but not limited to:

(I) Implementation of cost-effective conservation, peak load management, and voluntary customer interruption as a substitute for the proposed facility;

(II) Installation of propane storage systems, natural gas pipelines and underground gas storage facilities as a substitute for the proposed facility;

(III) Direct use of electricity, solar or geothermal resources at retail loads as a substitute for use of natural gas supplied by the proposed facility; and

(IV) Adding smaller or larger liquefied natural gas storage capacity; and

(x) The earliest and latest expected in-service date of the facility and a discussion of the circumstances of the energy supplier that determine these dates;

(o) **Exhibit O.** Information about the water requirements the applicant anticipates for construction and operation of the proposed facility. If the applicant has submitted any permit applications to the Office, as described in OAR 345-021-0000(4), that contain this information, the applicant may copy relevant sections of those documents into this exhibit or include in this exhibit cross-references to the relevant sections of those documents. The applicant shall include:

(A) A description of each source of water and the applicant's estimate of the amount of water the facility will need from each source under annual average and worst-case conditions;

(B) If a new water right is required, the approximate location of the points of diversion with the estimated quantity of water to be taken at each point;

(C) A description of how the water is to be used;

(D) A description of each avenue of water loss or output from the facility site, the applicant's estimate of the amount of water in each avenue under annual average and worst-case conditions, and the final disposition of all wastewater, including storm water;

(E) For operation, a water balance diagram, including the source of cooling water and the estimated consumptive use of cooling water, based on annual average conditions;

(F) If the facility does not require a groundwater permit, a surface water permit, or a water rights transfer, an explanation why no such permit or transfer is required for the construction and operation of the proposed facility;

(G) Evidence to support Council findings that the Water Resources Department should issue a groundwater or a surface water permit under ORS Chapter 537 or should approve a transfer of a water use under ORS Chapter 540, including a discussion and evaluation of all relevant factors, including those listed in ORS 537.153(2) and (3), 537.170(8) and OAR chapter 690, divisions 15 and 310;

(H) A discussion of any steps proposed by the applicant to reduce consumptive water use; and

(I) A discussion of any mitigation steps proposed by the applicant to address the impact of the applicant's water use on affected resources;

(p) **Exhibit P.** Information about the fish and wildlife habitats and the fish and wildlife species, other than the species addressed in subsection (q) that may be affected by the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0060. The applicant shall include:

(A) Identification and description of all habitat within the analysis area, classified by the habitat categories as set forth in OAR 635-415-0030;

(B) A description of biological and botanical surveys performed that support the information in this exhibit, including a discussion of the timing and scope of each survey;

(C) A map showing the locations of the habitat identified in (A);

(D) A description of the nature, extent and duration of significant potential impacts on the habitat identified in (A) that may result from construction, operation and retirement of the proposed facility;

(E) A description of any measures the applicant proposes to avoid, reduce or mitigate potential adverse impacts;

(F) Evidence that the proposed facility, including any proposed mitigation, complies with the fish and wildlife habitat mitigation goals and standards in OAR 635-415-0030; and

(G) The applicant's proposed monitoring program, if any, for impacts to such fish and wildlife species and their habitats;

(q) **Exhibit Q.** Information about threatened and endangered plant and animal species that may be affected by the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0070. The applicant shall include:

(A) Based on appropriate literature and field study, identification of all threatened or endangered species listed under ORS 496.172(2), 564.105(2) or 16 USC § 1533 that may be affected by the proposed facility;

(B) For each species identified under (A), a description of the nature, extent, locations and timing of its occurrence in the analysis area and how the facility might adversely affect it;

(C) For each species identified under (A), a description of measures proposed by the applicant, if any, to avoid or reduce adverse impact;

(D) For each plant species identified under (A), a description of how the proposed facility, including any mitigation measures, complies with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3);

(E) For each plant species identified under paragraph (A), if the Oregon Department of Agriculture has not adopted a protection and conservation program under ORS 564.105(3), a description of significant potential impacts of the proposed facility on the continued existence of the species and on the critical habitat of such species and evidence that the proposed facility, including any mitigation measures, is not likely to cause a significant reduction in the likelihood of survival or recovery of the species;

(F) For each animal species identified under (A), a description of significant potential impacts of the proposed facility on the continued existence of such species and on the critical habitat of such species and evidence that the proposed facility, including any mitigation measures, is not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and

(G) The applicant's proposed monitoring program, if any, for impacts to threatened and endangered species;

(r) **Exhibit R.** An analysis of significant potential impacts of the proposed facility, if any, on scenic and aesthetic values identified as significant or important in applicable federal land management plans or in local land use plans for the analysis area, providing evidence to support a finding by the Council as required by OAR 345-022-0080, including:

(A) Identification of the applicable federal land management plans and local land use plans;

(B) Identification and description of the scenic and aesthetic values identified as significant or important in the applicable plans;

(C) A description of significant potential adverse impacts to the scenic and aesthetic values identified in (B), including, but not limited to, potential impacts such as:

(i) Loss of vegetation or alteration of the landscape as a result of construction or operation;

(ii) Visual impacts of facility structures, including cooling tower or other plumes, if any; and

(iii) Visual impacts from air emissions resulting from facility construction or operation, including, but not limited to, impacts on Class 1 visual resources as described in OAR 340-031-0120;

(D) The measures the applicant proposes to avoid, reduce or otherwise mitigate any significant adverse impacts;

(E) A map or maps showing the location of the visible scenic and aesthetic values analyzed under (B); and

(F) The applicant's proposed monitoring program, if any, for impacts to scenic and aesthetic values;

(s) **Exhibit S.** Information about historic, cultural and archaeological resources providing evidence to support a finding by the Council as required by OAR 345-022-0090, including:

(A) Historic and cultural resources within the analysis area that have been listed, or would likely be eligible for listing, on the National Register of Historic Places;

(B) For private lands, archaeological objects, as defined in ORS 358.905(1)(a), and archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area;

(C) For public lands, archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area;

(D) The significant potential impacts, if any, of the construction, operation and retirement of the proposed facility on the resources described in paragraphs (A), (B) and (C) and a plan for protection of those resources that includes at least the following:

ADMINISTRATIVE RULES

(i) A description of any discovery measures, such as surveys, inventories, and limited subsurface testing work, recommended by the State Historic Preservation Officer and the National Park Service of the U.S. Department of Interior for the purpose of locating, identifying and assessing the significance of resources listed in paragraphs (A), (B) and (C);

(ii) The results of surveys, inventories, and subsurface testing work recommended by the state and federal agencies listed in subparagraph (i), together with an explanation by the applicant of any variations from the survey, inventory, or testing recommended;

(iii) A list of measures to prevent destruction of the resources identified during surveys, inventories and subsurface testing referred to in subparagraph (i) or discovered during construction; and

(iv) A completed copy of any permit applications submitted pursuant to ORS 358.920. Notwithstanding OAR 345-021-0000(4), the applicant shall include copies of the permit applications as part of the site certificate application. If the same information required by subparagraphs (i) through (iii) above is contained in the permit applications, then the applicant may provide cross-references to the relevant sections of the permit applications in substitution; and

(E) The applicants proposed monitoring program, if any, for impacts to historic, cultural and archaeological resources during construction, operation and retirement of the proposed facility;

(t) **Exhibit T.** Information about the impacts the proposed facility would have on important recreational opportunities in the analysis area, providing evidence to support a finding by the Council as required by OAR 345-022-0100, including:

(A) A description of any important recreational opportunities in the analysis area considering the criteria in OAR 345-022-0100;

(B) An assessment of significant potential adverse impacts to the opportunities identified in (A) including, but not limited to, potential impacts such as:

(i) Direct or indirect loss of an opportunity as a result of construction or operation;

(ii) Noise resulting from facility construction or operation;

(iii) Increased traffic resulting from facility construction or operation;

(iv) Water use during facility construction or operation;

(v) Wastewater resulting from facility construction or operation;

(vi) Visual impacts of facility structures, including cooling tower or other plumes, if any; and

(vii) Visual impacts from air emissions resulting from facility construction or operation, including, but not limited to, impacts on Class 1 visual resources as described in OAR 340-204-0050;

(C) A description of any measures the applicant proposes to avoid, reduce or otherwise mitigate the significant adverse impacts identified in (B);

(D) A map of the analysis area showing the locations of important recreational opportunities identified in (A); and

(E) The applicant's proposed monitoring program, if any, for impacts to important recreational opportunities;

(u) **Exhibit U.** Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of public and private providers in the analysis area to provide the services listed in OAR 345-022-0110, providing evidence to support a finding by the Council as required by OAR 345-022-0110. The applicant shall include:

(A) The important assumptions the applicant used to evaluate potential impacts;

(B) Identification of the public and private providers in the analysis area that would likely be affected;

(C) A description of any likely adverse impact to the ability of the providers identified in (B) to provide the services listed in OAR 345-022-0110;

(D) Evidence that adverse impacts described in (C) are not likely to be significant, taking into account any measures the applicant proposes to avoid, reduce or otherwise mitigate the impacts; and

(E) The applicant's proposed monitoring program, if any, for impacts to the ability of the providers identified in (B) to provide the services listed in OAR 345-022-0110;

(v) **Exhibit V.** Information about the applicant's plans to minimize the generation of solid waste and wastewater and to recycle or reuse solid waste and wastewater, providing evidence to support a finding by the Council as required by OAR 345-022-0120. The applicant shall include:

(A) A description of the major types of solid waste and wastewater that construction, operation and retirement of the facility are likely to generate;

(B) The applicant's plans to minimize, recycle or reuse the solid waste and wastewater described in (A);

(C) A description of any adverse impact on surrounding and adjacent areas from the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility;

(D) Evidence that adverse impacts described in (C) are likely to be minimal, taking into account any measures the applicant proposes to avoid, reduce or otherwise mitigate the impacts; and

(E) The applicant's proposed monitoring program, if any, for minimization of solid waste and wastewater impacts;

(w) **Exhibit W.** Information about facility retirement and site restoration, providing evidence to support a finding by the Council as required by OAR 345-022-0050(1). The applicant shall include:

(A) The estimated useful life of the proposed facility;

(B) The actions that the applicant proposes for retirement of the facility and restoration of the site to a useful, non-hazardous condition;

(C) The estimated costs to retire the facility and restore the site to a useful, non-hazardous condition and a discussion of the methods and assumptions used to estimate retirement and restoration costs; and

(D) For facilities that might produce site contamination by hazardous materials, any proposed monitoring plan, such as periodic environmental site assessment and reporting, or an explanation why a monitoring plan is unnecessary.

(x) **Exhibit X.** Information about noise generated by construction and operation of the proposed facility, providing evidence to support a finding by the Council that the proposed facility complies with the Oregon Department of Environmental Quality's noise control standards in OAR 340-35-0035. The applicant shall include:

(A) A baseline noise assessment for the proposed site and vicinity;

(B) Predicted noise levels resulting from construction and operation of the proposed facility;

(C) An assessment of the proposed facility's compliance with the applicable noise regulations in OAR 340-35-0035;

(D) Any measures the applicant proposes to reduce noise levels or noise impacts;

(E) The assumptions and methods used in the noise analysis; and

(F) The applicant's proposed monitoring program, if any, for noise generated by construction and operation of the facility;

(y) **Exhibit Y.** If the facility is a base load gas plant, a non-base load power plant, or a nongenerating energy facility that emits carbon dioxide, a statement of the means by which the applicant elects to comply with the applicable carbon dioxide emissions standard under OAR 345-024-0560, 345-024-0600, or 345-024-0630 and information, showing detailed calculations, about the carbon dioxide emissions of the energy facility. The applicant may present the calculations in tabular form. The applicant shall include the following calculations:

(A) The total gross carbon dioxide emissions for 30 years, unless an applicant for a non-base load power plant or nongenerating energy facility proposes to limit operation to a shorter time;

(B) The gross carbon dioxide emissions rate expressed as:

(i) Pounds of carbon dioxide per kilowatt-hour of net electric power output for a base load gas plant, including operation with or without power augmentation, as appropriate, or for a non-base load power plant;

(ii) Pounds of carbon dioxide per horsepower hour for nongenerating facilities for which the output is ordinarily measured in horsepower; or

(iii) A rate comparable to pounds of carbon dioxide per kilowatt-hour of net electric power output for nongenerating facilities other than those measured in horsepower;

(C) The total excess carbon dioxide emissions for 30 years, unless an applicant for a non-base load power plant or a nongenerating energy facility proposes to limit operation to a shorter time;

(D) The excess carbon dioxide emissions rate, using the same measure as required for paragraph (B);

(E) The average annual site conditions, including temperature, barometric pressure and relative humidity, together with a citation of the source and location of the data collection devices;

(F) For a non-base load power plant (or when using power augmentation), the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate, together with a citation of the source and location of the data collection devices;

(G) The annual fuel input in British thermal units, higher heating value, to the facility for each type of fuel the facility will use, assuming:

ADMINISTRATIVE RULES

(i) For a base load gas plant, a 100-percent capacity factor on a new and clean basis and the maximum number of hours annually that the applicant proposes to use alternative fuels;

(ii) For a non-base load power plant, the applicant's proposed annual hours of operation on a new and clean basis, the maximum number of hours annually that the applicant proposes to use alternative fuels and, if the calculation is based on an operational life of fewer than 30 years, the proposed operational life of the facility;

(iii) For a nongenerating energy facility, the reasonably likely operation of the facility based on one year, 5-year, 15-year, and 30-year averages, unless an applicant proposes to limit operation to a shorter time;

(H) For each type of fuel a base load gas plant or a non-base load power plant will use, the estimated heat rate and capacity of the facility measured on a new and clean basis with no thermal energy to cogeneration, consistent with the data supplied in Exhibit B;

(I) For each type of fuel a nongenerating energy facility will use, the estimated efficiency and capacity of the facility with no thermal energy to cogeneration;

(J) If the facility provides thermal energy for cogeneration to lower its net carbon dioxide emissions rate, the applicant shall include:

(i) The estimated annual useful thermal energy available from the facility for non-electric processes, annual useful thermal energy used by non-electric processes, and annual thermal energy rejected as waste heat;

(ii) For a base load gas plant or non-base load power plant, the estimated annual net electric power output and annual fuel input in British thermal units higher heating value for the facility for each type of fuel the facility will use and the basis of such estimates;

(iii) A description of the non-electric thermal processes, the names and addresses of the persons intending to use the non-electric thermal energy, and a description and an estimate of the fuel displaced by cogeneration, including supporting assumptions;

(iv) A description of the products produced and thermal energy needed for production of the primary products made by the persons intending to use the non-electric thermal energy produced by the proposed facility, supported by fuel use and steam production records or estimates, if the production facility is new;

(v) The efficiency of each boiler that the thermal energy will displace;

(vi) For each boiler, the annual fossil fuel displaced in million Btu, higher heating value, by type of fuel that will be displaced by the thermal energy;

(vii) The annual carbon dioxide offset by the cogeneration host, using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value) and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value);

(viii) The cumulative carbon dioxide offset by the steam host through the thirtieth year of facility operation, or for a shorter period if an applicant for a nongenerating facility proposes a shorter operational period;

(ix) A copy of the contractual agreement between the applicant and the cogeneration host for the use of the thermal energy;

(x) A description of the guarantees of offsets that the applicant shall provide for cogeneration projects, pursuant to OAR 345-024-0560(1) and 345-024-0600(1);

(xi) A proposed monitoring and evaluation plan and an independent verification plan, pursuant to subparagraphs (K)(xix) and (K)(xx);

(xii) A copy of the instrument by which the certificate holder will transfer the offsets to the Council for it to hold in trust;

(K) If the applicant proposes to offset carbon dioxide emissions as described in OAR 345-024-0550(3), 345-024-0560(2), 345-024-0590(3), 345-024-0600(2), 345-024-0620(3) or 345-024-0630(1), the applicant shall include:

(i) A description of each offset project;

(ii) A description of who will implement the offset project, including qualifications and experience;

(iii) Detailed estimates of the carbon dioxide offset, measured in short tons, that the offset projects will achieve over the life of the project;

(iv) For each offset project, an explanation of how the applicant quantified its carbon dioxide estimates to a degree of certainty acceptable to the Council through a transparent and replicable calculation methodology;

(v) For each offset project, evidence that the offset project would not likely have been implemented if not for the applicant's activities or funding;

(vi) For each offset project, a description of a "Baseline" projection that does not include the proposed project and a "Project Case" projection that does. The historic Baseline shall use reliable emissions data or pre-project data available for the most recent three years unless the applicant

can demonstrate that a different period more closely represents historical operations or unless it can demonstrate that another method provides a more reasonable estimate. The applicant shall show how the Baseline projection changes over time if changes from business-as-usual could be reasonably anticipated during the project life;

(vii) For each offset project, a description, in a transparent and realistic manner, of the assumptions and methodologies used to quantify the Baseline and the Project Case projections, including a description of key parameters and data sources. This shall include a description of the formulae used to estimate carbon dioxide emissions or sequestration within the project boundary and a net change of carbon dioxide emissions or sequestration that occurs outside of the project boundary that is measurable and attributable to the project activity;

(viii) For projects that avoid conventional electricity generation, a description of a Baseline that calculates the carbon dioxide emissions per kilowatt hour in two steps: (1) for the first five years of operation, a description of the rate based on dispatch data or models or, absent that, a weighted average of all resources in a power pool except zero-fuel-cost or must-run facilities, and (2) a description of the rate for any subsequent years based on a group of similar facilities built within the prior five years or under construction in the electrical distribution region of the project or the three most recent plants built in the region, whichever rate is lower;

(ix) For projects that avoid conventional electricity generation, a description of avoided transmission and distribution losses, using average grid area or national losses;

(x) A description of any guarantee for offsets from projects that the applicant proposes pursuant to OAR 345-024-0560(2), 345-024-0600(2), and 345-024-630(1), if the applicant chooses to offer a guarantee;

(xi) A description of the offset project boundary. The boundary shall encompass all carbon dioxide emissions under the control of the project that are significant and reasonably attributable to the project activity. If the project is being conducted by one part of a corporation, the boundary shall include the emissions and reductions of the whole corporate entity and the carbon dioxide emissions resulting from processes and facilities that are related to the project, with identification of subsidiaries that are affected by the project;

(xii) A description of significant risks and risk mitigation strategies, including an estimate of the range of uncertainty around the expected carbon dioxide offsets;

(xiii) For biological sequestration projects, an assessment of the risk of climate change to natural systems that are sequestering the carbon dioxide, including, if appropriate, the risks from forest fires, pest and other unplanned releases of carbon from sequestration;

(xiv) A description of whether the offset project will permanently avoid or displace emissions of carbon dioxide. If a project only temporarily sequesters carbon, an indication of the duration of sequestration or storage;

(xv) A description of the amount of funding the applicant will provide for each offset project it proposes;

(xvi) If the applicant anticipates that a project will have funding sources in addition to itself, identification of the sources of those funds, the amount of other funding that is required to implement a project, the amount of funds other parties have committed, and the risks of other funds not being available;

(xvii) If the applicant proposes that a project will have funding sources in addition to itself, a description of how ownership of the offsets will be allocated among the several funding sources;

(xviii) A copy of the instrument by which the certificate holder will transfer all the offsets to the Council for it to hold in trust;

(xix) A description of a transparent and replicable methodology for the applicant's monitoring and evaluation plan and for an independent verification plan, including (1) procedures the applicant and the independent entity will employ, (2) how the applicant will assure funds for ongoing monitoring, evaluation and verification, (3) the time frame and frequency over which the applicant will conduct monitoring and evaluation and over which the independent entity will conduct verification, including the frequency of site visits, if applicable, (4) the reporting procedures and guidelines for the plans, and (5) whether the applicant has identified the independent entity that will perform the verification;

(xx) The monitoring and evaluation plan and the verification plan shall identify the data needs and data quality with regard to accuracy, comparability, completeness and validity. It shall include methodologies to be used for data collection, monitoring, storage, reporting and management, including quality assurance and quality control provisions. It shall provide complete calculations used to calculate and estimate carbon dioxide emis-

ADMINISTRATIVE RULES

sions from activity within the project boundary. It shall show any formulae and assumptions the applicant used to calculate offset project leakage;

(xxi) A description of reasonably likely, significant undesirable long-term environmental impacts from the implementation of an offset project; and

(L) If the applicant elects to comply with the applicable carbon dioxide emissions standard by using the monetary path under OAR 345-024-0560(3), 345-024-0600(3) or 345-024-0630(2), the applicant shall include:

(i) A statement of the applicant's election to use the monetary path;

(ii) The amount of carbon dioxide reduction, in tons, for which the applicant is taking credit by using the monetary path;

(iii) The qualified organization to whom the applicant will provide offset funds and funds for the cost of selecting and contracting for offsets. The applicant shall include evidence that the organization meets the definition of a qualified organization under OAR 345-001-0010. The applicant may identify an organization that has applied for, but has not received, an exemption from federal income taxation, but the Council shall not find that the organization is a qualified organization unless the organization is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996; and

(iv) A statement of whether the applicant intends to provide a bond or letter of credit to secure the funds it must provide to the qualified organization or whether it requests the option of providing either a bond or a letter of credit.

(z) **Exhibit Z.** If the proposed facility has an evaporative cooling tower, information about the cooling tower plume, including:

(A) The predicted size and frequency of occurrence of a visible plume and an assessment of its visual impact;

(B) The predicted locations and frequency of occurrence of ice formation on surfaces and ground level fogging and an assessment of significant potential adverse impacts, including, but not limited to, traffic hazards on public roads;

(C) The predicted locations and rates of deposition of solids released from the cooling tower (cooling tower drift) and an assessment of significant potential adverse impacts to soils, vegetation and other land uses;

(D) Any measures the applicant proposes to reduce adverse impacts from the cooling tower plume or drift;

(E) The assumptions and methods used in the plume analysis; and

(F) The applicant's proposed monitoring program, if any, for cooling tower plume impacts;

(aa) **Exhibit AA.** If the proposed facility includes an electric transmission line:

(A) Information about the expected electric and magnetic fields, including:

(i) The distance in feet from the proposed center line of each proposed transmission line to the edge of the right-of-way;

(ii) The type of each occupied structure, including but not limited to residences, commercial establishments, industrial facilities, schools, day-care centers and hospitals, within 200 feet on each side of the proposed center line of each proposed transmission line;

(iii) The approximate distance in feet from the proposed center line to each structure identified in (A);

(iv) At representative locations along each proposed transmission line, a graph of the predicted electric and magnetic fields levels from the proposed center line to 200 feet on each side of the proposed center line;

(v) Any measures the applicant proposes to reduce electric or magnetic field levels;

(vi) The assumptions and methods used in the electric and magnetic field analysis, including the current in amperes on each proposed transmission line; and

(vii) The applicant's proposed monitoring program, if any, for actual electric and magnetic field levels; and

(B) An evaluation of alternate methods and costs of reducing radio interference likely to be caused by the transmission line in the primary reception area near interstate, U.S. and state highways;

(bb) **Exhibit BB.** Any other information that the Office requests in the project order;

(cc) **Exhibit CC.** Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall identify all statutes, administrative rules and ordinances that the applicant knows to be applicable to the proposed facility, whether or not identified in the project

order. To the extent not addressed by other materials in the application, the applicant shall include a discussion of how the proposed facility meets the requirements of the applicable statutes, administrative rules and ordinances.

(2) The applicant shall submit an affidavit with the original application that, to the applicant's best knowledge and belief, the information in the application is true and accurate. If the applicant is not an individual, the affidavit must be signed by an individual authorized to act on behalf of the applicant. The applicant shall include a copy of the affidavit in each copy of the application.

(3) Documents prepared in connection with an environmental assessment or environmental impact statement for the proposed facility under the National Environmental Policy Act of 1970, if any, may contain some of the information required under section (1) of this rule. The applicant may copy relevant sections of such documents into the appropriate exhibits of the site certificate application. The applicant may otherwise submit full copies of those documents and include, in the appropriate exhibits of the site certificate application, cross-references to the relevant sections of those documents. The applicant may use such documents only to avoid duplication. The applicant shall include additional information in the site certificate application as needed to meet the requirements of section (1) of this rule.

(4) In each application for a site certificate submitted to the Office of Energy, the applicant shall include an index or table of contents clearly identifying by page number the location of each exhibit required by this rule. The applicant shall submit the original application for a site certificate and ten copies to the Office and shall prepare and distribute additional copies of the application as required by OAR 345-021-0050. In addition to the printed copies, the applicant shall submit the text (including appendices and graphical information to the extent practical) of the application in electronic format suitable to the Office.

Stat. Auth.: ORS 469.373 & ORS 469.470

Stats. Implemented: ORS 469.350, ORS 469.370, ORS 469.501, ORS 469.503 & ORS 469.504

Hist.: EFSC 6-1980, f. & ef. 8-26-80; EFSC 7-1986, f. & ef. 9-18-86; EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1986, f. & ef. 9-5-86; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0140, 345-080-0090, 345-100-0055, 345-111-0075, 345-115-0055 & 345-125-0100; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-021-0090

Amendment of an Application

(1) Before the date of filing as determined by OAR 345-015-0190 or 345-015-0310, the applicant may amend the application without prior approval of the Office of Energy. The applicant shall submit the original and ten copies of the amendment to the Office. In addition to the printed copies, the applicant shall submit the text (and graphical information to the extent practical) of the amendment in electronic format suitable to the Office.

(2) After the date of filing as determined by OAR 345-015-0190 or 345-015-0310, the applicant shall not amend the application without the approval of the Office. If the Office approves amending the application, the Office may withdraw the filing of the application until the Office has reviewed the amended application for completeness as described under OAR 345-015-0190 or 345-015-0310. After issuance of a contested case notice under OAR 345-015-0014, the applicant shall not amend the application without the approval of the Council's hearing officer. The applicant shall give notice of the amendment and serve copies of the amendment according to the order of the Office or hearing officer and any applicable contested case procedures.

(3) Information submitted to the Office under OAR 345-015-0190(8) does not constitute an amendment to the application.

Stat. Auth.: ORS 469.373 & ORS 469.470

Stats. Implemented: ORS 469.350

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-022-0000

General Standard of Review

(1) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:

(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources

ADMINISTRATIVE RULES

protected by the standards the facility does not meet as described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the council cannot waive any applicable state statute.

(2) The Council may issue or amend a site certificate for a facility that does not meet one or more of the standards adopted under ORS 469.501 if the Council determines that the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet. The Council shall make this balancing determination only when the applicant has shown that the proposed facility cannot meet Council standards or has shown, to the satisfaction of the Council, that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to the protected resources. The applicant has the burden to show that the overall public benefits outweigh the damage to the resources, and the burden increases proportionately with the degree of damage to the resources. The Council shall weigh overall public benefits and damage to the resources as follows:

(a) The Council shall evaluate the damage to the resources by considering factors including, but not limited to, the following:

(A) The uniqueness and significance of the resource that would be affected;

(B) The degree to which current or future development may damage the resource, if the proposed facility is not built;

(C) Proposed measures to reduce the damage by avoidance of impacts;

(D) The magnitude of the anticipated damage to the resource, taking into account any proposed mitigation.

(b) The Council shall evaluate overall public benefits by considering factors including, but not limited to, the following:

(A) The overall environmental effects of the facility, considering both beneficial and adverse environmental effects;

(B) The degree to which the proposed facility promotes Oregon energy policy as described in ORS 469.010 by demonstrating or advancing new efficiency or renewable technology or by expanding electric generating capacity from renewable energy sources;

(C) Recommendations from any special advisory group designated by the Council under ORS 469.480;

(D) Evidence that the benefits are likely to occur only if the proposed facility is built;

(E) For facilities that are subject to a need standard, evidence underlying the Council's decision on compliance with the rules in OAR 345, division 23, except that the Council shall not find that need for a facility is sufficient, by itself, to outweigh damage to resources affected by the proposed facility.

(3) Notwithstanding section (2) of this rule, the Council shall not apply the balancing determination to the following standards:

(a) The organizational expertise standard described in OAR 345-022-0010;

(b) The land use standard described in OAR 345-022-0030;

(c) The retirement and financial assurance standard described in OAR 345-022-0050;

(d) The need standards described in OAR 345-023-0005;

(e) The standards for energy facilities that emit carbon dioxide described in OAR 345-024-0500 through 345-024-0720; or

(f) The protected areas standard described in OAR 345-022-0040, if the statutes or administrative rules governing the management of the protected area prohibit location of the proposed facility in that area.

(4) In making determinations regarding compliance with statutes, rules and ordinances normally administered by other agencies or compliance with requirements of the Council statutes if other agencies have special expertise, the Office of Energy shall consult with such other agencies during the notice of intent, site certificate application and site certificate amendment processes. Nothing in these rules is intended to interfere with the state's implementation of programs delegated to it by the federal government.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501, ORS 469.503, ORS 469.504 & ORS 469.505

Hist.: EFSC 6-1980, f. & ef. 8-26-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0080, 345-080-0075, 345-100-0052, 345-011-0055, 345-115-0052 & 345-125-0070(8); EFSC 5-1993(Temp), f. & cert. ef. 8-16-93; EFSC 1-1994, f. & cert. ef. 1-28-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2003, f. & cert. ef. 9-3-03

345-022-0022

Soil Protection

To issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-022-0030

Land Use

(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

(2) The Council shall find that a proposed facility complies with section (1) if:

(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or

(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:

(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);

(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or

(C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).

(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.

(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:

(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

ADMINISTRATIVE RULES

(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:

(a) The number of jurisdictions and zones in question;

(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and

(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.504

Hist.: EFSC 1-1980, f. & ef. 2-28-80; EFSC 6-1980, f. & ef. 8-26-80; EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1986, f. & ef. 9-5-86; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-080-0065, 345-100-0045, 345-111-0045, 345-115-0045, 345-125-0070 & 345-125-0080; EFSC 5-1993(Temp), f. & cert. ef. 8-16-93; EFSC 1-1994, f. & cert. ef. 1-28-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-022-0040

Protected Areas

(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed below. Cross-references in this rule to federal or state statutes or regulations are to the version of the statutes or regulations in effect as of August 28, 2003:

(a) National parks, including but not limited to Crater Lake National Park and Fort Clatsop National Memorial;

(b) National monuments, including but not limited to John Day Fossil Bed National Monument, Newberry National Volcanic Monument and Oregon Caves National Monument;

(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et seq. and areas recommended for designation as wilderness areas pursuant to 43 U.S.C. 1782;

(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath, Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper Klamath, and William L. Finley;

(e) National coordination areas, including but not limited to Government Island, Ochoco and Summer Lake;

(f) National and state fish hatcheries, including but not limited to Eagle Creek and Warm Springs;

(g) National recreation and scenic areas, including but not limited to Oregon Dunes National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon Cascades Recreation Area, and Columbia River Gorge National Scenic Area;

(h) State parks and waysides as listed by the Oregon Department of Parks and Recreation and the Willamette River Greenway;

(i) State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;

(j) State estuarine sanctuaries, including but not limited to South Slough Estuarine Sanctuary, OAR Chapter 142;

(k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;

(L) Experimental areas established by the Rangeland Resources Program, College of Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site, the Starkey site and the Union site;

(m) Agricultural experimental stations established by the College of Agriculture, Oregon State University, including but not limited to:

Coastal Oregon Marine Experiment Station, Astoria
Mid-Columbia Agriculture Research and Extension Center, Hood River
Agriculture Research and Extension Center, Hermiston
Columbia Basin Agriculture Research Center, Pendleton
Columbia Basin Agriculture Research Center, Moro
North Willamette Research and Extension Center, Aurora
East Oregon Agriculture Research Center, Union
Malheur Experiment Station, Ontario
Eastern Oregon Agriculture Research Center, Burns
Eastern Oregon Agriculture Research Center, Squaw Butte
Central Oregon Experiment Station, Madras
Central Oregon Experiment Station, Powell Butte
Central Oregon Experiment Station, Redmond
Central Station, Corvallis
Coastal Oregon Marine Experiment Station, Newport
Southern Oregon Experiment Station, Medford
Klamath Experiment Station, Klamath Falls;

(n) Research forests established by the College of Forestry, Oregon State University, including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the Marchel Tract;

(o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas;

(p) State wildlife areas and management areas identified in OAR chapter 635, division 8.

(2) Notwithstanding section (1), the Council may issue a site certificate for a transmission line or a natural gas pipeline or for a facility located outside a protected area that includes a transmission line or natural gas or water pipeline as a related or supporting facility located in a protected area identified in section (1), if other alternative routes or sites have been studied and determined by the Council to have greater impacts. Notwithstanding section (1), the Council may issue a site certificate for surface facilities related to an underground gas storage reservoir that have pipelines and injection, withdrawal or monitoring wells and individual wellhead equipment and pumps located in a protected area, if other alternative routes or sites have been studied and determined by the Council to be unsuitable.

(3) The provisions of section (1) do not apply to transmission lines or natural gas pipelines routed within 500 feet of an existing utility right-of-way containing at least one transmission line with a voltage rating of 115 kilovolts or higher or containing at least one natural gas pipeline of 8 inches or greater diameter that is operated at a pressure of 125 psig.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 1-1980, f. & ef. 2-28-80; EFSC 6-1980, f. & ef. 8-26-80; EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1982, f. & ef. 5-3-82; EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0030, 345-080-0060, 345-100-0040, 345-111-0035, 345-115-0040 & 345-125-0070; EFSC 5-1993(Temp), f. & cert. ef. 8-16-93; EFSC 1-1994, f. & cert. ef. 1-28-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-022-0080

Scenic and Aesthetic Values

(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic and aesthetic values identified as significant or important in applicable federal land management plans or in local land use plans in the analysis area described in the project order.

(2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0065; EFSC 5-1993(Temp), f. & cert. ef. 8-16-93; EFSC 1-1994, f. & cert. ef. 1-28-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 5-1994, f. & cert.

ADMINISTRATIVE RULES

ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0550

Standard for Base Load Gas Plants

To issue a site certificate for a base load gas plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power or augmentation technology as defined in OAR 345-001-0010, the Council shall apply the standard for a non-base load power plant, as described in OAR 345-024-0590, to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the base load carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis;

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0560, or any combination thereof. The Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard;

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0560(2), the Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for carbon dioxide emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of carbon dioxide emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of carbon dioxide emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of carbon dioxide emissions reduction will be achieved by the offset;

(b) The ability of the Council to determine the actual quantity of carbon dioxide emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance;

(c) The extent to which the reduction of carbon dioxide emissions would occur in the absence of the offsets;

(4) Before beginning construction, the certificate holder shall notify the Office in writing of its final selection of a gas turbine vendor and shall submit a written design information report to the Office sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. In the report, the certificate holder shall include the proposed limits on the annual average number of hours of facility operation on distillate fuel oil, if applicable. In the site certificate, the Council may specify other information to be included in the report. The Office shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of carbon dioxide emissions reductions the certificate holder must provide under OAR 345-024-0560.

Stat. Auth.: ORS 469.470 & ORS 469.503

Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0560

Means of Compliance for Base Load Gas Plants

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for base load gas plants. For a base load gas plant designed with power augmentation technology, the applicant shall comply with the standard for a non-base load power plant in the manner as described in OAR 345-024-0600 for the incremental carbon dioxide emissions from the designed operation of the power augmentation technology.

(1) Designing and operating the facility to produce electrical and thermal energy sequentially from the same fuel source and using the thermal

energy to displace another source of carbon dioxide emissions from fossil fuel that would have otherwise continued to occur. The Council shall adopt site certificate conditions ensuring that the carbon dioxide emissions reduction will be achieved;

(2) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of carbon dioxide emissions be achieved;

(3) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in carbon dioxide emissions necessary to meet the applicable carbon dioxide emissions standard. The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets;

(4) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard;

(5) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (2) or (4) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of section (3) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & ORS 469.503

Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2000, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0590

Standard for Non-Base Load Power Plants

To issue a site certificate for a non-base load power plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply this standard to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility, the limitation on the hours of generation for each fuel type and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. For a base load gas plant designed with power augmentation technology, the Council shall base its determination of the incremental carbon dioxide emissions on the proposed design of the facility, the proposed limitation on the hours of generation using the power augmentation technology and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate with power augmentation technology. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis; however, the Council may modify the parameters of the new and clean basis to accommodate average conditions at the times when the facility is intended to operate and technical limitations, including operational considerations, of a non-base load power plant or power augmentation technology or for other cause;

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0600 or any combination thereof. The Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard;

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0600(2), the Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the

ADMINISTRATIVE RULES

Council shall not allow credit for offsets that have already been allocated or awarded credit for carbon dioxide emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of carbon dioxide emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of carbon dioxide emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of carbon dioxide emissions reduction will be achieved by the offset;

(b) The ability of the Council to determine the actual quantity of carbon dioxide emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance;

(c) The extent to which the reduction of carbon dioxide emissions would occur in the absence of the offsets;

(4) Before beginning construction, the certificate holder shall notify the Office in writing of its final selection of an equipment vendor and shall submit a written design information report to the Office sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. For a base load gas plant designed with power augmentation technology, the certificate holder shall include in the report information sufficient to verify the facility's designed new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the nominal electric generating capacity at average site conditions during the intended use for each fuel type from the operation of the proposed facility using the power augmentation technology. The certificate holder shall include the proposed limit on the annual average number of hours for each fuel used, if applicable. The certificate holder shall include the proposed total number of hours of operation for all fuels, subject to the limitation that the total annual average number of hours of operation per year is not more than 6,600 hours. In the site certificate, the Council may specify other information to be included in the report. The Office shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the gross carbon dioxide emissions from the facility and the amount of carbon dioxide emissions reductions the certificate holder must provide under OAR 345-024-0600;

(5) Every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual annual hours of operation by fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate and the actual hours of operation on each fuel during the five-year period, exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

(6) For a base load gas plant designed with power augmentation technology, every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual hours of operation using the power augmentations technology for each fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the actual hours of operation using the power augmentation technology on each fuel during the five-year period exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

Stat. Auth.: ORS 469.470 & ORS 469.503

Stats. Implemented: ORS 469.501 & ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0600

Means of Compliance for Non-Base Load Power Plants

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for non-base load power plants or for the incremental carbon dioxide emissions from the operation of a base load gas plant with power augmentation technology:

(1) Designing and operating the facility to produce electrical and thermal energy sequentially from the same fuel source and using the thermal energy to displace another source of carbon dioxide emissions from fossil

fuels that would have otherwise continued to occur. The Council shall adopt site certificate conditions ensuring that the carbon dioxide emissions reduction will be achieved;

(2) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of carbon dioxide emissions be achieved;

(3) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in carbon dioxide emissions necessary to meet the applicable carbon dioxide emissions standard. The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets;

(4) Notwithstanding sections (1), (2) or (3), if the certificate holder exceeds the projected gross carbon dioxide emissions calculated under OAR 345-024-0590(4) during any five-year reporting period described in OAR 345-024-0590(5), the certificate holder shall offset excess emissions for the specific reporting period according to subsection (a) and shall offset the estimated future excess emissions according to subsection (b). The certificate holder shall offset excess emissions using the monetary path as described in OAR 345-024-0710 or as approved by the Council;

(a) In determining the excess carbon dioxide emissions that the certificate holder must offset for a five-year period, the Council shall credit the certificate holder with offsets equal to the difference between the carbon dioxide emissions allowed by the site certificate in previous periods and actual emissions, if actual emissions were lower than allowed. Once a certificate holder has used a credit, the certificate holder shall not use it again. The certificate holder shall pay for the excess emissions at a rate per ton of carbon dioxide emissions that has the same present value per ton of carbon dioxide as the monetary path offset rate of the year in which the Council issued the final order applying the carbon dioxide standard. The Council shall specify in the site certificate the methodology for calculating the present value per ton of carbon dioxide and the qualified organization. The Office of Energy shall calculate excess carbon dioxide emissions and notify the certificate holder of the amount of payment required, using the monetary path, to offset them;

(b) The Council shall specify in the site certificate a methodology for estimating future excess carbon dioxide emissions. The Office shall calculate estimated future excess emissions and notify the certificate holder of the amount of payment required, using the monetary path, to offset them, according to the site certificate. To estimate excess emissions for the remaining period of the deemed life of the facility, the Office shall use the annual average number of hours of operation during the five-year period in which the certificate holder exceeded the estimated gross carbon dioxide emissions described in OAR 345-024-0590(5) and the new and clean heat rate and capacity for the facility, adjusted for the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. If the annual average hours exceed 6,600, the Office shall estimate emissions at 100 percent capacity for the remaining period of a deemed 30-year life of the facility. In estimating future excess carbon dioxide emissions, the Office shall not credit lower emissions from earlier reporting periods. However, the Office shall credit offsets already provided when it estimated base load operation for the hours being adjusted. The certificate holder shall pay for the remaining excess emissions at a rate per ton of carbon dioxide emissions that has the same present value per ton of carbon dioxide as the monetary path offset rate of the year in which the Council issued the final order applying the carbon dioxide standard. The Council shall specify in the site certificate the methodology for calculating the present value of the offset fund rate. At the request of the certificate holder, the Council may, by amendment of the site certificate, use an alternative methodology to estimate future excess carbon dioxide emissions;

(5) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard;

(6) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (2) or (5) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of

ADMINISTRATIVE RULES

sections (3) and (4) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & ORS 469.503

Stats. Implemented: ORS 469.501 & ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 3-2001, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0620

Standard for Nongenerating Energy Facilities

To issue a site certificate for a nongenerating energy facility that emits carbon dioxide, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.504 pounds of carbon dioxide per horsepower hour. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. In determining gross carbon dioxide emissions for a nongenerating facility, the Council shall calculate carbon dioxide emissions for a 30-year period unless the applicant requests, and the Council adopts in the site certificate, a different period. The Council shall determine gross carbon dioxide emissions based on its findings of the reasonably likely operation of the energy facility. The Council shall use a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value) and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value), if the applicant proposes to use such fuel. If the applicant proposes to use any other fossil fuel, the Council shall adopt by rule an appropriate carbon dioxide content rate for the fuel;

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0630 or any combination thereof. The Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard;

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0630(1), the Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for carbon dioxide emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of carbon dioxide emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of carbon dioxide emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of carbon dioxide emissions reduction will be achieved by the offset;

(b) The ability of the Council to determine the actual quantity of carbon dioxide emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance;

(c) The extent to which the reduction of carbon dioxide emissions would occur in the absence of the offsets;

(4) Before beginning construction, the certificate holder shall notify the Office in writing of its final selection of an equipment manufacturer and shall submit a written design information report to the Office sufficient to verify the facility's designed rate of fuel use and its nominal capacity for each fuel type. In the site certificate, the Council may specify other information to be included in the report. The Office shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of carbon dioxide emissions reductions the certificate holder must provide under OAR 345-024-0630;

(5) In the site certificate, the Council shall specify the schedule by which the certificate holder shall provide carbon dioxide emission offsets. In the schedule, the Council shall specify the amount and timing of offsets the certificate holder must provide to a carbon dioxide emissions offset credit account. In determining the amount and timing of offsets, the Council may consider the estimate of total offsets that may be required for the facility and the minimum amount of offsets needed for effective offset projects. The Office shall maintain the record of the offset credit account.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501 & ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0630

Means of Compliance for Nongenerating Energy Facilities

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for nongenerating energy facilities:

(1) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of carbon dioxide emissions be achieved;

(2) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in carbon dioxide emissions necessary to meet the applicable carbon dioxide emissions standard according to the schedule set forth pursuant to OAR 345-024-0620(5). The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets;

(3) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard;

(4) Each year after beginning commercial operation, the certificate holder shall report to the Office data showing the amount and type of fossil fuels used by the facility and its horsepower-hours of operation. The Council shall specify in the site certificate how the Office shall use those data to calculate the gross carbon dioxide emissions from the facility during the report year and the net emissions in excess of the carbon dioxide emissions standard. The Office shall then subtract excess emissions from the carbon dioxide emissions offset credit account. The Council shall specify in the site certificate the minimum amount of carbon dioxide offset credits that a certificate holder shall provide to establish the offset credit account. The Council may specify an amount of offset credits equal to the total offsets required for the facility. The Council shall specify the minimum amount of carbon dioxide offset credits that a certificate holder must maintain in the account and the minimum amount of carbon dioxide offset credits the certificate holder shall provide to replenish the account. The Office shall notify the certificate holder when it must replenish its offset credit account according to the conditions in the site certificate. The certificate holder shall maintain a positive balance in the offset credit account for 30 years, unless the Council specifies a different period in the site certificate;

(5) If the certificate holder is replenishing its offset credit account by meeting the monetary path payment requirement described in OAR 345-024-710, the certificate holder may replenish its offset credit account without amending the site certificate by using the calculation methodology detailed in conditions that the Council adopts in the site certificate;

(6) If the certificate holder proposes to replenish the offset credit account under OAR 345-024-0630(1), the Council may amend the site certificate conditions to ensure that the proposed offset projects are implemented;

(7) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (3) or (6) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of section (2) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501 & ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 3-2001, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-024-0680

Carbon Dioxide Offset Projects

This rule applies if the applicant elects to meet the applicable carbon dioxide emissions standard in whole or in part under OAR 345-024-0550(3), 345-024-0560(2), 345-024-0590(3), 345-024-0600(2), 345-024-0620(3) or 345-024-0630(1).

(1) Types of offset projects include, but are not limited to: energy efficiency, including demand-side management measures for electricity and natural gas; electricity generation from renewable energy; fuel switching; carbon dioxide sequestration through afforestation, reforestation, forest management and forest conservation; flue gas carbon dioxide sequestra-

ADMINISTRATIVE RULES

tion; electricity generation from landfill and biogas methane (animal waste and waste water) or from fugitive methane emissions from existing or abandoned coal mines; and, vehicle carbon dioxide emissions reductions.

(2) In order to approve an offset project, the Council must find that:

(a) The offset project is likely to result in an avoidance, reduction, or displacement of actual carbon dioxide emissions from fossil fuels or the sequestration of carbon dioxide emissions resulting from a specific and identifiable action(s);

(b) The Council can quantify the amount of carbon dioxide offsets, taking into consideration any proposed measurement, monitoring, evaluation and verification of offset project measure performance;

(c) The offsets are not susceptible to double-counting. For offsets from demand-side management measures reducing use of utility-provided electricity or natural gas, it may suffice that the certificate holder or its agent notify the utility that the certificate holder claims ownership of the carbon dioxide reductions;

(d) The applicant will own all carbon dioxide offsets that it proposes to provide;

(e) The applicant has provided a form of the instrument, satisfactory to the Council, through which the applicant will transfer all offsets from a project that an applicant will own to the Council for the Council to hold in trust;

(f) The applicant has the financial and institutional capability to deliver the project for its duration; and

(g) The applicant has provided an adequate monitoring and evaluation plan and an adequate plan for independent verification of the offsets. The monitoring and evaluation plan and the verification plan shall detail the record-keeping, data collection, data storage, data management program and reporting guidelines and procedures.

(3) If the applicant proposes to implement a project in partnership with other parties or through contracts with other parties, the Council must find that:

(a) The other parties have the financial and institutional capability to deliver the project; and

(b) The applicant has a firm commitment from the other parties to participate in the project.

(4) If the applicant is proposing an offset project in another country, the Council must find that the host country has approved the transfer of the ownership carbon dioxide offsets to the applicant for the Council to hold in trust.

(5) The Council shall adjust its estimates of offsets to account for leakage, which is the extent to which events occurring outside the offset project boundary affect an offset project's total carbon dioxide emissions.

(6) The Council shall not consider any offsets related to nuclear power.

(7) The Council shall consider reasonably likely, significant undesirable long-term environmental impacts from the implementation of an offset project that the applicant proposes.

(8) The applicant may propose offset projects that provide offsets for up to 30 years after beginning commercial operation of a facility, or if an applicant proposes to provide offsets for more than 30 years after the beginning of commercial operation of a facility, the Council must find that:

(a) There will be a viable organization that will continue to manage an offset project for a longer period than the duration of the site certificate;

(b) The Council can maintain oversight of the project and hold the responsible organization to the requirements of the site certificate; and

(c) The responsible organization will transfer offsets to the Council after the certificate holder retires the energy facility.

(9) The certificate holder shall begin implementation of projects approved in the site certificate before beginning construction of its facility, and:

(a) The certificate holder shall provide the Council copies of executed contracts or binding agreements with offset providers, including steam hosts for cogeneration if proposed, before beginning construction of its facility, and

(b) The certificate holder shall ensure that offset project implementation begins immediately upon execution of a contract or binding agreement with an offset provider and that the measures are fully implemented within five years, unless the Council approves a longer implementation period through a site certificate condition.

(10) The certificate holder shall not sell or trade its carbon dioxide offsets or allow any other entity to report or use the offsets.

(11) The Council shall hold the offsets in trust for the benefit of the State of Oregon.

(12) If the Council approves, a certificate holder may use offsets in a future national regulatory regimen if the Council determines that such use does not undermine the integrity of the Council's carbon dioxide standard. Such approval shall not require an amendment of the site certificate.

(13) The site certificate holder shall report to the Council annually on the performance of offset projects, pursuant to the monitoring and evaluation plan and to the verification plan, and shall explain changes from the offset benefits projected in the Council's analysis of the offset projects.

(14) The certificate holder shall provide copies of all monitoring and evaluation reports and any verification reports from the independent entity to the Office.

(15) The certificate holder shall provide any raw data upon the request of the Office.

(16) The site certificate holder shall make its offset project financial records available for the life of the facility for auditing by the Council or by a party that the Council designates.

Stat. Auth.: ORS 469.470 & ORS 469.501

Stats. Implemented: ORS 469.501 & ORS 469.503

Hist.: EFSC 1-2003, f. & cert. ef. 9-3-03

345-026-0080

Reporting for Non-Nuclear Facilities

(1) General reporting obligation for non-nuclear facilities under construction or operating:

(a) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Council. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall include such information related to construction as specified in the site certificate. When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule;

(b) The certificate holder shall, within 120 days after the end of each calendar year after beginning construction, submit an annual report to the Council addressing the subjects listed in this rule. The Council secretary and the certificate holder may, by mutual agreement, change the reporting date.

(c) To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.

(2) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:

(a) Facility Status: An overview of site conditions, the status of facilities under construction, and a summary of the operating experience of facilities that are in operation. In this section of the annual report, the certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility;

(b) Reliability and Efficiency of Power Production: For electric power plants,

(A) The plant availability and capacity factors for the reporting year. If equipment failures or plant breakdowns had a significant impact on those factors, the certificate holder shall describe them and its plans to minimize or eliminate their recurrence;

(B) The efficiency with which the power plant converts fuel into electric energy. If the fuel chargeable to power heat rate was evaluated when the facility was sited, the certificate holder shall calculate efficiency using the same formula and assumptions, but using actual data; and

(C) The facility's annual hours of operation by fuel type and, every five years after beginning operation, a summary of the annual hours of operation by fuel type as described in OAR 345-024-0590(5);

(c) Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period;

(d) Industry Trends: A discussion of any significant industry trends that may affect the operations of the facility;

(e) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities, and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes;

ADMINISTRATIVE RULES

(f) Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate;

(g) Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050; and

(h) Nongenerating Facility Carbon Dioxide Emissions: For nongenerating facilities that emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of operation of the carbon dioxide emitting equipment as described in OAR 345-024-0630(4).

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.310, ORS 469.410, ORS 469.430, ORS 469.501 & ORS 469.507

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85; EFSC 3-1994, f. & cert. ef. 6-28-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-026-0390

Spent Nuclear Fuel Storage

(1) Purpose:

(a) Storage of spent nuclear fuel and related radioactive material and waste at a nuclear power plant is an interim measure; otherwise utilities and residents of Oregon would face the financial burden of maintaining, operating, and safeguarding the on-site storage facilities indefinitely;

(b) The purpose of this rule is to cooperate with the federal government in accordance with Oregon's siting policy in ORS 469.310 to ensure the safety of interim on-site storage and to ensure spent nuclear fuel and related radioactive materials and waste will not be an undue financial burden to utilities or people of Oregon.

(2) Capacity and Safety Standards: Storage of spent nuclear fuel shall be limited to a maximum of 791 complete and partial fuel assemblies and storage of containers with nuclear fuel materials. Storage of spent nuclear fuel and related radioactive material and waste not eligible for disposal as low-level radioactive waste at a land disposal site (as defined in 10 CFR 61 in effect on June 15, 1995, herein after referred to as "Greater than Class C waste") at the site of a nuclear power plant by a certificate holder which has executed a contract with the United States of America pursuant to the Nuclear Waste Policy Act, shall be deemed a permitted use of the site pending transfer of spent nuclear fuel to the U.S. Department of Energy provided that:

(a) Storage facilities are designed to maintain discharges within the limits specified in applicable licenses authorized under the Atomic Energy Act of 1954, as amended, and permits under the National Pollutant Discharge Elimination System;

(b) Storage facilities are designed such that in case of accidents off-site radiation exposures will not exceed the Environmental Protection Agency Protective Action Guidelines (October, 1991) for off-site protective actions; and

(c) The facility may not be used to store any spent nuclear fuel or radioactive materials and wastes other than that generated or used in the operation of the facility.

(3) Approval of Alternative Spent Nuclear Fuel Storage: Spent Nuclear Fuel shall be stored only in the Trojan Spent Fuel Pool (SFP) or in an interim storage facility approved by the Council. Storage of spent nuclear fuel in any facility other than the Trojan Spent Fuel Pool shall require the prior adoption of rules by the Council allowing the specific type of proposed facility.

(4) The Council may approve by rule a plan by the owner for storage of spent nuclear fuel or other related radioactive materials and wastes in an interim storage facility other than the SFP, and in doing so the Council may impose criteria in addition to those set forth in this rule. After approval of any such proposal the nuclear installation operator may proceed with movement of spent nuclear fuel and related materials and waste from the Trojan Spent Fuel Pool to the approved interim storage facility. Any such plan must address the design and operation of storage casks and meet the criteria in section (2) of this rule and the criteria below:

(a) A proposal for an interim spent fuel storage installation (ISFSI) facility, including casks used for holding spent fuel and other radioactive materials and wastes, other than the Trojan Spent Fuel Pool shall include a safety analysis and report identifying the specific accidents considered in the design of the facility and demonstrating compliance with the criteria in section (2), subsections (a), (b) and (c) of this rule.

(b) The accident analysis shall include a Seismic Margin Event based on the "Seismic Margin Earthquake Study for the Trojan Site," submitted by PGE to the U.S. Nuclear Regulatory Commission and the Oregon Department of Energy on May 27, 1993. The facility shall be designed such

that in the event of the Seismic Margin Earthquake, anticipated damage to spent nuclear fuel or containers will not preclude acceptance of spent nuclear fuel and related radioactive material at a Federally licensed disposal or storage facility, or release spent nuclear fuel, particulate matter or Greater Than Class C waste into the environment.

(c) The facility shall be designed such that in the event of the Seismic Margin Earthquake or any accident considered in the safety analysis required by subpart (a) of this rule, projected radiation exposure rates due to effluents and direct radiation shall not exceed the Environmental Protection Agency Protective Action Guidelines (October 1991) for off-site protective actions outside the interim storage facility controlled area as defined in 10 CFR 72.106 (June 15, 1995). The plan for the interim spent fuel storage facility shall demonstrate the capability to restore post-accident radiation exposure rates outside the interim storage facility controlled area to the levels permitted during normal facility operations.

(d) The site of the interim spent fuel storage facility shall be selected such that the expected ground motion in a seismic margin event is bounded by the accident analysis required by subsection 4(b) of this rule. The safety analysis report shall include a review of the seismic margin analysis referenced in 4(b) and shall demonstrate whether the Seismic Margin Event defined in subsection (4)(b) remains the appropriate design basis event for the proposed interim storage facility.

(e) Radiation and effluent monitoring programs, security plans, and emergency plans for an interim spent fuel storage facility shall be maintained in accordance with OAR 345-26-0330, 345-026-0340 and 345-026-0350.

(f) In the absence of any accident considered in the safety analysis required by part (a) of this rule, activities related to transfer of spent fuel or other reactor components from the Spent Fuel Pool to an interim storage facility and subsequent storage and fuel handling activities will not result in anticipated annual radiation dose due to effluents to any member of the public in an unrestricted area to exceed 5 millirem Total Effective Dose Equivalent (TEDE) as defined in 10 CFR 20.1003 as of March 1, 1994. The plan shall provide an estimate of the quantity of the radionuclides expected to be released annually to the environment in liquid and gaseous effluents during normal operation of the ISFSI.

(g) Transfer of spent fuel or other reactor components to a temporary storage facility shall not adversely affect the owner's financial ability to decommission the Trojan site, including the interim storage facility site after the Federal government has accepted high level waste at a Federally licensed disposal facility.

(h) Activities related to transfer, storage and handling of fuel and other radioactive waste shall be performed in accordance with a radiation protection program which complies with 10 CFR 20 (effective March 1, 1994), including a program to maintain personnel radiation exposure As Low As Reasonably Achievable (ALARA) as that term is defined in 10 CFR 20.

(i) Any temporary storage facility shall not adversely impact the potential for unrestricted use of the site, including the storage facility site, after decommissioning, or the ability of the certificate holder to comply with the standards of OAR 345-026-0370(2)(a) through (f), nor shall it excuse the certificate holder from any rules of the Council in OAR chapter 345.

(j) A spent fuel storage facility other than the Spent Fuel Pool shall have a minimum design life of 40 years. The plan for an interim spent fuel storage facility shall demonstrate that the interim storage facility will perform as designed for the required 40 year life and shall describe all testing of storage equipment and materials during design and fabrication. The plan shall discuss the options available if the expected lifetime is reached and no Federally licensed permanent disposal or storage facility is available.

(k) To the extent feasible, an interim spent fuel storage facility shall be designed to minimize spent nuclear fuel handling. The plan for an interim spent fuel storage facility shall include the ability to transfer spent nuclear fuel from the interim spent fuel storage facility to a shipping container. Except as required for accident mitigation as described in the Safety Analysis Report, transfer of spent fuel from an interim spent fuel storage installation to new casks or shipping containers must be approved by the Council prior to their removal.

(5) Reporting Requirements: The operator of an interim spent fuel storage facility shall submit every ten years and, no later than 5 years before the expiration of the facility's design lifetime, a report containing the actual or expected date when the Federal government will accept the High Level Waste, and an analysis of the facility's continued acceptability for use if a Federally licensed High level Waste site remains unavailable. This report need not be submitted if the Council or its successor determines that

ADMINISTRATIVE RULES

a Federally licensed high level waste site is available and that spent nuclear fuel from the facility will be accepted within the design life of the facility as stated in subsection (4)(h) of this rule.

(6) The Council approves the plan, as may be amended under Part (e), for an Independent Spent Fuel Storage Installation (ISFSI) as described in the ISFSI Safety Analysis Report (SAR) (PGE-1069), Revision 2, License Change Application LCA-237, Revision 5, and LCA-246, Revision 2. In addition to the criteria in OAR 345-026-0390(2)(a), (b), and (c), and (4)(a) through (k), the plan is subject to the following criteria:

(a) Controlled Area Boundary: Within six months after terminating the NRC operating license, under 10 CFR 50, PGE shall submit to the Oregon Office of Energy for approval evidence of its ability, in the event of an accident, to exercise control of personnel access to the Controlled Area as described in the SAR, as may be amended. This evidence may include such factors as any lease or contractual agreements with tenants at the site, administrative controls, or the results of a drill.

(b) Programs: PGE shall establish and maintain programs for Temperature Monitoring and Air Vent Inspection, Radiation and Environmental Monitoring, and Structural Inspection, that are consistent with maintaining exposures to ionizing radiation As Low As Reasonably Achievable (ALARA) and with the assumptions and conclusions in the Office "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002.

(c) Contingency Plans: Prior to loading the first canister, PGE shall have and demonstrate procedures to remove spent fuel from a previously loaded canister and safely return the fuel to the Spent Fuel Pool (SFP). PGE need not demonstrate procedures demonstrated during preoperational testing in 1999, provided those procedures involve substantially the same operations and utilize substantially the same equipment. Before loading the last canister, PGE shall submit for Council approval a plan for maintaining equipment onsite and having equipment available within a reasonable time period to respond to credible accident scenarios and a plan for construction of new concrete casks.

(d) Shipping License: If the 10 CFR 71 shipping license for the canister has not been amended to permit use of the Trojan canister at the time the final fuel assembly is transferred from the SFP to the ISFSI, then PGE shall submit for Council approval alternative plans and cost estimates for shipping spent fuel offsite prior to taking action that would preclude future use of the SFP.

(e) Changes to Commitments: PGE may make changes to the ISFSI as described in the plan without prior Council approval providing such changes do not reduce commitments or change the assumptions and conclusions in the Office "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002. In the event that the proposed changes would reduce commitments or change the assumptions or conclusions of the Office "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002, PGE shall obtain prior concurrence from the Office. Prior Office concurrence is not required when the proposed change would not have the above effects, is required for compliance with the regulations or orders of the U.S. Nuclear Regulatory Commission or is necessary to protect the health and safety of the public when there is insufficient time to obtain prior Office concurrence.

(f) Reporting requirements: Within one year of the first cask loading and biennially thereafter, PGE shall provide a written report to the Council on the status of the ISFSI. The report shall include, as a minimum, results of radiation monitoring programs, a summary and breakdown of personnel exposure related to ISFSI maintenance and surveillance activities, a statement of expenses related to maintenance and surveillance activities, an estimate of funds available for continuing ISFSI maintenance and surveillance, and a statement of any significant developments regarding the opening of a Federally licensed High Level Waste facility. Other reports submitted pursuant to OAR 345-026-0380 may be used to satisfy this requirement.

(g) Frequency of Temperature Monitoring and Air Vent Inspection: Prior to loading the first canister, PGE shall implement a program for thermal monitoring that includes readings of air outlet and ambient temperatures. The program shall include temperature surveillances daily, with provisions for more frequent measurements if temperatures approach Technical Specification limits. The program shall also include a requirement to check air inlet and outlet vents for blockage weekly. PGE may reduce these surveillance frequencies with Office concurrence. Extensions of up to 25 percent of individual surveillance intervals may be applied to accommodate minor variations in work scheduling.

(h) Contractors: PGE shall require contractors who perform portions of the ISFSI loading, storage or transporting operations to adhere to all applicable provisions of OAR 345-026-0390.

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

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.410 & ORS 469.501

Hist.: EFSC 3-1994, f. & cert. ef. 6-28-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1995, f. & cert. ef. 11-3-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 3-1999, f. & cert. ef. 4-21-99; EFSC 2-2002, f. & cert. ef. 12-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-027-0023

Site-Specific Conditions

The Council may include the following conditions, as appropriate, in the site certificate:

(1) If the facility uses coal, the certificate holder shall take all necessary steps to ensure that surface and groundwater are not contaminated by run-off or seepage associated with coal or ash storage, transport or disposal. The certificate holder shall handle coal and ash so as to minimize the likelihood of coal dust and ash being windblown and causing an environmental or public health problem. If the certificate holder permanently disposes of ash on the facility site, the certificate holder shall cover the ash with a layer of topsoil and revegetate the area.

(2) If the energy facility or related or supporting facility is a natural gas pipeline, the certificate holder shall submit to the Office copies of all incident reports involving the pipeline required under 49 CFR §192.709.

(3) If the facility includes any pipeline under Council jurisdiction:

(a) The certificate holder shall design, construct and operate the pipeline in accordance with the requirements of the U.S. Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192, in effect as of the date of this rule; and

(b) The certificate holder shall develop and implement a program using the best available practicable technology to monitor the proposed pipeline to ensure protection of public health and safety.

(4) If the energy facility or related or supporting facility is a transmission line, the certificate holder shall restore the reception of radio and television at residences and commercial establishments in the primary reception area to the level present prior to operations of the transmission line, at no cost to residents experiencing interference resulting from the transmission line.

(5) If the facility includes any high voltage transmission line under Council jurisdiction:

(a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code (American National Standards Institute, Section C2, 1997 Edition); and

(b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line.

(6) If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to construct the pipeline or transmission line anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has analyzed more than one corridor in its application for a site certificate, the Council may, subject to the Council's standards, approve more than one corridor. Before beginning operation of the facility, the certificate holder shall submit to the Office a legal description of the permanent right-of-way where the applicant has built the pipeline or transmission line within an approved corridor. The site of the pipeline or transmission line subject to the site certificate is the area within the permanent right-of-way.

(7) If the facility is a surface facility related to an underground gas storage reservoir, the Council shall, in the site certificate, specify the site boundary and total permitted daily throughput of the facility.

(8) If the facility is a base load gas plant, the certificate holder shall submit a written design information report to the Office, as described in OAR 345-024-0550, before beginning construction.

(9) If the facility is a non-base load power plant, the certificate holder shall submit a written design information report to the Office, as described in OAR 345-024-0590, before beginning construction.

(10) If the facility is a nongenerating energy facility that emits carbon dioxide, the certificate holder shall submit a written design information report to the Office, as described in OAR 345-024-0620, before beginning construction.

ADMINISTRATIVE RULES

(11) If the facility is subject to a carbon dioxide emissions standard adopted by the Council or enacted by statute, the Council shall include in the site certificate appropriate conditions as described in OAR 345-024-0550, 345-024-0560, 345-024-0590, 345-024-0600, 345-024-0620, 345-024-0630 and 345-024-0710.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401, ORS 469.501 & ORS 469.503

Hist.: EFSC 5-1994, f. & cert. f. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2003, f. & cert. ef. 9-3-03

345-027-0060

Request to Amend Certificate

(1) In a request to amend a site certificate, the certificate holder shall include:

(a) The name and mailing address of the certificate holder and the name, mailing address and phone number of the individual responsible for submitting the request;

(b) A description of the facility including its location and other information relevant to the proposed change;

(c) A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1);

(d) The specific language of the site certificate, including affected conditions, that the certificate holder proposes to change, add or delete by an amendment;

(e) A list of the standards of divisions 22, 23 and 24 of this chapter relevant to the proposed change; and

(f) An analysis of whether the facility, with the proposed change, would comply with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances if the Council amends the site certificate as requested. For the purpose of this rule, a law, rule or ordinance is "applicable" if the Council would apply or consider the law, rule or ordinance under OAR 345-027-0070(9).

(g) For an amendment to change the site boundary or to extend the deadlines for beginning or completing construction of the facility, an updated list of the owners of property located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).

(2) In a request to amend a site certificate, the certificate holder shall provide the information described in applicable subsections of OAR 345-021-0010(1) in effect as of the date of the request. The certificate holder may incorporate by reference relevant information that was previously submitted to the Office of Energy in the site certificate application or that is otherwise included in the Office of Energy's administrative record on the facility.

(3) Before submitting a request to amend a site certificate, the certificate holder may prepare a draft request and may confer with the Office about the content and completeness of the request. Although the Council does not require the certificate holder to prepare a draft request and confer with the Office, the Council recommends that the certificate holder follow this procedure.

(4) The certificate holder shall submit the original amendment request and at least ten copies to the Office. In addition to the printed copies, the certificate holder shall submit the text (including appendices and graphical information to the extent practical) of the amendment request in electronic format suitable to the Office. The certificate holder shall provide additional copies of the amendment request to the Office upon request and copies or access to copies to any person requesting copies. If requested by the Office, the certificate holder shall send copies of the request to persons on a mailing list provided by the Office.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-027-0070

Review of a Request for Amendment

Except as specified in OAR 345-027-0080, the Council shall review a request for amendment of a site certificate as follows:

(1) Within 15 days after receiving a request to amend a site certificate, the Office of Energy shall determine whether the amendment requires extended review, based on the criteria in section (2) and:

(a) Send copies of the request, or instruct the certificate holder to send copies of the request, to the officers, agencies and tribes listed in OAR 345-020-0040 and ask the officers, agencies and tribes to comment on the request by a specified date;

(b) Send a notice of the amendment request to all persons on the Council's mailing list and on the list of property owners, if any, supplied by

the certificate holder under OAR 345-027-0060(1)(g) and specify a date by which comments on the request are due; and

(c) Send a notice to the certificate holder specifying a date for issuance of a proposed order. The Office shall specify a date that is no later than 60 days after the date of the notice unless the Office has determined that the amendment requires extended review. For extended review, the Office shall explain the basis of its determination and specify a date that is not more than 180 days after the date of the notice. Within 10 days after the Office sends notification that an amendment requires extended review, the certificate holder may request Council review of the determination. Upon a request for Council review, the Office shall refer its determination to the Council for concurrence, modification or rejection.

(2) The Office may determine that an amendment requires extended review if:

(a) The certificate holder requests extended review;

(b) The Office finds that the amendment request is not complete, does not contain the information required by OAR 345-027-0060 or does not contain information sufficient for the Office to prepare a proposed order;

(c) The Office finds a need to hire a consultant to assist in reviewing the request;

(d) The amendment:

(A) Would require construction on land zoned residential or exclusive farm use;

(B) Would require construction in a zone for which the use is not permitted;

(C) Would require construction on land that may qualify as Habitat Category 1 or 2 land as described in OAR 635-415-0030;

(D) Would result in incremental carbon dioxide emissions that the certificate holder elects to offset, in compliance with the applicable carbon dioxide emissions standard, by a means other than by payments described under OAR 345-024-0560(3), 345-024-0600(3) and (4) or 345-024-0630(2), (4) and (5); or

(E) Could require the Council to determine, according to OAR 345-022-0000(2), that the overall public benefits of the facility outweigh the damage to the resource that is protected by a standard the facility would not meet if the amendment is approved; or

(e) The Office anticipates a high volume of public comment.

(3) The Office may hold one or more public meetings in the vicinity of the site of the facility during the review of a request for amendment of the site certificate.

(4) Except as otherwise provided in this section, no later than the date the Office has specified in the notice described in subsection (1)(c), the Office shall issue a proposed order, recommending approval, modification or disapproval of the requested amendment. If the Office needs additional time to prepare the proposed order, the Office may issue the proposed order at a later date, but the Office shall, no later than the date the Office has specified in the notice, notify the certificate holder in writing of the circumstances that justify the delay. After issuing the proposed order, the Office shall send a notice of the proposed order to the persons on the Council's mailing list, on any special list established for the amendment, and on the list of property owners, if any, supplied by the certificate holder under OAR 345-027-0060(1)(g).

(5) Any person may, by written request submitted to the Office within 30 days after the Office issues the proposed order, ask the Council to hold a contested case proceeding on the proposed order. For the purpose of this rule, the request is submitted when it is received by the Office. In the request, the person shall provide a description of the issues to be contested, a statement of the facts believed to be at issue, and the person's mailing address.

(6) To determine that an issue justifies a contested case proceeding under section (7), the Council must find that the request raises a significant issue of fact or law that may affect the Council's determination that the facility, with the change proposed by the amendment, meets an applicable standard. If the Council determines that even if the alleged facts are taken as true the outcome of the Council's determination would not change, but that conditions of performance might need revision, the Council may deny the request and may adopt appropriate conditions. If the Council does not have jurisdiction over the issue raised in the request, the Council shall deny the request.

(7) The Council shall determine whether any issue identified in a request for a contested case proceeding justifies a contested case proceeding, and:

(a) If the Council finds that the request identifies one or more issues that justify a contested case proceeding, the Council shall conduct a contested case proceeding according to the applicable provisions of OAR 345-

ADMINISTRATIVE RULES

015-0002 to 345-015-0085 limited to the issues that the Council found sufficient to justify the proceeding;

(b) If the Council finds that the request identifies one or more issues that an amendment of the proposed order would settle in a manner satisfactory to the Council, the Council may deny the request as to those issues and direct the Office to amend the proposed order and send a notice of the amendment to the persons on the Council's mailing list, on any special list established for the amendment, and on the list of property owners, if any, supplied by the certificate holder under OAR 345-027-0060(1)(g). Any person may, by written request submitted to the Office within 30 days after the Office issues the notice of the amended proposed order, ask the Council to hold a contested case proceeding limited to issues raised by the amendment language. For the purpose of this rule, the request is submitted when it is received by the Office. In the request, the person shall provide a description of the issues to be contested, a statement of the facts believed to be at issue, and the person's mailing address. As described in this section, the Council shall determine whether any issue identified in the request for a contested case proceeding justifies a contested case proceeding;

(c) If the Council finds that the request does not identify any issue that justifies a contested case proceeding, the Council shall deny the request. In a written order denying the request, the Council shall state the basis for the denial. The Council shall then adopt, modify or reject the proposed order based on the considerations described in section (9). In a written order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(8) If no person requests a contested case proceeding within the 30-day period described in section (5), or, if applicable, subsection (7)(b), the Council, at its next meeting, shall adopt, modify or reject the proposed order based on the considerations described in section (9). In a written order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(9) In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall consider the following:

(a) For an amendment that enlarges the site, the Council shall consider, within the area added to the site by the amendment, whether the facility complies with all Council standards;

(b) For an amendment that extends the deadlines for beginning or completing construction, the Council shall consider:

(A) Whether the Council has previously granted an extension of the deadline;

(B) Whether there has been any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate; and

(C) Whether the facility complies with all Council standards, except that the Council may choose not to apply a standard if the Council finds that:

(i) The certificate holder has spent more than 50 percent of the budgeted costs on construction of the facility;

(ii) The inability of the certificate holder to complete the construction of the facility by the deadline in effect before the amendment is the result of unforeseen circumstances that are outside the control of the certificate holder;

(iii) The standard, if applied, would result in an unreasonable financial burden on the certificate holder; and

(iv) The Council does not need to apply the standard to avoid a significant threat to the public health, safety or the environment;

(c) For any amendment not described above, the Council shall consider the effects of the amendment on any finding required by Council standards for issuance of a site certificate.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

345-027-0110

Application for Termination of a Site Certificate

(1) A certificate holder may apply to the Council for permission to terminate a site certificate at any time, subject to the requirements of this

rule. A certificate holder shall apply to the Council to terminate a site certificate within two years following permanent cessation of construction or operation of the facility.

(2) Along with an application for termination or before submitting the application for termination, the certificate holder shall submit a proposed final retirement plan for the facility and site. The certificate holder may submit a proposed retirement plan at any time before the planned retirement of the facility.

(3) In the proposed final retirement plan, the certificate holder shall include:

(a) A plan for retirement that provides for completion of retirement without significant delay and that protects public health, safety and the environment;

(b) A description of actions the certificate holder proposes to take to restore the site to a useful, non-hazardous condition, including information on how impacts to fish, wildlife and the environment would be minimized during the retirement process;

(c) A current detailed cost estimate, a comparison of that estimate with present funds set aside for retirement, and a plan for assuring the availability of adequate funds for completion of retirement.

(4) The Office of Energy shall mail a notice of the receipt of an application for termination of a site certificate to all persons on the Council's general mailing list and any special mailing list set up for the site certificate specifying a date by which comments on the application for termination are due. The Office shall send copies of the application for termination to the officers, agencies and tribes listed in OAR 345-020-0040 and shall ask the officers, agencies and tribes to comment by a specified date.

(5) The Council shall review the proposed final retirement plan and shall consider any comments received from the public, officers, agencies and tribes referred to in section (4) of this rule. If the Council finds that the proposed final retirement plan complies with the rules of this chapter and applicable conditions in the site certificate and that the proposed actions to retire the facility would not endanger the health and safety of the public or the environment, the Council may approve the final retirement plan, subject to the conditions and limitations the Council deems appropriate and necessary. If the Council approves the final retirement plan, the Council shall issue an order authorizing retirement. The Council's order may be appealed pursuant to ORS 183.480.

(6) The Council shall issue an order to terminate a site certificate if the Council finds that the certificate holder has completed the retirement according to the approved final retirement plan and the Council's order authorizing retirement.

(7) If the Council finds that the proposed final retirement plan does not comply with the rules of this chapter and all applicable conditions in the site certificate, the Council may direct the Office to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit required under the site certificate to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR chapter 345, division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405 & ORS 469.501

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03

Oregon Board of Dentistry Chapter 818

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ADMINISTRATIVE RULES

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

Rules Coordinator: Sharon Ingram—(503) 229-5520

818-026-0000

Purpose

(1) These rules apply to the administration of substances that produce general anesthesia, deep sedation, conscious sedation, or nitrous oxide sedation in patients being treated by licensees in facilities not accredited by the Joint Commission on Accreditation of Health Care Organizations. These regulations are not intended to prohibit training programs for licensees or to prevent persons from taking necessary action in case of an emergency.

(2) Nothing in this Division relieves a licensee from the standards imposed by ORS

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0010

Definitions

As used in these rules:

(1) "Anesthesia Monitor" means a person trained in monitoring patients under sedation and capable of assisting with procedures, problems and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(2) "Anxiolysis" means the diminution or elimination of anxiety.

(3) "General Anesthesia" means an induced controlled state of unconsciousness in which the patient experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation, or the inability to respond purposefully to verbal command.

(4) "Deep Sedation" means an induced controlled state of depressed consciousness in which the patient experiences a partial loss of protective reflexes, as evidenced by the inability to respond purposefully either to physical stimulation or to verbal command but the patient retains the ability to independently and continuously maintain an airway.

(5) "Conscious Sedation" means an induced controlled state of minimally depressed consciousness in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(6) "Nitrous Oxide Sedation" means an induced controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen, in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(7) "Central Nervous System Anesthesia" means an induced controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method.

(8) "Titration" means the administration of small incremental doses of a drug until a desired clinical effect is observed.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0020

Presumption of Degree of Central Nervous System Depression

(1) In any hearing where a question exists as to the degree of central nervous system depression a licensee has induced (i.e., general anesthesia, deep sedation, conscious sedation, or nitrous oxide sedation), the Board may base its findings on, among other things, the types, dosages and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status.

(2) The following drugs are conclusively presumed to produce general anesthesia and may only be used by a licensee holding a Class 4 Permit:

(a) Ultra short acting barbiturates including, but not limited to, sodium methohexital, thiopental, thiamylal;

(b) Alkylphenols — propofol (Diprivan),

(c) Neuroleptic agents,

(d) Dissociative agents — ketamine,

(e) Etomidate, and

(f) Rapidly acting steroid preparations.

(3) No permit holder shall have more than one person under any form of sedation or general anesthesia at the same time exclusive of recovery.

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0030

Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor

(1) A permit holder who administers sedation shall assure that drugs and/or techniques used to produce sedation shall carry a margin of safety wide enough to prevent unintended deeper levels of sedation.

(2) No dentist or dental hygienist shall induce central nervous system anesthesia without first having obtained an anesthesia permit under these rules for the level of anesthesia being induced.

(3) Persons serving as anesthesia monitors in a dental office shall maintain current certification in Health Care Provider Basic Life Support (BLS)/Cardio Pulmonary Resuscitation (CPR) training, or its equivalent, shall be trained in monitoring patient vital signs, and be competent in the use of monitoring and emergency equipment appropriate for the level of sedation utilized. (The term "competent" as used in these rules means displaying special skill or knowledge derived from training and experience.)

(4) When a dentist utilizes a single dose oral agent to achieve anxiolysis only, no anesthesia permit is required.

(5) The applicant for an anesthesia permit must pay the appropriate permit fee, submit a completed Board-approved application and consent to an office evaluation.

(6) Permit fees may be prorated based on the 24-month renewal cycle.

(7) Permits shall be issued to coincide with the applicant's licensing period.

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & (10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0035

Classes of Anesthesia Permit

The Board shall issue the following classes of permits:

(1) Class 1 Permit: A Class 1 Permit authorizes a dental hygienist or a dentist to induce nitrous oxide sedation.

(2) Class 2 Permit: A Class 2 Permit authorizes a dentist to induce conscious sedation and nitrous oxide sedation.

(3) Class 3 Permit: A Class 3 Permit authorizes a dentist to induce deep sedation, conscious sedation, and nitrous oxide sedation.

(4) Class 4 Permit: A Class 4 Permit authorizes a dentist to induce general anesthesia, deep sedation, conscious sedation, and nitrous oxide sedation.

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0040

Qualifications, Standards Applicable, and Continuing Education Requirements for Anesthesia Permits: Class 1 Permit

Class 1 Permit: nitrous oxide sedation.

(1) The Board shall issue a Class 1 Permit to an applicant who:

(a) Is either a licensed dentist or licensed hygienist in the State of Oregon;

ADMINISTRATIVE RULES

(b) Holds a valid and current Health Care Provider BLS/CPR level certificate, or its equivalent; and

(c) Has completed a training course of at least 14 hours of instruction in the use of nitrous oxide from a dental school or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, or as a postgraduate.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow delivery of appropriate care in an emergency situation;

(b) An operating table or chair which permits the patient to be positioned so that the patient's airway can be maintained, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; and

(g) Sphygmomanometer and stethoscope.

(3) Before inducing nitrous oxide sedation, a permit holder shall:

(a) Evaluate the patient;

(b) Give instruction to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for nitrous oxide sedation; and

(d) Obtain informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) A patient under nitrous oxide sedation shall be visually monitored by the permit holder or by an anesthesia monitor at all times. The patient shall be monitored as to response to verbal stimulation, oral mucosal color and preoperative and postoperative vital signs.

(5) The permit holder or anesthesia monitor shall record the patient's condition. The record must include documentation of all medications administered with dosages, time intervals and route of administration.

(6) The person administering the nitrous oxide sedation may leave the immediate area after initiating the administration of nitrous oxide sedation only if a qualified anesthesia monitor is continuously observing the patient.

(7) The permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(b) The patient can talk and respond coherently to verbal questioning;

(c) The patient can sit up unaided or without assistance;

(d) The patient can ambulate with minimal assistance; and

(e) The patient does not have nausea, vomiting or dizziness.

(8) The permit holder shall make a discharge entry in the patient's record indicating the patient's condition upon discharge.

(9) Permit renewal. In order to renew a Class 1 Permit, the permit holder must provide proof of having a current Health Care Provider BLS/CPR level certificate, or its equivalent. In addition, Class 1 Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, nitrous oxide, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current Health Care Provider BLS/CPR level certification, or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060 and 818-021-0070.

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & (10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0050

Class 2 Permit

Class 2 Permit: conscious sedation and nitrous oxide sedation.

(1) The Board shall issue a Class 2 Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Holds a valid and current Health Care Provider BLS/CPR level certificate, or its equivalent; and

(c) Has completed a training course of at least 20 hours of either pre-doctoral dental school accredited by the Commission on Dental Accreditation of the American Dental Association, or postgraduate instruction, or the equivalent of that required in graduate training programs, in sedation, recognition and management of complications and emergency care.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full facemask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) Sphygmomanometer, stethoscope, and pulse oximeter; and

(h) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) Before inducing conscious sedation, a dentist who induces conscious sedation shall:

(a) Evaluate the patient;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for conscious sedation; and

(d) Obtain written informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) No permit holder shall have more than one person under conscious sedation at the same time.

(5) While the patient is being treated under conscious sedation, an anesthesia monitor shall be present in the room in addition to the treatment provider. The anesthesia monitor may be the chairside assistant.

(6) A patient under conscious sedation shall be visually monitored at all times, including recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be taken if they can reasonably be obtained. If the information cannot be obtained, the reasons shall be documented in the patient's record. The record must also include documentation of all medications administered with dosages, time intervals and route of administration.

(b) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(8) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

ADMINISTRATIVE RULES

- (d) The patient can sit up unaided;
- (e) The patient can ambulate with minimal assistance; and
- (f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(g) A dentist shall not release a patient who has undergone conscious sedation except to the care of a responsible third party.

(9) Permit renewal. In order to renew a Class 2 Permit, the permit holder must provide documentation of having a current Health Care Provider BLS/CPR level certificate, or its equivalent. In addition, Class 2 Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current Health Care Provider BLS/CPR level certification, or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0055

Dental Hygiene and Dental Assistant Procedures Performed Under Conscious Sedation

(1) Under indirect supervision, dental hygiene procedures may be performed for a patient who is under conscious sedation under the following conditions:

(a) A dentist holding a Class 2, 3 or 4 Permit administers the sedative agents;

(b) The dentist permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8); and

(c) An anesthesia monitor, in addition to the dental hygienist performing the authorized procedures, is present with the patient at all times.

(2) Under direct supervision, a dental assistant may perform those procedures for which the dental assistant holds the appropriate certification for a patient who is under conscious sedation under the following conditions:

(a) A dentist holding the Class 2, 3 or 4 Permit administers the sedative agents;

(b) The dentist permit holder, or an anesthesia monitor, monitors the patient; and

(c) The dentist permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8).

Stat. Auth.: ORS 679 & ORS 680

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0060

Class 3 Permit

Class 3 Permit: deep sedation, conscious sedation, and nitrous oxide sedation.

(1) The Board shall issue or renew a Class 3 Permit to an applicant who:

(a) Is a licensed dentist in Oregon,

(b) Holds a current Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, and

(c) Satisfies one of the following criteria:

(A) Completion of a comprehensive training program in parenteral conscious sedation that satisfies the requirements described in Part III of the *ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* at the time training was commenced.

(B) Completion of an ADA accredited postdoctoral training program (e.g., general practice residency) which affords comprehensive and appropriate training necessary to administer and manage parenteral conscious sedation, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in deep sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope or capnograph, pulse oximeter, oral and nasopharyngeal airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under deep sedation or conscious sedation at the same time.

(4) During the administration of deep sedation, and at all times while the patient is under deep sedation, an anesthesia monitor, and one other person holding a Health Care Provider BLS level certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation, a dentist who induces deep sedation shall:

(a) Evaluate the patient and document, using the *American Society of Anesthesiologists Patient Physical Status Classifications*, that the patient is an appropriate candidate for deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 15 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under deep sedation shall be continuously monitored;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from deep sedation.

(8) A dentist shall not release a patient who has undergone deep sedation except to the care of a responsible third party.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

ADMINISTRATIVE RULES

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Class 3 Permit, the permit holder must provide documentation of having current ACLS or PALS certification and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 1-1999, f. 2-26-99, cert. ef. 3-1-99; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0070

Class 4 Permit

Class 4 Permit: general anesthesia, deep sedation, conscious sedation, and nitrous oxide sedation.

(1) The Board shall issue a Class 4 Permit to an applicant who:

(a) Is a licensed dentist in Oregon,

(b) Holds a current Advanced Cardiac Life Support (ACLS) Certificate or Pediatric Advanced Life Support (PALS) Certificate, whichever is appropriate for the patient being sedated, and

(c) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in Part II of the *ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* at the time training was commenced.

(B) Completion of an ADA accredited postdoctoral training program which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in general anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope or capnograph, pulse oximeter, electrocardiograph monitor, defibrillator, laryngoscope with endotracheal tubes, oral and nasopharyngeal airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under general anesthesia, deep sedation or conscious sedation at the same time.

(4) During the administration of general anesthesia, and at all times while the patient is under general anesthesia, an anesthesia monitor and one other person holding a Health Care Provider BLS level certificate, or its

equivalent, shall be present in the operatory in addition to the dentist performing the dental procedures.

(5) Before inducing general anesthesia the dentist who induces the general anesthesia shall:

(a) Evaluate the patient and document, using the *American Society of Anesthesiologists Patient Physical Status Classifications*, that the patient is an appropriate candidate for general anesthesia or deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under general anesthesia shall be visually monitored at all times, including recovery phase. A dentist who induces general anesthesia or anesthesia monitor trained in monitoring patients under general anesthesia shall monitor and record the patient's condition on a contemporaneous record.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring of their heart rate, oxygen saturation levels and respiration. The patient's blood pressure, heart rate and oxygen saturation shall be assessed every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia and the person monitoring the patient may not leave the patient while the patient is under general anesthesia;

(b) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by an individual trained to monitor patients recovering from general anesthesia.

(8) A dentist shall not release a patient who has undergone general anesthesia except to the care of a responsible third party.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made in the patient's record by the dentist indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Class 4 Permit, the permit holder must provide documentation of having current ACLS or PALS certification and complete 14 hours of continuing education in one or more of the following areas every two years: general anesthesia, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, pharmacology of drugs and agents used in anesthesia. Training taken to maintain current ACLS or PALS certification may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; Administrative correction 6-21-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0080

Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia

(1) A dentist who does not hold an anesthesia permit may perform dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist licensed by the Oregon Board of Medical Examiners, another Oregon licensed dentist holding an appropriate anesthesia permit, or a Certified Registered Nurse Anesthetist (CRNA) licensed by the Oregon Board of Nursing.

(2) A dentist who performs dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist

ADMINISTRATIVE RULES

holding an anesthesia permit, or a CRNA shall hold a current and valid Health Care Provider BLS/CPR level certificate, or equivalent, and have the same personnel, facilities, equipment and drugs available during the procedure and during recovery as required of a dentist who has a permit for the level of anesthesia being provided.

(3) The qualified anesthesia provider who induces anesthesia shall monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of anesthesia being induced. The anesthesia record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.

(4) A dentist who intends to use the services of a qualified anesthesia provider as described in section 1 above, shall notify the Board in writing of his/her intent. Such notification need only be submitted once every licensing period.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0100

Effective Date

Every licensee holding an anesthesia permit issued by the Board prior to October 1, 2003 will have one year from that date to be in compliance with the requirements for the permit level held.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0110

Office Evaluations

(1) By obtaining an anesthesia permit or by using the services of a physician anesthesiologist, CRNA, or another dentist to administer anesthesia, a licensee consents to in-office evaluations by the Oregon Board of Dentistry, to assess competence in central nervous system anesthesia and to determine compliance with rules of the Board.

(2) The in-office evaluation shall include:

(a) Observation of one or more cases of anesthesia to determine the appropriateness of technique and adequacy of patient evaluation and care;

(b) Inspection of facilities, equipment, drugs and records; and

(c) Confirmation that personnel are adequately trained, hold current Health Care Provider Basic Life Support level certification, or its equivalent, and are competent to respond to reasonable emergencies that may occur during the administration of anesthesia or during the recovery period.

(3) The evaluation shall be performed by a team appointed by the Board and shall include:

(a) A permit holder who has the same type of license as the licensee to be evaluated and who holds a current anesthesia permit in the same class or in a higher class than that held by the licensee being evaluated,

(b) A member of the Board's Anesthesia Committee, and

(c) Any licensed dentist, deemed appropriate by the Board President, may serve as team leader and shall be responsible for organizing and conducting the evaluation and reporting to the Board.

(4) The Board shall give written notice of its intent to conduct an office evaluation to the licensee to be evaluated. Licensee shall cooperate with the evaluation team leader in scheduling the evaluation which shall be held no sooner than 30 days after the date of the notice or later than 90 days after the date of the notice.

Stat. Auth.: ORS 679 & ORS 680
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0120

Reporting of Death, Serious Complications or Injury

If a death, any serious complication or any injury occurs which may have resulted from the administration of general anesthesia, deep sedation, conscious sedation, or nitrous oxide sedation, the licensee performing the dental procedure must submit a written detailed report to the Board within five days of the incident along with the patient's original complete dental records. If the anesthetic agent was administered by a person other than the person performing the dental procedure, that person must also submit a detailed written report. The detailed report(s) must include:

(1) Name, age and address of patient;

(2) Name of the licensee and other persons present during the incident;

(3) Address where the incident took place;

(4) Type of anesthesia and dosages of drugs administered to the patient;

(5) A narrative description of the incident including approximate times and evolution of symptoms; and

(6) The anesthesia record and the signed informed consent form for the anesthesia when required.

Stat. Auth.: ORS 679 & ORS 680
Stats. Implemented: ORS 679.250(7) & ORS 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

818-026-0130

Anesthesia Committee

(1) The Board hereby creates a committee to be known as the Anesthesia Committee. The chairperson shall be a dentist who is a member of the Board. All other members shall hold a Class 3 or Class 4 Permit. At least one member, other than the chairperson, shall be a practicing specialist who holds a Class 4 Permit. Members serve at the pleasure of the Board and shall be appointed by the President of the Board. The Board President shall insure that the committee includes representatives of all dental specialty groups as well as general dentists.

(2) The Anesthesia Committee shall, upon request of the Board, advise the Board on policies and procedures related to the regulation of general anesthesia, deep sedation, conscious sedation, and nitrous oxide sedation.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.280
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03

Oregon Department of Education Chapter 581

Adm. Order No.: ODE 16-2003

Filed with Sec. of State: 8-26-2003

Certified to be Effective: 8-26-03

Notice Publication Date: 9-1-02

Rules Amended: 581-021-0072

Subject: These amendments will implement the new standards for private alternative education programs to be established by the State Board of Education.

The proposed amendments will also modify the registration requirements to reflect the new standards. For questions regarding these rules, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of these rules, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-021-0072

Registration of Private Alternative Programs/Schools

(1) For the purposes of ORS 336.635(1), all private alternative education programs/schools receiving public school funds must comply with Private Alternative Education Standards established by the Oregon State Board of Education and register with the Oregon Department of Education annually by September 30. New private alternative education programs/schools developed or contracted with during the school year must register with the Oregon Department of Education prior to receiving public school funds.

(2) All registered private alternative education programs/schools must renew registration annually by September 30. The Oregon Department of Education shall distribute registration forms annually by June 1 to private alternative programs/schools currently registered with the Department.

(3) The Department may monitor the procedure used by the private alternative program/school for reporting Full Time Equivalent (FTE) student enrollment for the purposes of basic school support.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 336.615 - ORS 336.665
Hist.: EB 27-1990, f. & cert. ef. 5-18-90; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 16-2003, f. & cert. ef. 8-26-03

Oregon Economic and Community Development Department Chapter 123

Adm. Order No.: EDD 7-2003(Temp)

Filed with Sec. of State: 8-28-2003

Certified to be Effective: 8-30-03 thru 2-20-04

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Adopted: 123-020-0001

Rules Amended: 123-020-0005, 123-020-0010, 123-020-0015, 123-020-0020, 123-020-0025, 123-020-0030, 123-020-0035, 123-020-0040

Rules Suspended: 123-020-0050

Subject: This division of administrative rules describes the process for bringing a port formation request to the Economic and Community Development Commission for its approval. The temporary rule is necessary because the old rule is more restrictive than the statute and the Department of Justice has advised the Department that its rule must be altered before an application by county order can be allowed. This temporary rule corrects that deficiency.

We are now applying for an extension to the temporary rule in order to provide accessional time to assimilate current legislation into the future permanent rule.

Rules Coordinator: Margie N. Druery—(503) 986-0206

123-020-0001

Purpose and Scope

This division of administrative rules describes the steps and necessary elements for the Commission to approve the formation of a Port, as required under ORS 285A.627(2).

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0005

Definitions

As used in this division of administrative rules, unless the context requires otherwise:

(1) "Applicant" means an entity that may legitimately seek and propose the formation of a new Port, and that submits a request for the Commission's approval.

(2) "Commission" means the State of Oregon Economic and Community Development Commission appointed under ORS 285A.040.

(3) "Department" means the State of Oregon Economic and Community Development Department as organized under ORS 285A.070.

(4) "Port" means a municipal corporation organized under ORS chapter 777 or 778, which may be known as a "port authority" or "port district."

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0010

Application

An Applicant for the formation of a Port shall:

(1) Send the following, prior to any official filing with the appropriate county, to Attn: Port Formation Application, Oregon Economic and Community Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem, OR 97301-1280:

(a) A sample of the petition or order to be used for purposes of ORS 198.705 to 198.955, as applicable;

(b) A letter formally requesting formation of the proposed Port;

(c) A legal description and map of the port boundaries; and

(2) The Department may assess and collect an application fee to help cover some or all the costs of reviewing an application. The costs to be covered, the amount of the fee and when it will be assessed will be an adopted Department policy. The Applicant should request the current Department policy on application fees prior to submitting its application.

(3) Materials requested in OAR 123-020-0015 to 123-020-0035.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0015

Criteria

In carrying out its function as statewide coordinating, planning, and research agency for all Ports in the State of Oregon, and to insure the most orderly, efficient, and economical development of the state port system, the Commission, through the Department, will take into consideration and may request information from the Applicant regarding the following:

(1) The need for port services in the territory to be included within the proposed Port;

(2) The adequacy of funding for the proposed Port; and

(3) The orderly development of the proposed Port and its effects upon the development of a state port system.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0020

Need for Port Services

In evaluating the need for port services, the Commission will take the following into account:

(1) That reasonable alternatives to the formation of a Port have been considered;

(2) That significant adverse effects on other public or private agencies offering similar services within the proposed service area have been considered;

(3) That economic benefits and opportunities such as increased employment, income, and cost savings have been considered; and

(4) That proposed Port boundaries are reasonable in terms of tax assessment and property ownership.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0025

Adequacy of Funding

In reviewing the viability and merits of a proposed Port, the Commission will consider the following, in addition to the latest draft copy of the economic feasibility statement for district formation, if applicable, under ORS 198.749:

(1) A proposed budget of the proposed Port showing, among other things, capital improvements, staffing, and other sums and expenses required to implement and operate the proposed Port for a reasonable period;

(2) Adequacy of the existing tax base and proposed tax rate and the source and amounts of any other revenues estimated to be required; and

(3) Other financial information as may be needed.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0030

Orderly Development of Port and State Port System

The Commission encourages and may in addition to steps outlined in this division of administration rules, seek public views and information on any application for the establishment of a Port, including but not limited to the following issues:

(1) Relationship of the proposed Port activities to locally approved land use plans and the provision of other local public services or utilities;

(2) Coordination with affected environmental, economic, and social agencies, including the impact on affected taxing jurisdictions; and

(3) Effects of the proposed activities on transportation facilities and services.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0035

Commission Request for Additional Information

In addition to what is described in this division of administrative rules, the Commission or the Department may request such other relevant facts or information, as is deemed appropriate in considering the formation of a new Port.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0040

Review and Commission Approval or Denial

(1) An Applicant shall not seek, nor shall any agency of a county government do either of the following, until such time as the Commission has approved the formation of the Port:

(a) Conduct a deciding vote on port formation by the governing body of the county; or

(b) Place the question of the Port's formation on the ballot of a special or general election.

ADMINISTRATIVE RULES

(2)(a) Upon receipt of a request under OAR 123-020-0010, the Department shall review the submitted materials and may request additional information that the Department believes necessary for the Commission's deliberation. The Department may assess and collect an application fee to help cover some or all the costs of reviewing an application.

(b) Following its review and receipt of any additional information, the Department shall assemble materials and information along with a summary of the proposed Port's advantages and disadvantages relative to OAR 123-020-0015 to 123-020-0030, which may include a recommendation of action.

(c) Department preparations as described in paragraph (b) of this subsection are then submitted to the Director of the Department to be reported to the Commission.

(3) After the Commission has obtained any other information it considers relevant regarding the proposed Port's formation, the Commission's anticipated final consideration of the matter shall appear on a publicly available agenda for an upcoming meeting of the Commission, which:

(a) The Department sends to the Applicant and other interested parties, at least 21 days prior to such a meeting; and

(b) Affords an opportunity for public commentary, consistent with the Commission's normal procedures.

(4) At the meeting described in section (3) of this rule or a subsequent meeting, the Commission shall formally approve or deny the proposed Port's formation as it deems appropriate.

(5) If the Commission denies a Port formation request, it shall indicate the reasons therefore and what remedies, if any, would allow for reconsideration, and the Department shall report these reasons and remedies in writing to the Applicant.

(6) If formation of the Port is approved by the Commission:

(a) The Commission shall issue a formal declaration of its approval, which the Department shall provide to the Applicant and to the Chair of the Board of County Commissioners for the respective county; and

(b) The Applicant shall proceed with and abide by all applicable procedures and requirements under ORS Chapters 198 and 777.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

123-020-0050

Port Division Cooperation

Nothing in these rules should be construed as a hindrance toward port district formations, and any qualified applicant may request and expect full assistance and cooperation of the Ports Division in complying with these requirements.

Stat. Auth.: ORS 777

Stats. Implemented: ORS 198.705 - ORS 198.955

Hist.: EDD 6, f. & ef. 4-30-76; Suspended by EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; Suspended by EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04

Oregon State Library

Chapter 543

Adm. Order No.: OSL 1-2003(Temp)

Filed with Sec. of State: 8-22-2003

Certified to be Effective: 9-1-03 thru 1-30-04

Notice Publication Date:

Rules Adopted: 543-060-0000, 543-060-0010, 543-060-0020, 543-060-0030, 543-060-0040, 543-060-0060

Rules Suspended: 543-050-0000, 543-050-0020, 543-050-0030, 543-050-0040, 543-050-0050

Subject: 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.

Rules Coordinator: James B. Schepke—(503) 378-4367

543-050-0000

Scope

OAR chapter 543, division 50, applies only to interlibrary loan net lender reimbursements to public and academic libraries to carry out the provisions of Oregon Revised Statutes 357.206 - 212.

Stat. Auth.: ORS 357.206 - ORS 357.212

Stats. Implemented: ORS 357.005(2)(d) & ORS 357.206 - ORS 357.212

Hist. OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-1998, f. 5-15-98, cert. ef. 5-20-98; Suspended by OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-050-0020

Authorized Activities

Oregon LINK (Library Information Network for Knowledge) interlibrary loan net lender reimbursements made under the provisions of this division shall be used to compensate eligible public and academic libraries for providing more interlibrary loans of materials to other libraries than they borrow for their own users as defined above. A two-tiered reimbursement program is established to reimburse eligible libraries for net loans between all other in-state public, academic, and school libraries at a greater rate than net loans transacted using an automated resource sharing system.

Stat. Auth.: ORS 357.206 - ORS 357.212

Stats. Implemented: ORS 357.005(2)(d) & ORS 357.206 - ORS 357.212

Hist. OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-1998, f. 5-15-98, cert. ef. 5-20-98; Suspended by OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-050-0030

Net Lender Reimbursement Process

(1) Eligibility: Any public or academic library as defined above is eligible to participate in the program if the following criteria are met:

(a) The library fills interlibrary loan requests for public, academic, and school libraries within Oregon.

(b) Interlibrary loan requests are provided without charge to requesting in-state public, academic, and school libraries.

(c) The library respects traditional lending patterns which are already in place. In general, libraries should spread the interlibrary loan load, requesting loans from the closest and smallest holding library unless that creates some inconvenience or causes unnecessary delay.

(d) The library is a signatory to and abides by the "Interlibrary Loan Code for Oregon Libraries."

(e) An application form, certifying that the above criteria were met during the preceding fiscal year, is submitted to the State Library at the time that interlibrary loan statistics are reported.

(2) Net Loan Determination: The State Library shall annually request interlibrary loan statistics to be provided by libraries on the standard annual statistics collection form for public and academic libraries. The State Library will calculate net loans and determine net lenders based on in-state interlibrary loan data reported by libraries that submit an application. Interlibrary loans to and from Oregon public, academic, and school libraries shall be counted in determining which public and academic libraries are net lenders. The State Library reserves the right to verify data provided by the participants.

(3) Rate Determination and Budget Cap: The rates for the two-tiered interlibrary loan net lender reimbursement program will be \$1 per net loan transacted using an automated resource sharing system, and \$4 per net loan transacted by other means. These rates notwithstanding, the Oregon State Library Board may annually set a budget cap for the program. In any year in which the total of all net lender reimbursements exceeds the budget cap, all reimbursements will be proportionally reduced in order that the total not exceed the cap. Rate increases will be evaluated by the Oregon State Library Board subject to the availability of funds. The Oregon State Library may elect to establish a minimum below which net loans will not be reimbursed.

Stat. Auth.: ORS 357.206 - ORS 357.212

Stats. Implemented: ORS 357.005(2)(d) & ORS 357.206 - ORS 357.212

Hist. OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-1998, f. 5-15-98, cert. ef. 5-20-98; Suspended by OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-050-0040

Calendar

The Oregon LINK interlibrary loan net lender reimbursement program shall follow a calendar of events as listed below:

(1) The interlibrary loan net lender reimbursement program application for the preceding fiscal year shall be sent no later than July 15th of any state fiscal year.

(2) The application and the appropriate statistical report (public or academic) with interlibrary loan data for the preceding fiscal year, shall be returned by October 1.

ADMINISTRATIVE RULES

(3) Interlibrary loan reimbursement checks shall be distributed by the State Library no later than December 31.

Stat. Auth.: ORS 357.206 - ORS 357.212

Stats. Implemented: ORS 357.005(2)(d) & ORS 357.206 - ORS 357.212

Hist. OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-1998, f. 5-15-98, cert. ef. 5-20-98; Suspended by OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-050-0050

Appeals

(1) Any affected agency may appeal its reimbursement. The appeal must be in writing and must contain a detailed statement specifying:

- (a) The action being appealed;
- (b) The reason the appellant agency believes the action was improper;
- (c) The corrective action being requested.

(2) The written appeal must be filed no later than 15 days after the list of interlibrary loan net lender grants has been distributed. The State Librarian or designee will investigate each appeal and attempt to resolve the issue with the appellant party. If it cannot be resolved within 15 days of receipt, the matter will be scheduled for public hearing and a decision of the Board.

Stat. Auth.: ORS 357.206 - ORS 357.212

Stats. Implemented: ORS 357.005(2)(d) & ORS 357.206 - ORS 357.212

Hist.: OSL 1-1995, f. & cert. ef. 10-27-95; Administrative Correction 5-15-98; OSL 1-2000, f. & cert. ef. 4-13-00; Suspended by OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0000

Scope

OAR chapter 543, division 60, applies only to statewide licensing of electronic databases to public, school and academic libraries.

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0010

Definitions

The following definitions apply to the terms used in this division:

(1) "Public library" has the meaning given to public library in ORS 357.400(3), and shall be established in accordance with ORS 357.410.

(2) "Academic library" means any library of an institution of post-secondary education in Oregon, whether publicly or privately funded.

(3) "School library" means any library in a common school district or union high school district.

(4) "Resource sharing systems" means all public, academic, or school libraries participating in a resource sharing system. The State Library Board will annually review and distribute a list of resource sharing systems.

(5) "Fiscal Year" means the period of one year commencing on July 1 and closing on June 30th.

(6) "Interlibrary Loan" means one item of library material, or one copy from library materials, that is made available from a library's holdings to another library upon request.

(7) "Statewide database licensing" means the cooperative contract negotiation and purchase to make collections of electronically stored data, records or full text available to public, school and academic libraries in Oregon.

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0020

Authorized Activities

Oregon State Library is authorized to negotiate and contract with commercial database providers on behalf of public, school and academic libraries to provide access to full text periodicals databases and a newspaper database that includes the Oregonian. The statewide database subsidy program is established under the provisions of this division to assist eligible public and academic libraries to participate in the statewide full text periodicals database program. The Oregon State Library is authorized to collect and administer funds from these libraries in payment for such databases. A statewide database subsidy is established under the provisions of this division to assist eligible school, public and academic libraries to participate in the statewide newspaper database program.

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0030

Statewide Database Licensing Process

(1) Eligibility: Any public, academic, school library or resource sharing system as defined above is eligible to participate in the program if the following criteria are met:

(a) The library or resource sharing system provides interlibrary loans without charge to requesting in-state public, academic, school libraries and resource sharing systems.

(b) The public, academic library or resource sharing system is a signatory to and abides by the "Interlibrary Loan Code for Oregon Libraries."

(c) The library or resource sharing system certifies the above criteria are met and agrees to participate in the Statewide Database Licensing Program.

(2) The Statewide Database Licensing Advisory Committee shall be appointed by the Library Services and Technology Act (LSTA) Advisory Council.

(a) Role: The Statewide Database Licensing Advisory Committee shall advise the LSTA Advisory Council and the Oregon State Library staff in request for proposal development and database product evaluation, and provide ongoing database product assessment and customer feedback. The Statewide Database Licensing Advisory Committee shall also advise the LSTA Advisory Council on the appropriate percentage allocation of periodicals database costs to public, academic and school libraries.

(b) Membership of the Statewide Database Licensing Advisory Committee: One representative from the LSTA Advisory Council; three public library representatives, one each from libraries serving populations over 100,000, between 25,000-100,000, and 25,000 or less; three academic library representatives, one each from a community college, Oregon University System, and private academic institution; one representative from a resource sharing system; and, two school library representatives, one representing the Oregon Education Technology Consortium (OETC) and one from a school library. In making appointments the LSTA Advisory Council will seek representatives with experience in database licensing and the use of databases.

(c) Terms of appointment: Terms shall be for three years, except initial terms shall be staggered. The LSTA Advisory Council representative shall serve a two year term.

(d) Meetings: The Statewide Database Licensing Advisory Committee shall meet at least twice each calendar year, and may meet more often as needed.

(3) Request for proposal process: The Oregon State Library shall be the fiscal agent for the program and shall use Federal funds under the Library Services and Technology Act to subsidize the program. Oregon State Library shall work with the Department of Administrative Services to procure periodical and newspaper full text databases.

(4) Database subsidy process:

(a) The Oregon State Library administers the database subsidy process.

(b) Participating libraries and resource sharing systems shall be billed annually, in July, for periodicals database charges for the upcoming service year. Invoices to participants represent the difference in the subsidized annual costs paid by the State Library and the cost to the participants.

(5) Formula for periodicals database subsidy to public, academic libraries or resource sharing systems: Once a determination has been made of the percentage allocation of periodicals database cost among school, public and academic libraries, the costs will be further allocated to participants in the following manner:

(a) The public library or resource sharing system cost is based on the population served during the previous year, as determined by the State Library.

(b) The academic library cost is based on the student enrollment during the previous academic year, as determined by the Integrated Postsecondary Education Data System. In the case of student enrollment figures not being reported in the Integrated Postsecondary Education Data System the State Library will determine student enrollment from other official sources.

(c) Individual library periodicals database costs per year of \$200 or less are subsidized in full by the State Library. Periodicals database costs per year of more than \$200 are subsidized at 50% of the total annual periodicals database costs. Participants will be billed for the 50% unsubsidized portion of total annual periodicals database costs.

(6) Formula for periodicals database costs to school libraries:

(a) The annual database contract costs to school libraries, as determined by the LSTA Advisory Council and State Library Board of Trustees,

ADMINISTRATIVE RULES

shall be allocated in consultation with the Oregon Education Technology Consortium.

(b) Oversight of annual billing to school libraries shall be negotiated between the State Library and the Oregon Education Technology Consortium.

(7) Formula for newspaper database subsidy: All eligible public, school, and academic libraries, or resource sharing systems accessing the full text newspaper database are subsidized in full by the State Library.

(8) Statewide database expenditure plan: An annual budget for the Statewide Database Licensing Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board of Trustees and shall be adopted by the State Library Board of Trustees.

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0040

Calendar

The Statewide Database Licensing Program shall follow a calendar of events as listed below:

(1) Request for Proposal preparation shall occur between July 1 and November 30 in a year requiring proposal development.

(2) The Request for Proposal shall be issued no later than December 1 in a year requiring proposal development, and responses shall be received no later than January 15 of the following year.

(3) Request for Proposal evaluations shall be completed by the Statewide Database Licensing Advisory Committee no later than March 15.

(4) Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall occur no later than April 30.

(5) The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June.

(6) Participating libraries shall be invoiced in July, and payments shall be due in August or as determined by the vendor contract. Annual invoicing in non-Request for Proposal years shall follow a calendar of events as listed below:

(a) Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall occur no later than April 30.

(b) The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June.

(c) Participating libraries shall be invoiced in July, and payments shall be due in August or as determined by the vendor contract.

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

543-060-0060

Population Determination for Public Libraries

(1) The State Librarian shall use the population estimates for cities and counties included in the publication, **Population Estimates for Oregon**, published by the Center for Population Research and Census, Portland State University, as amended by the latest supplements to this publication.

(2) In accordance with ORS 357.780(2)(c), a public library may be assigned population beyond its governing authority's jurisdiction in cases where the library has a valid contract with a unit of local government to provide services to this population. The contract, which must be on file at the State Library, must grant the library the sole responsibility to serve the population in question, and the population must be specified in the contract in a clear and precise manner, in order for additional population to be assigned for grant purposes. Public libraries established as non-profit corporations under Oregon law may be assigned population and may receive grants only in this manner.

(3) In cases other than those described in section (2) of this rule, where the same population is served by two or more public libraries, the State Librarian shall determine which public library is the primary service provider to the population in question, and shall assign the population to the primary service provider. In making this determination the State Librarian shall consider the location of library facilities and any available statistics on patterns of library use by the population in question.

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

Stat. Auth.:

Stats. Implemented: ORS 357.206 amended sec. 1 SB 12, ORS 357.209 amended sec. 1 SB 12, ORS 357.212 amended sec. 1 SB 12,

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04

Oregon State Lottery Chapter 177

Adm. Order No.: LOTT 12-2003(Temp)

Filed with Sec. of State: 8-28-2003

Certified to be Effective: 9-2-03 thru 2-27-04

Notice Publication Date:

Rules Adopted: 177-091-0000, 177-091-0010, 177-091-0020, 177-091-0030, 177-091-0040, 177-091-0050, 177-091-0060, 177-091-0070, 177-091-0080, 177-091-0090, 177-091-0100, 177-091-0110

Rules Suspended: 177-082-0100

Subject: The proposed rules establish the procedures and requirements for Scoreboard, the Lottery's new sports-related lottery game starting September 3, 2003.

OAR 177-082-0100 (Ticket Validation and Redemption of Winning Cash Quest Game Ticket) is being suspended the game ended in 2000 and the expiration date for this rule has been satisfied.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-082-0100

Ticket Validation and Redemption of Winning Cash Quest Game Ticket:

(1) For the purposes of the game "Cash Quest," the following definitions apply unless the context requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Oregon State Lottery Commission:

(a) "Drawing" means the process whereby the Lottery selects the Winning Words in accordance with this rule.

(b) "Drawing Manager" means the Lottery employee designated by the Director to develop and implement procedures for conducting Drawings.

(c) "Exchange Ticket" means a computer-generated, printed paper issued by a Terminal to replace a Game Ticket that had been purchased for play in multiple Drawings and was validated before the latest Drawing date appearing on the Game Ticket. An Exchange Ticket shall contain the exact Game Play and future Drawing dates appearing on the validated Game Ticket it is replacing and shall have all other characteristics of a Game Ticket except as otherwise stated in these rules. An Exchange Ticket shall not contain a Ticket price.

(d) "Game" means the opportunity provided to a player to purchase a ticket with the chance to win a prize.

(e) "Game Play" means the six different words or word combinations appearing on a Ticket which shall be compared to the Winning Words, selected at the Drawing(s) held on the Drawing Date(s) appearing on the Ticket, to determine the prize payment for which the Ticket may be redeemed.

(f) "Game Ticket" or "Ticket" means a computer-generated, printed paper issued by a Terminal as a receipt for the Game Play selected by a player and which contains the following: the caption "Cash Quest," one Game Play, the date(s) of the Drawing(s) in which the Ticket may be played, the price of the Ticket, a six-digit Retailer number, a serial number, and a bar code.

(g) "Terminal" means an On-Line Terminal as defined in OAR 177-070-0005(4).

(h) "Ticket Validation" or "Validation" means the process of determining whether a Ticket presented for payment is a winning Ticket.

(i) "Winning Words" means the six different words or word combinations selected at each Drawing that is used to determine winning Game Plays contained on the Game Tickets.

(2) The Cash Quest game is discontinued on March 11, 2000. All prizes for the Cash Quest game must be claimed in accordance with the provisions of OAR 177-070-0025. The last possible date to claim a prize shall be Monday, March 12, 2001.

(a) Prizes for each Drawing shall be determined and awarded based on the number of words and word combinations contained in a Game Play on a Ticket that matches the Winning Words selected at that Drawing in the exact order drawn.

(b) Prizes multiply according to the price of a Ticket (Ticket price x prize amount per one dollar played). The highest potential prize for a Ticket purchased for any single Drawing is \$125,000 (\$5.00 x \$25,000).

ADMINISTRATIVE RULES

(c) Prizes will be determined at the time of the discontinuation of the Cash Quest game, and shall be awarded (subject to the Validation requirements set forth in this rule) for only the highest single prize for which a Ticket containing a winning Game Play is eligible. For example, if three of the words or word combinations contained in a Game Play match three of the Winning Words selected at a Drawing, the player shall only receive the prize for matching three out of six winning words multiplied by the price the player paid for the Ticket containing the winning Game Play.

(3) Each prize winning player will be paid in one lump sum. Cash Quest prizes may be claimed by and prizes paid only to a natural person.

(4) To be a valid Ticket and eligible to receive prize payment, the Ticket must be validated in accordance with the provisions of OAR 177-070-0035.

(5) A Ticket shall be the only acceptable evidence of a Game Play selected by a player and the only valid receipt for claiming a prize. A Game Slip or a copy of a Ticket has no pecuniary or prize value and shall not constitute evidence of Ticket purchase or Game Play selection.

Stat. Auth.: Or. Const. Art. XV Sec. (4) & ORS 461
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.240 & 461.250
Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; Suspended by LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0000

Purpose and Disclaimer

(1) Purpose: These rules establish the procedures and requirements for playing Oregon Lottery Scoreboard, a lottery game operated by the Oregon State Lottery and authorized by the Oregon State Lottery Commission, which is based upon the results of sporting events.

(2) Disclaimer: Scoreboard is not associated with, sponsored, or authorized by the National Football League, its member clubs, or any other professional or amateur sports league or organization.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0010

Definitions

For the purposes of Division 91, the following definitions apply except as otherwise specifically provided in OAR chapter 177, or unless the context requires otherwise:

(1) "Game ticket" or "ticket" means a computer-generated, printed paper issued by a terminal as a receipt for the sporting-event and game-play selections made by a player and that contains, but is not limited to, the following data: The caption "Scoreboard", the dates of the sporting events for which the ticket is played, an identifying number, the price of the ticket, a six-digit retailer number, a serial number, and a bar code.

(2) "Official Scoreboard results" means the Lottery's list of the final sporting event scores.

(3) "Quick pick" means the random selection by a terminal of the numbers played on a ticket.

(4) "Terminal" means an on-line terminal as defined in OAR 177-070-0005(4).

(5) "Ticket validation" or "validation" means the process of determining whether a ticket presented for payment is a winning ticket as set forth in OAR 177-070-0035.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0020

Game Description

(1) General: Scoreboard is an on-line lottery game based on the outcome of sporting events in which a player must match quick pick numbers to the last digit of the final score for each team in each period of play, including, but not limited to, quarters, innings, rounds, and periods, in a sporting event selected by the Lottery. These scores may be commonly known as the "box score", but only the Lottery's official Scoreboard results are used to determine winners. The final score includes any overtime play.

(2) Name of Game: Lottery may from time to time use variations of the name Scoreboard including, but not limited to, such names as "Monday Scoreboard", "Monday Night Scoreboard."

(3) Game Changes: The Director reserves the right to suspend or cancel the Scoreboard game at any time. The Director's decisions are final.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0030

Play Dates and Times

Scoreboard shall support up to twenty sporting events. Dates and times to purchase a ticket will vary depending on the times of the sporting events selected by the Lottery during the Lottery's Scoreboard season.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0040

Price

The minimum price of a Scoreboard ticket is \$2. The maximum price of a ticket is \$20. A player may choose to wager \$2, \$3, \$4, \$5, \$10, or \$20 per ticket.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0050

Ticket Purchase, Restrictions, and Characteristics

(1) General: Scoreboard tickets must be purchased during the Oregon Lottery's Scoreboard season which will be determined by the Lottery and announced by reasonable means before or during the season.

(2) Authorized Retailer: Scoreboard tickets are sold at retailer locations that have a Lottery contract to sell on-line lottery tickets.

(3) Age of Player: A player must be at least 18 years of age to purchase a Scoreboard ticket.

(4) Ticket Purchase: A ticket may be purchased either from a clerk-operated terminal, or a player-operated terminal. All Scoreboard tickets are quick picks.

(a) Purchasing a Ticket From a Clerk-Operated Terminal: The player informs the clerk of the event, the number of tickets desired, and the amount of money to be played on each ticket. After the player submits the request and the money to the clerk, the clerk uses the terminal to issue the requested tickets to the player.

(b) Purchasing a Ticket From a Player-Operated Terminal: A player may purchase Scoreboard tickets from a player-operated terminal by following the instructions appearing on the touch screen of the terminal. Once the player has completed the player's selection and inserted the price of the tickets into the terminal, the terminal issues the tickets to the player.

(5) Ticket Description: On each ticket purchased by the player, four sets of two single-digit numbers for each of the specified event's periods of play will be printed. The single-digit numbers produced will range from zero through nine. No two sets of numbers in any period of play will be duplicated.

(6) Ticket Characteristics: A ticket is the only acceptable evidence of the selections made by a player and the only valid receipt for claiming a prize. A copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or the selections made by a player.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0060

Cancellation of Tickets

A player may not cancel a Scoreboard ticket.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0070

Prize Structure

The following table sets forth the prize structure and the estimated probability of winning a Scoreboard prize for a sporting event with four quarters of play. Quarters are defined as first quarter, second quarter, third quarter, and final score. Payouts on this table are based on a \$2 wager. Payouts increase proportionally based on the amount wagered by the player. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.213
Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0080

Payment of Prizes; Ticket Validation Requirements

(1) Payment of Prizes: A prize payment for a winning Scoreboard ticket must be claimed, and shall be made, in accordance with the provisions of OAR 177-070-0025.

ADMINISTRATIVE RULES

(2) Validation of Tickets: To be a valid ticket and eligible to receive a prize, a ticket must:

(a) Be validated in accordance with the provisions of OAR 177-070-0035; and

(b) Be a winner under OAR 177-091-0100.

(3) Limitation on Prizes Paid: A player shall receive only the highest prize available for each winning ticket.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.213

Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0090

Probability of Winning

The number of prizes for Scoreboard is not pre-determined by the Lottery. The overall prize percentage payout for Scoreboard prizes is estimated at 70 percent over time but will vary from week to week, as well as from year to year, due to factors which include, but are not limited to, the number of players participating each week and the number of winning wagers.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.213

Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0100

Determination of Winners

(1) General: A player wins by correctly matching the numbers on the player's ticket to the last digit of the score of the specified sporting event for the specified period of play.

(2) Official Game Results: The scores in a sporting event become official for the purpose of playing Scoreboard when adopted by the Lottery and listed in the Lottery's official game results. The Lottery shall not recognize protests or overturned decisions.

(3) Availability of Results: The Lottery shall make Scoreboard results available at all retailer locations that sell Scoreboard tickets after each sporting event has ended.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.213

Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

177-091-0110

Sporting Event Cancellation, Rescheduling, or Suspension

(1) Cancellation of Sporting Event: If a sporting event is canceled prior to the start, or during the course of play, and it is not declared final and it is not rescheduled by the governing body for that event, the Director shall authorize the refund of the purchase price of a player's ticket for that sporting event to the player.

(2) Sporting Event Rescheduled: If a sporting event is rescheduled prior to the start, or during the course of play, by the governing body for that event, play on the Scoreboard tickets purchased for that sporting event may continue for the sporting event at the rescheduled time, or in the exercise of the Director's discretion, the Director may authorize the refund of the purchase price of a player's ticket for that sporting event to the player.

(3) Suspension of Sporting Event After Play Has Started: If a sporting event is suspended after play has started and the governing body for that event does not reschedule the event and declares the results of that event as official/final, the Lottery shall adopt the score from the last completed period of play as the score for any remaining unplayed periods of play as well as the final score of that sporting event. For example, if a professional football game ends after two quarters of play, and the National Football League declares the game official, the score at the end of the second quarter of play also becomes the score for the unplayed third quarter and the final game score.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.213

Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04

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Oregon University System, Portland State University Chapter 577

Adm. Order No.: PSU 3-2003

Filed with Sec. of State: 8-25-2003

Certified to be Effective: 9-1-03

Notice Publication Date: 7-1-03

Rules Adopted: 577-033-0001, 577-033-0010, 577-033-0020, 577-033-0030, 577-033-0040, 577-033-0050, 577-033-0060

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

Rules Coordinator: Sandra McDermott—(503) 725-5901

577-033-0001

Introduction

(1) In the interest of the personal health and safety of student-athletes competing for and against Portland State University in its intercollegiate athletic program and in the interest of fair and sporting competition, the Department of Intercollegiate Athletics (Athletic Department) does not condone alcohol abuse, drug and substance abuse or illegal use of such substances by a student-athlete at any time. Nor does the Athletic Department endorse or permit the use of performance-affecting substances.

(2) The Athletic Department has instituted a program of drug testing by urinalysis for student-athletes engaged in intercollegiate athletics. The testing process shall be initiated only on the basis of individualized reasonable suspicion or on the basis of failing a test previously conducted pursuant to these rules. The circumstances, conditions, or events giving rise to such reasonable suspicion and the source thereof shall be recorded in writing by the team physician who shall be the only person to authorize and initiate the drug testing process.

(3) "Reasonable suspicion" shall not mean a mere "hunch" or "intuition." It shall instead be based upon a specific event or occurrence which has led to the belief that a student-athlete has used any drugs which are specified in OAR 577-033-0010 and which could or could have an effect during a period of organized practice, conditioning, or competition or during a period of counseling for substance abuse or, in the case of steroids or other illegal performing enhancement drugs/supplements, during any period of conditioning or weight training:

(a) Such belief may be engendered by, among other things, direct observation by coaches, trainers, or the team physician of physical or mental deficiency or of medically indicated symptomology of tested-for drug use, or of aberrant or otherwise patently suspicious conduct or of unexplained absenteeism;

(b) Such belief may also be engendered by, among other things, information supplied by reliable third parties, including but not limited to law enforcement officials, if this information is corroborated by objective facts, including but not limited to, equivocal, contradictory, or unlikely and unsubstantiated explanation by the individual about whom the report is made. Should information that leads to reasonable suspicion be provided by law enforcement, prosecutorial or probation department officials, the University will only utilize and act upon such information if it succeeds in getting a written agreement from the law enforcement source that results of a potential test will not be used by law enforcement to prosecute or revoke parole;

(c) Such belief may also be engendered by common-sense conclusions about observed or reliably described human behavior upon which practical people ordinarily rely;

(d) Such belief may also be engendered by a previous positive test under these procedures within the preceding twelve months.

(4) The Athletic Department shall not perform any drug testing solely at the request of a student-athlete.

(5) Alcohol abuse during any period of PSU supervised conditioning, weight training, practice, or competition can have severe detrimental effects on personal health, performance, behavior, and academic progress. Athletic Department and team regulations dealing with alcohol abuse therefore provide for possible counseling and/or disciplinary action for student-athletes who are abusing alcohol. The Athletic Department considers that a conviction for driving while under the influence of alcohol is evidence of a serious problem of alcohol abuse. A conviction for driving under the influence of intoxicants (DUI) which arises from an incident during any period of PSU-supervised conditioning, weight training, practice, or competition will be treated the same as a positive test for drugs, as set out in OAR 577-033-0050.

Stat. Auth.: ORS 351 & ORS 352

Stats. Implemented: ORS 351 & ORS 352

Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0010

Testing Method

(1) The standard method adopted by Athletic Department for testing for drug use shall be through laboratory analysis of urine samples provided by student-athletes. Urine specimens shall be collected in the proximity of a trained monitor of the same sex who is assigned for that purpose by the

ADMINISTRATIVE RULES

Athletic Department administration in compliance with the protocol described in OAR 577-033-0030, Specimen Collection and Role of Monitor.

(2) Results of the test shall be available only to the student-athlete, to the head coach in the athlete's sport, to the Athletic Director, and to the Team Physician. Should any challenge to the test results, consequences of the test or the test procedures be raised in relation to a particular student-athlete, other appropriate University officials may have access to the information in order to carry out their responsibilities in handling the challenge.

(3) The Team Physician shall determine, after consultation with the head coach, whether it is appropriate to inform and involve a drug and substance abuse counselor, in addition to those individuals listed in section (2) of this rule.

(4) A copy of the rules describing the Athletic Department Substance Use and Drug Testing Policy shall be included in the Student Athlete Handbook (the Handbook). This Handbook shall be given to each student athlete before the start of the playing season or when the name of the student-athlete is first entered upon the team roster, whichever is later.

(5) The substances for which the student-athlete will be tested are: recreational, prescription and performance enhancing drugs or supplements and their derivative compounds and/or substances listed on the NCAA list of banned substances (as amended).

(6) A student-athlete who refuses to provide a urine sample during the test process or within four hours of the designated time shall be deemed to have tested positive for the drug(s) in question.

(7) Adulteration of a urine sample by the student-athlete will result in and be considered as a positive test for the drug(s) in question.

Stat. Auth.: ORS 351 & ORS 352

Stats. Implemented: ORS 351 & ORS 352

Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0020

Testing Protocol

(1) The Athletic Department protocol for testing student-athletes shall minimize the chances of accidental error or cheating. The protocol shall not provide for visual observation of voiding.

(2) Coaches shall not be involved in the urine sample collection process.

(3) Testing of urine samples shall be performed by a designated local laboratory.

(4) If the initial test is positive and was not performed by a test at least as accurate as gas chromatography - mass spectrometry, a second test shall be performed by use of the split samples at an independent laboratory, using procedures at least as accurate as gas chromatography - mass spectrometry.

Stat. Auth.: ORS 351 & ORS 352

Stats. Implemented: ORS 351 & ORS 352

Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0030

Specimen Collection and Role of Monitor

(1) Specimen collection and testing shall be performed by a qualified independent laboratory, which is selected and designated by the Athletic Department. The Athletic Department may use any independent laboratory that is qualified to perform the needed tests and that meets the standards stated in these rules. The Athletic Department may change the laboratory used for testing at any time before testing begins without first notifying the student-athletes.

(2) The exact process and steps of specimen collection will be determined by the independent laboratory's standard protocol for specimen collection. However, the laboratory's protocol must include the following steps set forth by the Athletic Department:

(a) The student-athlete will report to the designated independent laboratory and check in with a laboratory employee who is trained in specimen collection and who will serve as and be referred to in these rules as the "monitor".

(b) The student-athlete will provide the monitor with photo identification. The monitor will record all needed information on the collection form. The student-athlete will verify that the information is correct. The monitor will ask if student is taking any medication and enters this information on the appropriate form.

(c) The student-athlete shall empty all pockets and shall leave contents of any pockets, purses, backpacks, and similar containers with the monitor.

(d) The monitor will ask the student-athlete to select two sealed specimen containers and proceed into the rest room designated for specimen collection. Toilet bowls and tanks shall be filled with water containing col-

ored dye. The monitor will instruct the student-athlete not to flush the toilet or use the sink, as only the monitor will flush the toilet.

(e) The monitor shall remain outside of the restroom. Quiet shall be maintained. After voiding into 2 specimen containers, the student-athletes shall emerge and hand the capped containers to the monitor. The monitor will test the temperature of the containers by a non-contaminating method within the full view of the student-athlete.

(f) The monitor will then remove the labels marked "A" and "B" from the collection form and use these labels to seal both specimen containers. This task shall be accomplished in full view of the student-athlete. The monitor will then record the date on each label. The student-athlete will initial each label, then read, complete and sign the bottom of the collection form.

(g) The monitor, in the presence of the student-athlete, then initiates the chain of custody by filling out and signing the proper section of the collection form.

(h) If unable to produce a specimen at all or unable to produce the necessary quantity, the student-athlete shall be asked to return to the designated waiting area. He or she may request liquids but must stay in view of the monitor at all times. The student-athlete begins the entire process anew when the student-athlete deems readiness.

(i) In the event an empty container is left standing, or an unsealed, filled container is not in close proximity and possession of the student-athlete and monitor, then the monitor shall dispose of the container.

Stat. Auth.: ORS 351 & ORS 352

Stats. Implemented: ORS 351 & ORS 352

Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0040

Specimen Handling and Preliminary Testing

(1) After specimens have been received by the designated laboratory, the following policies are in effect:

(a) Specimens are held in the designated laboratory according to the following schedule:

(i) One week for a negative test result;

(ii) 180 days for a positive test result;

(b) The laboratory staff communicates with only the team physician when the testing indicates a positive result. Such communication shall be made orally to the team physician personally, followed by a written report of the test results to the team physician. Split samples are used and final confirmation of positive comes only from GC-MS method (gas chromatography - mass spectrometry);

(c) Anabolic steroid tests will be conducted by a laboratory qualified to perform such tests.

(2) Test results and the fact of testing shall be treated confidentially at all times. Test results and related information shall be stored securely separately from other educational or medical records. University and laboratory employees shall not disclose or discuss the fact or the outcome of testing or the identity of the person tested except insofar as necessary to carry out their official and professional responsibilities. The phrase "official responsibilities" shall not extend to financial aid (other than determination appeals under OAR 577-033-0010(2)), student conduct, housing or campus security activities.

(3) Laboratories testing specimens shall employ secure storage and chain-of-custody/signature/name/date-time-location-purpose documentation continuously while in possession of specimens.

Stat. Auth.: ORS 351 & ORS 352

Stats. Implemented: ORS 351 & ORS 352

Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0050

Positive Test Results Sanctions

(1) The team physician, athletic director, and the head coach alone shall review a positive test result and shall, bearing in mind the type of tested-for drug(s) used, the recency of use, the medical, safety and performance-enhancing effects of its use, formulate a treatment/behavior modification program for the student-athlete. Such program shall include but is not limited to, abstinence of further use and periodic retesting and may include counseling, physical therapy, reduced playing time and withholding from contact drills, scrimmages, competition, or reduction of athletic grant-in-aid.

(2) If repeated positive tests or admission reveal continuing use of tested-for drugs on two occasions beyond the initial positive test, the student-athlete shall be expelled from the team and shall lose all athletic grant-in-aid support beginning with the next academic term. If the student-athlete declines three times to provide a sample, or if the student-athlete is involved in any combination of positive tests or declinations totaling three,

ADMINISTRATIVE RULES

he or she shall similarly be expelled from the team and lose all athletic grant-in aid support. The student-athlete shall first be offered a contested-case hearing under OAR 577-001-0100 et seq.

(3) If a student-athlete refuses to provide a urine sample during the test process or within four hours of the designation time, the student-athlete shall be deemed to be in violation of these rules and shall be withheld from contact-drills, scrimmages and game competition for the next three weeks of the competition season(s) starting immediately. Except in instances of individualized reasonable suspicions of steroid use or a prior positive test within twelve months, the student-athlete shall not be tested following such refusal and withholding on the basis of the original reason for individualized reasonable suspicion.

Stat. Auth.: ORS 351 & ORS 352
Stats. Implemented: ORS 351 & ORS 352
Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

577-033-0060

Records Security

(1) The University has no purpose of invoking or facilitating criminal justice procedures or Student Conduct Code disciplinary proceedings arising out of the use or ingestion of the tested-for substances.

(2) The University in conducting the testing program is not acting in aid of, or as an agent for, state or federal law enforcement officials. Nor are those administering the tests acting as, for, or on behalf of the Office of Student Affairs.

(3) Test results shall be deemed by the University as part of a student's educational/ medical records protected from disclosure under state and federal law. However, these laws do not immunize student educational records from disclosure pursuant to a subpoena or court order. In such an instance, the University will take reasonable steps to notify the record-subject in advance of compliance with any such subpoena or order. The University or the record-subject may move the court or agency to quash any portion of the subpoena which pertains to drug testing records or to withdraw or narrow any such court order.

Stat. Auth.: ORS 351 & ORS 352
Stats. Implemented: ORS 351 & ORS 352
Hist.: PSU 3-2003, f. 8-25-03, cert. ef. 9-1-03

Oregon University System, University of Oregon Chapter 571

Adm. Order No.: UO 3-2003

Filed with Sec. of State: 9-15-2003

Certified to be Effective: 9-15-03

Notice Publication Date: 6-1-03

Rules Adopted: 571-020-0100, 571-020-0110, 571-020-0120, 571-020-0130, 571-020-0140, 571-020-0150, 571-020-0160, 571-020-0170, 571-020-0180, 571-020-0190, 571-020-0200, 571-020-0210, 571-020-0220, 571-020-0230, 571-020-0240, 571-020-0250

Rules Repealed: 571-020-0005, 571-020-0010, 571-020-0015, 571-020-0020, 571-020-0025, 571-020-0030, 571-020-0035, 571-020-0040, 571-020-0045, 571-020-0050, 571-020-0060, 571-020-0065, 571-020-0070, 571-020-0075, 571-020-0080

Subject: To update student records policy and bring it current.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-020-0100

Introduction

The University of Oregon is required to comply with the federal Family Educational Rights and Privacy Act of 1974, as amended, and other federal and state laws governing access to and confidentiality of records and information pertaining to students. This policy is intended to inform students and others generally of their rights and guide the University in its management of student records and information. University employees should be mindful that only personal records demonstrably and substantially relevant to the educational and related purposes of the institution, division or department should be generated or maintained (OAR 580-013-0015).

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0110

Definitions

(1) "Act" means the Family Educational Rights and Privacy Act of 1974, as amended, its implementing regulations, and any official guidance issued by the U.S. Department of Education.

(2) "Directory information" means the student's name; mailing and permanent address(es); telephone number(s); electronic mail address(es); whether the student is or has been enrolled; enrollment status (e.g., full-time or part-time); dates of attendance; class level; cumulative credit hours; major and minor fields of study; participation in officially recognized activities and sports; and degrees, certificates, honors and awards received. For graduate teaching fellows, "directory information" also means status as a graduate teaching fellow and teaching assignment.

(3) (a) "Education records" means those records that are: (i) directly related to a student; and (ii) maintained by the University or by a party acting for the agency or institution.

(b) To the extent set forth in the Act, "education records" does not include the following: (i) sole possession records; (ii) records of the Department of Public Safety; (iii) records relating to an individual who is employed by the University, unless the individual is in attendance at the University and is employed as a result of his or her status as a student; (iv) treatment records concerning a student that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity; and (v) records that only contain information about an individual after he or she is no longer a student at the University.

(4) "Legitimate Educational Interests" means a reasonable need to know information in the course of carrying out one's duties.

(5) "Personally identifiable information" includes, but is not limited to: (a) the student's name; (b) the name of the student's parent or other family member; (c) the address of the student or student's family; (d) a personal identifier, such as the student's social security number or student number; (e) a list of personal characteristics that would make the student's identity easily traceable; or (f) other information that would make the student's identity easily traceable.

(6) "School Official" means a person employed by the University or in the chancellor's office of the Oregon University System; a person or entity, including a governmental entity, with whom the University or the Oregon University System has contracted; a person serving on the University's governing board; or a student serving on an official committee or assisting another school official in performing his or her duties.

(7) "Student" means any individual who is or has been in attendance at the University and regarding whom the University maintains education records. An individual who is or has been a student at the University and who applies for admission at another component of the University does not have rights with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the University.

(8) The following terms shall have the definitions contained in the Act: Attendance; Dates of Attendance; Disciplinary Action or Proceeding; Disclosure; Parent; and Record.

(9) The definitions contained in this section shall be deemed amended if and to the extent that the Act is amended.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0120

Location and Custody of Student Records

Education records and official personal records shall be kept in locations central to the University or the division or department that maintains them. The control of such records should be assigned to designated personnel responsible for preserving the confidentiality of records. Education records may also be maintained by individual employees and others acting on behalf of the University. The Vice President for Student Affairs or his or her designee(s) is the custodian of all education records maintained by the University or on its behalf and shall have ultimate control of all education records. The Office of the Registrar is the initial point of contact for questions related to these rules. Subpoenas seeking education records are typically served on the University Registrar, and the Office of the Registrar should be informed whenever the University or a University employee is served with a subpoena seeking education records.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

ADMINISTRATIVE RULES

571-020-0130

Access to Education Records by a Student

(1) Except as limited in subsection 0150, a student must be given the opportunity to inspect and review the student's education records within a reasonable period of time but not more than 45 days from receipt of the request. The University will respond to reasonable requests for explanations and interpretations of the records. This rule does not require the University to provide a student or anyone else with an official transcript.

(2) The University shall not destroy any education records if there is an outstanding request to inspect and review them.

(3) Although the University is not required to give a student access to treatment records under subsection 0110(3)(b), the student may have those records reviewed by a physician or other appropriate professional of the student's choice.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0140

Fees for Copies of Education Records

Unless the imposition of a fee effectively prevents a student from inspecting and reviewing the student's education records, the University may charge a fee for a copy of a record that is made for the student. Unless set forth elsewhere in University rules or policies, the fee may not exceed twenty-five cents per page. The University will not assess a student a fee to search for or to retrieve the education records of that student.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0150

Limitations on Access to Education Records

(1) If an education record contains information on more than one student, a student may inspect and review or be informed of only the specific information about that student.

(2) The University does not have to permit a student to inspect and review the following education records: financial records of the student's parents; and, under the circumstances described in the Act, confidential letters and statements of recommendation.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0160

Disclosure of Directory Information

(1) The University may disclose directory information in compliance with the Act.

(2) Students may restrict the disclosure of all directory information by filing a completed Restriction of Directory Information form with the Office of the Registrar at any time during regular business hours. The restriction becomes effective as soon as is reasonably practicable and remains in effect until revoked in writing.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0170

When Prior Consent Is Required for the Disclosure of Personally Identifiable Information from Education Records

Except as provided in the Act or other applicable law, the University will not disclose personally identifiable information from a student's education records unless the student provides a signed and dated written consent which specifies the records that may be disclosed; states the purpose of the disclosure; and identifies the party or class of parties to whom the disclosure may be made. The University will provide the student, upon request, with a copy of the records disclosed.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0180

When Prior Consent Is Not Required for the Disclosure of Personally Identifiable Information from Education Records

(1) The University may disclose personally identifiable information from an education record without the student's consent if one of the following conditions is met:

(a) The disclosure is to a school official who has a legitimate educational interest.

(b) The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

(c) The disclosure is to comply with a judicial order or lawfully issued subpoena and the University makes a reasonable effort to notify the student of the order or subpoena in advance of compliance so that the student may seek protective action. The following sentence is adopted effective December 10, 2003: If the disclosure is to comply with a federal grand jury subpoena or any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed then the University shall not notify the student.

(d) The disclosure is in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This shall be strictly construed. The factors to be taken into account in determining whether this exception applies shall include the following: (i) the seriousness of the threat to the health or safety of the student or other individual; (ii) the need for the information to meet the emergency; (iii) whether the individuals to whom the information is disclosed are in a position to deal with the emergency; (iv) the extent to which time is of the essence in dealing with the emergency.

(e) The disclosure is information the University has designated as directory information.

(f) The disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense.

(g) The disclosure is in connection with a disciplinary proceeding at the University and the University determines that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and the student has committed a violation of the institution's rules or policies with respect to the allegation made against him or her. The University may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student. This subsection applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(h) The disclosure is otherwise in compliance with the Act or other applicable law.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0190

Procedures for Seeking Amendment of Education Records

(1) Requesting Amendment of Education Records If a student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the University to amend the record. Such a request shall be submitted to the University Registrar in writing and shall include at a minimum the following: (a) if available, a copy of the record the student is seeking to amend; (b) the specific amendment sought; (c) the reasons why the student is seeking the amendment; and (d) all evidence the student wishes the University to consider. The University shall decide whether to amend the record within a reasonable time after it receives the request. If the University decides not to amend the record as requested, it will inform the student of its decision and of his or her right to a hearing. The hearing will be informal but must meet the requirements of the Act.

(2) Results of the Hearing If, as a result of the hearing, the University decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the record accordingly and inform the eligible student of the amendment in writing. If the University decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the student of the right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the University's decision, or both. Any such statement will be maintained with the contested part of the record for as long as the record is maintained and disclosed whenever the relevant portion of the record is disclosed.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0200

Availability of Education Records for Research Purposes

Education records and information contained in education records may be disclosed to organizations conducting legitimate educational research, testing, accreditation, granting financial aid, or improving instructional

ADMINISTRATIVE RULES

tion if the records or information do not permit identification of students or parents and if the information is destroyed when no longer needed to carry out its specified purposes (OAR 580-013-0045).

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0210

Records of the Department of Public Safety

(1) For purposes of this division 20, "law enforcement unit" means the University of Oregon Department of Public Safety (DPS) and "DPS records" means those records, files, documents, and other materials that are: created by DPS; created for a law enforcement purpose; and maintained by DPS. "DPS records" does not mean: records created by DPS for a law enforcement purpose that are maintained by a component of the University other than DPS or records created and maintained by DPS exclusively for a non-law enforcement purpose.

(2) Nothing in the Act or this rule prohibits the University from contacting DPS, orally or in writing, for the purpose of asking that it investigate a possible violation of, or to enforce, any local, State, or Federal law.

(3) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act and this policy while in possession of DPS.

(4) The Act and this rule do not require nor do they prohibit the disclosure by the University of DPS records.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0220

Limitations on the Re-disclosure of Information

(1) Except as permitted in the Act, the University may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the student.

(2) Except where exempt under the Act, the University shall inform a party to whom disclosure is made of the Act's nondisclosure requirements.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0230

Recordkeeping Requirements

(1) Except as provided in paragraph (3), the University shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. The record shall be maintained with the education records of the student as long as the records are maintained. For each request or disclosure the record must include: the parties who have requested or received personally identifiable information from the education records; and the legitimate interests the parties had in requesting or obtaining the information.

(2) Disclosure of personally identifiable information from an education record with the understanding that re-disclosure may occur requires the following record of the disclosure: the names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and the legitimate interests which each of the additional parties has in requesting or obtaining the information.

(3) Paragraph (1) of this section does not apply if the request was from, or the disclosure was to: the student; a school official within the University with a legitimate educational interest; a party with written consent from the student; a party seeking directory information; or a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0240

Permanence, Duplication, and Disposal of Student Records

(1) Individual education records shall be maintained only for the minimum period of time required to serve the official functions of the office generating and maintaining them. The records shall then be disposed of in a manner designed to assure confidentiality.

(2) The permanent retention of education records shall be limited to records that the president or the State Archivist determine to be of long-range value to the student or the University.

(3) Duplication of permanent education records shall be minimized. Duplicate permanent records shall be destroyed in accordance with this rule.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

571-020-0250

Annual Notice

The University shall publish and distribute on an annual basis to students notice of their rights under the Act. Such notice shall comply with the applicable provisions of the Act.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03

Oregon Youth Authority Chapter 416

Adm. Order No.: OYA 2-2003

Filed with Sec. of State: 8-20-2003

Certified to be Effective: 8-20-03

Notice Publication Date: 6-1-03

Rules Amended: 416-001-0000, 416-001-0005

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

Rules Coordinator: Kimberly Walker—(503) 373-7281

416-001-0000

Purpose

These rules describe the process by which the OYA will notify the public of its intent to adopt, amend or repeal any Oregon Administrative Rule (OAR).

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 183.335, ORS 183.341, ORS 183.360
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2003, f. & cert. ef. 8-20-03

416-001-0005

Rulemaking Process

(1) Prior to adoption, amendment or repeal of any OAR, the OYA will give notice of the intended action in the following manner.

(a) Publication in the Secretary of State's Bulletin at least 21 days before the effective date of the intended action.

(b) Providing a copy of the notice at least 28 days prior to any action to persons on the OYA mailing list.

(c) Providing a copy of the notice at least 49 days prior to any action to legislators as described in ORS 183.335(14)(a) through 183.335(14)(c).

(d) Providing a copy of the notice to the following list of organizations at least 28 days prior to any intended action.

- (A) Associated Press.
- (B) The Oregonian, Portland.
- (C) East Oregonian, Pendleton.
- (D) Statesman Journal, Salem.
- (E) Mail Tribune, Medford.
- (F) The Register Guard, Eugene.
- (G) The Bulletin, Bend.
- (H) American Civil Liberties Union.
- (I) Association of Oregon Counties.
- (J) Crime Victims United.
- (K) Commission on Children and Families.
- (L) Department of Human Services.
- (M) Juvenile Rights Project.
- (N) Oregon Sheriffs' Association.
- (O) Police Chiefs' Association.
- (P) Oregon Adolescent Sex Offender Treatment Network.
- (Q) Juvenile court judges.
- (R) Commission on Hispanic Affairs.
- (S) NE Rescue Plan Action Committee.
- (T) County juvenile departments.

(2) The OYA adopts the January 1, 2000, version of the Attorney General's Uniform Model Rules of Procedure.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 183.335, ORS 183.341, ORS 183.360
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2000, f. & cert. ef. 8-2-00; OYA 2-2003, f. & cert. ef. 8-20-03

ADMINISTRATIVE RULES

Adm. Order No.: OYA 3-2003

Filed with Sec. of State: 8-20-2003

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Notice Publication Date: 6-1-03

Rules Amended: 416-020-0000, 416-020-0010, 416-020-0020, 416-020-0030, 416-020-0040, 416-020-0050

Rules Repealed: 416-020-0060, 416-020-0070, 416-020-0080, 416-020-0090

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

Rules Coordinator: Kimberly Walker—(503) 373-7281

416-020-0000

Purpose

(1) These rules describe the procedure the OYA will use to ensure timely and equitable processing of grievances brought by offenders, or their representatives.

(2) These rules apply to all offenders who are committed to OYA legal or physical custody, and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, ORS 420A.014, ORS 420A.015, ORS 20A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0010

Definitions

(1) "Emergency" means any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(2) "Grievance" means a complaint about the substance or application of any written or unwritten rule, policy or practice affecting an offender; or any decision or action directed toward an offender by the OYA, its employees, or agents, including but not limited to matters of confinement, discipline, treatment, education, and privileges. A grievance can be "informal" or "formal," as described in these rules.

(3) "Representative" means a person who is authorized by an offender to receive confidential information from the OYA and to act on behalf of the offender with respect to a grievance. A representative includes, but is not limited to an attorney, relative, friend or legal guardian, but does not mean another offender.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, ORS 420, ORS 420A

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0020

Grievance Rights

(1) No grievance may be reviewed or resolved through these procedures if:

(a) The person bringing the grievance is entitled to a contested case hearing, per ORS chapter 183;

(b) The person has initiated court action or filed notice of intent to file tort claim; or

(c) The subject matter of the grievance should be or has already been decided by a judge.

(2) All offenders have a right to review any action or decision affecting them, and/or initiate an informal or formal grievance, without being subjected to reprisal, including offenders placed in OYA facilities, substitute care placements, or at-home placements.

(3) The grievance process will be administered in a manner that protects the confidentiality of records and information, as applicable to federal and state law or policies.

(a) If the offender, or representative, chooses to disclose the offender version of case information to persons or organizations that would not otherwise be involved, then the OYA may choose to use parts of the case record that are not third-party information to refute the offender's statement(s).

(b) Third-party information can be used only when the offender has signed a release of information, and approval has been given by the party from whom the confidential information was received.

(4) The OYA will inform offenders at intake about the grievance process.

(5) The grievance process is designed to be conducted as informally as possible, consistent with the need for orderly and complete presentation and resolution of issues.

(a) Staff and offenders are encouraged to handle questions and complaints at the lowest level possible.

(b) If a grievance is written about an emergency situation, the offender may write immediately to the appropriate Superintendent/Camp Director or Parole/Probation Supervisor, or the Director's Office.

(c) Staff who are the subject of a grievance will not sit on any committee responsible for making decisions regarding the grievance, but may be present and testify regarding the issues.

(d) The offender, or representative, may present testimony or documentary evidence on his/her behalf at any meetings to discuss the grievance, and may call witnesses for this purpose. If the offender, or representative, chooses to use an attorney, he/she is responsible for any expenses or attorney fees that may be incurred in the presentation of the case.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, ORS 420A.014, ORS 420A.015, ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0030

Informal Process

(1) To request an informal grievance, the offender, or representative, will inform an OYA staff that he/she wishes to informally grieve a particular action.

(2) Within seven working days of receiving the request, the OYA will contact the offender, or representative, to schedule a meeting designed to define the problem, identify the desired outcome, and establish a plan for resolution.

(3) The results of the meeting will be provided in writing to the offender, or representative, and include the steps necessary to initiate a formal grievance review if the offender remains dissatisfied.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, ORS 420A.014, ORS 420A.015, ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0040

Formal Process

(1) To request an informal grievance review the youth or provider need only inform the supervisor or the OYA employee they have been working with.

(2) Within one week of request for an informal grievance review, the youth/provider will be contacted to schedule a meeting at an agreed-upon time involving the worker, the supervisor, youth or provider. Focus will be on defining the problem, identifying the desired outcome, and establishing a plan for resolution. Every effort will be made to resolve the grievance through this informal discussion.

(3) If the matter cannot be resolved, the manager shall participate in a further discussion with the youth or provider to resolve it. This discussion will be scheduled as soon as possible at a mutually agreed-upon time. If the youth or provider remains dissatisfied following this discussion, the youth or provider shall be informed within five working days in writing of the decision by the manager and of the steps necessary to initiate a formal grievance review, as described in OAR 416-020-0050.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, ORS 420A.014, ORS 420A.015, ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0050

Appeal to the Director

(1) If the offender, or representative, is dissatisfied with the decision of the formal grievance review, he/she may request an appeal to the OYA Director, or designee.

(a) A request for appeal must be submitted within 10 calendar days from the date the offender, or representative, receives the written decision.

(b) If a request for an appeal is not received within a 15-day period, the offender's right to an appeal will be considered waived, unless the offender can show that the failure to timely request a review was beyond his/her reasonable control.

(2) Within 10 working days of receiving the request for appeal, the OYA Director, or designee, will send written acknowledgment to the offender, or representative, that the request is being processed.

(3) The Director, or designee, will review the record of the formal review process and may take other action to investigate the matter as the Director deems appropriate.

(4) Within 30 calendar days of receiving the request, the Director, or designee, will provide a written report of the appeal decision. Copies of the decision will be sent to the offender, or representative, via US postal service or other certified mail carrier.

ADMINISTRATIVE RULES

(5) The decision of the Director is final. However, nothing in these rules affects any rights an offender has under federal or state law to seek independent redress of grievances in the courts.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010, ORS 420A.014, ORS 420A.015, ORS 420A.108
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

Adm. Order No.: OYA 4-2003

Filed with Sec. of State: 8-20-2003

Certified to be Effective: 8-20-03

Notice Publication Date: 6-1-03

Rules Amended: 416-050-0000, 416-050-0010

Rules Repealed: 416-050-0020, 416-050-0030

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

Rules Coordinator: Kimberly Walker—(503) 373-7281

416-050-0000

Purpose

(1) These rules describe the process by which the OYA may pay the cost of funeral, burial or cremation expenses for an offender who dies while in OYA legal custody.

(2) These rules apply only to offenders who are committed to OYA legal custody and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 97.170 — ORS 97.210, ORS 420A.010, ORS 419C.550, ORS 419C.481, ORS 419C.555 — ORS 419C.561
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96, OYA 4-2003, f. & cert. ef. 8-20-03

416-050-0010

Allowable expenses

(1) All other resources for payment of these expenses, including parents or guardians, must be explored before approval is given for the OYA to make payments.

(2) The maximum amount the OYA will pay for these expenses will be determined by the OYA Director.

(3) Vendors must submit itemized billings on their letterhead.

(4) The following list specifies allowable expenses.

(a) Necessary funeral service costs that may include, but are not limited to:

(A) Transportation for:

(1) First call;

(2) Funeral coach.

(B) Preparation of remains;

(C) Use of funeral home facilities.

(b) Burial or cremation:

(A) Necessary costs for cemetery burial that may include, but are not limited to:

(1) Endowment care, if provided by cemetery;

(2) Grave space;

(3) Outer case, opening and closing of grave.

(B) Indoor or outdoor mausoleum burial including opening, closing and lettering when crypt is already owned.

(C) Necessary costs for cremation services that may include, but are not limited to:

(1) Cremation;

(2) Unpolished urn;

(3) Niche;

(4) Grave space for cremated remains;

(5) Interment of cremated remains;

(6) Endowment care when provided;

(7) Finished urn when an open-front niche is already owned;

(8) Transportation of cremated remains, when authorized on a case-by-case basis.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 97.170 — ORS 97.210, ORS 420A.010, ORS 419C.550, ORS 419C.481, ORS 419C.555 — ORS 419C.561
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2003, f. & cert. ef. 8-20-03

Adm. Order No.: OYA 5-2003

Filed with Sec. of State: 8-20-2003

Certified to be Effective: 8-20-03

Notice Publication Date: 6-1-03

Rules Repealed: 416-160-0000, 416-160-0010, 416-160-0020, 416-160-0030, 416-160-0040, 416-160-0050, 416-160-0060, 416-160-0070

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

Rules Coordinator: Kimberly Walker—(503) 373-7281

Adm. Order No.: OYA 6-2003

Filed with Sec. of State: 8-20-2003

Certified to be Effective: 8-20-03

Notice Publication Date: 6-1-03

Rules Repealed: 416-370-0000, 416-370-0010, 416-370-0020, 416-370-0030, 416-370-0040, 416-370-0050, 416-370-0060, 416-370-0070, 416-370-0080

Subject: This rule topic does not apply to delinquency cases.

Rules Coordinator: Kimberly Walker—(503) 373-7281

Physical Therapist Licensing Board Chapter 848

Adm. Order No.: PTLB 3-2003

Filed with Sec. of State: 8-22-2003

Certified to be Effective: 8-22-03

Notice Publication Date: 6-1-03

Rules Amended: 848-010-0010, 848-010-0015, 848-030-0000, 848-040-0040, 848-040-0050

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

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

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

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

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

The newly adopted rule changes can be viewed on the Board's website at www.ptboard.state.or.us or obtained from the Board's office. A public rulemaking hearing is scheduled for July 18, 2003 at 9 AM in room 445, 800 NE Oregon St., Portland, OR 97232.

Rules Coordinator: James Heider—(503) 731-4047, ext. 222

848-010-0010

Approval of Schools of Physical Therapy

All schools for physical therapists and physical therapist assistants that are accredited by an agency appointed by the Council on Post-Secondary Accreditation are considered approved schools of physical therapy. A school shall be considered to be an approved school of physical therapy within the meaning of this section if the school was accredited as above at the time the licensure applicant graduated. In its sole discretion, and on a case-by-case basis, the Board may grant licensure to an applicant who has graduated from a school of physical therapy if, at the time of his/her graduation, the school is a candidate for accreditation and subsequently is granted the accreditation.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.050, ORS 688.055, ORS 688.070 & ORS 688.080

ADMINISTRATIVE RULES

Hist.: PT 2, f. 8-22-74, ef. 9-25-74; PT 11, f. & ef. 12-28-77; PT 1-1979, f. & ef. 2-14-79; PT 1-1989, f. & cert. ef. 8-8-89; PT 4-1997, f. & cert. ef. 8-5-97; PTLB 3-2003, f. & cert. ef. 8-22-03

848-010-0015

Examinations

(1) Examinations for licensing of physical therapists and of physical therapist assistants shall be provided by an examination service approved by the Board. The overall passing score shall be based on a formula using the criterion-referenced scoring system. An applicant may sit for the examination a maximum of four times within a 12-month period. Prior to the fourth attempt, the applicant must take and complete a refresher course approved by the Board. Applicant may test two times following completion of the refresher course. If applicant fails to pass the examination within two attempts following completion of the refresher course, applicant may not be licensed in Oregon.

(2) All completed applications for examination, the non-refundable examination fee and other necessary forms must be approved by the Board prior to the scheduling of each examination in Oregon. For applicants taking the examination in another state or territory of the United States and applying to Oregon for licensure by examination, all completed applications, the non-refundable fee and other necessary forms must be approved by the Board prior to licensure.

(3) All foreign educated physical therapists must submit directly to the Board prior to obtaining an application:

(a) A notarized document which indicates:

(A) The applicant has a license to practice physical therapy in the country where the applicant attended and graduated from physical therapy school; or

(B) The applicant has authority to practice physical therapy in the country where the applicant attended and graduated from physical therapy school.

(b) A Credentials Evaluation Statement of professional training prepared by a Board-approved credentials evaluation agency. It is the applicant's responsibility to pay the expenses associated with the credentials evaluation. The minimum number of semester hour credits required is 120. The evaluation must include:

(A) General Education — A minimum of 50 semester credit hours. A minimum of one semester course must be successfully completed in:

(i) Humanities (English, English Composition, Speech or Oral Communication, Foreign Language (other than native language), Literature, Art, Music);

(ii) Physical Science (Chemistry with Laboratory (organic/inorganic) and Physics with Laboratory are required, Geology, Astronomy);

(iii) Biological Science (Biology, Anatomy, Physiology, Zoology, Kinesiology, Neuroscience, Genetics);

(iv) Social Science (History, Geography, Sociology, Economics, Government, Religion);

(v) Behavioral Science (Psychology, Anthropology, Philosophy, Ethics);

(vi) Mathematics (Statistics, Algebra, Pre-Calculus, Calculus, Trigonometry and Geometry).

(B) Professional Education:

(i) A minimum of 60 semester credit hours encompassing Human Anatomy (specific to physical therapy), Human Physiology (specific to physical therapy), Neurological Science, Kinesiology or Functional Anatomy, Abnormal or Developmental Psychology, Pathology, Neurology, Orthopedics, Pediatrics, Geriatrics, Physical Agents, Musculoskeletal Assessment and Treatment, Neuromuscular Assessment and Treatment, and Cardiopulmonary Assessment and Treatment.

(ii) A minimum of two clinical affiliations of no less than 800 hours total.

(iii) A minimum of 3 semester courses from any combination of the following: Professional Ethics; Administration; Community Health; Research; Educational Techniques; or Medical Terminology.

(c)(A) Verification that English is the native language of the country of origin, and the physical therapy program employs English as the language of training; or

(B) Verification that the applicant has achieved a score of not less than 560 on the paper Test of English as a Foreign Language (TOEFL) or a score of not less than 220 on the computer Test of English as a Foreign Language (TOEFL), a score of not less than 50 on the Test of Spoken English (TSE) and a score of not less than 4.5 on the Test of Written English (TWE).

(d) If applicant has taken a Board-approved national licensing examination prior to application for licensure in Oregon, a report of applicant's

examination scores must be submitted to the Board directly from the Board-approved examination service.

(4) The Examination will be given in the English language.

(5) No person shall be allowed to take the physical therapist examination or physical therapist assistant examination for licensure in Oregon until all academic requirements are completed.

(6) The examination will be administered at a location approved by the Board. Applicants taking the examination in Oregon must sit for the examination within 60 days from the date of the letter of authorization from the Board-approved examination service.

(7) Any applicant who has graduated from an approved school of physical therapy and passed a Board-approved examination or a Board-approved equivalent examination more than five years prior to application for licensure in the State of Oregon and who has not been actively licensed in any other state or territory of the United States for a five year period shall be required to complete a refresher course approved by the Board and to pass an examination approved by the Board as provided in this rule.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.020, ORS 688.040, ORS 688.050, ORS 688.055, ORS 688.070, ORS 688.090

Hist.: PT 2, f. 8-22-74, ef. 9-25-74; PT 6, f. 12-20-74, ef. 1-11-75; PT 10, f. & ef. 10-21-77; PT 11, f. & ef. 12-28-77; PT 1-1979, f. & ef. 2-14-79; PT 1-1983, f. & ef. 1-5-83; PT 1-1984, f. & ef. 5-3-84; PT 1-1989, f. & cert. ef. 8-8-89; PT 1-1990 (Temp), f. & cert. ef. 7-16-90; PT 2-1990, f. & cert. ef. 10-2-90; PT 1-1996, f. 1-16-96, cert. ef. 2-1-96; PT 2-1996, f. & cert. ef. 9-5-96; PT 1-1997, f. & cert. ef. 2-4-97; PTLB 4-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 1-2000, f. & cert. ef. 5-4-00; PTLB 3-2003, f. & cert. ef. 8-22-03

848-030-0000

Practice Without Referral

Prior to administering physical therapy to a person without prior referral as allowed by ORS 688.130(1), a licensed physical therapist shall meet the following additional requirements:

(1) Hold a CPR card, Healthcare Provider level, issued by the American Heart Association, or equivalent, which shall be kept current, and provide a copy to the Board.

(2) Be a graduate of a school of physical therapy accredited by the Council on Accreditation of Physical Therapy Education (CAPTE) on or after January 1, 1998 or complete a medical screening course which provides at least 12 hours of instruction designed to enable the physical therapist to identify signs and symptoms of systemic disease, particularly those that can mimic neurological or musculoskeletal disorders, and to recognize conditions which require timely referral to a licensed physician or osteopathic physician or podiatric physician and surgeon, physician assistant, dentist, chiropractic physician, naturopathic physician or nurse practitioner. The course provider and course criteria shall be approved by the Board. The content of the course shall include, but not be limited to:

(a) Subjective and objective evaluation, including interview techniques and screening examination;

(b) An overview of systemic symptoms;

(c) An overview of pain;

(d) A regional/systemic review (e.g., the cardiopulmonary system, spine, etc);

(e) Pharmacology, including drug precautions, interactions and side effects;

(f) Overview of diagnostic imaging techniques;

(g) Significant conditions associated with chronic pain, acute athletic injuries, geriatric patients and cancer;

(h) Case studies.

(3) Within the three years immediately following the completion of the requirements in section (2) of this rule, a physical therapist who is administering physical therapy without prior referral shall complete at least an additional 38 hours of continuing education. Thereafter, such physical therapist must complete at least 50 hours of continuing education every three years. Six of these 50 hours must be completed six months prior to or in the first year of this three-year period as a medical screening refresher course and must cover the criteria set out in section (2) of this rule. All 6-hour medical screening refresher courses must comply with the following:

(a) Course providers must be approved by the Board;

(b) Course criteria must be approved by the Board;

(c) Approval of a 6-hour medical screening refresher course is independent from approval of the initial 12-hour medical screening course; and

(d) Course providers may offer approved medical screening refresher courses without having presented the medical screening course.

(4) The content of courses taken to satisfy the continuing education requirement specified in section (3) of this rule must relate to the delivery of clinical physical therapy services. Courses which may be taken include:

ADMINISTRATIVE RULES

(a) Courses, seminars, and workshops sponsored or approved by an established and recognized medical or dental health-related organization or professional association recognized by the Board;

(b) Courses approved for continuing education by other states which require continuing education for physical therapists;

(c) Courses certified for continuing education units (CEU) by a recognized physical therapy professional association;

(d) Courses provided by an accredited institution of higher education;

(e) Individual study courses requiring an examination and recognized by an accredited institution or recognized health-related organization or professional association recognized by the Board;

(f) Courses approved by the Board by special request.

(5) Activities which will not satisfy the continuing education requirement include:

(a) Orientation and inservice programs;

(b) Professional association meetings for purposes of business or policy decision making;

(c) Entertainment or recreational meetings;

(d) Attending meetings, holding office, or representing a professional association as a lobbyist or delegate;

(e) Publishing or presenting lectures.

(6) The Board shall require all or any percentage of physical therapists who are administering physical therapy without prior referral to provide documentation in a format approved by the Board that the Physical therapist has met or is meeting the requirements of sections (1), (2) and (3) of this rule.

(7) The requirements of this rule shall not apply to licensed physical therapists who are administering physical therapy to individuals described in ORS 688.132(1)(b) where no prior referral is required.

(8) The Board shall include on the yearly license a notation that a physical therapist has met the requirements for practice without prior referral.

(9) Course provider shall furnish licensee and the Board written documentation when licensee passes the 12-hour medical screening course exam. Licensee may implement practice without referral upon receipt of documentation and license certification sticker from the Board stating that licensee passed the course exam. Licensee must also hold a current CPR card, Healthcare Provider level, from the American Heart Association, or equivalent, prior to implementing practice without referral. Upon receipt of written documentation from course provider, the Board shall furnish licensee information regarding certification for practice without referral. Continuing education requirements and 6-hour medical screening refresher course requirements are based on the date licensee took the initial 12-hour medical screening course. Continuing education requirements and 6-hour medical screening refresher course requirements for licensees who graduated from a CAPTE accredited physical therapy program on or after January 1, 1998, are based on the date of initial practice without referral certification.

(10) Any licensee who fails to pass the 12-hour medical screening course examination with a score of 80 percent or higher must re-take the course and the exam. Any licensee who fails to pass the 6-hour medical screening refresher course examination with a score of 80 percent or higher must re-take the course and the exam.

(11) Any licensee who fails to complete the 6-hour medical screening refresher course or the 38 hours or 44 hours of required continuing education within the timeframes specified in section (3) of this rule, shall be required to start the entire practice without referral process over. The licensee is required to notify the Board if any of the above requirements are not met.

(12) The licensee's privileges to practice without referral shall cease at the end of the day when either the medical screening refresher course requirement or the continuing education deadline is due, whichever comes first. The cessation of privileges shall last until the licensee attends a subsequent 12-hour medical screening course offered and the course provider has provided the Board with written documentation that the licensee passed the course examination with a score of 80 percent or higher. Subsequent continuing education deadlines and 6-hour medical screening refresher class requirements shall be calculated based on the date the licensee completes the subsequent 12-hour medical screening course.

(13) A licensee whose privileges to practice without referral have ceased under the provisions of sections (11) and (12) of this rule or pursuant to disciplinary action of the Board, or who elects voluntarily to terminate practice without referral privileges, shall return the current license to the Board along with a written request for a duplicate license and payment of a

processing fee. Upon receipt, the Board shall issue licensee a license without the statement "Practice without Referral Certification."

(14) Violation of this rule shall subject licensee to disciplinary action set forth in ORS 688.140 and OAR 848-010-0050.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.134

Hist.: PT 4-1994, f. & cert. ef. 7-29-94; PT 2-1997, f. & cert. ef. 2-4-97; PT 7-1997, f. & cert. ef. 12-12-97; PTLB 2-1998, f. & cert. ef. 8-31-98; PTLB 1-1999, f. & cert. ef. 9-3-99; Administrative correction 11-3-99; PTLB 1-2003, f. & cert. ef. 2-6-03; PTLB 3-2003, f. & cert. ef. 8-22-03

848-040-0040

Standards for Reassessments — Records

(1) The physical therapist shall perform a reassessment of each patient when any of the following apply:

(a) At least every 30 days, or at every visit if the patient is seen less frequently.

(b) As an exception to subsection (a) above, every 60 days if in an educational setting.

(c) Anytime there are significant changes in the patient's condition.

(2) The record of each reassessment shall include, at a minimum:

(a) Subjective status of patient;

(b) Objective data from tests and measurements;

(c) Functional status of patient;

(d) Interpretation of above data;

(e) Revision of treatment plan, directly correlated with documented goals, when indicated.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.160 & ORS 688.210

Hist.: PT 5-1994, f. & cert. ef. 7-29-94; PTLB 3-2003, f. & cert. ef. 8-22-03

848-040-0050

Standards for Discharge Records

The physical therapist or the physical therapist assistant shall prepare a final summary of the patient's physical therapy status upon discharge within 30 days following the patient's last scheduled visit (or after the last contact with the patient). The discharge summary required by this section shall include, but is not limited to:

(1) Date and reason for discharge, or self discharge, if known;

(2) Degree of goal achievement and reasons for goals not being achieved;

(3) Summary of the patient's status at the time of discharge; and

(4) Recommendations for follow-up care, if any.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.160 & ORS 688.210

Hist.: PT 5-1994, f. & cert. ef. 7-29-94; PTLB 3-2003, f. & cert. ef. 8-22-03

Secretary of State, Elections Division Chapter 165

Adm. Order No.: ELECT 6-2003(Temp)

Filed with Sec. of State: 8-29-2003

Certified to be Effective: 8-29-03 thru 2-3-04

Notice Publication Date:

Rules Adopted: 165-007-1090

Subject: This rule adopts timelines, as directed by HB 2825, necessary to conduct a special election on February 3, 2004, if one or more referendum petitions to refer all or part of HB 2152 (2003) qualify for the ballot. The rule addresses timelines for the drafting of ballot titles, financial estimates, and explanatory statements, and for the filing of the certified ballot statement and voters' pamphlet arguments. It also contains the deadlines for the mailing of ballots and voters' pamphlets.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-1090

Electon Timelines for February 3, 2004 Special Election

(1) This rule implements HB 2825 (2003) by adopting timelines for a special state election to be held on February 3, 2004 if all or part of HB 2152 is referred to the people by petition under section 1(3)(b), Article IV of the Oregon Constitution.

(2) When a filing deadline is indicated in this rule, the document must be delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division, not later than 5:00 pm on the designated filing deadline date.

ADMINISTRATIVE RULES

(3) The deadlines related to the drafting of ballot titles for any referendum petition filed to refer HB 2152 are as follows.

(a) Written comments concerning the draft ballot title prepared by the Attorney General shall be filed not later than the 10th business day after the Secretary of State receives the draft title from the Attorney General.

(b) The Attorney General shall file the certified title not later than the 20th business day after receiving the comments from the Secretary of State.

(4) The deadlines related to the drafting of financial estimates for any referendum petition filed to refer HB 2152 are as follows:

(a) The officials named in ORS 250.125 shall file the estimate described in ORS 250.125 not later than October 15, 2003.

(b) The public hearing on the draft estimate shall be conducted not later than October 31, 2003.

(c) The officials shall file their revised estimate, if any, not later than November 7, 2003.

(d) The Secretary of State shall certify the final estimate, if at least three officials concur, not later than November 7, 2003.

(e) The Secretary of State shall prepare, file and certify the estimate not later than November 11, 2003 if two or more officials do not approve the estimate.

(5) The deadlines related to the drafting of explanatory statements for any referendum petition filed to refer HB 2152 are as follows:

(a) The chief petitioner or chief petitioners of the referendum petition shall appoint two proponents as members of the explanatory statement committee not later than October 3, 2002.

(b) The Secretary of State shall appoint two opponents to the committee not later than October 7, 2003.

(c) The four-committee members shall select a fifth member and notify the Secretary of State in writing of the selection not later than October 14, 2003.

(d) If the four committee members do not notify the Secretary of their selection by the deadline, the Secretary of State shall appoint a fifth member not later than October 17, 2003.

(e) The explanatory statement committee shall file its draft statement not later than October 24, 2003.

(f) The public hearing on the draft explanatory statement shall be held not later than October 31, 2003.

(g) The explanatory statement committee shall file its revised statement not later than November 7, 2003.

(h) The Legislative Counsel Committee shall file an explanatory statement not later than October 24, 2003.

(6) The timelines for the conduct of the election, if one or more petitions to refer all or part of HB 2152 qualify for the ballot, are as follows. This assumes that one or more petitions are completed, filed for signature verification not later than November 25, 2003 (90 days after sine die on August 27, 2003), and qualify to appear on the February 3, 2004 special election ballot.

(a) The Secretary of State will deliver, by the most expeditious means practicable, a certified statement of the measure or measures to refer HB 2152 that have qualified for the ballot, to county elections officials not later than December 9, 2003.

(b) Voters' pamphlet arguments relating to the measure or measures must be filed not later than December 12, 2003.

(c) County elections officials shall mail ballots to long term absent electors (military and overseas) not later than December 20, 2003.

(d) County elections officials shall mail ballots to out of state electors not later than January 5, 2004.

(e) County election officials shall mail ballots to all other electors between January 16 and January 20, 2004.

(f) The Secretary of State will distribute the voters' pamphlet not later than January 23, 2004.

Stat. Auth.: ORS 246.150, HB 2825 (2003)

Stats. Implemented: HB 2825 (2003)

Hist.: ELECT 6-2003(Temp), f. & cert. ef. 8-29-03 thru 2-3-04

Adm. Order No.: ELECT 7-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Amended: 165-001-0000, 165-001-0005, 165-001-0015, 165-001-0025, 165-001-0035, 165-001-0040, 165-001-0045, 165-001-0050, 165-001-0055

Subject: **OAR 165-001-0000** This rule provides the procedure for adopting administrative rules, providing notice of the intended action

and an explanation of the public's right to comment and/or attend a hearing.

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

OAR 165-001-0015 This rule provides the procedure whereby a person shall be notified of their opportunity for a hearing when the Secretary of State proposes to impose a penalty under ORS 260.232 or 260.995.

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

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

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

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-001-0000

Notice of Proposed Rule

Before adopting, amending or repealing any permanent rule, the Secretary of State, Elections Division will give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;

(2) By mailing, or transmitting by email if the recipient has elected that option, a copy of the Statement of Need and Fiscal Impact and the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, at least 28 days prior to the effective date of the rule, to each person who has requested to be included on the Elections Division's subscription service established pursuant to ORS 183.335(8);

(3) By mailing, or transmitting by email if the recipient has elected that option, a copy of the text of the proposed rule to any person upon request;

(4) By mailing, or transmitting by email if the recipient has elected that option, a copy of the Statement of Need and Fiscal Impact, the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, and the text of the proposed rule to the following persons or organizations at least 28 days prior to the effective date:

- (a) County Clerks;
- (b) The chair or designee of each statewide political party;
- (c) Members of the Oregon Legislature;
- (d) The Governor's legal counsel;
- (e) Attorney General's office;
- (f) League of Oregon Cities;
- (g) Association of Oregon Counties;
- (h) Oregon Special Districts Association;
- (i) Oregon School Boards Association; and
- (j) Capitol Press Room.

(5) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(6) Within 10 business days after the adoption, amendment or repeal of any temporary or permanent administrative rule, the Secretary of State, Elections Division will provide, by mail, or email if the recipient has elected that option, a copy of the certificate and order and the text of the adopted rule to each person or organization listed in sections (2) or (4) of this rule and to the Legislative Counsel, as required by ORS 183.715.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.335, ORS 183.341

Hist.: SD 103, f. & ef. 1-22-76; Elect 16-1994, f. & cert. ef. 8-25-94; ELECT 9-1997, f. & cert. ef. 10-27-97; ELECT 14-2001, f. & cert. ef. 6-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0005

Model Rules of Procedure

The Uniform and Model Rules of Procedure, OAR 137-001-0007 through 137-002-0060 as adopted by the Attorney General of the State of

ADMINISTRATIVE RULES

Oregon under the Administrative Procedures Act, effective October 3, 2001, are adopted as the rules of procedure for rulemaking and declaratory rulings for the Elections Division, Secretary of State.

[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 agency.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: SD 76, f. & ef. 8-31-72; SD 81, f. 10-16-73, ef. 11-11-73; SD 109, f. & ef. 12-9-76; SD 6-1978, f. & ef. 8-4-78; SD 10-1980, f. & ef. 1-30-80; SD 16-1981, f. & ef. 12-2-81; SD 15-1983, f. & ef. 10-4-83; SD 7-1986, f. & ef. 3-6-86; ELECT 30-1988, f. & cert. ef. 8-10-88; ELECT 16-1990, f. & cert. ef. 5-11-90; ELECT 14-1991, f. & cert. ef. 12-4-91; ELECT 4-2001, f. & cert. ef. 3-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0015

Notice of Opportunity for Hearing

When the Secretary of State proposes to impose a civil penalty or find a violation of an election law, or both, under ORS 260.232 or 260.995, the Secretary of State shall cause a notice to be served by certified mail and regular mail on the person subject to the penalty. The notice shall include:

(1) A statement of the person's right to a hearing, or a statement of the time and place of the hearing.

(2) A statement that if the person desires a hearing, the agency must be notified within the number of days provided by statute from the date of receiving the notice.

(3) A statement of the authority and jurisdiction under which the hearing is to be held.

(4) A reference to the particular sections of the statutes and rules involved.

(5) A short and plain statement of the matters asserted or charged as a violation.

(6) A statement of the amount of penalty that may be imposed.

(7) A statement that the person may be represented by counsel at the hearing.

(8) If the person is an agency, corporation or an unincorporated association, that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer:

(a) If the hearing is held under ORS 260.232: If the person is an agency, corporation or an unincorporated association (including a political committee) that such party must be represented by an attorney licensed in Oregon;

(b) If the hearing is held under ORS 260.995: If the person is an agency, corporation or an unincorporated association, that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer.

(9) A statement that the record of the proceeding to date, including the agency file or files on the subject of the contested case, automatically become part of the contested case record upon default for the purpose of proving a prima facie case.

(10) The person against whom a penalty may be assessed need not appear in person at a hearing held under ORS 260.232 or 260.995, but instead may submit written testimony and other evidence, sworn to before a notary public, to the Secretary of State for entry in the hearing record. Such documents must be received by the Secretary of State not later than three business days prior to the hearing as provided by OAR 165-001-0040(5).

(11) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

Stat. Auth.: ORS 183.090, ORS 183.470, ORS 246.150

Stats. Implemented: ORS 183.341, ORS 183.470, ORS 260.232, ORS 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93; ELECT 9-1999, f. & cert. ef. 9-29-99; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0025

Orders When No Hearing Requested or Failure to Appear

(1) When a party has been given an opportunity to request a hearing and fails to request a hearing in writing within the specified time, or having requested a hearing fails to appear at the specified time and place, the agency shall, subject to section (2) of this rule, enter an order by default which supports the agency action. The time provided by statute to request a hearing is calculated from the delivery date indicated on the certified letter's postal confirmation. If the certified letter is refused or left unclaimed at the post office, the time shall be calculated from the date the post office indicates it has given first notice of a certified letter.

(2) An order adverse to a party may be issued on default only if the agency record demonstrates a prima facie case justifying the order. The hearings officer will declare a party to be in default if the party which requested the hearing does not appear within 15 minutes of the time set for the hearing, unless the party gives notice of a reason for the inability to appear at the designated time and requests and receives a continuance. A continuance shall be granted only if the reason for the inability to appear is beyond the reasonable control of the party.

(3) The prima facie record upon default may be made at a scheduled hearing on the matter, or, if the notice of intended action states that the order will be issued or become effective upon the failure of the party to timely request a hearing, when the order is issued.

(4) The record may consist of oral (transcribed, recorded, or reported) or written evidence or a combination of oral and written evidence. When the record is made at the time the notice or order is issued, the agency file may be designated as the record. In all cases, the record must contain substantial evidence to support the findings of fact.

(5) When the agency has set a specified time and place for a hearing and the party subsequently notifies the agency that the party will not appear at such specified time and place, the agency may cancel the hearing and follow the procedure described in subsections (2), (3) and (4) of this rule.

(6) When a party requests a hearing after the time specified by the agency, but before entry of a final order by default, or, if a final order by default is entered, on or before 30 calendar days after entry of the order, the agency may accept the late request only if the cause for failure to timely request the hearing was beyond the reasonable control of the party. In determining whether to accept a late hearing request, the agency may require the request to be supported by an affidavit and may conduct such further inquiry, including holding a hearing, that it deems appropriate. The agency shall enter an order granting or denying the request.

(7) When a party requests a hearing after entry of a default order, the party must file the request within a reasonable time. If the request is received more than 30 days after the agency mailed a copy of the default order to the party or the party's attorney, it is presumed that the request is not timely. The request shall state why the party should be relieved of the default order. If the request is allowed by the agency, it shall enter an order granting the request and schedule the hearing in due course. If the request is denied, the agency shall enter an order setting forth its reasons for the denial.

(8) The agency shall notify a defaulting party of the entry of a default order by mailing a copy of the order as required by ORS 183.470.

(9) Notwithstanding the provisions of this rule relating to late requests for a hearing, no hearing may be held if the timing of the request would cause the agency to miss the statutory deadlines established for the conduct of hearings in ORS 260.232(4) or 260.995(6).

Stat. Auth.: ORS 183.090, ORS 183.470, ORS 246.150, ORS 260.232, ORS 260.995

Stats. Implemented: ORS 183.470, ORS 260.232, ORS 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93; ELECT 15-1994, f. & cert. ef. 7-26-94; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0035

Conducting Contested Case Hearings

(1) The contested case hearing shall be conducted by and under the control of the hearing officer. The hearing officer may be the Secretary of State, a designated employee of the agency, or any other person designated by the agency.

(2) If the hearing officer or any decision maker has an actual or potential conflict of interest as defined in ORS 244.020(1) or (7), that officer shall comply with the requirements of ORS Chapter 244 (e.g. ORS 244.120 - 244.130).

(3) The hearing shall be conducted, subject to the discretion of the hearing officer, so as to include the following:

(a) The statement and evidence of the agency in support of its action;

(b) The statement and evidence of the person against whom the penalty may be assessed;

(c) Any rebuttal evidence;

(d) Any closing arguments.

(4) The hearing officer, the agency, and the person against whom the penalty may be assessed shall have the right to question witnesses.

(5) The hearing may be continued with recesses as determined by the hearing officer.

(6) The hearing officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.

(7) Exhibits shall be marked and maintained by the agency as part of the record of the proceedings.

ADMINISTRATIVE RULES

(8) If the hearing officer or any decision maker receives any written or oral ex parte communication on a fact in issue during the contested case proceeding, that person shall notify all parties and otherwise comply with the requirements of OAR 165-001-0045.

Stat. Auth.: ORS 246.150, ORS 260.232, ORS 260.995
Stats. Implemented: ORS 260.232 & ORS 260.995
Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0040

Evidentiary Rules

(1) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.

(2) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(3) All offered evidence, not objected to, will be received by the hearing officer subject to the officer's power to exclude irrelevant, immaterial or unduly repetitious matter.

(4) Evidence objected to may be received by the hearing officer. Ruling on its admissibility or exclusion, if not made at the hearing, shall be made on the record at or before the time a final order is issued.

(5) The hearing officer shall accept an offer of proof made for excluded evidence. The offer of proof shall contain sufficient detail to allow the agency or court to determine whether the evidence was properly excluded. The hearing officer shall have discretion to decide whether the offer of proof is to be oral or written and at what stage in the proceeding it will be made. The hearing officer may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer.

Stat. Auth.: ORS 246.150, ORS 260.232, ORS 260.995
Stats. Implemented: ORS 183.450, ORS 183.470, ORS 260.232, ORS 260.995
Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 9-1999, f. & cert. ef. 9-29-99; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0045

Ex Parte Communications

(1) An ex parte communication is an oral or written communication to an agency decision maker or the hearing officer not made in the presence of all parties to the hearing, concerning a fact in issue in the proceeding, and includes communication of any new facts from staff. It does not include communication from an agency staff or counsel about facts in the record.

(2) If an agency decision maker or hearing officer receives an ex parte communication during the pendency of the proceeding, the officer shall:

(a) Give all parties notice of the substance of the communication, if oral, or a copy of the communication, if written; and

(b) Provide any party who did not present the ex parte communication an opportunity to rebut the substance of the ex parte communication at the hearing, at a separate hearing for the limited purpose of receiving evidence relating to the ex parte communication, or in writing.

(3) The agency's record of contested case proceeding shall include:

(a) The ex parte communication, if in writing;

(b) A statement of the substance of the ex parte communication, if oral;

(c) The agency or hearing officer's notice to the parties of the ex parte communication; and

(d) Rebuttal evidence.

Stat. Auth.: ORS 246.150, ORS 260.232, ORS 260.995
Stats. Implemented: ORS 260.232 & ORS 260.995
Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0050

Proposed Orders in Contested Cases, Filing of Exceptions, Argument, and Adoption of Order

(1) If the Secretary of State or the individual designated by the Secretary of State, who is to render the final order in a contested case, has neither attended the hearing nor reviewed and considered the record, and the order is adverse to a party, a proposed order including findings of fact and conclusions of law shall be served upon the party.

(2) When the agency serves a proposed order on the party, the agency shall at the same time or at a later date notify the party when written exceptions must be filed to be considered by the agency.

(3) The agency decision maker, after considering the written exceptions may adopt the proposed order or prepare a new order.

Stat. Auth.: ORS 183.090, ORS 183.470, ORS 246.150, ORS 260.232, ORS 260.995
Stats. Implemented: ORS 183.470, ORS 260.232, ORS 260.995
Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 7-2003, f. & cert. ef. 9-3-03

165-001-0055

Final Orders

Final orders on contested cases shall be in writing and shall include the following:

(1) Rulings on admissibility of offered evidence when the rulings are not set forth in the record.

(2) Findings of fact — Those matters that are either agreed as fact or that, when disputed, are determined by the fact finder on substantial evidence to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based.

(3) Conclusion(s) of law — Applications of the controlling law to the facts found and the legal results arising therefrom.

(4) Order — The action taken by the agency as a result of the facts found and the legal conclusions arising therefrom.

(5) A citation of the statutes under which the order may be appealed.

(6) The date of service of the order on the party shall be specified in writing and be part of or attached to the order on file with the agency.

Stat. Auth.: ORS 183.090, ORS 183.470, ORS 246.150, ORS 260.232, ORS 260.995
Stats. Implemented: ORS 183.470, ORS 260.232 & ORS 260.995
Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 7-2003, f. & cert. ef. 9-3-03

Adm. Order No.: ELECT 8-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Amended: 165-005-0050, 165-005-0055, 165-005-0060, 165-005-0070, 165-005-0080, 165-005-0130

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

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-005-0050

Registration Procedures for Newly Naturalized Citizens

(1) The purpose of these rules are to establish procedures for registering to vote an otherwise qualified person who will become a naturalized United States citizen after the registration cutoff but prior to the next election.

(2) For purposes of this rule, these terms mean:

(a) "Qualified Person" — A resident of the State of Oregon who is a United States citizen by 8pm on the day of the election; 18 years of age or older; has resided in this state for 20 days immediately preceding the election at which the person will vote; is registered more than 20 calendar days prior to the election.

(b) "Naturalized United States Citizen" — A citizen of another country who has met the Bureau of Citizenship and Immigration Services requirements to obtain U.S. citizenship and, through a legal procedure, becomes a citizen of the United States.

(c) "Evidence of Citizenship" — A Certificate of Naturalization, which is an identity document proving U.S. citizenship, issued by the Bureau of Citizenship and Immigration Services, after the person takes the Oath of Allegiance to the United States.

(3) A person who will become a United States citizen after the 21st calendar day preceding an election, and who wishes to register to vote in

ADMINISTRATIVE RULES

that election, shall appear personally in the office of any County Elections Official, before the 20th day before the election, to request a voter registration form. The person shall explain that the person become a naturalized United States citizen after the voter registration deadline but prior to the next election.

(4) The office of the County Elections Official shall permit the person to complete and submit a voter registration form. The County Elections Official shall include a notation that the individual will be a citizen, after the voter registration deadline but prior to the next election.

(5) The office of the County Elections Official shall explain to the person that unless the person appears before the county clerk and provides evidence of citizenship by 8pm on the day of the election, the person's pending registration will be canceled. If the evidence of citizenship is presented before 8pm on election day, the person shall be issued a ballot for that election.

(6) If the person fails to provide timely evidence of citizenship, the office of the County Elections Official shall cancel the person's pending registration.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 247.015
Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 1-2001, f. & cert. ef. 2-1-01; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0055

Designating NVRA Voter Registration Agencies

(1) "Voter Registration Agency" means one of the following:

(a) Armed Forces recruitment offices operated by the U.S. Department of Defense;

(b) Commission for the Blind;

(c) Community Human Services, which includes the former Adult and Family Services Division, Senior and Disabled Services Division, and Vocational Rehabilitation Division;

(d) Health Services which includes the former Oregon Health Division WIC Programs, Mental Health and Developmental Disability Services Division, Office of Alcohol and Drug Abuse Programs, and the Office of Medical Assistance Programs;

(e) Oregon Department of Transportation;

(f) Oregon University System;

(2) "Agency Site" means any voter registration location named by a voter registration agency designated in section (2) of this rule.

(3) "County Elections Official" means the official responsible for voter registration in any county.

(4) Some voter registration agencies are not required under the National Voter Registration Act to be designated as voter registration agencies. A volunteer agency, the following agency is exempt from the requirements of ORS 247.208(2) and (4): Oregon University System.

(5) The Armed Forces recruitment offices, operated by the U.S. Department of Defense, are exempt from reporting statistical information to the Secretary of State and report directly to the Federal Elections Commission.

Stat. Auth.: ORS 246.150, ORS 247.208
Stats. Implemented: ORS 247.208
Hist.: ELECT 10-1991(Temp), f. & cert. ef. 9-27-91; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 20-2000, f. & cert. ef. 12-8-00; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0060

Collection of Registration Cards

(1) Personnel at all agency sites shall forward completed voter registration cards to the County Elections Official of the county in which the agency site is located. If the Secretary of State provides envelopes for forwarding the cards, those envelopes shall be used. Agency personnel shall forward cards via the U.S. Postal Service, unless other arrangements have been made with the County Elections Official that may be more economical or efficient.

(2) The Secretary of State shall notify agency sites of impending registration-related deadlines.

(3) Personnel at agency sites shall forward completed voter registration cards within five days of receipt, as required by ORS 247.012(2)(a).

Stat. Auth.: ORS 246.150, ORS 247.208
Stats. Implemented: ORS 247.208
Hist.: ELECT 10-1991(Temp), f. & cert. ef. 9-27-91; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 21-2000, f. & cert. ef. 12-8-00; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0070

Agency Registration Procedures

(1) Personnel at agency sites shall stamp or write on the reverse side of the voter registration card, below the postage area, the date the card is received by voter registration agency personnel.

(2) Voter registration agencies shall provide written notice to the Secretary of State of any change, to the following information within 30 days of the change:

(a) The identity of the NVRA coordinator for the voter registration agency;

(b) The location of each agency site that will offer voter registration; and

(c) The nature of voter registration procedures within the voter registration agency.

(3) Voter registration agency personnel shall not influence or attempt to influence a person to choose or not choose a particular political party or preference, or to register or vote in any particular manner. Items which personnel shall not wear or display in the presence of clients while offering the opportunity to register to vote include materials that:

(a) Identify past, present, or future holders or seekers of partisan elective office;

(b) Contain logos or other graphics that may be identified with a political party or other party preference;

(c) Would reasonably be understood to be associated with a political party or other political party preference; or

(d) Would reasonably be understood to be advocating support or opposition to a ballot measure or candidate for elective office.

Stat. Auth.: ORS 246.150, ORS 247.208
Stats. Implemented: ORS 247.208
Hist.: ELECT 4-1992(Temp), f. & cert. ef. 2-26-92; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 15-2001, f. & cert. ef. 6-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0080

Request for Delivery and Distribution of Voter Registration Cards

(1) The purpose of this rule is to set out the procedures for handling requests for delivery of voter registration cards.

(2) All requests for 100 or more voter registration cards shall be accompanied by a completed SEL Form 505 and will be filled as follows:

(a) The County elections official shall fill requests for less than 500 voter registration cards;

(b) The Secretary of State shall fill requests for 500 or more voter registration cards.

(3) The Secretary of State shall maintain records to determine when an aggregate of 5,000 voter registration cards have been delivered to any person during the time periods described ORS 247.176(1).

(4) Requests by any person for voter registration forms in excess of the 5,000 aggregate during any one time period will be made to the Secretary of State. The Secretary of State will honor requests for delivery of more than 5,000 registration cards in the following circumstances:

(a) When the request is made in writing and the requester agrees to pay the printing costs of the cards requested; or

(b) When the request is made in writing and the requester provides the following information and assurances:

(A) The requester provides a plan for distribution of the cards, including the names of persons or organizations involved in the registration drive, distribution locations, publicity related to the registration drive, coordination with other registration drives, if applicable, and any other pertinent details of the effort;

(B) The requester provides written assurances that any unused registration cards after the completion of the registration drive will be returned to the Secretary of State.

(5) At the discretion of the Secretary of State, requests for additional voter registration forms may be satisfied by authorizing the requesting person to print the voter registration forms at the person's own expense, according to Secretary of State specifications.

(6) The free public distribution of registration cards by a person approved by the Secretary of State under to print, copy or otherwise prepare and distribute voter registration forms, even though the distributor incurs costs in the distribution, does not constitute undue influence to affect registration, voting or candidacy.

(7) Nothing in this rule shall be deemed to limit the distribution of voter registration forms to permanent registration locations as designated by the County elections official or to voter registration agencies as designated by the Secretary of State.

(8) These procedures shall be construed liberally in order not to impede voter registration in this state.

ADMINISTRATIVE RULES

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 246.150, ORS 247.176
Stats. Implemented: ORS 247.176
Hist.: ELECT 1-1990, f. & cert. ef. 1-16-90; ELECT 5-1992, f. & cert. ef. 2-26-92;
Renumbered from 165-002-0015; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 9-2001,
f. & cert. ef. 3-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0130

Residence Address Disclosure Exemption

(1) The purpose of this rule is to define when the county elections official may exempt the residence address of an elector from disclosure as a public record.

(2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as "Oregon Election Laws".

(3) An elector may request that a county elections official not disclose the information that indicates the residence address of the elector. If the elector demonstrates to the satisfaction of the county elections official that the personal safety of the elector, or the personal safety of a family member residing with the elector, is in danger if the residence address remains available for public inspection, the county elections official shall not disclose that information except in compliance with a court order, to a law enforcement agency at the request of the law enforcement agency, or with the consent of the elector.

(4) An exemption from disclosure granted under this rule shall include the residence address on the elector's voter registration record, registration lists produced in accordance with ORS 247.940 and 247.945, poll books, and any other material produced or maintained by the county elections official which is available for public inspection that may reveal the requestor's residence address. The elector's mailing address may be used in place of the exempt residence address.

(5) A request under section (3) of this rule shall be submitted to the county elections official. The exemption request shall be submitted on form SEL 550 (Application to Exempt Residence Address from Disclosure). The request shall be in writing, signed by the elector, and shall include:

(a) The name or description of the public record sufficient to identify the record;

(b) A mailing address for the elector; and

(c) Evidence sufficient to establish to the satisfaction of the county elections official that disclosure of the elector's residence address would constitute a danger to the personal safety of the elector, or of a family member residing with the elector. Such evidence may include copies of the following documents:

(A) An affidavit, medical records, police reports or court records showing that the elector, or a family member residing with the elector, has been a victim of domestic violence;

(B) A citation or an order issued under ORS 133.055 for the protection of the elector, or a family member residing with the elector;

(C) An affidavit or police report showing that a law enforcement officer has been contacted concerning domestic violence, other physical abuse, or threatening or harassing letters or telephone calls directed at the elector, or a family member residing with the elector;

(D) A temporary restraining order or other no-contact order to protect the elector, or a family member residing with the elector, from future physical abuse;

(E) Court records showing that criminal or civil legal proceedings have been filed regarding physical protection for the elector, or a family member residing with the elector;

(F) A citation or a court's stalking protective order pursuant to ORS 163.735 or 163.738, obtained for the protection of the elector, or a family member residing with the elector;

(G) An affidavit or police report showing that the elector, or a family member residing with the elector, has been a victim of a person convicted of the crime of stalking or of violating a court's stalking protective order;

(H) A conditional release agreement issued under ORS 135.250 - 135.260 providing protection for the elector, or a family member residing with the elector;

(I) A protective order issued pursuant to ORS 135.873 or 135.970 protecting the identity or place of residence of the elector, or a family member residing with the elector;

(J) An affidavit from a district attorney, or deputy district attorney, stating that the elector, or a family member residing with the elector, is scheduled to testify or has testified as a witness at a criminal trial, grand jury hearing or preliminary hearing, and that such testimony places the personal safety of the witness in danger;

(K) A court order stating that the elector, or a family member residing with the elector, is or has been a party, juror, judge, attorney or involved in

some other capacity in a trial, grand jury proceeding or other court proceeding, and that such involvement places the personal safety of that elector in danger; or

(L) Such other documentary evidence that establishes to the satisfaction of the county elections official that disclosure of the elector's residence address would constitute a danger to the personal safety of the elector, or of a family member residing with the elector.

(6) The county elections official receiving a request under this rule promptly shall review the request and notify the elector, in writing, whether the evidence submitted is sufficient to demonstrate to the satisfaction of the county elections official that the personal safety of the elector, or of a family member residing with the elector, would be in danger if the residence address remains available for public inspection. The county elections official may request that the elector submit additional information concerning the request.

(7) If a county elections official grants the request for exemption with respect to records other than a voter registration record, the county elections official shall include a statement in its notice to the elector that:

(a) The exemption shall remain effective until the elector requests termination of the exemption or the elector is required to update the elector's registration; and

(b) If the elector is required to update the elector's registration, the elector may apply for another exemption from disclosure.

(8) An elector who has requested that a county elections official not disclose his or her residence address may revoke the request by notifying, in writing, the county elections official to which the request was made that disclosure no longer constitutes a danger to personal safety. The notification shall be signed by the person who submitted the original request for nondisclosure of the residence address.

Stat. Auth.: ORS 246.150, ORS 247.969

Stats. Implemented: ORS 247.965

Hist.: ELECT 3-1994, f. & cert. ef. 2-4-94; ELECT 13-2001, f. & cert. ef. 6-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03

Adm. Order No.: ELECT 9-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Amended: 165-007-0030, 165-007-0130, 165-007-0250

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-0030

Designating the Vote By Mail and Election Board Manuals

(1) The Secretary of State designates Directive 2002-3, the Vote By Mail Manual and associated forms, as the procedures for conducting all vote by mail elections. All vote by mail elections shall be conducted following the requirements of ORS Chapter 254 and the *Vote By Mail Manual*.

(2) The Secretary of State designates the *1998 Election Board Manual* and associated forms as the procedures and forms to be used for all elections conducted at a polling place. All polling place elections shall be conducted following the requirements ORS Chapter 254 and the *1998 Election Board Manual*.

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

Stat. Auth.: ORS 46.120, ORS 246.150

Stats. Implemented: ORS 247, ORS 254

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 9-2003, f. & cert. ef. 9-3-03

165-007-0130

Method of Calculating Registered Voters Eligible to Vote for Elections conducted pursuant to Article XI, section 11(8) of the Oregon Constitution

(1) The purpose of this rule is to interpret Article XI, section 11(8) of the Oregon Constitution which requires a particular voter turnout for certain tax elections. The constitution requires that approval may occur only at

ADMINISTRATIVE RULES

an election when "at least 50% of registered voters eligible to vote in the election cast a ballot" unless the election is a general election in an even-numbered year. Art XI, section 11(8) Or Constitution. This requirement will be interpreted consistently with the voter registration statutes in ORS chapter 247 and with the requirements of federal law (National Voter Registration Act, P.L. 103-31). The rule also interprets the phrase "cast a ballot." This rule applies only to vote by mail elections.

(2) County elections officials shall use this rule to assist in calculating the eligibility of voters in a particular election, for purposes of determining whether the election has sufficient turnout to allow a passing election conducted under Article XI, section 11 to be considered approved.

(a) Within the district which is holding the election, determine the number of active registered voters as of the voter registration deadline in ORS 247.025. This is the base group of "registered voters eligible to vote."

(b) If any voter who is determined to be ineligible due to a change in residence address, or any other inactive voter, updates the voter's registration as provided in ORS 247.307, the voter shall be considered eligible to vote and be added back into the total count of eligible voters.

(c) From the number determined in (2)(a) and (2)(b), subtract all voters who are determined during the particular election to be not eligible to vote, based on information received during the conduct of the election. These subtractions shall be made in the following manner. Subtract all voters who were mailed a ballot which is returned as undeliverable, if the information on the returned envelope shows that the voter's residence address has changed, or that the voter is deceased. Subtract all voters for whom written information is received, other than a returned ballot, showing to the satisfaction of the elections official that the voter is ineligible due to a residence address change or death.

(d) The information regarding eligibility used to make the calculations described in (2)(b) and (c) shall be made based on information received by the elections officer not later than 8:00 p.m. on election day. Information received after that time shall not be used to calculate the total number of eligible voters for that election.

(e) The calculation of the percentage of ballots cast to the number of eligible voters to vote on the question for that election shall be not later than the thirtieth (30th) day after the election.

(f) A voter eligible to vote within the district for an election subject to the voter participation requirements shall be considered to have "cast a ballot" if the ballot has been returned to an elections office and the ballot is determined to be qualified to be counted (outer envelope contains signature of voter, signature matches the registration signature of the voter, no marks on outside of envelope which would cause ballot to be rejected). If these conditions are met, the ballot is "cast" even if the ballot, when opened for counting, is determined to be deficient and is not counted, or if the voter does not vote on the particular measure at issue in the calculation.

(g) For purposes of determining voter eligibility of non-voters in local elections, Appendix A of this rule will apply.

(h) Elections officials shall use form SEL 954 (Total Eligible Voter Determination Worksheet) to determine total number of eligible voters for local elections where a 50% majority is required for passage of a local measure.

Stat. Auth.: ORS 246.120, ORS 246.150, ORS 254.465, ORS 254.470, Or. Const. Article XI, Sec. 11(8).

Stats. Implemented: Or. Const. Article XI, Sec. 11(8).

Hist.: ELECT 3-1997, f. & cert. ef. 2-25-97; ELECT 11-1997, f. & cert. ef. 10-27-97; ELECT 12-1999(Temp) f. & cert. ef. 10-19-99 thru 4-14-00; ELECT 4-2000, f. & cert. ef. 2-4-2000; ELECT 9-2003, f. & cert. ef. 9-3-03

165-007-0250

Voting System Certification

Adoption by Reference:

(1) In addition to, and not in lieu of, any other election processes contained in OAR Chapter 165, the Division adopts by reference the federal rules as printed in the Federal Election Commission publication: Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems, revised April 2002, and any appendices, tables and relevant accompanying documents. All vote tally systems approved for use in Oregon must conform to the Federal Election Commission's voting systems standards adopted by this rule.

(2) All Vote Tally Systems approved before the effective date of this rule, are unaffected by this rule.

NOTE: These rules are on file with Oregon Secretary of State, Elections Division and the Federal Elections Commission.

Authorization: ORS 246.520 - ORS 246.610

Stats Implemented: ORS 246.520 - ORS 246.610

Hist.: ELECT 11-2000, f. & cert. ef. 12-8-00; ELECT 9-2003, f. & cert. ef. 9-3-03

Adm. Order No.: ELECT 10-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Amended: 165-020-0020, 165-020-0025, 165-020-0030, 165-020-0045, 165-020-0050, 165-020-0060

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

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

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

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-0020

Notice of Election of Board Members for Special Districts

The Secretary of State hereby adopts by reference and designates SEL 815 to comply with ORS 255.075 in contents required in filing a Notice of Election of Board Members for Special Districts. SEL 815 shall be the filing form and shall contain:

- (1) Name of district.
- (2) Day of week and date of election.
- (3) Number of open positions on board and title of office.
- (4) Name of district.
- (5) The board positions and term of each.
- (6) Indication that the election will be conducted by mail or at the polls from 7 a.m. to 8 p.m.
- (7) Name of county in which declaration of candidacy or petition of nomination is to be filed.

(8) Last date for candidate filings.

(9) Designation of newspaper in which legal notice is to be published.

(10) Signature of authorized district election authority, title and date signed.

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

Stat. Auth.: ORS 246.120, ORS 246.150

Stats. Implemented: ORS 255.075

Hist.: SD 13-1980, f. & cf. 2-1-80; ELECT 29-1993, f. & cert. ef. 7-23-93; ELECT 10-2003, f. & cert. ef. 9-3-03

165-020-0025

Notice of County, City and District Measure Election

The Secretary of State hereby designates forms SEL 801, 802, and 803 to comply with ORS 254.095(2), 254.103 and 255.085 to file a Notice of Measure Election for a County, City or District Election. SEL 801 shall be the filing form for a Notice of County Measure Election. SEL 802 shall be the filing form for a Notice of City Measure Election. SEL 803 shall be the filing form for a Notice of District Measure Election. These forms shall contain the following information:

(1) Name of county, city, district, or unit of local government.

(2) Date of election and name of county, city or district in which election will be held.

(3) Ballot title consisting of:

(a) 10-word Caption;

(b) 20-word Question;

ADMINISTRATIVE RULES

(c) A concise and impartial statement of not more than 175 words, summarizing the measure and its major effect. Ballot titles shall meet the requirements of ORS 250.035, 250.036, 250.037, and 250.038, as applicable.

(4) Signature of county, city or district official, authorized to file the notice of measure election, title and date signed.

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 246.110, ORS 254.095, ORS 254.103 & ORS 254.465.

Hist.: SD 11-1980, f. & ef. 2-1-80; SD 45-1980, f. 9-12-80, ef. 9-15-80; SD 14-1981, f. & ef. 11-2-81; SD 19-1983(Temp), f. & ef. 11-4-83; SD 30-1983, f. & ef. 12-20-83; SD 41-1985, f. & ef. 11-19-85; ELECT 12-1988(Temp), f. & cert. ef. 1-13-88; ELECT 29-1993, f. & cert. ef. 7-23-93; ELECT 1-1994, f. & cert. ef. 1-6-94; ELECT 16-2000, f. & cert. ef. 8-7-00; ELECT 10-2003, f. & cert. ef. 9-3-03

165-020-0030

Designation of Identification Numbers for Measures of Special Districts Located in More Than One County

(1) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering elections laws. ORS 254.108 directs the Secretary of State to provide a means of numbering a measure of a special district located in more than one county.

(2) Measures of special districts located in more than one county shall be numbered consecutively in the order in which the measures are filed with the district's election officer. These measures shall be identified by a unique prefix number. This prefix number shall be assigned by the special district's election officer. For the purpose of this rule, and as provided by ORS 255.005(5)(b), the election officer shall be the county clerk of the county in which the administrative office of the district is located.

(3) The following are the unique prefix numbers which shall be assigned by the special district election officer:

- (a) Baker — 1;
- (b) Benton — 2;
- (c) Clackamas — 3;
- (d) Clatsop — 4;
- (e) Columbia — 5;
- (f) Coos — 6;
- (g) Crook — 7;
- (h) Curry — 8;
- (i) Deschutes — 9;
- (j) Douglas — 10;
- (k) Gilliam — 11;
- (l) Grant — 12;
- (m) Harney — 13;
- (n) Hood River — 14;
- (o) Jackson — 15;
- (p) Jefferson — 16;
- (q) Josephine — 17;
- (r) Klamath — 18;
- (s) Lake — 19;
- (t) Lane — 20;
- (u) Lincoln — 21;
- (v) Linn — 22;
- (w) Malheur — 23;
- (x) Marion — 24;
- (y) Morrow — 25;
- (z) Multnomah — 26;
- (aa) Polk — 27;
- (bb) Sherman — 28;
- (cc) Tillamook — 29;
- (dd) Umatilla — 30;
- (ee) Union — 31;
- (ff) Wallowa — 32;
- (gg) Wasco — 33;
- (hh) Washington — 34;
- (ii) Wheeler — 35;
- (jj) Yamhill — 36.

(4) The election officer for a special district located in more than one county shall immediately certify a measure to the appropriate county clerk(s).

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.108, ORS 255.005

Hist.: SD 38-1980(Temp), f. & ef. 3-17-80; SD 1-1981, f. & ef. 7-21-81; ELECT 10-2003, f. & cert. ef. 9-3-03

165-020-0045

Responsibility and Action

As used in this rule, unless the context requires otherwise, "district election," "district election authority," and "election officer," have the meaning given the terms by ORS 255.005(3), (4), and (5); "district clerk" shall be the person authorized to handle election matters for the district.

(1) District Clerk: Notify the election officer immediately that there is a vacancy.

(2) Election Officer: Determine the deadline date and time for candidate filing in accordance with the general provisions of this rule.

(3) District Clerk:

(a) Prepare a written confirmation of vacancy stating the office information, including the position or zone and expiration date of the term, for the office in which the vacancy exists;

(b) File the written confirmation with the election officer the next working day following the initial notification given the election officer of the vacancy.

(4) Election Officer:

(a) Publish amended notice of director election, stating:

(A) All the information contained in the original published notice, including the same filing deadline date and time, for the office(s) originally scheduled for election;

(B) The new office information for the office in which the vacancy exists; and

(C) The filing deadline date and time, as determined by the election officer, for the office in which the vacancy exists.

(b) Receive nominations of candidates for election as a member of the district board;

(c) Prepare the official district election ballot to show the office titles and candidates' names, when available, for those offices regularly scheduled for election and those offices scheduled for election as a result of a vacancy in office;

(d) Amend absentee ballots, when appropriate, to provide complete ballots for absentee electors.

Stat. Auth.: ORS 246.150 & ORS 255.245

Stats. Implemented: ORS 255.245

Hist.: SD 2-1978(Temp), f. & ef. 2-28-78; SD 1-1979, f. & ef. 1-18-79; SD 2-1984, f. & ef. 1-19-84; ELECT 10-2003, f. & cert. ef. 9-3-03

165-020-0050

Purpose

(1) This rule provides a uniform billing system for state, county, city and special district elections as authorized under ORS 246.179, 254.046, and 255.305:

(a) All chargeable costs incurred by the county election officer for the conduct of an election held for the state on a date other than the primary or general election, shall be paid by the state, if provided by the act calling for the election or pursuant to ORS 246.179;

(b) All chargeable costs incurred by the county election officer for the conduct of an election held for a city on a date other than the primary or general election, shall be paid by the city;

(c) All chargeable costs incurred by the county election officer for the conduct of an election held for a special district shall be paid by the special district.

(2) An "Election Equipment Amortization Worksheet" (SEL 950 or SEL 950A), "Average Ballots Cast/Average Aggregate Registration Worksheet" (SEL 951), "Allocated Cost Worksheet for Polling Place Elections" (SEL 952 PP), "Allocated Cost Worksheet for Vote By Mail Elections" (SEL 952 VBM), and "Local Elections Billing Worksheet" (SEL 953) are adopted by reference and designated for use to detail all costs to be billed to each electoral district holding an election.

(3) Any chargeable cost billed for an election shall be supported by such documentation as copies of payroll registers, invoices, vouchers, sales slips, billings, and receipts. Any cost not specified in this rule, or any unsupported chargeable cost, need not be paid.

(4) Documentation will be provided to the electoral districts upon request.

(5) Any electoral district bills and supporting documentation shall be subject to audit by the secretary of state at any time for the purpose of verifying the accuracy of the chargeable costs.

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

Stat. Auth.: ORS 246.150, ORS 246.179 & ORS 255.305

Stats. Implemented: ORS 246.179, ORS 251.365, ORS 254.046 & ORS 255.305

Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90; ELECT 11-2000, f. & cert. ef. 6-7-00; ELECT 10-2003, f. & cert. ef. 9-3-03

ADMINISTRATIVE RULES

165-020-0060

Computation of Costs

(1) The Election Equipment Amortization Worksheet Form SEL 950 or SEL 950A shall be the form used for calculating the amortization of election equipment.

(2) The total amortization costs billed to electoral districts over the years the election equipment is used cannot exceed the total cost of purchasing, operating and maintaining the equipment during the years the equipment is used.

(3) Amortization of election equipment is not mandatory; however, any county election official who chooses to amortize such equipment must use the method designated by this rule.

(4) The Average Ballots Cast/Average Aggregate Registration Worksheet Form SEL 951 shall be the form used for computing the average number of ballots cast per election for prior four years.

(5) The Allocated Cost Worksheet Form SEL 952 shall be the form used for computing the allocated cost of the election.

(6) The Local Elections Billing Worksheet Form SEL 953 shall be the form used for computing local election costs.

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

Stat. Auth.: ORS 246.120, ORS 246.150, ORS 246.179, ORS 246.540, ORS 254.046 & ORS 255.305

Stats. Implemented: ORS 246.179, ORS 246.540, ORS 251.365, ORS 254.046 & ORS 255.305

Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90; ELECT 13-1997, f. & cert. ef. 10-27-97; ELECT 6-1998, f. & cert. ef. 5-8-98; ELECT 10-2003, f. & cert. ef. 9-3-03

Adm. Order No.: ELECT 11-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Repealed: 165-001-0020, 165-001-0030, 165-001-0060

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

Adm. Order No.: ELECT 12-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Repealed: 165-005-0035, 165-005-0040, 165-005-0090, 165-005-0140

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

Adm. Order No.: ELECT 13-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Repealed: 165-007-0050, 165-007-0060, 165-007-0070, 165-007-0080, 165-007-0120

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

165-007-0060 This rule describes the process for reception and signature verification of ballots in a vote by mail electi

on. Repealing this rule will not change the way ballots are received or verified because the process is described in the *Vote By Mail Manual*.

165-007-0070 This rule describes the procedure for processing ballots in a vote by mail election. Repealing this rule will not change the way the ballots are processed because the procedure is described in the *Vote By Mail Manual*.

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

Adm. Order No.: ELECT 14-2003

Filed with Sec. of State: 9-3-2003

Certified to be Effective: 9-3-03

Notice Publication Date: 7-1-03

Rules Repealed: 165-020-0008, 165-020-0040, 165-020-0300, 165-020-0310, 165-020-0320, 165-020-0330, 165-020-0340, 165-020-0350, 165-020-0360, 165-020-0370, 165-020-0380, 165-020-0390, 165-020-0400, 165-020-0410, 165-020-0420

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

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

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

Rules Coordinator: Brenda Bayes—(503) 986-1518

Teacher Standards and Practices Commission

Chapter 584

Adm. Order No.: TSPC 4-2003(Temp)

Filed with Sec. of State: 8-25-2003

Certified to be Effective: 8-25-03 thru 1-9-04

Notice Publication Date:

Rules Adopted: 584-100-0001, 584-100-0005, 584-100-0010, 584-100-0015, 584-100-0020, 584-100-0022, 584-100-0025, 584-100-0030, 584-100-0035, 584-100-0040, 584-100-0045, 584-100-0050, 584-100-0055, 584-100-0060, 584-100-0065, 584-100-0070, 584-100-0090, 584-100-0095, 584-100-0100, 584-100-0105, 584-100-0110

Subject: Establishes requirements and procedures for highly qualified teachers under the federal No Child Left Behind Act.

Rules Coordinator: Robyn MacKillop—(503) 373-1060

584-100-0001

Purpose

These rules establish requirements and procedures under the federal No Child Left Behind Act that mandates all teachers in core academic areas meet the law’s definition of “highly qualified” by the end of the 2005-2006 school year.

ADMINISTRATIVE RULES

(1) Additionally, all new teachers teaching in programs supported with Title I funds after the first day of the 2002-2003 school year must be "highly qualified."

(2) Teachers new to Oregon licensure must first be evaluated under the existing Oregon administrative rules to become licensed, and then meet the requirements for "highly qualified teacher" appropriate for the license with which they qualify.

(3) The rules in division 100 apply only to No Child Left Behind classroom assignments.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0005

Definitions

These definitions apply only to division 100.

(1) "Advanced Credential or Advanced Certification": A Continuing Teaching License, or a Standard Teaching License or a certificate from the National Board for Professional Teaching Standards in the subject area, for teachers holding middle level or secondary authorization levels.

(2) "Bachelor's Degree":

(a) A degree obtained from a regionally accredited institution in the United States; or

(b) A degree from a foreign institution that is appropriately accredited as affirmed through the Oregon Office of Degree Authorization; or

(c) A higher degree in the arts or sciences or an advanced degree in the professions from a regionally-accredited institution may validate a non-regionally accredited bachelor's degree.

(3) "Complete School Year": Any related teaching assignment for 135 instructional days in a school year. Exceptions may be appealed to the Executive Director pursuant to OAR 584-052-0027.

(4) "Core Academic Subjects":

(a) English (Language Arts);

(b) Reading or Language Arts (Reading or Language Arts);

(c) Mathematics (Basic or Advanced Mathematics);

(d) Science (Integrated Science, Biology, Chemistry, or Physics);

(e) Foreign Languages (Spanish, French, German, Russian, Japanese, or Latin);

(f) Civics and Government (Social Studies);

(g) Economics (Social Studies);

(h) Arts (Art, Music, or Drama);

(i) History (Social Studies);

(j) Geography (Social Studies).

(5) "Elementary Classroom": Any combination of self-contained classrooms in grades preprimary through eight in any school.

(6) "Elementary Teacher": An educator teaching in a self-contained classroom grades preprimary through eight.

(7) "Middle-level Classroom": Any classrooms in grades five through eight organized departmentally by subject matter.

(8) "New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or regionally accredited private school less than three complete school years. (See definition of "Complete School Year" above.)

(9) "Newly Hired Teacher": A teacher hired after the first day of the 2002-2003 school year in a Title I program or school. The teacher is not considered "newly hired" if the teacher is already employed in the district and transferred into a Title I program or school.

(10) "Not New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or private school for a total of three or more complete school years. (See definition of "Complete School Year" above.)

(11) "Rigorous State Test":

(a) The Multiple Subjects Assessment for Teachers (MSAT) test for elementary or middle level (See OAR 584-100-0022 for more details); or

(b) The appropriate Praxis II or NTE Subject-matter test for middle-level and high school; or

(c) Satisfaction of the TSPC alternative assessment procedure; or

(d) Another state's subject-matter licensure exam designated as a "rigorous state test."

(12) "Secondary School":

(a) A combination of grades ten through twelve in districts providing a junior high school containing grade nine; or

(b) Any combination of grades nine through twelve organized as a separate unit; or

(c) Grades nine through twelve housed with grades preprimary through twelve.

(13) "Self-contained Classroom": An assignment for teaching in grades preprimary through eight in which the teacher has full responsibility for the curriculum.

(14) "Subject-matter competency": Subject matter competency may be demonstrated through any one of the following:

(a) Passing the appropriate "rigorous state test" (see rule above); or

(b) Having a major in the subject-matter area (does not apply to elementary authorizations); or

(c) Having coursework equivalent to a major in the subject-matter area (does not apply to elementary authorizations); or

(d) Having a graduate degree in the subject matter area (does not apply to elementary authorizations); or

(e) Satisfying the Highly Objective Uniform State Standard of Evaluation (HOUSS) requirements set forth in these rules (only if have taught three years or more).

(15) "Undergraduate Major or Coursework Equivalent to a Major": Forty-five quarter hours or thirty semester hours of undergraduate or graduate coursework in subject matter numbered 100 level or above, transcribed by a regionally accredited college or university. (See definition of "Bachelor's Degree" for undergraduate credits obtained from an unaccredited college or university.)

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0010

Highly Qualified Elementary Teacher New to the Profession

A teacher who has been teaching on an approved license in any school in a U.S. jurisdiction less than three complete school years must meet the following criteria:

(1) Hold one of the following licenses:

(a) A Basic Teaching License; or

(b) An Initial Teaching License; or

(c) A Preliminary Teaching License; or

(d) An Approved NCLB Alternative Route Teaching License as contained within OAR 584-100-0040; and

(2) Be properly assigned to a self-contained classroom in grades preprimary through eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0015

Highly Qualified Elementary Teacher Not New to the Profession

A teacher who has been teaching on an approved license in any school in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary Teaching License, or Preliminary Teaching License;

(2) Satisfied one of the following:

(a) Pass the appropriate rigorous state test; or

(b) Meet one of the Elementary HOUSS standards as follows:

(A) Complete an approved elementary teacher education program or the coursework equivalent to sixty quarter hours distributed as follows:

(i) Eighteen quarter or twelve semester hours in language arts;

(ii) Twelve quarter or eight semester hours in mathematics;

(iii) Nine quarter or six semester hours in science;

(iv) Nine quarter or six semester hours in U.S. history, cultural geography, and other social sciences;

(v) Three quarter or two semester hours in health education;

(vi) Three quarter or two semester hours in physical education;

(vii) Three quarter or two semester hours in music education;

(viii) Three quarter or two semester hours in art education; or

(B) Complete the TSPC Alternative Assessment procedure; or

(C) Obtain a certificate as Early Childhood Generalist, Early Childhood Art, Early Childhood Music, or Early Childhood ESOL from the National Board for Professional Teaching Standards; or

(D) Hold a Standard Elementary License; or

(E) Hold a master's degree; and

(c) Be properly assigned to a self-contained classroom in grades preprimary through eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

ADMINISTRATIVE RULES

584-100-0020

Highly Qualified Middle Level Teacher (departmental grades 5-8) New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction less than three complete school years must meet the following criteria:

(1) Hold a Basic, Initial, *Approved NCLB Alternative Route Teaching License* or Preliminary Teaching License in the core academic area(s) and satisfy one of the following:

(a) Pass the prescribed rigorous state exam in the subject area(s) (See OAR 584-100-0022 details related to the MSAT and subject-matter competency); or

(b) Hold an undergraduate major in the subject area(s); or

(c) Hold a graduate degree in the subject area(s); or

(d) Complete coursework equivalent to an undergraduate major; and

(2) Be properly assigned in the subject area in a departmental classroom in grades five through eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0022

Multiple Subject Assessment for Teachers (MSAT) Test for Middle-Level Subject-Matter Competency

A teacher who has passed the Multiple Subjects Assessment for Teachers (MSAT) test as a rigorous state test may be qualified to teach multiple core academic subjects in math, language arts, social studies and science only).

(1) MSAT scores to determine whether a teacher is eligible to have core academic subject matter area competency based upon performance on this test will be evaluated as follows:

(a) The composite score of 310 required to pass the MSAT in Oregon represents 77.5% success rate overall on the test.

(b) To be qualified in one or more core academic subject matter areas (based on performance on the MSAT) a candidate must pass each subject in which they wish to be "highly qualified" by at least 77.5%.

(2) The calculation will be as follows: The total number of raw points possible for each core academic subject matter area is achieved by adding together the total points available in both the content knowledge and content area exercises portions of that core academic subject only. The total number of raw points achieved by the test candidate must meet or exceed 77.5% of the total number of points available for that core academic subject matter area.

(3) If the candidate meets or exceeds 77.5% of the total points available in a core academic subject matter area, the candidate meets the requirements for having passed a rigorous state test in the core academic subject matter area at the middle level only.

(4) This analysis only applies for teachers wishing to seek multiple subject endorsements on middle-level authorizations or basic elementary licenses.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0025

Highly Qualified Middle Level Teacher (departmental grades 5-8) Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary (grades five and six), Five-Year Secondary, or Preliminary Teaching License and satisfy one of the following:

(a) Pass the prescribed rigorous state exam; or

(b) Hold an undergraduate major in the subject area(s); or

(c) Hold a graduate degree in the subject area(s); or

(d) Complete coursework equivalent to an undergraduate major; or

(e) Hold advanced certification or credentialing; or

(f) Meet the Middle Level HOUSE requirements as follows:

(A) Have taught on an approved license in the subject area for a total of three or more complete school years; and

(B) Have completed twenty-four quarter or sixteen semester hours from a regionally accredited college or university in the subject area; and

(2) Be properly assigned in the subject area in a departmental classroom in grades five through eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0030

Highly Qualified Secondary (grades 9-12) Teacher New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction less than three complete school years must meet the following criteria:

(1) Hold a Basic or Initial Teaching License in the core academic area(s) taught; or

(2) Hold an *Approved NCLB Alternative Route Teaching License* contained within OAR 584-100-0040; or

(3) Hold a Preliminary Teaching License contained in OAR 584-100-0045; and

(4) Be properly assigned in the subject area in grades nine through twelve.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0035

Highly Qualified Secondary (grades 9-12) Teacher Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, in the core academic area(s) taught; or

(2) Hold a Preliminary Teaching License contained in OAR 584-100-0045; and

(3) Be properly assigned in the subject area in a departmental classroom in grades nine through twelve.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0040

Approved NCLB Alternative Route Teaching License

Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant shall be granted an *Approved NCLB Alternative Route Teaching License*.

(1) The application must be filed jointly by the hiring district and the teacher seeking the license.

(2) Districts hiring a highly qualified teacher based on the *Approved NCLB Alternative Route Teaching License* must ensure that the license has been obtained by the teacher prior to assignment within the district.

(3) The *Approved NCLB Alternative Route Teaching License* shall be restricted to use within the district that has jointly applied for it with the teacher.

(4) The license is not transferable to another district. Should the teacher seek to obtain another *Approved NCLB Alternative Route Teaching License* with another district, the license is only valid for the remainder of the three years from the initial date of the license.

(5) The district must submit an approved plan with the licensee's application that describes how the teacher will receive high-quality professional development that is sustained, intensive and classroom-focused before and while teaching in the district. The plan must also include how the teacher will be making progress toward completing full state licensure requirements in the next three years.

(6) The license expires exactly three-years from the date of issue and is not subject to the 120-day grace period.

(7) To be eligible for an *Approved NCLB Alternative Route License*, the applicant must:

(a) Hold a bachelor's degree;

(b) Demonstrate core academic subject matter competency by:

(A) Passing the TSPC approved rigorous state test required for the grade-level and subject-matter area; or

(B) Holding an undergraduate major or coursework equivalent in the core academic subject in the teaching area (does not apply to elementary authorizations); or

(C) Holding a graduate degree in the core academic subject in the teaching area (does not apply to elementary authorizations).

(8) Per federal law:

(a) Teachers on the *Approved NCLB Alternative Route Teaching License* are considered highly qualified for only three years; and

(b) The license is not renewable and is not eligible for any extension.

(9) Teachers who have taught on a Restricted Transitional License for one-year or less, upon application with a district may be eligible for the

ADMINISTRATIVE RULES

Approved NCLB Alternative Route Teaching License provided the requirements of section (7)(a) and (b) of this rule are met.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0045

Preliminary Teaching License

Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant shall be granted a Preliminary Teaching License for up to one-year.

(1) An applicant is eligible for a Preliminary Teaching License only if the applicant is seeking to be hired into a Title I program or Title I school.

(2) To be eligible for a Preliminary Teaching License, the applicant must meet the following requirements:

- (a) Hold a bachelor's degree;
- (b) Document completion of a teacher education program in any state;
- (c) Demonstrate knowledge of applicable civil rights laws by completing the required civil rights affidavit;
- (d) Demonstrate subject matter competency as defined in OAR 584-100-0005 (14);

(e) Provide a letter from the school district attesting that the position being sought is either in a Title I program or a Title I school; and

(f) Furnish fingerprints in the manner prescribed by the Commission;

(g) Obtain an approved first aid card within 90 days of receiving the license, if not a current card holder.

(3) At the expiration of one-year, in order to remain highly qualified, educators holding a Preliminary Teaching License must meet all remaining requirements for the Initial Teaching License.

(4) The Preliminary Teaching License is valid for one year only, and cannot be renewed or extended.

(5) The Preliminary Teaching License is not eligible for district conditional assignment permits.

(6) Eligible applicants will also receive a three-year unrestricted Transitional Teaching License pursuant to ORS 584-060-0161.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0050

Highly Qualified Professional Technical Teacher

All professional technical teachers who teach courses that contain core academic subjects in professional technical for which students receive core academic credit, must meet the "highly qualified" designation for that core academic subject.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0055

Highly Qualified Substitute Teacher

Teachers substituting more than four continuous weeks in a core academic subject must be highly qualified.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0060

Special Education Teachers Generally

(1) Special education teachers who are providing instruction in core academic subjects must meet the "highly qualified" standards of the law.

(2) Special educators who do not directly instruct students in any core academic subject, or who provide only consultation to highly qualified teachers of core academic subjects in adapting curricula, using behavioral supports and interventions, and selecting appropriate accommodations, are not subject to the same requirements that apply to teachers of core academic subjects.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0065

Highly Qualified Elementary Special Education Teacher

To be considered highly qualified an elementary special education teacher must:

(1) Meet the requirements for the "Highly Qualified Elementary Teacher" new or not new to the profession;

(2) Hold the appropriate Oregon special education endorsement; and

(3) Teach only in pre-primary through grade eight in a self-contained special education classroom.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0070

Highly Qualified Middle-Level or Secondary Special Education Teacher

To be considered highly qualified a middle-level or secondary special education teacher must:

(1) Meet the requirements for the "Highly Qualified Middle-Level or Secondary Teacher" new or not new to the profession;

(2) Hold the appropriate Oregon special education endorsement; and

(3) Have a partnership relationship with a highly qualified teacher if teaching a core academic subject in which the teacher is not highly qualified.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0090

Licensed and Registered Elementary Charter School Teacher

Licensed and registered elementary charter school teachers teaching in pre-primary through grade eight self-contained classrooms must meet the following criteria:

(1) Licensed teachers must meet the highly qualified teacher definition for new or not new to the profession for elementary teachers.

(2) Registered teachers must hold a bachelor's degree and demonstrate subject matter competency by passing the appropriate rigorous state test.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0095

Licensed and Registered Middle-Level or Secondary Charter School Teacher

Licensed and registered middle-level or secondary charter school teachers teaching in departmentalized middle level grades five through eight or in secondary grades nine through twelve must meet the following criteria:

(1) Licensed teachers must meet the highly qualified teacher definition for new or not new to the profession for middle-level or secondary teachers.

(2) Registered teachers must hold a bachelor's degree and one of the following:

(a) A passing score on the appropriate rigorous state test in the subject area; or

(b) An undergraduate major in the subject area; or

(c) A graduate degree in the subject area; or

(d) Coursework equivalent to an undergraduate major in the subject area.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0100

Licenses Considered "Full State Certification"

The following Oregon Teaching Licenses are considered to meet full state certification under the No Child Left Behind federal act:

(1) Basic Teaching License; or

(2) Standard Teaching License; or

(3) Initial Teaching License; or

(4) Continuing Teaching License; or

(5) Five-Year Elementary Teaching License; or

(6) Five-Year Secondary Teaching License; or

(7) Approved NCLB Alternative Route Teaching License; or

(8) Preliminary Teaching License.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0105

Licenses Not Considered to be "Full State Certification"

The following Oregon Teaching Licenses are not considered to meet full state certification under the No Child Left Behind federal act:

(1) Expedited Service License (until final license is issued).

(2) Personnel Service Licenses:

ADMINISTRATIVE RULES

- (a) School Counseling;
- (b) School Psychologist;
- (c) Supervisor.
- (3) Limited Student Services License.
- (4) Restricted or unrestricted Transitional Counselor License.
- (5) Restricted or unrestricted School Psychologist License.
- (6) Teaching Associate License.
- (7) Any Substitute Teaching License.
- (8) American Indian Languages License.
- (9) Emergency Teaching License.
- (10) Unrestricted Transitional Teaching License.
- (11) Restricted Transitional Teaching License (See, OAR 584-100-0050 for possible *Approved NCLB Alternative Route Teaching License* eligibility.)

- (12) Limited Teaching License.
 - (13) Any Administrative License.
 - (14) Any approved conditional assignment permit.
- Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

584-100-0110

Non-Core Academic Subjects

A teacher need not be highly qualified under the federal act in the following subjects taught in departmental middle, junior high or high schools:

- (1) Basic Early Childhood Education;
 - (2) Business courses other than Economics;
 - (3) Educational Media;
 - (4) Family and Consumer Sciences;
 - (5) Health Education;
 - (6) Technology Education (non-vocational);
 - (7) Physical Education;
 - (8) Basic Adapted Physical Education;
 - (9) Professional Technical Endorsements:
 - (a) Communication Journalism;
 - (b) Communications Technologies;
 - (c) Design and Applied Arts;
 - (d) Administrative Services;
 - (e) Financial Services;
 - (f) Hospitality & Tourism;
 - (g) Marketing/Management;
 - (h) Health Services;
 - (i) Leisure & Fitness;
 - (j) Education;
 - (k) Family & Consumer Sciences;
 - (l) Personal Services;
 - (m) Legal & Protective Services;
 - (n) Social Services;
 - (o) Computer Technology;
 - (p) Construction;
 - (q) Engineering Technology;
 - (r) Mechanical Systems;
 - (s) Manufacturing Technology;
 - (t) Agricultural Science & Technology;
 - (u) Forestry/Natural Resources; and
 - (v) Integrated Environmental Technology
- (10) Foreign Languages not considered core academic subject:
- (a) Greek;
 - (b) Hebrew;
 - (c) Mandarin;
 - (d) Cantonese;
 - (e) Korean;
 - (f) Vietnamese;
 - (g) Filipino associated languages;
 - (h) Native American Languages;
 - (i) African Languages;
 - (j) Sign Language; and
 - (k) Other languages for which an endorsement is not required.
- (11) Law Studies;

- (12) Consumer Law;
 - (13) Business Law;
 - (14) Psychology;
 - (15) Sociology;
 - (16) Anthropology;
 - (17) Philosophy;
 - (18) World Religions.
- Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2003(Temp), f. & cert. ef. 8-25-03 thru 1-9-04

Travel Information Council
Chapter 733

Adm. Order No.: TIC 1-2003
Filed with Sec. of State: 9-11-2003
Certified to be Effective: 9-11-03
Notice Publication Date: 3-1-03
Rules Amended: 733-030-0350

Subject: The Travel Information Council held a quarterly council meeting on June 7, 2002. The council proposed rule changes to change fees for Museum or Historic Site signs. The initial one-time fee will be reduced to \$75 and the annual permit fee will be set at an equal amount to provide consistency with other sign program fees. Having received to public comment, the council voted to adopt the changes at the June 27, 2003 meeting.

Rules Coordinator: Angela Willhite—(503) 378-4508

733-030-0350

Fees and Installations

(1) Upon approval of a properly completed application for a Museum or Historic Site sign, the Travel Information Council may furnish, erect and maintain the signs, as required.

(2) The Travel Information Council shall notify the applicant promptly when an application has been approved.

(3) Fees. There shall be an initial one-time contract fee of \$75, per sign, per location. The annual permit fee for each advance and intersection Museum or Historic Site sign shall \$75 per sign, per location.

(4) In case of removal a Museum or Historic Site sign, the annual fee for any months or major portion (16 days or more) or a month remaining to anniversary of the date of the placement of the sign shall be refunded. There shall be no refund of annual fees due to temporary or seasonal closure.

(5) Should the signs be reinstalled after removal due to nonpayment of annual fees, the Travel Information Council shall charge a reinstallation fee of \$200 per sign reinstalled, along with all annual fees due.

(6) Sign revision fees of \$100 per Museum or Historic Site sign will be assessed if the facility changes the registered business name resulting in the manufacture and installation of new Museum or Historic Site signs.

Stat. Auth.: ORS 377.700 - ORS 377.840
Stats. Implemented: ORS 183.310 - ORS 183.550
Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 1-2003, f. & cert. ef. 9-11-03

Adm. Order No.: TIC 2-2003
Filed with Sec. of State: 9-11-2003
Certified to be Effective: 9-11-03
Notice Publication Date: 4-1-03

Rules Repealed: 733-020-0005, 733-020-0010, 733-020-0015, 733-020-0020, 733-020-0025, 733-020-0030, 733-020-0035, 733-020-0040, 733-020-0045, 733-020-0050

Subject: The Travel Information Council held a quarterly council meeting on March 7, 2003. In the interest of cleaning up our OARs, the Council declared its intent to repeal Division 020 of Chapter 733, Oregon Administrative Rules. Having received no public comment, the council voted to adopt the repeal at the June 27, 2003 meeting.

Rules Coordinator: Angela Willhite—(503) 378-4508

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
104-080-0000	1-15-03	Amend	2-1-03	123-001-0300	3-26-03	Adopt	5-1-03
104-080-0010	1-15-03	Amend	2-1-03	123-001-0500	3-26-03	Adopt	5-1-03
104-080-0020	1-15-03	Amend	2-1-03	123-001-0520	3-26-03	Adopt	5-1-03
104-080-0021	1-15-03	Amend	2-1-03	123-005-0000	3-26-03	Amend	5-1-03
104-080-0022	1-15-03	Amend	2-1-03	123-005-0010	3-26-03	Amend	5-1-03
104-080-0023	1-15-03	Amend	2-1-03	123-005-0020	3-26-03	Amend	5-1-03
104-080-0024	1-15-03	Amend	2-1-03	123-005-0030	3-26-03	Amend	5-1-03
104-080-0025	1-15-03	Amend	2-1-03	123-005-0040	3-26-03	Repeal	5-1-03
104-080-0026	1-15-03	Amend	2-1-03	123-008-0005	3-26-03	Amend	5-1-03
104-080-0027	1-15-03	Amend	2-1-03	123-008-0010	3-26-03	Amend	5-1-03
104-080-0028	1-15-03	Amend	2-1-03	123-008-0015	3-26-03	Amend	5-1-03
104-080-0030	1-15-03	Amend	2-1-03	123-008-0020	3-26-03	Amend	5-1-03
104-080-0040	1-15-03	Amend	2-1-03	123-008-0025	3-26-03	Amend	5-1-03
104-080-0050	1-15-03	Amend	2-1-03	123-008-0030	3-26-03	Amend	5-1-03
104-080-0060	1-15-03	Amend	2-1-03	123-008-0035	3-26-03	Amend	5-1-03
104-080-0070	1-15-03	Amend	2-1-03	123-008-0040	3-26-03	Amend	5-1-03
105-001-0000	5-21-03	Amend	6-1-03	123-012-0005	3-26-03	Repeal	5-1-03
105-010-0000	6-20-03	Amend	7-1-03	123-012-0010	3-26-03	Repeal	5-1-03
105-010-0011	5-21-03	Amend	6-1-03	123-012-0015	3-26-03	Repeal	5-1-03
105-010-0016	5-21-03	Amend	6-1-03	123-012-0020	3-26-03	Repeal	5-1-03
105-020-0001	5-21-03	Amend	6-1-03	123-012-0023	3-26-03	Repeal	5-1-03
105-040-0001	7-21-03	Amend	8-1-03	123-012-0025	3-26-03	Repeal	5-1-03
105-040-0010	7-21-03	Amend	8-1-03	123-012-0030	3-26-03	Repeal	5-1-03
105-040-0020	1-13-03	Amend(T)	2-1-03	123-012-0035	3-26-03	Repeal	5-1-03
105-040-0020	4-30-03	Amend	6-1-03	123-012-0040	3-26-03	Repeal	5-1-03
105-040-0020	7-21-03	Amend	8-1-03	123-012-0045	3-26-03	Repeal	5-1-03
105-040-0030	7-21-03	Amend	8-1-03	123-012-0050	3-26-03	Repeal	5-1-03
105-040-0040	1-13-03	Amend(T)	2-1-03	123-012-0055	3-26-03	Repeal	5-1-03
105-040-0040	4-30-03	Amend	6-1-03	123-012-0060	3-26-03	Repeal	5-1-03
105-040-0040	7-21-03	Amend	8-1-03	123-012-0065	3-26-03	Repeal	5-1-03
105-040-0050	7-21-03	Amend	8-1-03	123-012-0070	3-26-03	Repeal	5-1-03
105-040-0060	7-21-03	Amend	8-1-03	123-012-0075	3-26-03	Repeal	5-1-03
105-040-0070	7-21-03	Amend	8-1-03	123-012-0080	3-26-03	Repeal	5-1-03
105-040-0080	7-21-03	Amend	8-1-03	123-012-0085	3-26-03	Repeal	5-1-03
105-050-0004	5-21-03	Amend	6-1-03	123-012-0090	3-26-03	Repeal	5-1-03
105-050-0020	7-21-03	Amend	8-1-03	123-012-0095	3-26-03	Repeal	5-1-03
110-060-0010	3-19-03	Amend(T)	5-1-03	123-012-0100	3-26-03	Repeal	5-1-03
110-060-0010	5-22-03	Amend	7-1-03	123-012-0120	3-26-03	Repeal	5-1-03
110-060-0015	3-19-03	Amend(T)	5-1-03	123-012-0130	3-26-03	Repeal	5-1-03
110-060-0015	5-22-03	Amend	7-1-03	123-012-0140	3-26-03	Repeal	5-1-03
115-045-0005	8-1-03	Amend(T)	9-1-03	123-012-0145	3-26-03	Repeal	5-1-03
115-045-0010	8-1-03	Amend(T)	9-1-03	123-012-0150	3-26-03	Repeal	5-1-03
115-045-0020	8-1-03	Amend(T)	9-1-03	123-012-0155	3-26-03	Repeal	5-1-03
115-045-0021	8-1-03	Amend(T)	9-1-03	123-012-0160	3-26-03	Repeal	5-1-03
115-045-0023	8-1-03	Amend(T)	9-1-03	123-012-0165	3-26-03	Repeal	5-1-03
115-045-0025	8-1-03	Amend(T)	9-1-03	123-015-0005	3-26-03	Repeal	5-1-03
121-030-0040	6-11-03	Amend(T)	7-1-03	123-015-0010	3-26-03	Repeal	5-1-03
122-001-0025	6-25-03	Adopt(T)	8-1-03	123-015-0015	3-26-03	Repeal	5-1-03
122-001-0030	7-25-03	Adopt(T)	9-1-03	123-020-0000	3-4-03	Adopt(T)	4-1-03
122-065-0030	1-2-03	Adopt(T)	2-1-03	123-020-0001	8-30-03	Adopt(T)	10-1-03
123-001-0000	3-26-03	Repeal	5-1-03	123-020-0005	3-4-03	Amend(T)	4-1-03
123-001-0005	3-26-03	Repeal	5-1-03	123-020-0005	8-30-03	Amend(T)	10-1-03
123-001-0010	3-26-03	Repeal	5-1-03	123-020-0010	3-4-03	Amend(T)	4-1-03
123-001-0050	3-26-03	Adopt	5-1-03	123-020-0010	8-30-03	Amend(T)	10-1-03
123-001-0100	3-26-03	Adopt	5-1-03	123-020-0015	3-4-03	Amend(T)	4-1-03
123-001-0200	3-26-03	Adopt	5-1-03	123-020-0015	8-30-03	Amend(T)	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-020-0020	3-4-03	Amend(T)	4-1-03	123-065-3360	3-21-03	Amend	5-1-03
123-020-0020	8-30-03	Amend(T)	10-1-03	123-065-3400	3-21-03	Amend	5-1-03
123-020-0025	3-4-03	Amend(T)	4-1-03	123-065-3430	3-21-03	Amend	5-1-03
123-020-0025	8-30-03	Amend(T)	10-1-03	123-065-3460	3-21-03	Amend	5-1-03
123-020-0030	3-4-03	Amend(T)	4-1-03	123-065-3480	3-21-03	Amend	5-1-03
123-020-0030	8-30-03	Amend(T)	10-1-03	123-065-3500	3-21-03	Amend	5-1-03
123-020-0035	3-4-03	Amend(T)	4-1-03	123-065-3530	3-21-03	Amend	5-1-03
123-020-0035	8-30-03	Amend(T)	10-1-03	123-065-3560	3-21-03	Amend	5-1-03
123-020-0040	3-4-03	Amend(T)	4-1-03	123-065-3600	3-21-03	Amend	5-1-03
123-020-0040	8-30-03	Amend(T)	10-1-03	123-065-3800	3-21-03	Adopt	5-1-03
123-020-0050	3-4-03	Suspend	4-1-03	123-065-3830	3-21-03	Adopt	5-1-03
123-020-0050	8-30-03	Suspend	10-1-03	123-065-3850	3-21-03	Adopt	5-1-03
123-024-0011	3-26-03	Amend	5-1-03	123-065-4010	3-21-03	Amend	5-1-03
123-024-0021	3-26-03	Amend	5-1-03	123-068-0001	3-26-03	Repeal	5-1-03
123-040-0000	3-26-03	Repeal	5-1-03	123-068-0010	3-26-03	Repeal	5-1-03
123-040-0005	3-26-03	Repeal	5-1-03	123-068-0011	6-13-03	Adopt(T)	7-1-03
123-040-0010	3-26-03	Repeal	5-1-03	123-068-0020	3-26-03	Repeal	5-1-03
123-040-0015	3-26-03	Repeal	5-1-03	123-068-0030	3-26-03	Repeal	5-1-03
123-040-0020	3-26-03	Repeal	5-1-03	123-068-0101	6-13-03	Adopt(T)	7-1-03
123-040-0025	3-26-03	Repeal	5-1-03	123-068-0201	6-13-03	Adopt(T)	7-1-03
123-040-0030	3-26-03	Repeal	5-1-03	123-068-0301	6-13-03	Adopt(T)	7-1-03
123-040-0035	3-26-03	Repeal	5-1-03	123-072-0001	3-26-03	Repeal	5-1-03
123-043-0035	2-24-03	Amend(T)	4-1-03	123-072-0005	3-26-03	Repeal	5-1-03
123-043-0045	2-24-03	Amend(T)	4-1-03	123-072-0010	3-26-03	Repeal	5-1-03
123-043-0055	2-24-03	Amend(T)	4-1-03	123-073-0000	3-26-03	Repeal	5-1-03
123-043-0075	2-24-03	Amend(T)	4-1-03	123-073-0010	3-26-03	Repeal	5-1-03
123-049-0006	5-2-03	Adopt(T)	6-1-03	123-073-0020	3-26-03	Repeal	5-1-03
123-049-0061	5-2-03	Adopt(T)	6-1-03	123-073-0030	3-26-03	Repeal	5-1-03
123-050-0000	3-26-03	Repeal	5-1-03	123-075-0000	3-26-03	Amend	5-1-03
123-050-0010	3-26-03	Repeal	5-1-03	123-075-0005	3-26-03	Repeal	5-1-03
123-050-0020	3-26-03	Repeal	5-1-03	123-075-0010	3-26-03	Repeal	5-1-03
123-050-0030	3-26-03	Repeal	5-1-03	123-075-0015	3-26-03	Repeal	5-1-03
123-050-0040	3-26-03	Repeal	5-1-03	123-075-0020	3-26-03	Repeal	5-1-03
123-050-0050	3-26-03	Repeal	5-1-03	123-075-0025	3-26-03	Repeal	5-1-03
123-050-0060	3-26-03	Repeal	5-1-03	123-075-0030	3-26-03	Repeal	5-1-03
123-050-0070	3-26-03	Repeal	5-1-03	123-075-0035	3-26-03	Repeal	5-1-03
123-050-0080	3-26-03	Repeal	5-1-03	123-085-0000	3-26-03	Repeal	5-1-03
123-050-0090	3-26-03	Repeal	5-1-03	123-085-0010	3-26-03	Repeal	5-1-03
123-064-0000	3-26-03	Repeal	5-1-03	123-085-0020	3-26-03	Repeal	5-1-03
123-064-0010	3-26-03	Repeal	5-1-03	123-085-0030	3-26-03	Repeal	5-1-03
123-064-0020	3-26-03	Repeal	5-1-03	123-085-0040	3-26-03	Repeal	5-1-03
123-064-0030	3-26-03	Repeal	5-1-03	123-085-0050	3-26-03	Repeal	5-1-03
123-064-0040	3-26-03	Repeal	5-1-03	123-085-0060	3-26-03	Repeal	5-1-03
123-064-0050	3-26-03	Repeal	5-1-03	123-085-0070	3-26-03	Repeal	5-1-03
123-064-0060	3-26-03	Repeal	5-1-03	123-085-0080	3-26-03	Repeal	5-1-03
123-065-3000	3-21-03	Amend	5-1-03	123-086-0000	3-26-03	Repeal	5-1-03
123-065-3110	3-21-03	Amend	5-1-03	123-086-0010	3-26-03	Repeal	5-1-03
123-065-3130	3-21-03	Amend	5-1-03	123-086-0020	3-26-03	Repeal	5-1-03
123-065-3140	3-21-03	Amend	5-1-03	123-086-0030	3-26-03	Repeal	5-1-03
123-065-3170	3-21-03	Amend	5-1-03	123-086-0040	3-26-03	Repeal	5-1-03
123-065-3200	3-21-03	Amend	5-1-03	123-086-0050	3-26-03	Repeal	5-1-03
123-065-3230	3-21-03	Amend	5-1-03	123-086-0060	3-26-03	Repeal	5-1-03
123-065-3260	3-21-03	Repeal	5-1-03	123-086-0070	3-26-03	Repeal	5-1-03
123-065-3300	3-21-03	Amend	5-1-03	123-086-0080	3-26-03	Repeal	5-1-03
123-065-3330	3-21-03	Amend	5-1-03	123-087-0000	3-26-03	Amend	5-1-03
123-065-3330	3-21-03	Amend	5-1-03	123-087-0010	3-26-03	Amend	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-087-0020	3-26-03	Amend	5-1-03	125-055-0110	12-31-02	Adopt(T)	2-1-03
123-087-0030	3-26-03	Amend	5-1-03	125-055-0110	6-27-03	Adopt	8-1-03
123-087-0040	3-26-03	Amend	5-1-03	125-055-0115	12-31-02	Adopt(T)	2-1-03
123-096-0000	3-26-03	Repeal	5-1-03	125-055-0115	6-27-03	Adopt	8-1-03
123-096-0010	3-26-03	Repeal	5-1-03	125-055-0120	12-31-02	Adopt(T)	2-1-03
123-096-0020	3-26-03	Repeal	5-1-03	125-055-0120	6-27-03	Adopt	8-1-03
123-096-0030	3-26-03	Repeal	5-1-03	125-055-0125	12-31-02	Adopt(T)	2-1-03
123-096-0040	3-26-03	Repeal	5-1-03	125-055-0125	6-27-03	Adopt	8-1-03
123-096-0050	3-26-03	Repeal	5-1-03	125-055-0130	12-31-02	Adopt(T)	2-1-03
123-096-0060	3-26-03	Repeal	5-1-03	125-055-0130	6-27-03	Adopt	8-1-03
123-096-0070	3-26-03	Repeal	5-1-03	125-500-0000	12-27-02	Amend	2-1-03
123-135-0000	12-10-02	Amend	1-1-03	125-500-0005	12-27-02	Amend	2-1-03
123-135-0010	12-10-02	Amend	1-1-03	125-500-0010	12-27-02	Amend	2-1-03
123-135-0020	12-10-02	Amend	1-1-03	137-003-0036	4-1-03	Adopt	5-1-03
123-135-0030	12-10-02	Amend	1-1-03	137-003-0515	7-21-03	Amend	8-1-03
123-135-0040	12-10-02	Amend	1-1-03	137-003-0520	7-21-03	Amend	8-1-03
123-135-0050	12-10-02	Amend	1-1-03	137-003-0528	7-21-03	Amend	8-1-03
123-135-0060	12-10-02	Amend	1-1-03	137-003-0530	7-21-03	Amend	8-1-03
123-135-0070	12-10-02	Amend	1-1-03	137-003-0535	7-21-03	Amend	8-1-03
123-135-0080	12-10-02	Amend	1-1-03	137-003-0570	7-21-03	Amend	8-1-03
123-135-0087	12-10-02	Adopt	1-1-03	137-003-0572	7-21-03	Adopt	8-1-03
123-135-0090	12-10-02	Amend	1-1-03	137-003-0573	4-1-03	Adopt	5-1-03
123-135-0100	12-10-02	Amend	1-1-03	137-003-0575	7-21-03	Amend	8-1-03
123-135-0110	12-10-02	Amend	1-1-03	137-003-0580	7-21-03	Amend	8-1-03
123-155-0000	12-2-02	Adopt	1-1-03	137-003-0595	7-21-03	Amend	8-1-03
123-155-0100	12-2-02	Adopt	1-1-03	137-003-0600	7-21-03	Amend	8-1-03
123-155-0150	12-2-02	Adopt	1-1-03	137-003-0650	7-21-03	Amend	8-1-03
123-155-0200	12-2-02	Adopt	1-1-03	137-003-0655	7-21-03	Amend	8-1-03
123-155-0250	12-2-02	Adopt	1-1-03	137-008-0000	3-1-03	Amend	4-1-03
123-155-0270	12-2-02	Adopt	1-1-03	137-009-0000	12-12-02	Amend(T)	1-1-03
123-155-0300	12-2-02	Adopt	1-1-03	137-009-0000	6-11-03	Amend	7-1-03
123-155-0400	12-2-02	Adopt	1-1-03	137-009-0005	12-12-02	Amend(T)	1-1-03
125-020-0610	2-24-03	Amend	4-1-03	137-009-0005	6-11-03	Amend	7-1-03
125-030-0015	9-8-03	Repeal	10-1-03	137-009-0010	12-12-02	Amend(T)	1-1-03
125-045-0100	12-27-02	Amend	2-1-03	137-009-0010	6-11-03	Amend	7-1-03
125-045-0105	12-27-02	Amend	2-1-03	137-009-0015	12-12-02	Suspend	1-1-03
125-045-0110	12-27-02	Amend	2-1-03	137-009-0015	6-11-03	Repeal	7-1-03
125-045-0120	12-27-02	Amend	2-1-03	137-009-0020	12-12-02	Suspend	1-1-03
125-045-0130	12-27-02	Amend	2-1-03	137-009-0020	6-11-03	Repeal	7-1-03
125-045-0140	12-27-02	Amend	2-1-03	137-009-0025	12-12-02	Suspend	1-1-03
125-045-0150	12-27-02	Amend	2-1-03	137-009-0025	6-11-03	Repeal	7-1-03
125-045-0160	12-27-02	Amend	2-1-03	137-009-0030	12-12-02	Suspend	1-1-03
125-045-0160	4-7-03	Amend	5-1-03	137-009-0030	6-11-03	Repeal	7-1-03
125-055-0005	9-8-03	Adopt	10-1-03	137-009-0035	12-12-02	Suspend	1-1-03
125-055-0010	9-8-03	Adopt	10-1-03	137-009-0035	6-11-03	Repeal	7-1-03
125-055-0015	9-8-03	Adopt	10-1-03	137-009-0040	12-12-02	Suspend	1-1-03
125-055-0020	9-8-03	Adopt	10-1-03	137-009-0040	6-11-03	Repeal	7-1-03
125-055-0025	9-8-03	Adopt	10-1-03	137-009-0045	12-12-02	Amend(T)	1-1-03
125-055-0030	9-8-03	Adopt	10-1-03	137-009-0045	6-11-03	Amend	7-1-03
125-055-0035	9-8-03	Adopt	10-1-03	137-009-0055	12-12-02	Suspend	1-1-03
125-055-0040	9-8-03	Adopt	10-1-03	137-009-0055	6-11-03	Repeal	7-1-03
125-055-0045	9-8-03	Adopt	10-1-03	137-009-0060	12-12-02	Adopt(T)	1-1-03
125-055-0100	12-31-02	Adopt(T)	2-1-03	137-009-0060	6-11-03	Adopt	7-1-03
125-055-0100	6-27-03	Adopt	8-1-03	137-009-0065	12-12-02	Adopt(T)	1-1-03
125-055-0105	12-31-02	Adopt(T)	2-1-03	137-009-0065	6-11-03	Adopt	7-1-03
125-055-0105	6-27-03	Adopt	8-1-03	137-009-0100	12-12-02	Adopt(T)	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-009-0100	6-11-03	Adopt	7-1-03	141-035-0055	1-1-03	Amend	2-1-03
137-009-0120	12-12-02	Adopt(T)	1-1-03	141-035-0060	1-1-03	Amend	2-1-03
137-009-0120	6-11-03	Adopt	7-1-03	141-035-0065	1-1-03	Amend	2-1-03
137-040-0017	8-1-03	Amend(T)	9-1-03	141-035-0070	1-1-03	Amend	2-1-03
137-050-0320	5-12-03	Amend	5-1-03	141-040-0005	1-1-03	Amend	2-1-03
137-050-0330	5-12-03	Amend	5-1-03	141-040-0010	1-1-03	Amend	2-1-03
137-050-0333	5-12-03	Adopt	5-1-03	141-040-0020	1-1-03	Amend	2-1-03
137-050-0335	5-12-03	Amend	5-1-03	141-040-0030	1-1-03	Amend	2-1-03
137-050-0335	6-5-03	Amend(T)	7-1-03	141-040-0035	1-1-03	Amend	2-1-03
137-050-0340	5-12-03	Amend	5-1-03	141-040-0040	1-1-03	Amend	2-1-03
137-050-0350	5-12-03	Amend	5-1-03	141-040-0200	1-1-03	Amend	2-1-03
137-050-0360	5-12-03	Amend	5-1-03	141-040-0210	1-1-03	Repeal	2-1-03
137-050-0365	5-12-03	Repeal	5-1-03	141-040-0211	1-1-03	Amend	2-1-03
137-050-0390	5-12-03	Amend	5-1-03	141-040-0212	1-1-03	Amend	2-1-03
137-050-0400	5-12-03	Amend	5-1-03	141-040-0214	1-1-03	Amend	2-1-03
137-050-0405	5-12-03	Amend	5-1-03	141-040-0220	1-1-03	Amend	2-1-03
137-050-0410	5-12-03	Amend	5-1-03	141-045-0005	1-1-03	Amend	2-1-03
137-050-0420	5-12-03	Amend	5-1-03	141-045-0010	1-1-03	Amend	2-1-03
137-050-0430	5-12-03	Amend	5-1-03	141-045-0015	1-1-03	Adopt	2-1-03
137-050-0450	5-12-03	Amend	5-1-03	141-045-0020	1-1-03	Repeal	2-1-03
137-050-0455	5-12-03	Adopt	5-1-03	141-045-0021	1-1-03	Adopt	2-1-03
137-050-0460	5-12-03	Repeal	5-1-03	141-045-0024	1-1-03	Repeal	2-1-03
137-050-0465	5-12-03	Adopt	5-1-03	141-045-0031	1-1-03	Amend	2-1-03
137-050-0470	5-12-03	Repeal	5-1-03	141-045-0041	1-1-03	Amend	2-1-03
137-050-0475	5-12-03	Amend	5-1-03	141-045-0061	1-1-03	Amend	2-1-03
137-050-0490	5-12-03	Amend	5-1-03	141-045-0100	1-1-03	Amend	2-1-03
137-083-0000	3-1-03	Adopt	4-1-03	141-045-0105	1-1-03	Amend	2-1-03
137-083-0010	3-1-03	Adopt	4-1-03	141-045-0115	1-1-03	Amend	2-1-03
137-083-0020	3-1-03	Adopt	4-1-03	141-045-0120	1-1-03	Amend	2-1-03
137-083-0030	3-1-03	Adopt	4-1-03	141-045-0121	1-1-03	Adopt	2-1-03
137-083-0040	3-1-03	Adopt	4-1-03	141-045-0122	1-1-03	Adopt	2-1-03
137-083-0050	3-1-03	Adopt	4-1-03	141-045-0123	1-1-03	Adopt	2-1-03
141-030-0010	1-1-03	Amend	2-1-03	141-045-0124	1-1-03	Adopt	2-1-03
141-030-0015	1-1-03	Amend	2-1-03	141-045-0125	1-1-03	Amend	2-1-03
141-030-0025	1-1-03	Amend	2-1-03	141-045-0126	1-1-03	Adopt	2-1-03
141-030-0034	1-1-03	Amend	2-1-03	141-045-0130	1-1-03	Amend	2-1-03
141-030-0035	1-1-03	Amend	2-1-03	141-045-0150	1-1-03	Amend	2-1-03
141-030-0036	1-1-03	Amend	2-1-03	141-045-0155	1-1-03	Amend	2-1-03
141-030-0037	1-1-03	Amend	2-1-03	141-045-0160	1-1-03	Amend	2-1-03
141-030-0038	1-1-03	Amend	2-1-03	141-045-0170	1-1-03	Amend	2-1-03
141-030-0039	1-1-03	Amend	2-1-03	141-045-0180	1-1-03	Amend	2-1-03
141-030-0040	1-1-03	Adopt	2-1-03	141-045-0185	1-1-03	Adopt	2-1-03
141-035-0005	1-1-03	Amend	2-1-03	141-085-0005	1-15-03	Amend	1-1-03
141-035-0010	1-1-03	Amend	2-1-03	141-085-0006	1-15-03	Adopt	1-1-03
141-035-0013	1-1-03	Adopt	2-1-03	141-085-0006	7-10-03	Amend	8-1-03
141-035-0015	1-1-03	Amend	2-1-03	141-085-0010	1-15-03	Amend	1-1-03
141-035-0020	1-1-03	Amend	2-1-03	141-085-0010	7-10-03	Amend	8-1-03
141-035-0025	1-1-03	Amend	2-1-03	141-085-0015	1-15-03	Amend	1-1-03
141-035-0030	1-1-03	Amend	2-1-03	141-085-0015	7-10-03	Amend	8-1-03
141-035-0035	1-1-03	Amend	2-1-03	141-085-0018	1-15-03	Adopt	1-1-03
141-035-0040	1-1-03	Amend	2-1-03	141-085-0020	1-15-03	Amend	1-1-03
141-035-0045	1-1-03	Amend	2-1-03	141-085-0020	7-10-03	Amend	8-1-03
141-035-0046	1-1-03	Repeal	2-1-03	141-085-0022	1-15-03	Adopt	1-1-03
141-035-0047	1-1-03	Amend	2-1-03	141-085-0022	7-10-03	Amend	8-1-03
141-035-0048	1-1-03	Adopt	2-1-03	141-085-0024	1-15-03	Adopt	1-1-03
141-035-0050	1-1-03	Amend	2-1-03	141-085-0025	1-15-03	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
141-085-0065	1-15-03	Repeal	1-1-03	141-085-0252	1-15-03	Amend	1-1-03
141-085-0066	1-15-03	Adopt	1-1-03	141-085-0254	1-15-03	Amend	1-1-03
141-085-0070	1-15-03	Amend	1-1-03	141-085-0256	1-15-03	Amend	1-1-03
141-085-0070	7-10-03	Amend	8-1-03	141-085-0257	1-15-03	Adopt	1-1-03
141-085-0075	1-15-03	Amend	1-1-03	141-085-0258	1-15-03	Repeal	1-1-03
141-085-0075	7-10-03	Amend	8-1-03	141-085-0260	1-15-03	Repeal	1-1-03
141-085-0079	1-15-03	Adopt	1-1-03	141-085-0262	1-15-03	Amend	1-1-03
141-085-0080	1-15-03	Amend	1-1-03	141-085-0263	1-15-03	Adopt	1-1-03
141-085-0085	1-15-03	Amend	1-1-03	141-085-0264	1-15-03	Amend	1-1-03
141-085-0085	7-10-03	Amend	8-1-03	141-085-0266	1-15-03	Amend	1-1-03
141-085-0090	1-15-03	Amend	1-1-03	141-085-0300	1-15-03	Repeal	1-1-03
141-085-0090	7-10-03	Amend	8-1-03	141-085-0306	1-15-03	Repeal	1-1-03
141-085-0095	1-15-03	Adopt	1-1-03	141-085-0310	1-15-03	Repeal	1-1-03
141-085-0096	1-15-03	Adopt	1-1-03	141-085-0315	1-15-03	Repeal	1-1-03
141-085-0101	1-15-03	Repeal	1-1-03	141-085-0320	1-15-03	Repeal	1-1-03
141-085-0110	1-15-03	Repeal	1-1-03	141-085-0325	1-15-03	Repeal	1-1-03
141-085-0115	1-15-03	Amend	1-1-03	141-085-0330	1-15-03	Repeal	1-1-03
141-085-0115	7-10-03	Amend	8-1-03	141-085-0335	1-15-03	Repeal	1-1-03
141-085-0120	1-15-03	Repeal	1-1-03	141-085-0340	1-15-03	Repeal	1-1-03
141-085-0121	1-15-03	Adopt	1-1-03	141-085-0345	1-15-03	Repeal	1-1-03
141-085-0121	7-10-03	Amend	8-1-03	141-085-0350	1-15-03	Repeal	1-1-03
141-085-0125	1-15-03	Repeal	1-1-03	141-085-0355	1-15-03	Repeal	1-1-03
141-085-0126	1-15-03	Adopt	1-1-03	141-085-0360	1-15-03	Repeal	1-1-03
141-085-0126	7-10-03	Amend	8-1-03	141-085-0365	1-15-03	Repeal	1-1-03
141-085-0130	1-15-03	Repeal	1-1-03	141-085-0400	1-15-03	Amend	1-1-03
141-085-0131	1-15-03	Adopt	1-1-03	141-085-0400	7-10-03	Amend	8-1-03
141-085-0135	1-15-03	Repeal	1-1-03	141-085-0406	1-15-03	Amend	1-1-03
141-085-0136	1-15-03	Adopt	1-1-03	141-085-0410	1-15-03	Amend	1-1-03
141-085-0136	7-10-03	Amend	8-1-03	141-085-0415	1-15-03	Repeal	1-1-03
141-085-0140	1-15-03	Repeal	1-1-03	141-085-0421	1-15-03	Amend	1-1-03
141-085-0141	1-15-03	Adopt	1-1-03	141-085-0425	1-15-03	Amend	1-1-03
141-085-0141	7-10-03	Amend	8-1-03	141-085-0430	1-15-03	Amend	1-1-03
141-085-0145	1-15-03	Repeal	1-1-03	141-085-0436	1-15-03	Amend	1-1-03
141-085-0146	1-15-03	Adopt	1-1-03	141-085-0440	1-15-03	Amend	1-1-03
141-085-0150	1-15-03	Repeal	1-1-03	141-085-0445	1-15-03	Amend	1-1-03
141-085-0151	1-15-03	Adopt	1-1-03	141-085-0610	1-15-03	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
141-089-0100	7-10-03	Amend	8-1-03	141-089-0300	1-15-03	Adopt	1-1-03
141-089-0105	1-15-03	Adopt	1-1-03	141-089-0305	1-15-03	Adopt	1-1-03
141-089-0105	7-10-03	Amend	8-1-03	141-089-0310	1-15-03	Adopt	1-1-03
141-089-0110	1-15-03	Adopt	1-1-03	141-089-0310	7-10-03	Amend	8-1-03
141-089-0110	7-10-03	Amend	8-1-03	141-089-0400	7-10-03	Adopt	8-1-03
141-089-0115	1-15-03	Adopt	1-1-03	141-089-0405	7-10-03	Adopt	8-1-03
141-089-0115	7-10-03	Amend	8-1-03	141-089-0410	7-10-03	Adopt	8-1-03
141-089-0120	1-15-03	Adopt	1-1-03	141-089-0415	7-10-03	Adopt	8-1-03
141-089-0125	1-15-03	Adopt	1-1-03	141-089-0420	7-10-03	Adopt	8-1-03
141-089-0130	1-15-03	Adopt	1-1-03	141-089-0425	7-10-03	Adopt	8-1-03
141-089-0130	7-10-03	Amend	8-1-03	141-089-0430	7-10-03	Adopt	8-1-03
141-089-0135	1-15-03	Adopt	1-1-03	141-089-0500	7-10-03	Adopt	8-1-03
141-089-0140	1-15-03	Adopt	1-1-03	141-089-0505	7-10-03	Adopt	8-1-03
141-089-0145	1-15-03	Adopt	1-1-03	141-089-0510	7-10-03	Adopt	8-1-03
141-089-0150	1-15-03	Adopt	1-1-03	141-089-0515	7-10-03	Adopt	8-1-03
141-089-0150	7-10-03	Amend	8-1-03	141-089-0520	7-10-03	Adopt	8-1-03
141-089-0155	1-15-03	Adopt	1-1-03	141-089-0525	7-10-03	Adopt	8-1-03
141-089-0160	1-15-03	Adopt	1-1-03	141-089-0530	7-10-03	Adopt	8-1-03
141-089-0165	1-15-03	Adopt	1-1-03	141-122-0010	1-1-03	Amend	2-1-03
141-089-0165	7-10-03	Amend	8-1-03	141-122-0020	1-1-03	Amend	2-1-03
141-089-0170	1-15-03	Adopt	1-1-03	141-122-0030	1-1-03	Amend	2-1-03
141-089-0175	1-15-03	Adopt	1-1-03	141-122-0040	1-1-03	Amend	2-1-03
141-089-0175	7-10-03	Amend	8-1-03	141-122-0050	1-1-03	Amend	2-1-03
141-089-0180	1-15-03	Adopt	1-1-03	141-122-0060	1-1-03	Amend	2-1-03
141-089-0185	1-15-03	Adopt	1-1-03	141-122-0070	1-1-03	Amend	2-1-03
141-089-0185	7-10-03	Amend	8-1-03	141-122-0080	1-1-03	Amend	2-1-03
141-089-0190	1-15-03	Adopt	1-1-03	141-122-0090	1-1-03	Amend	2-1-03
141-089-0195	1-15-03	Adopt	1-1-03	141-122-0100	1-1-03	Amend	2-1-03
141-089-0200	1-15-03	Adopt	1-1-03	141-122-0105	1-1-03	Adopt	2-1-03
141-089-0200	7-10-03	Amend	8-1-03	141-122-0110	1-1-03	Amend	2-1-03
141-089-0205	1-15-03	Adopt	1-1-03	141-122-0120	1-1-03	Amend	2-1-03
141-089-0205	7-10-03	Amend	8-1-03	150-18.902(5)	12-31-02	Adopt	2-1-03
141-089-0210	1-15-03	Adopt	1-1-03	150-23.185	12-31-02	Am. & Ren.	2-1-03
141-089-0210	7-10-03	Amend	8-1-03	150-23.185-(A)	12-31-02	Am. & Ren.	2-1-03
141-089-0215	1-15-03	Adopt	1-1-03	150-29.375	12-31-02	Repeal	2-1-03
141-089-0215	7-10-03	Amend	8-1-03	150-305.145(2)	12-31-02	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
150-307.220-(B)	12-31-02	Amend	2-1-03	161-006-0025	1-14-03	Amend(T)	2-1-03
150-307.230-(B)	12-31-02	Amend	2-1-03	161-006-0025	5-1-03	Amend	6-1-03
150-307.240-(B)	12-31-02	Amend	2-1-03	161-006-0025	7-1-03	Amend(T)	8-1-03
150-307.804	7-31-03	Adopt	9-1-03	161-006-0175	5-1-03	Amend	6-1-03
150-308.156	7-31-03	Amend	9-1-03	161-010-0020	1-27-03	Amend	3-1-03
150-308.290(4)(b)	12-31-02	Amend	2-1-03	161-010-0020	5-1-03	Amend	6-1-03
150-308.290(7)-(B)	12-31-02	Amend	2-1-03	161-010-0025	5-1-03	Amend	6-1-03
150-308.560	12-31-02	Adopt	2-1-03	161-010-0035	5-1-03	Amend	6-1-03
150-308.704	12-31-02	Amend	2-1-03	161-010-0045	5-1-03	Amend	6-1-03
150-308.705	7-31-03	Repeal	9-1-03	161-010-0055	5-1-03	Amend	6-1-03
150-308.709	12-31-02	Amend	2-1-03	161-010-0080	5-1-03	Amend	6-1-03
150-308.712	12-31-02	Amend	2-1-03	161-015-0000	5-1-03	Amend	6-1-03
150-308.720	7-31-03	Repeal	9-1-03	161-020-0015	1-27-03	Amend	3-1-03
150-309.022(1)	12-31-02	Amend	2-1-03	161-020-0045	1-27-03	Amend	3-1-03
150-309.024-(B)	12-31-02	Repeal	2-1-03	161-020-0045	5-1-03	Amend	6-1-03
150-309.100	12-31-02	Am. & Ren.	2-1-03	161-020-0045	7-1-03	Amend(T)	8-1-03
150-309.100(1)	12-31-02	Am. & Ren.	2-1-03	161-020-0055	1-27-03	Amend	3-1-03
150-309.100(1)-(A)	12-31-02	Am. & Ren.	2-1-03	161-020-0055	5-1-03	Amend	6-1-03
150-309.100(2)-(C)	12-31-02	Am. & Ren.	2-1-03	161-020-0055	7-1-03	Amend(T)	8-1-03
150-309.100-(A)	12-31-02	Am. & Ren.	2-1-03	161-020-0080	1-27-03	Repeal	3-1-03
150-309.100(B)	7-31-03	Repeal	9-1-03	161-020-0110	5-1-03	Amend	6-1-03
150-310.110	12-31-02	Amend	2-1-03	161-020-0120	5-1-03	Amend	6-1-03
150-311-0668(1)(a)(B)	7-31-03	Amend	9-1-03	161-020-0140	7-1-03	Amend(T)	8-1-03
150-311.668(1)	7-31-03	Repeal	9-1-03	161-020-0150	1-27-03	Amend	3-1-03
150-311.668(1)(a)(A)	7-31-03	Amend	9-1-03	161-020-0150	5-1-03	Amend	6-1-03
150-311.670	7-31-03	Repeal	9-1-03	161-025-0060	1-27-03	Amend	3-1-03
150-311.676	7-31-03	Amend	9-1-03	161-050-0050	5-1-03	Amend	6-1-03
150-311.676(A)	7-31-03	Repeal	9-1-03	165-001-0000	9-3-03	Amend	10-1-03
150-311.684	7-31-03	Amend	9-1-03	165-001-0005	9-3-03	Amend	10-1-03
150-311.686(2)	7-31-03	Amend	9-1-03	165-001-0015	9-3-03	Amend	10-1-03
150-314-0430(1)(A)	7-31-03	Amend	9-1-03	165-001-0020	9-3-03	Repeal	10-1-03
150-314.260	12-31-02	Amend	2-1-03	165-001-0025	9-3-03	Amend	10-1-03
150-314.280(3)	12-31-02	Adopt	2-1-03	165-001-0030	9-3-03	Repeal	10-1-03
150-314.280-(N)	12-31-02	Amend	2-1-03	165-001-0035	9-3-03	Amend	10-1-03
150-314.280(N)	7-31-03	Amend	9-1-03	165-001-0040	9-3-03	Amend	10-1-03
150-314.385(1)-(B)	12-31-02	Amend	2-1-03	165-001-0045	9-3-03	Amend	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
165-001-0050	9-3-03	Amend	10-1-03	166-475-0030	2-14-03	Amend	3-1-03
165-001-0055	9-3-03	Amend	10-1-03	166-475-0035	2-14-03	Amend	3-1-03
165-001-0060	9-3-03	Repeal	10-1-03	166-475-0040	2-14-03	Amend	3-1-03
165-005-0035	9-3-03	Repeal	10-1-03	166-475-0045	2-14-03	Amend	3-1-03
165-005-0040	9-3-03	Repeal	10-1-03	166-475-0050	2-14-03	Amend	3-1-03
165-005-0050	9-3-03	Amend	10-1-03	166-475-0055	2-14-03	Amend	3-1-03
165-005-0055	9-3-03	Amend	10-1-03	166-475-0060	2-14-03	Amend	3-1-03
165-005-0060	9-3-03	Amend	10-1-03	166-475-0065	2-14-03	Amend	3-1-03
165-005-0070	9-3-03	Amend	10-1-03	166-475-0070	2-14-03	Amend	3-1-03
165-005-0080	9-3-03	Amend	10-1-03	166-475-0075	2-14-03	Amend	3-1-03
165-005-0090	9-3-03	Repeal	10-1-03	166-475-0080	2-14-03	Amend	3-1-03
165-005-0130	9-3-03	Amend	10-1-03	166-475-0085	2-14-03	Amend	3-1-03
165-005-0140	9-3-03	Repeal	10-1-03	166-475-0090	2-14-03	Amend	3-1-03
165-007-0030	9-3-03	Amend	10-1-03	166-475-0095	2-14-03	Amend	3-1-03
165-007-0050	9-3-03	Repeal	10-1-03	166-475-0100	2-14-03	Amend	3-1-03
165-007-0060	9-3-03	Repeal	10-1-03	166-475-0105	2-14-03	Amend	3-1-03
165-007-0070	9-3-03	Repeal	10-1-03	166-475-0110	2-14-03	Amend	3-1-03
165-007-0080	9-3-03	Repeal	10-1-03	177-005-0000	11-25-02	Repeal	1-1-03
165-007-0120	9-3-03	Repeal	10-1-03	177-010-0000	11-25-02	Amend	1-1-03
165-007-0130	9-3-03	Amend	10-1-03	177-010-0003	11-25-02	Adopt	1-1-03
165-007-0250	9-3-03	Amend	10-1-03	177-010-0005	11-25-02	Repeal	1-1-03
165-007-1070	7-18-03	Adopt(T)	9-1-03	177-010-0007	11-25-02	Amend	1-1-03
165-007-1090	8-29-03	Adopt(T)	10-1-03	177-010-0009	11-25-02	Amend	1-1-03
165-014-0005	12-5-02	Amend(T)	1-1-03	177-010-0020	11-25-02	Repeal	1-1-03
165-014-0005	4-25-03	Amend	6-1-03	177-010-0025	11-25-02	Amend	1-1-03
165-020-0005	12-5-02	Amend(T)	1-1-03	177-010-0040	11-25-02	Repeal	1-1-03
165-020-0005	4-25-03	Amend	6-1-03	177-010-0045	11-25-02	Amend	1-1-03
165-020-0008	9-3-03	Repeal	10-1-03	177-010-0050	11-25-02	Amend	1-1-03
165-020-0020	9-3-03	Amend	10-1-03	177-010-0055	11-25-02	Repeal	1-1-03
165-020-0025	9-3-03	Amend	10-1-03	177-010-0060	11-25-02	Repeal	1-1-03
165-020-0030	9-3-03	Amend	10-1-03	177-010-0065	11-25-02	Repeal	1-1-03
165-020-0040	9-3-03	Repeal	10-1-03	177-010-0070	11-25-02	Repeal	1-1-03
165-020-0045	9-3-03	Amend	10-1-03	177-010-0080	11-25-02	Amend	1-1-03
165-020-0050	9-3-03	Amend	10-1-03	177-010-0085	11-25-02	Amend	1-1-03
165-020-0060	9-3-03	Amend	10-1-03	177-010-0096	11-25-02	Repeal	1-1-03
165-020-0300	9-3-03	Repeal	10-1-03	177-010-0100	11-25-02	Amend	1-1-03
165-020-0310	9-3-03	Repeal	10-1-03	177-010-0110	11-25-02	Amend	1-1-03
165-020-0320	9-3-03	Repeal	10-1-03	177-010-0120	11-25-02	Amend	1-1-03
165-020-0330	9-3-03	Repeal	10-1-03	177-010-0300	11-25-02	Repeal	1-1-03
165-020-0340	9-3-03	Repeal	10-1-03	177-040-0000	11-25-02	Amend	1-1-03
165-020-0350	9-3-03	Repeal	10-1-03	177-040-0001	11-25-02	Amend	1-1-03
165-020-0360	9-3-03	Repeal	10-1-03	177-040-0003	11-25-02	Amend	1-1-03
165-020-0370	9-3-03	Repeal	10-1-03	177-040-0005	11-25-02	Amend	1-1-03
165-020-0380	9-3-03	Repeal	10-1-03	177-040-0010	11-25-02	Amend	1-1-03
165-020-0390	9-3-03	Repeal	10-1-03	177-040-0012	11-25-02	Repeal	1-1-03
165-020-0400	9-3-03	Repeal	10-1-03	177-040-0025	11-25-02	Amend	1-1-03
165-020-0410	9-3-03	Repeal	10-1-03	177-040-0030	3-14-03	Amend	4-1-03
165-020-0420	9-3-03	Repeal	10-1-03	177-040-0030	6-30-03	Amend	8-1-03
165-020-2020	3-18-03	Adopt(T)	5-1-03	177-040-0040	11-25-02	Amend	1-1-03
165-020-3030	3-18-03	Adopt(T)	5-1-03	177-040-0050	11-25-02	Amend	1-1-03
165-022-0020	2-27-03	Amend(T)	4-1-03	177-040-0051	11-25-02	Adopt	1-1-03
166-115-0010	2-14-03	Adopt	3-1-03	177-040-0051	3-14-03	Amend	4-1-03
166-475-0010	2-14-03	Amend	3-1-03	177-040-0051	6-30-03	Amend	8-1-03
166-475-0015	2-14-03	Amend	3-1-03	177-040-0052	11-25-02	Adopt	1-1-03
166-475-0020	2-14-03	Amend	3-1-03	177-040-0055	11-25-02	Amend	1-1-03
166-475-0025	2-14-03	Amend	3-1-03	177-040-0070	6-30-03	Amend	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
177-040-0105	11-25-02	Amend	1-1-03	177-051-0080	5-28-03	Adopt(T)	7-1-03
177-040-0110	3-14-03	Amend	4-1-03	177-051-0090	5-28-03	Adopt(T)	7-1-03
177-040-0110	6-30-03	Amend	8-1-03	177-051-0100	5-28-03	Adopt(T)	7-1-03
177-040-0115	3-14-03	Amend	4-1-03	177-051-0110	5-28-03	Adopt(T)	7-1-03
177-040-0115	6-30-03	Amend	8-1-03	177-051-0120	5-28-03	Adopt(T)	7-1-03
177-040-0120	3-14-03	Amend	4-1-03	177-051-0130	5-28-03	Adopt(T)	7-1-03
177-040-0120	6-30-03	Amend	8-1-03	177-065-0000	11-25-02	Repeal	1-1-03
177-040-0125	3-14-03	Amend	4-1-03	177-065-0005	11-25-02	Amend	1-1-03
177-040-0125	6-30-03	Amend	8-1-03	177-065-0015	11-25-02	Amend	1-1-03
177-040-0130	3-14-03	Amend	4-1-03	177-065-0020	11-25-02	Amend	1-1-03
177-040-0130	6-30-03	Amend	8-1-03	177-065-0025	11-25-02	Amend	1-1-03
177-040-0160	3-14-03	Amend	4-1-03	177-065-0030	11-25-02	Amend	1-1-03
177-040-0160	6-30-03	Amend	8-1-03	177-065-0035	11-25-02	Amend	1-1-03
177-040-0180	3-14-03	Amend	4-1-03	177-065-0040	11-25-02	Amend	1-1-03
177-040-0180	6-30-03	Amend	8-1-03	177-065-0045	11-25-02	Amend	1-1-03
177-040-0190	3-14-03	Amend	4-1-03	177-065-0055	11-25-02	Amend	1-1-03
177-040-0190	6-30-03	Amend	8-1-03	177-065-0065	11-25-02	Amend	1-1-03
177-046-0010	11-25-02	Adopt	1-1-03	177-065-0075	11-25-02	Amend	1-1-03
177-046-0020	11-25-02	Adopt	1-1-03	177-065-0080	11-25-02	Amend	1-1-03
177-046-0030	11-25-02	Adopt	1-1-03	177-065-0100	11-25-02	Repeal	1-1-03
177-046-0040	11-25-02	Adopt	1-1-03	177-070-0000	11-25-02	Repeal	1-1-03
177-046-0050	11-25-02	Adopt	1-1-03	177-070-0005	11-25-02	Amend	1-1-03
177-046-0060	11-25-02	Adopt	1-1-03	177-070-0010	11-25-02	Repeal	1-1-03
177-046-0070	11-25-02	Adopt	1-1-03	177-070-0015	11-25-02	Repeal	1-1-03
177-046-0080	11-25-02	Adopt	1-1-03	177-070-0025	11-25-02	Amend	1-1-03
177-046-0090	11-25-02	Adopt	1-1-03	177-070-0035	11-25-02	Amend	1-1-03
177-046-0100	11-25-02	Adopt	1-1-03	177-070-0055	11-25-02	Repeal	1-1-03
177-046-0110	11-25-02	Adopt	1-1-03	177-070-0060	11-25-02	Repeal	1-1-03
177-046-0120	11-25-02	Adopt	1-1-03	177-070-0065	11-25-02	Repeal	1-1-03
177-046-0130	11-25-02	Adopt	1-1-03	177-070-0070	11-25-02	Repeal	1-1-03
177-046-0140	11-25-02	Adopt	1-1-03	177-070-0075	11-25-02	Repeal	1-1-03
177-046-0150	11-25-02	Adopt	1-1-03	177-070-0080	11-25-02	Amend	1-1-03
177-046-0160	11-25-02	Adopt	1-1-03	177-075-0000	11-25-02	Amend	1-1-03
177-046-0170	11-25-02	Adopt	1-1-03	177-075-0005	11-25-02	Amend	1-1-03
177-050-0000	11-25-02	Repeal	1-1-03	177-075-0010	11-25-02	Amend	1-1-03
177-050-0002	11-25-02	Amend	1-1-03	177-075-0015	11-25-02	Amend	1-1-03
177-050-0010	11-25-02	Repeal	1-1-03	177-075-0020	11-25-02	Amend	1-1-03
177-050-0020	11-25-02	Amend	1-1-03	177-075-0027	11-25-02	Amend	1-1-03
177-050-0021	11-25-02	Repeal	1-1-03	177-075-0030	11-25-02	Amend	1-1-03
177-050-0023	11-25-02	Repeal	1-1-03	177-075-0035	11-25-02	Amend	1-1-03
177-050-0025	11-25-02	Amend	1-1-03	177-075-0045	11-25-02	Repeal	1-1-03
177-050-0027	11-25-02	Amend	1-1-03	177-075-0050	11-25-02	Repeal	1-1-03
177-050-0037	11-25-02	Amend	1-1-03	177-081-0000	11-25-02	Amend	1-1-03
177-050-0045	11-25-02	Repeal	1-1-03	177-081-0010	11-25-02	Amend	1-1-03
177-050-0051	11-25-02	Repeal	1-1-03	177-081-0020	11-25-02	Amend	1-1-03
177-050-0055	11-25-02	Repeal	1-1-03	177-081-0030	11-25-02	Amend	1-1-03
177-050-0065	11-25-02	Repeal	1-1-03	177-081-0035	11-25-02	Repeal	1-1-03
177-050-0075	11-25-02	Repeal	1-1-03	177-081-0040	11-25-02	Amend	1-1-03
177-051-0000	5-28-03	Adopt(T)	7-1-03	177-081-0050	11-25-02	Amend	1-1-03
177-051-0010	5-28-03	Adopt(T)	7-1-03	177-081-0060	11-25-02	Amend	1-1-03
177-051-0020	5-28-03	Adopt(T)	7-1-03	177-081-0080	11-25-02	Amend	1-1-03
177-051-0030	5-28-03	Adopt(T)	7-1-03	177-081-0090	11-25-02	Repeal	1-1-03
177-051-0040	5-28-03	Adopt(T)	7-1-03	177-082-0100	9-2-03	Suspend	10-1-03
177-051-0050	5-28-03	Adopt(T)	7-1-03	177-085-0005	2-3-03	Amend	3-1-03
177-051-0060	5-28-03	Adopt(T)	7-1-03	177-085-0005	4-15-03	Amend(T)	5-1-03
177-051-0070	5-28-03	Adopt(T)	7-1-03	177-085-0005	6-30-03	Amend	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
177-085-0035	2-3-03	Amend	3-1-03	177-099-0095	6-30-03	Adopt	8-1-03
177-085-0035	4-15-03	Amend(T)	5-1-03	177-099-0100	11-25-02	Amend	1-1-03
177-085-0035	6-30-03	Amend	8-1-03	177-099-0100	4-7-03	Amend(T)	5-1-03
177-085-0040	2-3-03	Amend	3-1-03	177-099-0100	6-30-03	Amend	8-1-03
177-085-0045	2-3-03	Amend	3-1-03	177-099-0110	11-25-02	Repeal	1-1-03
177-085-0050	2-3-03	Amend	3-1-03	177-100-0000	6-5-03	Amend(T)	7-1-03
177-085-0055	2-3-03	Repeal	3-1-03	177-100-0010	6-5-03	Amend(T)	7-1-03
177-085-0065	2-3-03	Amend	3-1-03	177-100-0070	6-5-03	Suspend	7-1-03
177-091-0000	9-2-03	Adopt(T)	10-1-03	177-100-0080	6-5-03	Amend(T)	7-1-03
177-091-0010	9-2-03	Adopt(T)	10-1-03	177-100-0090	6-5-03	Amend(T)	7-1-03
177-091-0020	9-2-03	Adopt(T)	10-1-03	177-100-0095	6-5-03	Amend(T)	7-1-03
177-091-0030	9-2-03	Adopt(T)	10-1-03	177-100-0130	6-5-03	Amend(T)	7-1-03
177-091-0040	9-2-03	Adopt(T)	10-1-03	177-100-0160	6-5-03	Amend(T)	7-1-03
177-091-0050	9-2-03	Adopt(T)	10-1-03	177-100-0170	6-5-03	Suspend	7-1-03
177-091-0060	9-2-03	Adopt(T)	10-1-03	177-100-0180	6-5-03	Amend(T)	7-1-03
177-091-0070	9-2-03	Adopt(T)	10-1-03	177-100-0185	6-5-03	Amend(T)	7-1-03
177-091-0080	9-2-03	Adopt(T)	10-1-03	177-200-0000	6-5-03	Amend(T)	7-1-03
177-091-0090	9-2-03	Adopt(T)	10-1-03	177-200-0005	6-5-03	Adopt(T)	7-1-03
177-091-0100	9-2-03	Adopt(T)	10-1-03	177-200-0010	6-5-03	Amend(T)	7-1-03
177-091-0110	9-2-03	Adopt(T)	10-1-03	177-200-0011	6-5-03	Adopt(T)	7-1-03
177-094-0000	11-25-02	Amend	1-1-03	177-200-0012	6-5-03	Adopt(T)	7-1-03
177-094-0010	11-25-02	Amend	1-1-03	177-200-0015	6-5-03	Amend(T)	7-1-03
177-094-0020	11-25-02	Amend	1-1-03	177-200-0020	6-5-03	Amend(T)	7-1-03
177-094-0030	11-25-02	Amend	1-1-03	177-200-0030	6-5-03	Suspend	7-1-03
177-094-0035	11-25-02	Repeal	1-1-03	177-200-0032	6-5-03	Adopt(T)	7-1-03
177-094-0040	11-25-02	Amend	1-1-03	177-200-0040	6-5-03	Suspend	7-1-03
177-094-0050	11-25-02	Amend	1-1-03	177-200-0050	6-5-03	Amend(T)	7-1-03
177-094-0060	11-25-02	Amend	1-1-03	177-200-0055	6-5-03	Adopt(T)	7-1-03
177-094-0085	11-25-02	Amend	1-1-03	177-200-0060	6-5-03	Amend(T)	7-1-03
177-094-0090	11-25-02	Repeal	1-1-03	177-200-0065	6-5-03	Adopt(T)	7-1-03
177-094-0095	11-25-02	Repeal	1-1-03	177-200-0070	6-5-03	Amend(T)	7-1-03
177-099-0000	11-25-02	Amend	1-1-03	177-200-0080	6-5-03	Adopt(T)	7-1-03
177-099-0000	4-7-03	Amend(T)	5-1-03	177-200-0090	6-5-03	Adopt(T)	7-1-03
177-099-0000	6-30-03	Amend	8-1-03	191-010-0000	8-1-03	Amend	8-1-03
177-099-0010	11-25-02	Amend	1-1-03	213-050-0045	7-1-03	Adopt	8-1-03
177-099-0020	11-25-02	Amend	1-1-03	213-050-0050	7-1-03	Adopt	8-1-03
177-099-0020	4-7-03	Amend(T)	5-1-03	213-050-0055	7-1-03	Adopt	8-1-03
177-099-0020	6-30-03	Amend	8-1-03	213-050-0060	7-1-03	Adopt	8-1-03
177-099-0030	11-25-02	Amend	1-1-03	213-050-0065	7-1-03	Adopt	8-1-03
177-099-0030	4-7-03	Amend(T)	5-1-03	213-050-0070	7-1-03	Adopt	8-1-03
177-099-0030	6-30-03	Amend	8-1-03	213-050-0075	7-1-03	Adopt	8-1-03
177-099-0035	11-25-02	Repeal	1-1-03	213-050-0080	7-1-03	Adopt	8-1-03
177-099-0040	11-25-02	Amend	1-1-03	220-005-0005	7-1-03	Amend	7-1-03
177-099-0040	4-7-03	Amend(T)	5-1-03	220-005-0010	1-1-03	Amend	1-1-03
177-099-0040	6-30-03	Amend	8-1-03	220-005-0010	7-1-03	Amend	7-1-03
177-099-0050	11-25-02	Amend	1-1-03	220-005-0015	7-1-03	Amend	7-1-03
177-099-0050	4-7-03	Amend(T)	5-1-03	220-005-0110	7-1-03	Amend	7-1-03
177-099-0050	6-30-03	Amend	8-1-03	220-005-0115	7-1-03	Amend	7-1-03
177-099-0060	11-25-02	Amend	1-1-03	220-005-0120	7-1-03	Amend	7-1-03
177-099-0080	11-25-02	Amend	1-1-03	220-005-0130	7-1-03	Amend	7-1-03
177-099-0080	4-7-03	Amend(T)	5-1-03	220-005-0135	7-1-03	Amend	7-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
220-005-0140	7-1-03	Amend	7-1-03	259-008-0010	4-11-03	Amend	5-1-03
220-005-0150	7-1-03	Amend	7-1-03	259-008-0010	4-18-03	Amend	6-1-03
220-005-0160	7-1-03	Amend	7-1-03	259-008-0020	11-18-02	Amend	1-1-03
220-005-0170	7-1-03	Amend	7-1-03	259-008-0035	11-18-02	Amend	1-1-03
220-005-0180	7-1-03	Amend	7-1-03	259-008-0060	11-21-02	Amend	1-1-03
220-005-0210	7-1-03	Amend	7-1-03	259-008-0062	11-18-02	Repeal	1-1-03
220-005-0220	7-1-03	Amend	7-1-03	259-008-0063	11-18-02	Repeal	1-1-03
220-005-0230	7-1-03	Amend	7-1-03	259-008-0065	11-18-02	Amend	1-1-03
220-005-0240	7-1-03	Amend	7-1-03	259-008-0065	4-22-03	Amend	6-1-03
220-005-0250	7-1-03	Amend	7-1-03	259-008-0067	4-22-03	Adopt	6-1-03
220-010-0010	7-1-03	Repeal	7-1-03	259-008-0070	11-18-02	Amend	1-1-03
220-010-0020	7-1-03	Amend	7-1-03	259-008-0070	4-11-03	Amend	5-1-03
220-010-0030	7-1-03	Amend	7-1-03	259-008-0080	11-18-02	Amend	1-1-03
220-010-0050	7-1-03	Amend	7-1-03	259-008-0085	11-18-02	Amend	1-1-03
220-010-0060	7-1-03	Amend	7-1-03	259-008-0087	11-18-02	Repeal	1-1-03
220-010-0200	7-1-03	Amend	7-1-03	259-009-0000	11-18-02	Adopt	1-1-03
220-010-0210	7-1-03	Repeal	7-1-03	259-009-0005	11-18-02	Adopt	1-1-03
220-010-0300	7-1-03	Adopt	7-1-03	259-009-0010	11-18-02	Adopt	1-1-03
220-020-0010	7-1-03	Repeal	7-1-03	259-009-0020	11-18-02	Adopt	1-1-03
220-020-0020	7-1-03	Repeal	7-1-03	259-009-0025	11-18-02	Adopt	1-1-03
220-020-0030	7-1-03	Repeal	7-1-03	259-009-0030	11-18-02	Adopt	1-1-03
220-020-0040	7-1-03	Repeal	7-1-03	259-009-0035	11-18-02	Adopt	1-1-03
220-030-0035	7-1-03	Amend	7-1-03	259-009-0062	11-18-02	Adopt	1-1-03
220-040-0015	7-1-03	Amend	7-1-03	259-009-0062	7-24-03	Amend	9-1-03
220-040-0025	7-1-03	Amend	7-1-03	259-009-0063	11-18-02	Adopt	1-1-03
220-040-0035	7-1-03	Amend	7-1-03	259-009-0067	11-18-02	Adopt	1-1-03
220-040-0045	7-1-03	Amend	7-1-03	259-009-0070	11-18-02	Adopt	1-1-03
220-040-0050	7-1-03	Amend	7-1-03	259-009-0072	11-18-02	Adopt	1-1-03
220-050-0100	7-1-03	Repeal	7-1-03	259-009-0080	11-18-02	Adopt	1-1-03
220-050-0105	7-1-03	Adopt	7-1-03	259-009-0085	11-18-02	Adopt	1-1-03
220-050-0110	7-1-03	Amend	7-1-03	259-009-0087	11-18-02	Adopt	1-1-03
220-050-0120	7-1-03	Repeal	7-1-03	259-009-0090	11-18-02	Adopt	1-1-03
220-050-0140	7-1-03	Amend	7-1-03	259-009-0100	11-18-02	Adopt	1-1-03
220-050-0150	7-1-03	Amend	7-1-03	259-020-0005	1-21-03	Amend	3-1-03
220-050-0200	7-1-03	Repeal	7-1-03	259-020-0010	1-21-03	Amend	3-1-03
220-050-0300	7-1-03	Adopt	7-1-03	259-020-0015	1-21-03	Amend	3-1-03
250-001-0020	1-14-03	Amend	2-1-03	259-020-0025	1-21-03	Amend	3-1-03
250-018-0010	3-31-03	Amend	5-1-03	259-025-0000	11-21-02	Amend	1-1-03
250-018-0060	3-31-03	Amend	5-1-03	259-060-0010	1-22-03	Amend	3-1-03
250-018-0080	3-31-03	Amend	5-1-03	259-060-0015	1-22-03	Amend	3-1-03
250-020-0082	7-1-03	Amend(T)	7-1-03	259-060-0020	6-16-03	Amend(T)	8-1-03
250-020-0171	7-7-03	Amend	8-1-03	259-060-0020	7-24-03	Amend	9-1-03
250-020-0204	6-12-03	Amend	7-1-03	259-060-0070	1-22-03	Amend	3-1-03
250-020-0380	1-14-03	Repeal	2-1-03	259-060-0120	1-22-03	Amend	3-1-03
255-032-0005	5-13-03	Amend	6-1-03	259-060-0130	1-22-03	Amend	3-1-03
255-032-0010	5-13-03	Amend	6-1-03	259-060-0300	1-22-03	Amend	3-1-03
255-032-0015	5-13-03	Amend	6-1-03	259-060-0300	6-16-03	Amend(T)	8-1-03
255-060-0009	6-13-03	Amend(T)	7-1-03	259-060-0300	7-24-03	Amend	9-1-03
255-070-0001	6-13-03	Amend(T)	7-1-03	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	274-020-0341	1-21-03	Amend(T)	3-1-03
259-008-0000	11-18-02	Amend	1-1-03	274-020-0341	3-24-03	Amend	5-1-03
259-008-0005	11-18-02	Amend	1-1-03	274-020-0341	4-21-03	Amend(T)	6-1-03
259-008-0010	11-21-02	Amend	1-1-03	274-020-0341	7-25-03	Amend(T)	9-1-03
259-008-0010	1-22-03	Amend	3-1-03	274-020-0341	8-1-03	Amend(T)	9-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
274-020-0341	8-15-03	Amend(T)	9-1-03	291-063-0030	4-17-03	Amend(T)	6-1-03
274-020-0341(T)	1-21-03	Suspend	3-1-03	291-063-0034	4-17-03	Adopt(T)	6-1-03
274-020-0341(T)	3-24-03	Repeal	5-1-03	291-063-0035	4-17-03	Suspend	6-1-03
274-020-0341(T)	7-25-03	Suspend	9-1-03	291-063-0036	4-17-03	Adopt(T)	6-1-03
274-020-0341(T)	8-1-03	Suspend	9-1-03	291-063-0040	4-17-03	Amend(T)	6-1-03
274-020-0341(T)	8-15-03	Suspend	9-1-03	291-063-0060	4-17-03	Adopt(T)	6-1-03
274-020-0445	4-7-03	Amend(T)	5-1-03	291-064-0060	5-19-03	Amend(T)	7-1-03
274-021-0005	4-23-03	Amend	6-1-03	291-077-0030	2-28-03	Amend(T)	4-1-03
274-021-0005(T)	4-23-03	Repeal	6-1-03	291-077-0030	8-22-03	Amend	10-1-03
274-028-0020	4-7-03	Amend(T)	5-1-03	291-109-0005	3-1-03	Repeal	3-1-03
274-040-0030	1-1-03	Amend(T)	2-1-03	291-109-0015	3-1-03	Repeal	3-1-03
274-040-0030	8-21-03	Amend(T)	10-1-03	291-109-0020	3-1-03	Repeal	3-1-03
274-045-0060	4-7-03	Amend(T)	5-1-03	291-109-0030	3-1-03	Repeal	3-1-03
274-045-0441	4-7-03	Amend(T)	5-1-03	291-109-0040	3-1-03	Repeal	3-1-03
291-019-0010	3-1-03	Am. & Ren.	3-1-03	291-109-0050	3-1-03	Repeal	3-1-03
291-024-0005	2-5-03	Amend	3-1-03	291-109-0060	3-1-03	Repeal	3-1-03
291-024-0010	2-5-03	Amend	3-1-03	291-109-0100	3-1-03	Adopt	3-1-03
291-024-0015	2-5-03	Amend	3-1-03	291-109-0120	3-1-03	Adopt	3-1-03
291-024-0016	2-5-03	Amend	3-1-03	291-109-0130	3-1-03	Adopt	3-1-03
291-024-0017	2-5-03	Repeal	3-1-03	291-109-0140	3-1-03	Adopt	3-1-03
291-024-0020	2-5-03	Amend	3-1-03	291-113-0005	4-2-03	Amend	5-1-03
291-024-0025	2-5-03	Amend	3-1-03	291-113-0010	4-2-03	Amend	5-1-03
291-024-0055	2-5-03	Amend	3-1-03	291-113-0015	4-2-03	Amend	5-1-03
291-024-0060	2-5-03	Amend	3-1-03	291-113-0020	4-2-03	Repeal	5-1-03
291-024-0070	2-5-03	Am. & Ren.	3-1-03	291-113-0021	4-2-03	Adopt	5-1-03
291-024-0080	2-5-03	Amend	3-1-03	291-113-0025	4-2-03	Repeal	5-1-03
291-025-0065	2-5-03	Am. & Ren.	3-1-03	291-113-0030	4-2-03	Amend	5-1-03
291-031-0085	2-21-03	Adopt(T)	4-1-03	291-113-0035	4-2-03	Amend	5-1-03
291-031-0085	8-20-03	Adopt	10-1-03	291-203-0010	2-7-03	Adopt(T)	3-1-03
291-031-0095	2-21-03	Adopt(T)	4-1-03	291-203-0010	8-6-03	Adopt	9-1-03
291-031-0095	8-20-03	Adopt	10-1-03	291-203-0020	2-7-03	Adopt(T)	3-1-03
291-031-0100	2-21-03	Adopt(T)	4-1-03	291-203-0020	8-6-03	Adopt	9-1-03
291-031-0100	8-20-03	Adopt	10-1-03	291-203-0030	2-7-03	Adopt(T)	3-1-03
291-031-0110	2-21-03	Adopt(T)	4-1-03	291-203-0030	8-6-03	Adopt	9-1-03
291-031-0110	8-20-03	Adopt	10-1-03	291-203-0040	8-6-03	Adopt	9-1-03
291-031-0120	2-21-03	Adopt(T)	4-1-03	291-203-0050	8-6-03	Adopt	9-1-03
291-031-0120	8-20-03	Adopt	10-1-03	291-203-0060	8-6-03	Adopt	9-1-03
291-031-0130	2-21-03	Adopt(T)	4-1-03	291-203-0070	8-6-03	Adopt	9-1-03
291-031-0130	8-20-03	Adopt	10-1-03	291-203-0080	8-6-03	Adopt	9-1-03
291-031-0140	2-21-03	Adopt(T)	4-1-03	291-203-0090	8-6-03	Adopt	9-1-03
291-031-0140	8-20-03	Adopt	10-1-03	291-203-0100	8-6-03	Adopt	9-1-03
291-031-0150	8-20-03	Adopt	10-1-03	309-018-0120	3-10-03	Amend(T)	3-1-03
291-031-0160	8-20-03	Adopt	10-1-03	309-018-0130	3-10-03	Amend(T)	3-1-03
291-031-0170	8-20-03	Adopt	10-1-03	309-018-0180	3-10-03	Amend(T)	3-1-03
291-031-0180	8-20-03	Adopt	10-1-03	309-036-0100	9-1-03	Adopt	9-1-03
291-031-0190	8-20-03	Adopt	10-1-03	309-036-0105	9-1-03	Adopt	9-1-03
291-031-0200	8-20-03	Adopt	10-1-03	309-036-0110	9-1-03	Adopt	9-1-03
291-031-0210	8-20-03	Adopt	10-1-03	309-036-0115	9-1-03	Adopt	9-1-03
291-062-0030	2-21-03	Amend(T)	4-1-03	309-036-0120	9-1-03	Adopt	9-1-03
291-062-0030	7-7-03	Amend	8-1-03	309-036-0125	9-1-03	Adopt	9-1-03
291-063-0005	4-17-03	Amend(T)	6-1-03	309-041-1110	7-1-03	Amend(T)	8-1-03
291-063-0010	4-17-03	Amend(T)	6-1-03	309-041-1115	7-1-03	Amend(T)	8-1-03
291-063-0015	4-17-03	Suspend	6-1-03	309-041-1120	7-1-03	Amend(T)	8-1-03
291-063-0016	4-17-03	Adopt(T)	6-1-03	309-041-1125	7-1-03	Amend(T)	8-1-03
291-063-0020	4-17-03	Suspend	6-1-03	309-041-1130	7-1-03	Amend(T)	8-1-03
291-063-0025	4-17-03	Am. & Ren.(T)	6-1-03	309-041-1135	7-1-03	Amend(T)	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-041-1138	7-1-03	Adopt(T)	8-1-03	331-405-0030	5-15-03	Amend	6-1-03
309-041-1140	7-1-03	Amend(T)	8-1-03	331-410-0000	2-1-03	Amend	3-1-03
309-041-1142	7-1-03	Amend(T)	8-1-03	331-420-0000	2-1-03	Amend	3-1-03
309-041-1145	7-1-03	Amend(T)	8-1-03	331-420-0010	2-1-03	Amend	3-1-03
309-041-1150	7-1-03	Amend(T)	8-1-03	331-420-0020	2-1-03	Amend	3-1-03
309-041-1165	7-1-03	Amend(T)	8-1-03	331-705-0060	1-1-03	Amend	2-1-03
309-041-1170	7-1-03	Amend(T)	8-1-03	333-008-0010	7-1-03	Amend	8-1-03
309-041-1750	7-1-03	Amend(T)	8-1-03	333-008-0020	7-1-03	Amend	8-1-03
309-041-1760	7-1-03	Amend(T)	8-1-03	333-008-0040	7-1-03	Amend	8-1-03
309-041-1780	7-1-03	Amend(T)	8-1-03	333-011-0047	2-20-03	Amend(T)	4-1-03
309-041-1800	7-1-03	Amend(T)	8-1-03	333-011-0047	7-31-03	Amend	9-1-03
309-041-1850	7-1-03	Amend(T)	8-1-03	333-011-0047(T)	7-31-03	Repeal	9-1-03
309-041-1860	7-1-03	Amend(T)	8-1-03	333-019-0017	5-22-03	Amend	7-1-03
309-041-1870	7-1-03	Amend(T)	8-1-03	333-050-0010	12-13-02	Amend	1-1-03
309-041-1880	7-1-03	Amend(T)	8-1-03	333-050-0020	12-13-02	Amend	1-1-03
309-041-1890	7-1-03	Amend(T)	8-1-03	333-050-0030	12-13-02	Amend	1-1-03
309-041-1910	7-1-03	Amend(T)	8-1-03	333-050-0040	12-13-02	Amend	1-1-03
309-041-2000	7-1-03	Adopt	8-1-03	333-050-0050	12-13-02	Amend	1-1-03
309-041-2010	7-1-03	Adopt	8-1-03	333-050-0060	12-13-02	Amend	1-1-03
309-041-2010	7-1-03	Amend(T)	8-1-03	333-050-0080	12-13-02	Amend	1-1-03
309-041-2020	7-1-03	Adopt	8-1-03	333-050-0090	12-13-02	Amend	1-1-03
309-041-2030	7-1-03	Adopt	8-1-03	333-050-0100	12-13-02	Amend	1-1-03
309-041-2030	7-1-03	Amend(T)	8-1-03	333-050-0130	12-13-02	Amend	1-1-03
309-041-2040	7-1-03	Adopt	8-1-03	333-050-0140	12-13-02	Amend	1-1-03
309-041-2040	7-1-03	Amend(T)	8-1-03	333-054-0000	12-24-02	Amend	2-1-03
309-041-2050	7-1-03	Adopt	8-1-03	333-054-0010	12-24-02	Amend	2-1-03
309-041-2060	7-1-03	Adopt	8-1-03	333-054-0020	12-24-02	Amend	2-1-03
309-041-2070	7-1-03	Adopt	8-1-03	333-054-0030	12-24-02	Amend	2-1-03
309-041-2070	7-1-03	Amend(T)	8-1-03	333-054-0040	12-24-02	Amend	2-1-03
309-041-2080	7-1-03	Adopt	8-1-03	333-054-0050	12-24-02	Amend	2-1-03
309-041-2080	7-1-03	Amend(T)	8-1-03	333-054-0060	12-24-02	Amend	2-1-03
309-041-2090	7-1-03	Adopt	8-1-03	333-054-0070	12-24-02	Amend	2-1-03
309-041-2090	7-1-03	Amend(T)	8-1-03	333-054-0090	12-24-02	Repeal	2-1-03
309-041-2100	7-1-03	Adopt	8-1-03	333-061-0030	8-15-03	Amend	9-1-03
309-041-2100	7-1-03	Suspend	8-1-03	333-061-0032	8-15-03	Amend	9-1-03
309-041-2110	7-1-03	Adopt	8-1-03	333-061-0036	8-15-03	Amend	9-1-03
309-041-2110	7-1-03	Amend(T)	8-1-03	333-061-0040	8-15-03	Amend	9-1-03
309-041-2120	7-1-03	Adopt	8-1-03	333-061-0042	8-15-03	Amend	9-1-03
309-041-2120	7-1-03	Amend(T)	8-1-03	333-061-0043	8-15-03	Amend	9-1-03
309-041-2130	7-1-03	Adopt	8-1-03	333-061-0045	8-15-03	Amend	9-1-03
309-041-2140	7-1-03	Adopt	8-1-03	333-061-0046	8-15-03	Amend	9-1-03
309-041-2150	7-1-03	Adopt	8-1-03	333-061-0050	8-15-03	Amend	9-1-03
309-041-2150	7-1-03	Amend(T)	8-1-03	333-061-0064	8-15-03	Amend	9-1-03
309-041-2160	7-1-03	Adopt	8-1-03	333-061-0076	8-15-03	Amend	9-1-03
309-041-2170	7-1-03	Adopt	8-1-03	333-061-0077	8-15-03	Amend	9-1-03
309-041-2170	7-1-03	Amend(T)	8-1-03	333-061-0097	8-15-03	Amend	9-1-03
309-041-2180	7-1-03	Adopt	8-1-03	333-061-0250	3-28-03	Amend	5-1-03
309-047-0065	7-1-03	Amend(T)	8-1-03	333-061-0260	3-28-03	Amend	5-1-03
330-130-0030	1-10-03	Amend	2-1-03	333-064-0025	7-1-03	Amend	6-1-03
330-130-0040	1-10-03	Amend	2-1-03	333-069-0005	6-20-03	Amend	8-1-03
330-130-0050	1-10-03	Amend	2-1-03	333-069-0015	6-20-03	Amend	8-1-03
330-130-0060	1-10-03	Amend	2-1-03	333-069-0020	6-20-03	Amend	8-1-03
330-130-0080	1-10-03	Amend	2-1-03	333-069-0030	6-20-03	Amend	8-1-03
331-205-0030	5-15-03	Amend	6-1-03	333-069-0040	6-20-03	Amend	8-1-03
331-400-0010	2-1-03	Amend	3-1-03	333-069-0050	6-20-03	Amend	8-1-03
331-405-0020	2-1-03	Amend	3-1-03	333-069-0060	6-20-03	Amend	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
333-100-0005	3-27-03	Amend	5-1-03	333-102-0360	3-27-03	Adopt	5-1-03
333-100-0057	3-27-03	Adopt	5-1-03	333-102-0365	3-27-03	Adopt	5-1-03
333-100-0060	3-27-03	Amend	5-1-03	333-103-0015	3-27-03	Amend	5-1-03
333-100-0065	3-27-03	Amend	5-1-03	333-105-0001	3-27-03	Amend	5-1-03
333-100-0070	3-27-03	Amend	5-1-03	333-105-0003	3-27-03	Adopt	5-1-03
333-100-0080	3-27-03	Adopt	5-1-03	333-105-0005	3-27-03	Amend	5-1-03
333-101-0001	3-27-03	Amend	5-1-03	333-105-0050	3-27-03	Adopt	5-1-03
333-101-0003	3-27-03	Adopt	5-1-03	333-105-0075	3-27-03	Adopt	5-1-03
333-101-0010	3-27-03	Amend	5-1-03	333-105-0101	3-27-03	Repeal	5-1-03
333-102-0001	3-27-03	Amend	5-1-03	333-105-0105	3-27-03	Repeal	5-1-03
333-102-0005	3-27-03	Amend	5-1-03	333-105-0110	3-27-03	Repeal	5-1-03
333-102-0010	3-27-03	Amend	5-1-03	333-105-0115	3-27-03	Repeal	5-1-03
333-102-0015	3-27-03	Amend	5-1-03	333-105-0120	3-27-03	Repeal	5-1-03
333-102-0020	3-27-03	Amend	5-1-03	333-105-0125	3-27-03	Repeal	5-1-03
333-102-0025	3-27-03	Amend	5-1-03	333-105-0130	3-27-03	Repeal	5-1-03
333-102-0030	3-27-03	Amend	5-1-03	333-105-0135	3-27-03	Repeal	5-1-03
333-102-0035	3-27-03	Amend	5-1-03	333-105-0140	3-27-03	Repeal	5-1-03
333-102-0040	3-27-03	Adopt	5-1-03	333-105-0201	3-27-03	Repeal	5-1-03
333-102-0075	3-27-03	Amend	5-1-03	333-105-0202	3-27-03	Repeal	5-1-03
333-102-0101	3-27-03	Amend	5-1-03	333-105-0205	3-27-03	Repeal	5-1-03
333-102-0103	3-27-03	Amend	5-1-03	333-105-0210	3-27-03	Repeal	5-1-03
333-102-0105	3-27-03	Amend	5-1-03	333-105-0301	3-27-03	Repeal	5-1-03
333-102-0110	3-27-03	Amend	5-1-03	333-105-0305	3-27-03	Repeal	5-1-03
333-102-0120	3-27-03	Amend	5-1-03	333-105-0310	3-27-03	Repeal	5-1-03
333-102-0125	3-27-03	Amend	5-1-03	333-105-0315	3-27-03	Repeal	5-1-03
333-102-0130	3-27-03	Amend	5-1-03	333-105-0320	3-27-03	Repeal	5-1-03
333-102-0135	3-27-03	Amend	5-1-03	333-105-0325	3-27-03	Repeal	5-1-03
333-102-0190	3-27-03	Adopt	5-1-03	333-105-0330	3-27-03	Repeal	5-1-03
333-102-0200	3-27-03	Amend	5-1-03	333-105-0335	3-27-03	Repeal	5-1-03
333-102-0203	3-27-03	Amend	5-1-03	333-105-0420	3-27-03	Adopt	5-1-03
333-102-0225	3-27-03	Repeal	5-1-03	333-105-0430	3-27-03	Adopt	5-1-03
333-102-0235	3-27-03	Amend	5-1-03	333-105-0440	3-27-03	Adopt	5-1-03
333-102-0240	3-27-03	Repeal	5-1-03	333-105-0450	3-27-03	Adopt	5-1-03
333-102-0245	3-27-03	Amend	5-1-03	333-105-0460	3-27-03	Adopt	5-1-03
333-102-0247	3-27-03	Adopt	5-1-03	333-105-0470	3-27-03	Adopt	5-1-03
333-102-0250	3-27-03	Amend	5-1-03	333-105-0480	3-27-03	Adopt	5-1-03
333-102-0255	3-27-03	Amend	5-1-03	333-105-0490	3-27-03	Adopt	5-1-03
333-102-0260	3-27-03	Amend	5-1-03	333-105-0500	3-27-03	Adopt	5-1-03
333-102-0265	3-27-03	Amend	5-1-03	333-105-0510	3-27-03	Adopt	5-1-03
333-102-0270	3-27-03	Amend	5-1-03	333-105-0520	3-27-03	Adopt	5-1-03
333-102-0275	3-27-03	Amend	5-1-03	333-105-0530	3-27-03	Adopt	5-1-03
333-102-0285	3-27-03	Amend	5-1-03	333-105-0540	3-27-03	Adopt	5-1-03
333-102-0287	3-27-03	Repeal	5-1-03	333-105-0550	3-27-03	Adopt	5-1-03
333-102-0290	3-27-03	Amend	5-1-03	333-105-0560	3-27-03	Adopt	5-1-03
333-102-0293	3-27-03	Amend	5-1-03	333-105-0570	3-27-03	Adopt	5-1-03
333-102-0295	3-27-03	Repeal	5-1-03	333-105-0580	3-27-03	Adopt	5-1-03
333-102-0300	3-27-03	Amend	5-1-03	333-105-0590	3-27-03	Adopt	5-1-03
333-102-0305	3-27-03	Amend	5-1-03	333-105-0600	3-27-03	Adopt	5-1-03
333-102-0310	3-27-03	Amend	5-1-03	333-105-0610	3-27-03	Adopt	5-1-03
333-102-0315	3-27-03	Amend	5-1-03	333-105-0620	3-27-03	Adopt	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
333-105-0700	3-27-03	Adopt	5-1-03	333-116-0340	3-27-03	Amend	5-1-03
333-105-0710	3-27-03	Adopt	5-1-03	333-116-0350	3-27-03	Amend	5-1-03
333-105-0720	3-27-03	Adopt	5-1-03	333-116-0360	3-27-03	Amend	5-1-03
333-105-0730	3-27-03	Adopt	5-1-03	333-116-0370	3-27-03	Amend	5-1-03
333-105-0740	3-27-03	Adopt	5-1-03	333-116-0380	3-27-03	Amend	5-1-03
333-105-0750	3-27-03	Adopt	5-1-03	333-116-0390	3-27-03	Amend	5-1-03
333-105-0760	3-27-03	Adopt	5-1-03	333-116-0410	3-27-03	Amend	5-1-03
333-106-0005	3-27-03	Amend	5-1-03	333-116-0420	3-27-03	Amend	5-1-03
333-106-0035	3-27-03	Amend	5-1-03	333-116-0430	3-27-03	Amend	5-1-03
333-106-0045	3-27-03	Amend	5-1-03	333-116-0440	3-27-03	Amend	5-1-03
333-106-0055	3-27-03	Amend	5-1-03	333-116-0450	3-27-03	Amend	5-1-03
333-106-0101	3-27-03	Amend	5-1-03	333-116-0460	3-27-03	Amend	5-1-03
333-106-0105	3-27-03	Amend	5-1-03	333-116-0470	3-27-03	Amend	5-1-03
333-106-0210	3-27-03	Amend	5-1-03	333-116-0480	3-27-03	Amend	5-1-03
333-106-0220	3-27-03	Amend	5-1-03	333-116-0490	3-27-03	Amend	5-1-03
333-106-0325	3-27-03	Amend	5-1-03	333-116-0495	3-27-03	Adopt	5-1-03
333-106-0575	3-27-03	Amend	5-1-03	333-116-0510	3-27-03	Repeal	5-1-03
333-106-0700	3-27-03	Amend	5-1-03	333-116-0515	3-27-03	Adopt	5-1-03
333-106-0710	3-27-03	Amend	5-1-03	333-116-0525	3-27-03	Adopt	5-1-03
333-106-0720	3-27-03	Amend	5-1-03	333-116-0530	3-27-03	Amend	5-1-03
333-106-0730	3-27-03	Amend	5-1-03	333-116-0540	3-27-03	Amend	5-1-03
333-106-0750	3-27-03	Adopt	5-1-03	333-116-0560	3-27-03	Amend	5-1-03
333-111-0010	3-27-03	Amend	5-1-03	333-116-0570	3-27-03	Amend	5-1-03
333-116-0010	3-27-03	Amend	5-1-03	333-116-0573	3-27-03	Adopt	5-1-03
333-116-0020	3-27-03	Amend	5-1-03	333-116-0577	3-27-03	Adopt	5-1-03
333-116-0025	3-27-03	Adopt	5-1-03	333-116-0580	3-27-03	Amend	5-1-03
333-116-0035	3-27-03	Adopt	5-1-03	333-116-0583	3-27-03	Adopt	5-1-03
333-116-0040	3-27-03	Amend	5-1-03	333-116-0585	3-27-03	Adopt	5-1-03
333-116-0050	3-27-03	Amend	5-1-03	333-116-0587	3-27-03	Adopt	5-1-03
333-116-0055	3-27-03	Adopt	5-1-03	333-116-0590	3-27-03	Amend	5-1-03
333-116-0057	3-27-03	Adopt	5-1-03	333-116-0600	3-27-03	Amend	5-1-03
333-116-0059	3-27-03	Adopt	5-1-03	333-116-0605	3-27-03	Adopt	5-1-03
333-116-0070	3-27-03	Amend	5-1-03	333-116-0610	3-27-03	Amend	5-1-03
333-116-0080	3-27-03	Amend	5-1-03	333-116-0640	3-27-03	Amend	5-1-03
333-116-0090	3-27-03	Amend	5-1-03	333-116-0660	3-27-03	Amend	5-1-03
333-116-0100	3-27-03	Amend	5-1-03	333-116-0670	3-27-03	Amend	5-1-03
333-116-0105	3-27-03	Adopt	5-1-03	333-116-0680	3-27-03	Amend	5-1-03
333-116-0107	3-27-03	Adopt	5-1-03	333-116-0720	3-27-03	Amend	5-1-03
333-116-0120	3-27-03	Amend	5-1-03	333-116-0730	3-27-03	Amend	5-1-03
333-116-0125	3-27-03	Amend	5-1-03	333-116-0830	3-27-03	Amend	5-1-03
333-116-0140	3-27-03	Amend	5-1-03	333-116-0905	3-27-03	Adopt	5-1-03
333-116-0150	3-27-03	Amend	5-1-03	333-116-0910	3-27-03	Adopt	5-1-03
333-116-0160	3-27-03	Amend	5-1-03	333-116-0915	3-27-03	Adopt	5-1-03
333-116-0165	3-27-03	Adopt	5-1-03	333-118-0020	3-27-03	Amend	5-1-03
333-116-0170	3-27-03	Amend	5-1-03	333-118-0040	3-27-03	Amend	5-1-03
333-116-0180	3-27-03	Amend	5-1-03	333-118-0050	3-27-03	Amend	5-1-03
333-116-0190	3-27-03	Amend	5-1-03	333-118-0060	3-27-03	Amend	5-1-03
333-116-0200	3-27-03	Amend	5-1-03	333-118-0070	3-27-03	Amend	5-1-03
333-116-0250	3-27-03	Amend	5-1-03	333-118-0080	3-27-03	Amend	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
333-118-0150	3-27-03	Amend	5-1-03	333-515-0060	12-10-02	Amend	1-1-03
333-118-0160	3-27-03	Amend	5-1-03	333-535-0040	2-20-03	Repeal	4-1-03
333-118-0170	3-27-03	Amend	5-1-03	333-535-0041	2-20-03	Adopt	4-1-03
333-118-0180	3-27-03	Amend	5-1-03	333-536-0000	2-1-03	Adopt	1-1-03
333-118-0190	3-27-03	Amend	5-1-03	333-536-0005	2-1-03	Adopt	1-1-03
333-118-0200	3-27-03	Amend	5-1-03	333-536-0010	2-1-03	Adopt	1-1-03
333-118-0800	3-27-03	Adopt	5-1-03	333-536-0015	2-1-03	Adopt	1-1-03
333-119-0030	3-27-03	Amend	5-1-03	333-536-0020	2-1-03	Adopt	1-1-03
333-119-0040	3-27-03	Amend	5-1-03	333-536-0025	2-1-03	Adopt	1-1-03
333-119-0080	3-27-03	Amend	5-1-03	333-536-0030	2-1-03	Adopt	1-1-03
333-119-0090	3-27-03	Amend	5-1-03	333-536-0035	2-1-03	Adopt	1-1-03
333-119-0100	3-27-03	Amend	5-1-03	333-536-0040	2-1-03	Adopt	1-1-03
333-119-0120	3-27-03	Amend	5-1-03	333-536-0045	2-1-03	Adopt	1-1-03
333-120-0015	3-27-03	Adopt	5-1-03	333-536-0050	2-1-03	Adopt	1-1-03
333-120-0017	3-27-03	Adopt	5-1-03	333-536-0055	2-1-03	Adopt	1-1-03
333-120-0100	3-27-03	Amend	5-1-03	333-536-0060	2-1-03	Adopt	1-1-03
333-120-0110	3-27-03	Amend	5-1-03	333-536-0065	2-1-03	Adopt	1-1-03
333-120-0130	3-27-03	Amend	5-1-03	333-536-0070	2-1-03	Adopt	1-1-03
333-120-0170	3-27-03	Amend	5-1-03	333-536-0075	2-1-03	Adopt	1-1-03
333-120-0180	3-27-03	Amend	5-1-03	333-536-0080	2-1-03	Adopt	1-1-03
333-120-0190	3-27-03	Amend	5-1-03	333-536-0085	2-1-03	Adopt	1-1-03
333-120-0200	3-27-03	Amend	5-1-03	333-536-0090	2-1-03	Adopt	1-1-03
333-120-0210	3-27-03	Amend	5-1-03	333-536-0095	2-1-03	Adopt	1-1-03
333-120-0215	3-27-03	Adopt	5-1-03	333-560-0010	7-31-03	Amend(T)	9-1-03
333-120-0220	3-27-03	Amend	5-1-03	333-635-0000	7-31-03	Suspend	9-1-03
333-120-0230	3-27-03	Amend	5-1-03	333-635-0010	7-31-03	Suspend	9-1-03
333-120-0240	3-27-03	Amend	5-1-03	333-635-0020	7-31-03	Suspend	9-1-03
333-120-0250	3-27-03	Amend	5-1-03	333-635-0030	7-31-03	Suspend	9-1-03
333-120-0320	3-27-03	Amend	5-1-03	333-700-0000	6-6-03	Adopt	7-1-03
333-120-0400	3-27-03	Amend	5-1-03	333-700-0005	6-6-03	Adopt	7-1-03
333-120-0420	3-27-03	Amend	5-1-03	333-700-0010	6-6-03	Adopt	7-1-03
333-120-0430	3-27-03	Amend	5-1-03	333-700-0015	6-6-03	Adopt	7-1-03
333-120-0450	3-27-03	Amend	5-1-03	333-700-0020	6-6-03	Adopt	7-1-03
333-120-0460	3-27-03	Amend	5-1-03	333-700-0025	6-6-03	Adopt	7-1-03
333-120-0520	3-27-03	Amend	5-1-03	333-700-0030	6-6-03	Adopt	7-1-03
333-120-0540	3-27-03	Amend	5-1-03	333-700-0035	6-6-03	Adopt	7-1-03
333-120-0550	3-27-03	Amend	5-1-03	333-700-0040	6-6-03	Adopt	7-1-03
333-120-0560	3-27-03	Amend	5-1-03	333-700-0045	6-6-03	Adopt	7-1-03
333-120-0600	3-27-03	Amend	5-1-03	333-700-0050	6-6-03	Adopt	7-1-03
333-120-0610	3-27-03	Amend	5-1-03	333-700-0055	6-6-03	Adopt	7-1-03
333-120-0640	3-27-03	Amend	5-1-03	333-700-0060	6-6-03	Adopt	7-1-03
333-120-0650	3-27-03	Amend	5-1-03	333-700-0065	6-6-03	Adopt	7-1-03
333-120-0660	3-27-03	Amend	5-1-03	333-700-0070	6-6-03	Adopt	7-1-03
333-120-0670	3-27-03	Amend	5-1-03	333-700-0075	6-6-03	Adopt	7-1-03
333-120-0680	3-27-03	Amend	5-1-03	333-700-0080	6-6-03	Adopt	7-1-03
333-120-0700	3-27-03	Amend	5-1-03	333-700-0085	6-6-03	Adopt	7-1-03
333-120-0710	3-27-03	Amend	5-1-03	333-700-0090	6-6-03	Adopt	7-1-03
333-120-0720	3-27-03	Amend	5-1-03	333-700-0095	6-6-03	Adopt	7-1-03
333-157-0045	1-1-03	Amend	1-1-03	333-700-0100	6-6-03	Adopt	7-1-03
333-162-1005	1-1-03	Adopt	1-1-03	333-700-0105	6-6-03	Adopt	7-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-700-0110	6-6-03	Adopt	7-1-03	340-012-0081	4-21-03	Amend	6-1-03
333-700-0115	6-6-03	Adopt	7-1-03	340-012-0082	1-31-03	Adopt	3-1-03
333-700-0120	6-6-03	Adopt	7-1-03	340-012-0083	1-31-03	Adopt	3-1-03
333-700-0125	6-6-03	Adopt	7-1-03	340-012-0090	1-31-03	Amend	3-1-03
333-700-0130	6-6-03	Adopt	7-1-03	340-015-0005	5-27-03	Repeal	7-1-03
334-001-0012	6-17-03	Amend	8-1-03	340-015-0010	5-27-03	Repeal	7-1-03
334-001-0060	1-24-03	Amend	3-1-03	340-015-0015	5-27-03	Repeal	7-1-03
334-010-0005	1-24-03	Amend	3-1-03	340-015-0020	5-27-03	Repeal	7-1-03
334-010-0010	1-24-03	Amend	3-1-03	340-015-0025	5-27-03	Repeal	7-1-03
334-010-0015	1-24-03	Amend	3-1-03	340-015-0030	5-27-03	Repeal	7-1-03
334-010-0016	1-24-03	Amend	3-1-03	340-015-0035	5-27-03	Repeal	7-1-03
334-010-0017	1-24-03	Amend	3-1-03	340-018-0020	5-27-03	Amend	7-1-03
334-010-0025	1-24-03	Amend	3-1-03	340-018-0030	5-27-03	Amend	7-1-03
334-010-0033	1-24-03	Amend	3-1-03	340-042-0025	12-20-02	Adopt	2-1-03
334-010-0050	1-24-03	Amend	3-1-03	340-042-0030	12-20-02	Adopt	2-1-03
335-060-0005	5-7-03	Amend	6-1-03	340-042-0040	12-20-02	Adopt	2-1-03
335-060-0010	5-7-03	Amend	6-1-03	340-042-0050	12-20-02	Adopt	2-1-03
335-060-0030	5-7-03	Amend	6-1-03	340-042-0060	12-20-02	Adopt	2-1-03
335-070-0010	5-7-03	Amend	6-1-03	340-042-0070	12-20-02	Adopt	2-1-03
335-070-0020	5-7-03	Amend	6-1-03	340-042-0080	12-20-02	Adopt	2-1-03
335-070-0060	5-7-03	Amend	6-1-03	340-045-0015	9-2-03	Amend	10-1-03
335-070-0065	5-7-03	Amend	6-1-03	340-045-0033	9-2-03	Amend	10-1-03
335-070-0075	5-7-03	Adopt	6-1-03	340-047-0005	1-31-03	Repeal	3-1-03
335-095-0010	5-7-03	Adopt	6-1-03	340-047-0010	1-31-03	Repeal	3-1-03
335-095-0020	5-7-03	Adopt	6-1-03	340-047-0015	1-31-03	Repeal	3-1-03
335-095-0030	5-7-03	Adopt	6-1-03	340-047-0020	1-31-03	Repeal	3-1-03
335-095-0040	5-7-03	Adopt	6-1-03	340-047-0025	1-31-03	Repeal	3-1-03
335-095-0050	5-7-03	Adopt	6-1-03	340-047-0035	1-31-03	Repeal	3-1-03
335-095-0060	5-7-03	Adopt	6-1-03	340-047-0040	1-31-03	Repeal	3-1-03
335-095-0065	5-7-03	Adopt	6-1-03	340-047-0100	1-31-03	Repeal	3-1-03
337-001-0025	8-15-03	Adopt	9-1-03	340-047-0110	1-31-03	Repeal	3-1-03
337-010-0006	8-15-03	Amend	9-1-03	340-047-0120	1-31-03	Repeal	3-1-03
337-010-0025	8-15-03	Amend	9-1-03	340-047-0130	1-31-03	Repeal	3-1-03
337-010-0030	11-18-02	Amend	1-1-03	340-047-0140	1-31-03	Repeal	3-1-03
337-010-0060	11-18-02	Amend	1-1-03	340-047-0150	1-31-03	Repeal	3-1-03
337-020-0000	8-15-03	Repeal	9-1-03	340-047-0160	1-31-03	Repeal	3-1-03
337-020-0015	8-15-03	Adopt	9-1-03	340-047-0170	1-31-03	Repeal	3-1-03
337-020-0020	8-15-03	Repeal	9-1-03	340-047-0180	1-31-03	Repeal	3-1-03
337-021-0040	11-18-02	Amend	1-1-03	340-047-0190	1-31-03	Repeal	3-1-03
337-021-0070	11-18-02	Adopt	1-1-03	340-047-0200	1-31-03	Repeal	3-1-03
337-021-0080	11-18-02	Adopt	1-1-03	340-047-0210	1-31-03	Repeal	3-1-03
338-010-0030	4-25-03	Amend(T)	6-1-03	340-047-0220	1-31-03	Repeal	3-1-03
339-010-0005	9-11-03	Amend	10-1-03	340-047-0230	1-31-03	Repeal	3-1-03
339-020-0020	3-4-03	Amend	4-1-03	340-047-0240	1-31-03	Repeal	3-1-03
339-020-0020	9-11-03	Amend	10-1-03	340-051-0005	9-2-03	Amend	10-1-03
339-020-0030	9-11-03	Amend	10-1-03	340-051-0007	9-2-03	Adopt	10-1-03
339-020-0040	9-11-03	Amend	10-1-03	340-051-0010	9-2-03	Amend	10-1-03
339-020-0050	9-11-03	Amend	10-1-03	340-051-0015	9-2-03	Amend	10-1-03
339-020-0060	9-11-03	Amend	10-1-03	340-051-0020	9-2-03	Amend	10-1-03
339-020-0070	9-11-03	Amend	10-1-03	340-051-0025	9-2-03	Amend	10-1-03
339-020-0100	9-11-03	Amend	10-1-03	340-051-0030	9-2-03	Amend	10-1-03
340-012-0045	1-31-03	Amend	3-1-03	340-051-0050	9-2-03	Amend	10-1-03
340-012-0049	1-31-03	Amend	3-1-03	340-051-0055	9-2-03	Amend	10-1-03
340-012-0067	2-14-03	Amend	3-1-03	340-051-0060	9-2-03	Amend	10-1-03
340-012-0069	1-31-03	Repeal	3-1-03	340-051-0065	9-2-03	Amend	10-1-03
340-012-0081	1-31-03	Adopt	3-1-03	340-051-0070	9-2-03	Amend	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
340-053-0025	5-27-03	Repeal	7-1-03	340-142-0070	1-31-03	Adopt	3-1-03
340-053-0027	5-27-03	Repeal	7-1-03	340-142-0080	1-31-03	Adopt	3-1-03
340-053-0030	5-27-03	Repeal	7-1-03	340-142-0090	1-31-03	Adopt	3-1-03
340-053-0035	5-27-03	Repeal	7-1-03	340-142-0100	1-31-03	Adopt	3-1-03
340-054-0005	5-27-03	Amend	7-1-03	340-142-0120	1-31-03	Adopt	3-1-03
340-054-0010	5-27-03	Amend	7-1-03	340-142-0130	1-31-03	Adopt	3-1-03
340-054-0015	5-27-03	Amend	7-1-03	340-150-0001	2-14-03	Amend	3-1-03
340-054-0020	5-27-03	Amend	7-1-03	340-150-0002	2-14-03	Repeal	3-1-03
340-054-0021	5-27-03	Adopt	7-1-03	340-150-0003	2-14-03	Repeal	3-1-03
340-054-0022	5-27-03	Adopt	7-1-03	340-150-0006	2-14-03	Adopt	3-1-03
340-054-0023	5-27-03	Adopt	7-1-03	340-150-0008	2-14-03	Adopt	3-1-03
340-054-0024	5-27-03	Adopt	7-1-03	340-150-0010	2-14-03	Amend	3-1-03
340-054-0025	5-27-03	Amend	7-1-03	340-150-0010	5-21-03	Amend(T)	7-1-03
340-054-0035	5-27-03	Amend	7-1-03	340-150-0015	2-14-03	Repeal	3-1-03
340-054-0055	5-27-03	Amend	7-1-03	340-150-0016	2-14-03	Repeal	3-1-03
340-054-0060	5-27-03	Amend	7-1-03	340-150-0019	2-14-03	Repeal	3-1-03
340-054-0065	5-27-03	Amend	7-1-03	340-150-0020	2-14-03	Amend	3-1-03
340-054-0080	5-27-03	Repeal	7-1-03	340-150-0021	2-14-03	Amend	3-1-03
340-054-0085	5-27-03	Amend	7-1-03	340-150-0030	2-14-03	Repeal	3-1-03
340-054-0087	5-27-03	Amend	7-1-03	340-150-0040	2-14-03	Repeal	3-1-03
340-054-0090	5-27-03	Amend	7-1-03	340-150-0050	2-14-03	Repeal	3-1-03
340-054-0093	5-27-03	Amend	7-1-03	340-150-0052	2-14-03	Adopt	3-1-03
340-054-0095	5-27-03	Amend	7-1-03	340-150-0060	2-14-03	Repeal	3-1-03
340-054-0097	5-27-03	Amend	7-1-03	340-150-0070	2-14-03	Repeal	3-1-03
340-108-0001	1-31-03	Repeal	3-1-03	340-150-0080	2-14-03	Amend	3-1-03
340-108-0002	1-31-03	Repeal	3-1-03	340-150-0090	2-14-03	Repeal	3-1-03
340-108-0010	1-31-03	Repeal	3-1-03	340-150-0100	2-14-03	Repeal	3-1-03
340-108-0020	1-31-03	Repeal	3-1-03	340-150-0102	2-14-03	Adopt	3-1-03
340-108-0030	1-31-03	Repeal	3-1-03	340-150-0110	2-14-03	Amend	3-1-03
340-108-0040	1-31-03	Repeal	3-1-03	340-150-0112	2-14-03	Repeal	3-1-03
340-108-0050	1-31-03	Repeal	3-1-03	340-150-0115	2-14-03	Am. & Ren.	3-1-03
340-108-0070	1-31-03	Repeal	3-1-03	340-150-0125	2-14-03	Am. & Ren.	3-1-03
340-108-0080	1-31-03	Repeal	3-1-03	340-150-0130	2-14-03	Repeal	3-1-03
340-122-0210	2-14-03	Amend	3-1-03	340-150-0135	2-14-03	Adopt	3-1-03
340-141-0001	1-31-03	Adopt	3-1-03	340-150-0140	2-14-03	Amend	3-1-03
340-141-0005	1-31-03	Adopt	3-1-03	340-150-0150	2-14-03	Amend	3-1-03
340-141-0010	1-31-03	Adopt	3-1-03	340-150-0152	2-14-03	Adopt	3-1-03
340-141-0100	1-31-03	Adopt	3-1-03	340-150-0156	2-14-03	Adopt	3-1-03
340-141-0130	1-31-03	Adopt	3-1-03	340-150-0160	2-14-03	Amend	3-1-03
340-141-0140	1-31-03	Adopt	3-1-03	340-150-0163	2-14-03	Amend	3-1-03
340-141-0150	1-31-03	Adopt	3-1-03	340-150-0166	2-14-03	Amend	3-1-03
340-141-0160	1-31-03	Adopt	3-1-03	340-150-0167	2-14-03	Adopt	3-1-03
340-141-0170	1-31-03	Adopt	3-1-03	340-150-0168	2-14-03	Adopt	3-1-03
340-141-0180	1-31-03	Adopt	3-1-03	340-150-0180	2-14-03	Adopt	3-1-03
340-141-0190	1-31-03	Adopt	3-1-03	340-150-0200	2-14-03	Adopt	3-1-03
340-141-0200	1-31-03	Adopt	3-1-03	340-150-0250	2-14-03	Adopt	3-1-03
340-141-0210	1-31-03	Adopt	3-1-03	340-150-0300	2-14-03	Adopt	3-1-03
340-141-0220	1-31-03	Adopt	3-1-03	340-150-0302	2-14-03	Adopt	3-1-03
340-141-0230	1-31-03	Adopt	3-1-03	340-150-0310	2-14-03	Adopt	3-1-03
340-141-0240	1-31-03	Adopt	3-1-03	340-150-0320	2-14-03	Adopt	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
340-150-0410	2-14-03	Adopt	3-1-03	340-230-0390	2-6-03	Adopt	3-1-03
340-150-0420	2-14-03	Adopt	3-1-03	340-230-0395	2-6-03	Adopt	3-1-03
340-150-0430	2-14-03	Adopt	3-1-03	340-238-0040	2-6-03	Amend	3-1-03
340-150-0435	2-14-03	Adopt	3-1-03	340-238-0050	2-6-03	Amend	3-1-03
340-150-0440	2-14-03	Adopt	3-1-03	340-238-0060	2-6-03	Amend	3-1-03
340-150-0445	2-14-03	Adopt	3-1-03	340-244-0200	2-6-03	Amend	3-1-03
340-150-0450	2-14-03	Adopt	3-1-03	340-244-0210	2-6-03	Amend	3-1-03
340-150-0455	2-14-03	Adopt	3-1-03	340-244-0220	2-6-03	Amend	3-1-03
340-150-0460	2-14-03	Adopt	3-1-03	340-244-0230	2-6-03	Amend	3-1-03
340-150-0465	2-14-03	Adopt	3-1-03	340-248-0010	12-23-02	Amend	2-1-03
340-150-0470	2-14-03	Adopt	3-1-03	340-248-0010	6-21-03	Amend	7-1-03
340-150-0500	2-14-03	Adopt	3-1-03	340-248-0100	12-23-02	Amend	2-1-03
340-150-0510	2-14-03	Adopt	3-1-03	340-248-0100	6-21-03	Amend	7-1-03
340-150-0520	2-14-03	Adopt	3-1-03	340-248-0120	12-23-02	Amend	2-1-03
340-150-0540	2-14-03	Adopt	3-1-03	340-248-0120	6-21-03	Amend	7-1-03
340-150-0550	2-14-03	Adopt	3-1-03	340-248-0130	12-23-02	Amend	2-1-03
340-150-0555	2-14-03	Adopt	3-1-03	340-248-0130	6-21-03	Amend	7-1-03
340-150-0560	2-14-03	Adopt	3-1-03	340-248-0140	12-23-02	Amend	2-1-03
340-151-0001	2-14-03	Adopt	3-1-03	340-248-0140	6-21-03	Amend	7-1-03
340-151-0010	2-14-03	Adopt	3-1-03	340-248-0150	12-23-02	Amend	2-1-03
340-151-0015	2-14-03	Adopt	3-1-03	340-248-0150	6-21-03	Amend	7-1-03
340-151-0020	2-14-03	Adopt	3-1-03	340-248-0160	6-21-03	Amend	7-1-03
340-151-0025	2-14-03	Adopt	3-1-03	340-248-0180	12-23-02	Amend	2-1-03
340-160-0005	2-14-03	Amend	3-1-03	340-248-0180	6-21-03	Amend	7-1-03
340-160-0010	2-14-03	Amend	3-1-03	340-248-0205	12-23-02	Amend	2-1-03
340-160-0020	2-14-03	Amend	3-1-03	340-248-0205	6-21-03	Amend	7-1-03
340-160-0025	2-14-03	Amend	3-1-03	340-248-0210	12-23-02	Amend	2-1-03
340-160-0030	2-14-03	Amend	3-1-03	340-248-0210	6-21-03	Amend	7-1-03
340-160-0035	2-14-03	Amend	3-1-03	340-248-0220	12-23-02	Amend	2-1-03
340-160-0040	2-14-03	Amend	3-1-03	340-248-0220	6-21-03	Amend	7-1-03
340-160-0054	2-14-03	Amend	3-1-03	340-248-0240	12-23-02	Amend	2-1-03
340-160-0150	2-14-03	Amend	3-1-03	340-248-0240	6-21-03	Amend	7-1-03
340-200-0040	2-6-03	Amend	3-1-03	340-248-0250	12-23-02	Amend	2-1-03
340-220-0030	7-23-03	Amend	9-1-03	340-248-0250	6-21-03	Amend	7-1-03
340-220-0040	7-23-03	Amend	9-1-03	340-248-0260	12-23-02	Amend	2-1-03
340-220-0050	7-23-03	Amend	9-1-03	340-248-0260	6-21-03	Amend	7-1-03
340-230-0010	2-6-03	Amend	3-1-03	340-248-0270	12-23-02	Amend	2-1-03
340-230-0020	2-6-03	Amend	3-1-03	340-248-0270	6-21-03	Amend	7-1-03
340-230-0030	2-6-03	Amend	3-1-03	340-248-0275	12-23-02	Amend	2-1-03
340-230-0120	2-6-03	Amend	3-1-03	340-248-0275	6-21-03	Amend	7-1-03
340-230-0300	2-6-03	Amend	3-1-03	340-248-0280	12-23-02	Amend	2-1-03
340-230-0310	2-6-03	Amend	3-1-03	340-248-0280	6-21-03	Amend	7-1-03
340-230-0320	2-6-03	Amend	3-1-03	340-248-0290	12-23-02	Amend	2-1-03
340-230-0330	2-6-03	Amend	3-1-03	340-248-0290	6-21-03	Amend	7-1-03
340-230-0340	2-6-03	Amend	3-1-03	345-001-0010	9-3-03	Amend	10-1-03
340-230-0350	2-6-03	Amend	3-1-03	345-001-0090	9-3-03	Amend	10-1-03
340-230-0360	2-6-03	Repeal	3-1-03	345-015-0085	9-3-03	Amend	10-1-03
340-230-0365	2-6-03	Adopt	3-1-03	345-015-0110	9-3-03	Amend	10-1-03
340-230-0370	2-6-03	Adopt	3-1-03	345-015-0190	9-3-03	Amend	10-1-03
340-230-0373	2-6-03	Adopt	3-1-03	345-015-0310	9-3-03	Amend	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
345-021-0090	9-3-03	Amend	10-1-03	350-070-0090	8-1-03	Amend	8-1-03
345-022-0000	9-3-03	Amend	10-1-03	350-070-0100	8-1-03	Repeal	8-1-03
345-022-0022	9-3-03	Amend	10-1-03	350-070-0110	8-1-03	Amend	8-1-03
345-022-0030	9-3-03	Amend	10-1-03	350-070-0120	8-1-03	Amend	8-1-03
345-022-0040	9-3-03	Amend	10-1-03	350-070-0130	8-1-03	Amend	8-1-03
345-022-0080	9-3-03	Amend	10-1-03	350-070-0140	8-1-03	Amend	8-1-03
345-024-0550	9-3-03	Amend	10-1-03	350-070-0150	8-1-03	Amend	8-1-03
345-024-0560	9-3-03	Amend	10-1-03	350-070-0160	8-1-03	Amend	8-1-03
345-024-0590	9-3-03	Amend	10-1-03	350-070-0170	8-1-03	Amend	8-1-03
345-024-0600	9-3-03	Amend	10-1-03	350-070-0180	8-1-03	Repeal	8-1-03
345-024-0620	9-3-03	Amend	10-1-03	350-070-0190	8-1-03	Amend	8-1-03
345-024-0630	9-3-03	Amend	10-1-03	350-070-0200	8-1-03	Amend	8-1-03
345-024-0680	9-3-03	Adopt	10-1-03	350-070-0210	8-1-03	Amend	8-1-03
345-026-0080	9-3-03	Amend	10-1-03	350-070-0220	8-1-03	Amend	8-1-03
345-026-0390	12-3-02	Amend	1-1-03	350-070-0225	8-1-03	Adopt	8-1-03
345-026-0390	9-3-03	Amend	10-1-03	350-070-0230	8-1-03	Amend	8-1-03
345-027-0023	9-3-03	Amend	10-1-03	350-070-0240	8-1-03	Adopt	8-1-03
345-027-0060	9-3-03	Amend	10-1-03	410-001-0030	11-22-02	Adopt	1-1-03
345-027-0070	9-3-03	Amend	10-1-03	410-001-0100	3-21-03	Adopt(T)	5-1-03
345-027-0110	9-3-03	Amend	10-1-03	410-001-0100	8-22-03	Adopt	10-1-03
350-060-0020	8-1-03	Amend	8-1-03	410-001-0110	3-21-03	Adopt(T)	5-1-03
350-060-0040	8-1-03	Amend	8-1-03	410-001-0110	8-22-03	Adopt	10-1-03
350-060-0042	8-1-03	Adopt	8-1-03	410-001-0120	3-21-03	Adopt(T)	5-1-03
350-060-0045	8-1-03	Adopt	8-1-03	410-001-0120	8-22-03	Adopt	10-1-03
350-060-0050	8-1-03	Amend	8-1-03	410-001-0130	3-21-03	Adopt(T)	5-1-03
350-060-0055	8-1-03	Adopt	8-1-03	410-001-0130	8-22-03	Adopt	10-1-03
350-060-0060	8-1-03	Amend	8-1-03	410-001-0140	3-21-03	Adopt(T)	5-1-03
350-060-0070	8-1-03	Amend	8-1-03	410-001-0140	8-22-03	Adopt	10-1-03
350-060-0075	8-1-03	Adopt	8-1-03	410-001-0150	3-21-03	Adopt(T)	5-1-03
350-060-0080	8-1-03	Amend	8-1-03	410-001-0150	8-22-03	Adopt	10-1-03
350-060-0090	8-1-03	Amend	8-1-03	410-001-0160	3-21-03	Adopt(T)	5-1-03
350-060-0100	8-1-03	Amend	8-1-03	410-001-0160	8-22-03	Adopt	10-1-03
350-060-0120	8-1-03	Amend	8-1-03	410-001-0170	3-21-03	Adopt(T)	5-1-03
350-060-0130	8-1-03	Amend	8-1-03	410-001-0170	8-22-03	Adopt	10-1-03
350-060-0140	8-1-03	Repeal	8-1-03	410-001-0180	3-21-03	Adopt(T)	5-1-03
350-060-0150	8-1-03	Amend	8-1-03	410-001-0180	8-22-03	Adopt	10-1-03
350-060-0160	8-1-03	Amend	8-1-03	410-001-0190	3-21-03	Adopt(T)	5-1-03
350-060-0170	8-1-03	Amend	8-1-03	410-001-0190	8-22-03	Adopt	10-1-03
350-060-0180	8-1-03	Amend	8-1-03	410-001-0200	3-21-03	Adopt(T)	5-1-03
350-060-0190	8-1-03	Amend	8-1-03	410-001-0200	8-22-03	Adopt	10-1-03
350-060-0200	8-1-03	Amend	8-1-03	410-014-0000	4-1-03	Adopt	5-1-03
350-060-0205	8-1-03	Adopt	8-1-03	410-014-0010	4-1-03	Adopt	5-1-03
350-060-0210	8-1-03	Amend	8-1-03	410-014-0020	4-1-03	Adopt	5-1-03
350-060-0220	8-1-03	Amend	8-1-03	410-014-0030	4-1-03	Adopt	5-1-03
350-060-0240	8-1-03	Adopt	8-1-03	410-014-0040	4-1-03	Adopt	5-1-03
350-070-0000	8-1-03	Amend	8-1-03	410-014-0050	4-1-03	Adopt	5-1-03
350-070-0020	8-1-03	Amend	8-1-03	410-014-0060	4-1-03	Adopt	5-1-03
350-070-0040	8-1-03	Amend	8-1-03	410-014-0070	4-1-03	Adopt	5-1-03
350-070-0042	8-1-03	Adopt	8-1-03	410-120-0000	2-1-03	Amend	3-1-03
350-070-0045	8-1-03	Adopt	8-1-03	410-120-0000	10-1-03	Amend	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-120-0250	10-1-03	Adopt	10-1-03	410-121-0140	8-1-03	Amend	9-1-03
410-120-1160	10-1-03	Amend	10-1-03	410-121-0140	10-1-03	Amend	10-1-03
410-120-1190	2-1-03	Adopt	3-1-03	410-121-0140(T)	4-1-03	Suspend	5-1-03
410-120-1195	4-1-03	Adopt(T)	5-1-03	410-121-0140(T)	4-15-03	Suspend	5-1-03
410-120-1195	6-30-03	Adopt	8-1-03	410-121-0140(T)	6-1-03	Suspend	7-1-03
410-120-1195	7-1-03	Amend(T)	8-1-03	410-121-0146	1-1-03	Amend	2-1-03
410-120-1195	9-1-03	Amend	10-1-03	410-121-0150	6-1-03	Amend	7-1-03
410-120-1200	2-1-03	Amend	3-1-03	410-121-0150	7-1-03	Amend(T)	7-1-03
410-120-1200	3-1-03	Amend	4-1-03	410-121-0150	8-1-03	Amend	9-1-03
410-120-1200	3-14-03	Amend(T)	4-1-03	410-121-0153	2-1-03	Adopt	3-1-03
410-120-1200	7-1-03	Amend(T)	8-1-03	410-121-0153	3-1-03	Repeal	4-1-03
410-120-1200	9-1-03	Amend	10-1-03	410-121-0154	1-1-03	Adopt	2-1-03
410-120-1200(T)	7-1-03	Suspend	8-1-03	410-121-0155	6-1-03	Amend	7-1-03
410-120-1210	7-1-03	Adopt	8-1-03	410-121-0155	10-1-03	Amend	10-1-03
410-120-1210	9-1-03	Adopt	10-1-03	410-121-0157	2-14-03	Amend(T)	3-1-03
410-120-1230	1-1-03	Adopt	2-1-03	410-121-0157	5-9-03	Amend	6-1-03
410-120-1235	2-1-03	Adopt	3-1-03	410-121-0157	5-15-03	Amend(T)	6-1-03
410-120-1260	10-1-03	Amend	10-1-03	410-121-0157	7-7-03	Amend	8-1-03
410-120-1280	1-1-03	Amend	2-1-03	410-121-0157(T)	2-14-03	Suspend	3-1-03
410-120-1280	2-1-03	Amend	3-1-03	410-121-0160	4-15-03	Amend(T)	5-1-03
410-120-1280	10-1-03	Amend	10-1-03	410-121-0160	10-1-03	Amend	10-1-03
410-120-1320	10-1-03	Amend	10-1-03	410-121-0190	4-1-03	Amend	5-1-03
410-120-1340	2-1-03	Amend	3-1-03	410-121-0190	6-1-03	Amend	7-1-03
410-120-1340	10-1-03	Amend	10-1-03	410-121-0190	10-1-03	Amend	10-1-03
410-120-1360	4-1-03	Amend	5-1-03	410-121-0200	4-1-03	Amend	5-1-03
410-120-1520	4-1-03	Amend	5-1-03	410-121-0200	6-1-03	Amend	7-1-03
410-120-1540	4-1-03	Amend	5-1-03	410-121-0220	6-1-03	Amend	7-1-03
410-120-1560	4-1-03	Amend	5-1-03	410-121-0300	12-1-02	Amend(T)	1-1-03
410-120-1570	4-1-03	Adopt	5-1-03	410-121-0300	2-28-03	Amend	4-1-03
410-120-1580	4-1-03	Amend	5-1-03	410-121-0300	3-1-03	Amend(T)	4-1-03
410-120-1600	4-1-03	Amend	5-1-03	410-121-0300	5-29-03	Amend	7-1-03
410-120-1620	4-1-03	Renumber	5-1-03	410-121-0300	8-5-03	Amend	9-1-03
410-120-1640	4-1-03	Amend	5-1-03	410-121-0300	8-15-03	Amend(T)	9-1-03
410-120-1660	4-1-03	Amend	5-1-03	410-121-0300(T)	12-1-02	Suspend	1-1-03
410-120-1680	4-1-03	Amend	5-1-03	410-121-0300(T)	2-28-03	Repeal	4-1-03
410-120-1685	4-1-03	Adopt	5-1-03	410-121-0320	2-14-03	Amend(T)	3-1-03
410-120-1870	10-1-03	Amend	10-1-03	410-121-0320	8-5-03	Amend	9-1-03
410-120-1875	5-1-03	Amend	6-1-03	410-121-0320(T)	2-14-03	Suspend	3-1-03
410-120-1875	10-1-03	Amend	10-1-03	410-122-0020	12-24-02	Amend(T)	2-1-03
410-120-1920	10-1-03	Amend	10-1-03	410-122-0020	5-1-03	Amend	6-1-03
410-121-0000	2-1-03	Amend	3-1-03	410-122-0030	5-1-03	Amend	6-1-03
410-121-0030	4-1-03	Amend	5-1-03	410-122-0180	4-1-03	Amend	5-1-03
410-121-0030	5-1-03	Amend	6-1-03	410-122-0190	4-1-03	Amend	5-1-03
410-121-0030	7-1-03	Adopt	8-1-03	410-122-0200	4-1-03	Amend	5-1-03
410-121-0030	10-1-03	Amend	10-1-03	410-122-0202	4-1-03	Amend	5-1-03
410-121-0030	10-1-03	Amend(T)	10-1-03	410-122-0203	4-1-03	Amend	5-1-03
410-121-0040	4-1-03	Amend	5-1-03	410-122-0205	4-1-03	Amend	5-1-03
410-121-0040	6-1-03	Amend	7-1-03	410-122-0207	4-1-03	Amend	5-1-03
410-121-0040	7-1-03	Amend(T)	7-1-03	410-122-0208	4-1-03	Amend	5-1-03
410-121-0040	8-1-03	Amend	9-1-03	410-122-0209	4-1-03	Amend	5-1-03
410-121-0060	4-1-03	Amend	5-1-03	410-122-0210	4-1-03	Amend	5-1-03
410-121-0061	6-1-03	Amend	7-1-03	410-122-0240	4-1-03	Amend	5-1-03
410-121-0140	3-1-03	Amend	4-1-03	410-122-0300	4-1-03	Amend	5-1-03
410-121-0140	4-1-03	Amend(T)	4-1-03	410-122-0320	4-1-03	Amend	5-1-03
410-121-0140	4-15-03	Amend(T)	5-1-03	410-122-0340	4-1-03	Amend	5-1-03
410-121-0140	6-1-03	Amend(T)	7-1-03	410-122-0360	4-1-03	Amend	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-122-0365	4-1-03	Amend	5-1-03	410-124-0040	2-1-03	Amend	3-1-03
410-122-0370	4-1-03	Repeal	5-1-03	410-124-0140	2-1-03	Amend	3-1-03
410-122-0375	4-1-03	Amend	5-1-03	410-124-0160	2-1-03	Amend	3-1-03
410-122-0420	4-1-03	Amend	5-1-03	410-125-0050	1-1-03	Adopt	2-1-03
410-122-0460	4-1-03	Repeal	5-1-03	410-125-0055	2-1-03	Adopt	3-1-03
410-122-0470	4-1-03	Amend	5-1-03	410-125-0080	4-1-03	Amend	5-1-03
410-122-0500	4-1-03	Amend	5-1-03	410-125-0115	10-1-03	Amend	10-1-03
410-122-0510	4-1-03	Amend	5-1-03	410-125-0121	10-1-03	Amend	10-1-03
410-122-0525	4-1-03	Amend	5-1-03	410-125-0141	3-1-03	Amend	4-1-03
410-122-0540	4-1-03	Amend	5-1-03	410-125-0141	3-10-03	Amend(T)	4-1-03
410-122-0560	4-1-03	Amend	5-1-03	410-125-0141	5-1-03	Amend	6-1-03
410-122-0580	4-1-03	Amend	5-1-03	410-125-0181	3-1-03	Amend	4-1-03
410-122-0600	4-1-03	Amend	5-1-03	410-125-0181	10-1-03	Amend	10-1-03
410-122-0620	4-1-03	Amend	5-1-03	410-125-0195	3-1-03	Amend	4-1-03
410-122-0625	4-1-03	Amend	5-1-03	410-125-0195	3-10-03	Amend(T)	4-1-03
410-122-0630	4-1-03	Amend	5-1-03	410-125-0195	5-1-03	Amend	6-1-03
410-122-0660	4-1-03	Amend	5-1-03	410-125-0680	1-1-03	Amend	2-1-03
410-122-0665	4-1-03	Repeal	5-1-03	410-125-0700	1-1-03	Amend	2-1-03
410-122-0670	4-1-03	Repeal	5-1-03	410-127-0000	2-1-03	Amend	3-1-03
410-122-0675	4-1-03	Repeal	5-1-03	410-127-0020	2-1-03	Amend	3-1-03
410-122-0678	4-1-03	Amend	5-1-03	410-127-0050	1-1-03	Adopt	2-1-03
410-122-0680	4-1-03	Amend	5-1-03	410-127-0055	2-1-03	Adopt	3-1-03
410-122-0701	2-1-03	Adopt	3-1-03	410-127-0080	2-1-03	Amend	3-1-03
410-122-0701	3-1-03	Repeal	4-1-03	410-127-0120	1-1-03	Amend	2-1-03
410-122-0720	4-1-03	Adopt	5-1-03	410-129-0065	10-1-03	Amend	10-1-03
410-123-1000	10-1-03	Amend	10-1-03	410-129-0120	1-1-03	Amend	2-1-03
410-123-1040	10-1-03	Amend	10-1-03	410-129-0140	1-1-03	Amend	2-1-03
410-123-1085	1-1-03	Adopt	2-1-03	410-129-0190	1-1-03	Adopt	2-1-03
410-123-1085	2-1-03	Amend	3-1-03	410-129-0195	2-1-03	Adopt	3-1-03
410-123-1085	10-1-03	Amend	10-1-03	410-129-0200	4-1-03	Amend	5-1-03
410-123-1220	2-1-03	Amend	3-1-03	410-129-0220	10-1-03	Amend	10-1-03
410-123-1220	10-1-03	Amend	10-1-03	410-129-0240	4-1-03	Amend	5-1-03
410-123-1235	10-1-03	Repeal	10-1-03	410-129-0260	2-1-03	Amend	3-1-03
410-123-1240	1-1-03	Amend	2-1-03	410-129-0260	4-1-03	Amend	5-1-03
410-123-1240	10-1-03	Amend	10-1-03	410-130-0010	1-1-03	Amend	2-1-03
410-123-1260	2-1-03	Amend	3-1-03	410-130-0040	1-1-03	Amend	2-1-03
410-123-1260	10-1-03	Amend	10-1-03	410-130-0080	10-1-03	Am. & Ren.	10-1-03
410-123-1280	2-1-03	Repeal	3-1-03	410-130-0100	4-1-03	Amend	5-1-03
410-123-1290	2-1-03	Repeal	3-1-03	410-130-0100	10-1-03	Am. & Ren.	10-1-03
410-123-1300	2-1-03	Repeal	3-1-03	410-130-0145	10-1-03	Repeal	10-1-03
410-123-1310	2-1-03	Repeal	3-1-03	410-130-0150	10-1-03	Repeal	10-1-03
410-123-1320	2-1-03	Repeal	3-1-03	410-130-0160	4-1-03	Amend	5-1-03
410-123-1330	2-1-03	Repeal	3-1-03	410-130-0160	10-1-03	Amend	10-1-03
410-123-1340	2-1-03	Repeal	3-1-03	410-130-0180	4-1-03	Amend	5-1-03
410-123-1360	2-1-03	Repeal	3-1-03	410-130-0180	10-1-03	Amend	10-1-03
410-123-1380	2-1-03	Repeal	3-1-03	410-130-0190	10-1-03	Amend	10-1-03
410-123-1400	2-1-03	Repeal	3-1-03	410-130-0200	4-1-03	Amend	5-1-03
410-123-1420	2-1-03	Repeal	3-1-03	410-130-0200	10-1-03	Amend	10-1-03
410-123-1440	2-1-03	Repeal	3-1-03	410-130-0220	10-1-03	Amend	10-1-03
410-123-1460	2-1-03	Repeal	3-1-03	410-130-0240	4-1-03	Amend	5-1-03
410-123-1480	2-1-03	Repeal	3-1-03	410-130-0240	10-1-03	Amend	10-1-03
410-123-1500	2-1-03	Repeal	3-1-03	410-130-0250	4-1-03	Amend	5-1-03
410-123-1620	10-1-03	Amend	10-1-03	410-130-0250	10-1-03	Repeal	10-1-03
410-123-1640	10-1-03	Amend	10-1-03	410-130-0260	10-1-03	Repeal	10-1-03
410-124-0000	2-1-03	Amend	3-1-03	410-130-0280	10-1-03	Repeal	10-1-03
410-124-0020	2-1-03	Amend	3-1-03	410-130-0300	10-1-03	Repeal	10-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-130-0370	10-1-03	Renumber	10-1-03	410-133-0120	9-1-03	Amend	9-1-03
410-130-0400	4-1-03	Amend	5-1-03	410-133-0140	9-1-03	Amend	9-1-03
410-130-0400	10-1-03	Repeal	10-1-03	410-133-0200	4-1-03	Amend	5-1-03
410-130-0420	10-1-03	Repeal	10-1-03	410-133-0200	9-1-03	Amend	9-1-03
410-130-0440	10-1-03	Repeal	10-1-03	410-133-0220	4-1-03	Amend	5-1-03
410-130-0460	10-1-03	Repeal	10-1-03	410-133-0220	9-1-03	Amend	9-1-03
410-130-0480	10-1-03	Repeal	10-1-03	410-133-0240	4-1-03	Repeal	5-1-03
410-130-0500	10-1-03	Repeal	10-1-03	410-133-0280	9-1-03	Amend	9-1-03
410-130-0530	10-1-03	Repeal	10-1-03	410-133-0300	4-1-03	Amend	5-1-03
410-130-0540	4-1-03	Amend	5-1-03	410-133-0300	9-1-03	Amend	9-1-03
410-130-0540	10-1-03	Repeal	10-1-03	410-133-0320	4-1-03	Amend	5-1-03
410-130-0562	4-1-03	Amend	5-1-03	410-133-0320	9-1-03	Amend	9-1-03
410-130-0562	10-1-03	Amend	10-1-03	410-136-0045	2-1-03	Adopt	3-1-03
410-130-0580	4-1-03	Amend	5-1-03	410-136-0300	4-1-03	Amend	5-1-03
410-130-0580	10-1-03	Amend	10-1-03	410-136-0340	10-1-03	Amend	10-1-03
410-130-0585	4-1-03	Amend	5-1-03	410-136-0360	10-1-03	Amend	10-1-03
410-130-0585	10-1-03	Amend	10-1-03	410-136-0380	10-1-03	Repeal	10-1-03
410-130-0590	10-1-03	Repeal	10-1-03	410-140-0060	1-1-03	Amend	2-1-03
410-130-0660	4-1-03	Amend	5-1-03	410-140-0110	1-1-03	Adopt	2-1-03
410-130-0660	10-1-03	Repeal	10-1-03	410-140-0115	2-1-03	Adopt	3-1-03
410-130-0680	4-1-03	Amend	5-1-03	410-140-0200	10-1-03	Amend	10-1-03
410-130-0680	10-1-03	Amend	10-1-03	410-141-0000	2-1-03	Amend	3-1-03
410-130-0700	4-1-03	Amend	5-1-03	410-141-0000	3-1-03	Amend	4-1-03
410-130-0700	10-1-03	Amend	10-1-03	410-141-0000	8-1-03	Amend	9-1-03
410-130-0760	4-1-03	Amend	5-1-03	410-141-0020	10-1-03	Amend	10-1-03
410-130-0760	10-1-03	Repeal	10-1-03	410-141-0060	10-1-03	Amend	10-1-03
410-130-0780	4-1-03	Amend	5-1-03	410-141-0065	10-1-03	Amend	10-1-03
410-130-0780	10-1-03	Repeal	10-1-03	410-141-0070	10-1-03	Adopt	10-1-03
410-130-0800	4-1-03	Amend	5-1-03	410-141-0080	2-1-03	Amend	3-1-03
410-130-0800	10-1-03	Am. & Ren.	10-1-03	410-141-0080	4-1-03	Amend	5-1-03
410-130-0900	10-1-03	Renumber	10-1-03	410-141-0080	10-1-03	Amend	10-1-03
410-130-0920	10-1-03	Repeal	10-1-03	410-141-0085	10-1-03	Amend	10-1-03
410-130-0940	4-1-03	Amend	5-1-03	410-141-0110	10-1-03	Amend	10-1-03
410-130-0940	10-1-03	Renumber	10-1-03	410-141-0115	10-1-03	Amend	10-1-03
410-130-0960	1-1-03	Adopt	2-1-03	410-141-0120	8-1-03	Amend	9-1-03
410-130-0960	10-1-03	Am. & Ren.	10-1-03	410-141-0140	10-1-03	Amend	10-1-03
410-130-0965	2-1-03	Adopt	3-1-03	410-141-0160	8-1-03	Amend	9-1-03
410-130-0965	10-1-03	Repeal	10-1-03	410-141-0180	10-1-03	Amend	10-1-03
410-131-0120	10-1-03	Amend	10-1-03	410-141-0200	8-1-03	Amend	9-1-03
410-131-0220	1-1-03	Amend	2-1-03	410-141-0220	10-1-03	Amend	10-1-03
410-131-0240	1-1-03	Amend	2-1-03	410-141-0260	4-1-03	Amend	5-1-03
410-131-0270	1-1-03	Adopt	2-1-03	410-141-0260	8-1-03	Amend	9-1-03
410-131-0275	2-1-03	Adopt	3-1-03	410-141-0261	4-1-03	Amend	5-1-03
410-131-0280	10-1-03	Amend	10-1-03	410-141-0261	8-1-03	Amend	9-1-03
410-132-0050	1-1-03	Adopt	2-1-03	410-141-0262	8-1-03	Amend	9-1-03
410-132-0055	2-1-03	Adopt	3-1-03	410-141-0263	8-1-03	Amend	9-1-03
410-132-0140	1-1-03	Amend	2-1-03	410-141-0264	4-1-03	Amend	5-1-03
410-132-0180	4-1-03	Amend	5-1-03	410-141-0264	8-1-03	Amend	9-1-03
410-133-0000	4-1-03	Amend	5-1-03	410-141-0265	8-1-03	Amend	9-1-03
410-133-0020	4-1-03	Repeal	5-1-03	410-141-0270	10-1-03	Amend	10-1-03
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-141-0410	10-1-03	Amend	10-1-03	410-147-0320	10-1-03	Amend	10-1-03
410-141-0420	2-1-03	Amend	3-1-03	410-147-0340	10-1-03	Amend	10-1-03
410-141-0420	10-1-03	Amend	10-1-03	410-147-0360	10-1-03	Amend	10-1-03
410-141-0480	1-1-03	Amend	2-1-03	410-147-0380	10-1-03	Amend	10-1-03
410-141-0480	10-1-03	Amend	10-1-03	410-147-0400	10-1-03	Amend	10-1-03
410-141-0500	1-1-03	Amend	2-1-03	410-147-0420	10-1-03	Amend	10-1-03
410-141-0500	2-1-03	Amend	3-1-03	410-147-0460	10-1-03	Amend	10-1-03
410-141-0500	4-15-03	Amend	5-1-03	410-147-0480	10-1-03	Amend	10-1-03
410-141-0500	10-1-03	Amend	10-1-03	410-147-0500	10-1-03	Amend	10-1-03
410-141-0520	1-1-03	Amend	2-1-03	410-147-0580	10-1-03	Repeal	10-1-03
410-141-0520	3-1-03	Amend	4-1-03	410-147-0600	1-1-03	Amend	2-1-03
410-141-0520	4-1-03	Amend	5-1-03	410-147-0600	10-1-03	Repeal	10-1-03
410-141-0520(T)	1-1-03	Repeal	2-1-03	410-147-0610	10-1-03	Adopt	10-1-03
410-141-0660	10-1-03	Amend	10-1-03	410-148-0000	10-1-03	Amend	10-1-03
410-141-0680	10-1-03	Amend	10-1-03	410-148-0020	4-1-03	Amend	5-1-03
410-141-0700	10-1-03	Amend	10-1-03	410-148-0020	10-1-03	Amend	10-1-03
410-141-0720	10-1-03	Amend	10-1-03	410-148-0040	4-1-03	Amend	5-1-03
410-141-0740	10-1-03	Repeal	10-1-03	410-148-0060	4-1-03	Amend	5-1-03
410-141-0760	10-1-03	Amend	10-1-03	410-148-0060	10-1-03	Amend	10-1-03
410-141-0780	10-1-03	Amend	10-1-03	410-148-0090	2-1-03	Adopt	3-1-03
410-141-0800	10-1-03	Amend	10-1-03	410-148-0095	1-1-03	Adopt	2-1-03
410-141-0820	10-1-03	Amend	10-1-03	410-148-0100	2-1-03	Amend	3-1-03
410-141-0840	10-1-03	Amend	10-1-03	410-148-0100	4-1-03	Amend	5-1-03
410-141-0860	10-1-03	Amend	10-1-03	410-148-0120	10-1-03	Amend	10-1-03
410-142-0080	2-1-03	Amend	3-1-03	410-148-0140	10-1-03	Amend	10-1-03
410-142-0100	2-1-03	Amend	3-1-03	410-148-0160	10-1-03	Amend	10-1-03
410-142-0200	2-1-03	Amend	3-1-03	410-148-0180	1-1-03	Amend	2-1-03
410-142-0240	2-1-03	Amend	3-1-03	410-148-0180	10-1-03	Repeal	10-1-03
410-142-0300	2-28-03	Amend	4-1-03	410-148-0200	1-1-03	Amend	2-1-03
410-142-0320	2-1-03	Amend	3-1-03	410-148-0200	10-1-03	Repeal	10-1-03
410-146-0022		Adopt	10-1-03	410-148-0220	10-1-03	Repeal	10-1-03
410-146-0040		Amend	10-1-03	410-148-0260	4-1-03	Amend	5-1-03
410-146-0060		Amend	10-1-03	410-148-0260	10-1-03	Amend	10-1-03
410-146-0075		Amend	10-1-03	410-148-0280	4-1-03	Amend	5-1-03
410-146-0075	1-1-03	Adopt	2-1-03	410-148-0300	4-1-03	Amend	5-1-03
410-146-0075	2-1-03	Amend	3-1-03	410-148-0300	10-1-03	Amend	10-1-03
410-146-0080		Amend	10-1-03	410-149-0000	2-1-03	Adopt	3-1-03
410-146-0080	2-1-03	Amend	3-1-03	410-149-0020	2-1-03	Adopt	3-1-03
410-146-0120		Amend	10-1-03	410-149-0040	2-1-03	Adopt	3-1-03
410-146-0130		Amend	10-1-03	410-149-0060	2-1-03	Adopt	3-1-03
410-146-0260		Repeal	10-1-03	410-149-0080	2-1-03	Adopt	3-1-03
410-146-0320		Repeal	10-1-03	410-150-0000	10-1-03	Amend	10-1-03
410-146-0320	1-1-03	Amend	2-1-03	410-150-0040	4-1-03	Amend	5-1-03
410-147-0020	10-1-03	Amend	10-1-03	410-150-0080	4-1-03	Amend	5-1-03
410-147-0040	10-1-03	Amend	10-1-03	410-150-0080	10-1-03	Amend	10-1-03
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-150-0260	4-1-03	Amend	5-1-03	411-310-0030	4-1-03	Adopt	5-1-03
410-150-0260	10-1-03	Repeal	10-1-03	411-310-0040	4-1-03	Adopt	5-1-03
410-150-0280	4-1-03	Amend	5-1-03	411-310-0050	4-1-03	Adopt	5-1-03
410-150-0280	10-1-03	Repeal	10-1-03	411-310-0060	4-1-03	Adopt	5-1-03
410-150-0300	10-1-03	Amend	10-1-03	411-310-0070	4-1-03	Adopt	5-1-03
411-015-0000	12-6-02	Amend(T)	1-1-03	411-315-0010	4-1-03	Adopt	5-1-03
411-015-0000	6-4-03	Amend	7-1-03	411-315-0020	4-1-03	Adopt	5-1-03
411-015-0005	12-6-02	Amend(T)	1-1-03	411-315-0030	4-1-03	Adopt	5-1-03
411-015-0005	6-4-03	Amend	7-1-03	411-315-0040	4-1-03	Adopt	5-1-03
411-015-0010	12-6-02	Amend(T)	1-1-03	411-315-0050	4-1-03	Adopt	5-1-03
411-015-0010	6-4-03	Amend	7-1-03	411-315-0060	4-1-03	Adopt	5-1-03
411-015-0015	12-6-02	Amend(T)	1-1-03	411-315-0070	4-1-03	Adopt	5-1-03
411-015-0015	2-1-03	Amend	2-1-03	411-315-0080	4-1-03	Adopt	5-1-03
411-015-0015	2-18-03	Amend(T)	3-1-03	411-315-0090	4-1-03	Adopt	5-1-03
411-015-0015	3-12-03	Amend(T)	4-1-03	411-315-0100	4-1-03	Adopt	5-1-03
411-015-0015	3-20-03	Amend(T)	5-1-03	411-999-0010	3-11-03	Adopt(T)	4-1-03
411-015-0015	6-4-03	Amend	7-1-03	411-999-0010	4-25-03	Amend(T)	6-1-03
411-015-0015(T)	2-18-03	Suspend	3-1-03	411-999-0010(T)	4-25-03	Suspend	6-1-03
411-015-0015(T)	3-12-03	Suspend	4-1-03	411-999-0011	3-11-03	Adopt(T)	4-1-03
411-015-0015(T)	3-20-03	Suspend	5-1-03	411-999-0011	4-25-03	Amend(T)	6-1-03
411-015-0100	12-6-02	Amend(T)	1-1-03	411-999-0011(T)	4-25-03	Suspend	6-1-03
411-015-0100	2-1-03	Amend	2-1-03	411-999-0012	3-11-03	Adopt(T)	4-1-03
411-015-0100	6-4-03	Amend	7-1-03	411-999-0013	3-11-03	Adopt(T)	4-1-03
411-030-0020	7-31-03	Amend	9-1-03	411-999-0013	4-25-03	Amend(T)	6-1-03
411-030-0033	7-31-03	Amend	9-1-03	411-999-0013(T)	4-25-03	Suspend	6-1-03
411-030-0040	2-1-03	Amend(T)	3-1-03	411-999-0014	3-11-03	Adopt(T)	4-1-03
411-030-0040	7-31-03	Amend	9-1-03	411-999-0014	4-25-03	Amend(T)	6-1-03
411-030-0050	7-31-03	Amend	9-1-03	411-999-0014(T)	4-25-03	Suspend	6-1-03
411-030-0060	7-31-03	Amend	9-1-03	411-999-0015	3-11-03	Adopt(T)	4-1-03
411-030-0070	7-31-03	Amend	9-1-03	411-999-0015	4-25-03	Amend(T)	6-1-03
411-030-0080	2-1-03	Amend(T)	3-1-03	411-999-0015(T)	4-25-03	Suspend	6-1-03
411-030-0080	7-31-03	Amend	9-1-03	411-999-0020	5-15-03	Adopt(T)	5-1-03
411-030-0090	7-31-03	Amend	9-1-03	413-010-0700	1-7-03	Amend	2-1-03
411-032-0000	5-2-03	Amend	6-1-03	413-010-0705	1-7-03	Amend	2-1-03
411-032-0001	5-2-03	Amend	6-1-03	413-010-0712	1-7-03	Amend	2-1-03
411-032-0005	5-2-03	Amend	6-1-03	413-010-0714	1-7-03	Amend	2-1-03
411-032-0010	5-2-03	Amend	6-1-03	413-010-0715	1-7-03	Amend	2-1-03
411-032-0015	5-2-03	Amend	6-1-03	413-010-0716	1-7-03	Amend	2-1-03
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-015-0115	7-1-03	Adopt	8-1-03	413-020-0270	1-7-03	Amend	2-1-03
413-015-0120	7-1-03	Adopt	8-1-03	413-020-0275	1-23-03	Adopt(T)	3-1-03
413-015-0125	7-1-03	Adopt	8-1-03	413-020-0275	3-19-03	Adopt	5-1-03
413-015-0200	7-1-03	Adopt	8-1-03	413-020-0275	7-1-03	Repeal	8-1-03
413-015-0205	7-1-03	Adopt	8-1-03	413-020-0280	1-23-03	Adopt(T)	3-1-03
413-015-0210	7-1-03	Adopt	8-1-03	413-020-0285	1-23-03	Adopt(T)	3-1-03
413-015-0215	7-1-03	Adopt	8-1-03	413-020-0285	3-19-03	Adopt	5-1-03
413-015-0220	7-1-03	Adopt	8-1-03	413-020-0285	7-1-03	Repeal	8-1-03
413-015-0225	7-1-03	Adopt	8-1-03	413-020-0300	7-1-03	Repeal	8-1-03
413-015-0300	7-1-03	Adopt	8-1-03	413-020-0310	7-1-03	Repeal	8-1-03
413-015-0305	7-1-03	Adopt	8-1-03	413-020-0320	7-1-03	Repeal	8-1-03
413-015-0310	7-1-03	Adopt	8-1-03	413-020-0330	7-1-03	Repeal	8-1-03
413-015-0400	7-1-03	Adopt	8-1-03	413-020-0335	1-23-03	Amend(T)	3-1-03
413-015-0405	7-1-03	Adopt	8-1-03	413-020-0335	7-1-03	Repeal	8-1-03
413-015-0410	7-1-03	Adopt	8-1-03	413-020-0335(T)	1-23-03	Suspend	3-1-03
413-015-0500	7-1-03	Adopt	8-1-03	413-020-0340	7-1-03	Repeal	8-1-03
413-015-0505	7-1-03	Adopt	8-1-03	413-020-0345	1-23-03	Adopt(T)	3-1-03
413-015-0510	7-1-03	Adopt	8-1-03	413-020-0350	7-1-03	Repeal	8-1-03
413-015-0600	7-1-03	Adopt	8-1-03	413-020-0360	7-1-03	Repeal	8-1-03
413-015-0605	7-1-03	Adopt	8-1-03	413-020-0380	7-1-03	Repeal	8-1-03
413-015-0610	7-1-03	Adopt	8-1-03	413-020-0390	7-1-03	Repeal	8-1-03
413-015-0615	7-1-03	Adopt	8-1-03	413-020-0395	1-23-03	Amend(T)	3-1-03
413-015-0700	7-1-03	Adopt	8-1-03	413-020-0395(T)	1-23-03	Suspend	3-1-03
413-015-0705	7-1-03	Adopt	8-1-03	413-020-0400	7-1-03	Repeal	8-1-03
413-015-0710	7-1-03	Adopt	8-1-03	413-020-0405	7-1-03	Repeal	8-1-03
413-015-0715	7-1-03	Adopt	8-1-03	413-020-0410	7-1-03	Repeal	8-1-03
413-015-0720	7-1-03	Adopt	8-1-03	413-020-0420	7-1-03	Repeal	8-1-03
413-015-0725	7-1-03	Adopt	8-1-03	413-020-0430	7-1-03	Repeal	8-1-03
413-015-0730	7-1-03	Adopt	8-1-03	413-030-0100	7-1-03	Repeal	8-1-03
413-015-0735	7-1-03	Adopt	8-1-03	413-030-0110	7-1-03	Repeal	8-1-03
413-015-0740	7-1-03	Adopt	8-1-03	413-030-0120	7-1-03	Repeal	8-1-03
413-015-0800	7-1-03	Adopt	8-1-03	413-030-0130	7-1-03	Repeal	8-1-03
413-015-0900	7-1-03	Adopt	8-1-03	413-030-0200	1-7-03	Amend	2-1-03
413-015-0905	7-1-03	Adopt	8-1-03	413-030-0205	1-7-03	Adopt	2-1-03
413-015-1000	7-1-03	Adopt	8-1-03	413-030-0210	1-7-03	Amend	2-1-03
413-020-0000	1-7-03	Amend	2-1-03	413-030-0220	1-7-03	Amend	2-1-03
413-020-0005	1-7-03	Amend	2-1-03	413-040-0100	5-22-03	Amend	7-1-03
413-020-0010	1-7-03	Amend	2-1-03	413-040-0110	5-22-03	Amend	7-1-03
413-020-0020	1-7-03	Amend	2-1-03	413-040-0120	5-22-03	Repeal	7-1-03
413-020-0040	1-7-03	Amend	2-1-03	413-040-0130	5-22-03	Amend	7-1-03
413-020-0050	1-7-03	Amend	2-1-03	413-040-0135	5-22-03	Adopt	7-1-03
413-020-0100	1-9-03	Amend	2-1-03	413-040-0140	5-22-03	Amend	7-1-03
413-020-0110	1-9-03	Amend	2-1-03	413-040-0145	5-22-03	Amend	7-1-03
413-020-0120	1-9-03	Amend	2-1-03	413-040-0150	5-22-03	Amend	7-1-03
413-020-0130	1-9-03	Amend	2-1-03	413-040-0155	5-22-03	Adopt	7-1-03
413-020-0140	1-9-03	Amend	2-1-03	413-040-0157	5-22-03	Adopt	7-1-03
413-020-0150	1-9-03	Amend	2-1-03	413-040-0159	5-22-03	Adopt	7-1-03
413-020-0160	1-9-03	Amend	2-1-03	413-040-0160	5-22-03	Repeal	7-1-03
413-020-0170	1-9-03	Amend	2-1-03	413-040-0170	5-22-03	Amend	7-1-03
413-020-0200	1-7-03	Amend	2-1-03	413-040-0400	1-7-03	Amend	2-1-03
413-020-0210	1-7-03	Amend	2-1-03	413-040-0410	1-7-03	Amend	2-1-03
413-020-0220	1-7-03	Amend	2-1-03	413-040-0420	1-7-03	Amend	2-1-03
413-020-0230	1-7-03	Amend	2-1-03	413-040-0430	1-7-03	Amend	2-1-03
413-020-0240	1-7-03	Amend	2-1-03	413-040-0440	1-7-03	Amend	2-1-03
413-020-0250	1-7-03	Amend	2-1-03	413-040-0450	1-7-03	Amend	2-1-03
413-020-0260	1-7-03	Amend	2-1-03	413-050-0000	1-7-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-050-0005	1-7-03	Adopt	2-1-03	413-070-0930	7-31-03	Amend	9-1-03
413-050-0010	1-7-03	Amend	2-1-03	413-070-0935	7-31-03	Amend	9-1-03
413-050-0020	1-7-03	Amend	2-1-03	413-070-0937	7-31-03	Amend	9-1-03
413-050-0030	1-7-03	Amend	2-1-03	413-070-0940	1-9-03	Amend	2-1-03
413-050-0040	1-7-03	Amend	2-1-03	413-070-0940	7-31-03	Amend	9-1-03
413-050-0050	1-7-03	Amend	2-1-03	413-070-0945	1-9-03	Amend	2-1-03
413-050-0200	12-19-02	Amend(T)	2-1-03	413-070-0945	1-23-03	Amend(T)	3-1-03
413-050-0200	6-18-03	Amend(T)	8-1-03	413-070-0945	7-31-03	Amend	9-1-03
413-050-0210	12-19-02	Amend(T)	2-1-03	413-070-0950	1-9-03	Amend	2-1-03
413-050-0210	6-18-03	Amend(T)	8-1-03	413-070-0950	7-31-03	Amend	9-1-03
413-050-0220	12-19-02	Amend(T)	2-1-03	413-070-0955	7-31-03	Amend	9-1-03
413-050-0220	6-18-03	Amend(T)	8-1-03	413-070-0960	7-31-03	Amend	9-1-03
413-050-0230	12-19-02	Amend(T)	2-1-03	413-070-0965	7-31-03	Amend	9-1-03
413-050-0230	6-18-03	Amend(T)	8-1-03	413-070-0970	7-31-03	Amend	9-1-03
413-050-0240	12-19-02	Amend(T)	2-1-03	413-070-0975	7-31-03	Repeal	9-1-03
413-050-0240	6-18-03	Amend(T)	8-1-03	413-070-0980	1-23-03	Adopt(T)	3-1-03
413-050-0250	12-19-02	Amend(T)	2-1-03	413-070-0980	7-31-03	Adopt	9-1-03
413-050-0250	6-18-03	Amend(T)	8-1-03	413-070-0981	2-1-03	Adopt(T)	3-1-03
413-050-0260	12-19-02	Amend(T)	2-1-03	413-070-0981	7-31-03	Adopt	9-1-03
413-050-0260	6-18-03	Amend(T)	8-1-03	413-080-0000	1-7-03	Amend	2-1-03
413-050-0261	12-19-02	Adopt(T)	2-1-03	413-080-0010	1-7-03	Amend	2-1-03
413-050-0270	12-19-02	Amend(T)	2-1-03	413-080-0020	1-7-03	Amend	2-1-03
413-050-0270	6-18-03	Amend(T)	8-1-03	413-080-0030	1-7-03	Amend	2-1-03
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-100-0050	9-2-03	Amend(T)	10-1-03	415-020-0075	7-1-03	Amend	7-1-03
413-100-0070	9-2-03	Amend(T)	10-1-03	415-020-0080	7-1-03	Amend	7-1-03
413-100-0080	9-2-03	Amend(T)	10-1-03	415-020-0085	7-1-03	Amend	7-1-03
413-100-0110	9-2-03	Amend(T)	10-1-03	415-051-0015	9-1-03	Amend	8-1-03
413-100-0130	9-2-03	Amend(T)	10-1-03	415-051-0055	9-1-03	Amend	8-1-03
413-100-0135	9-2-03	Amend(T)	10-1-03	415-051-0057	9-1-03	Amend	8-1-03
413-100-0150	9-2-03	Amend(T)	10-1-03	415-051-0060	9-1-03	Amend	8-1-03
413-100-0160	9-2-03	Amend(T)	10-1-03	416-001-0000	8-20-03	Amend	10-1-03
413-100-0240	9-2-03	Amend(T)	10-1-03	416-001-0005	8-20-03	Amend	10-1-03
413-100-0276	9-2-03	Amend(T)	10-1-03	416-020-0000	8-20-03	Amend	10-1-03
413-100-0290	9-2-03	Amend(T)	10-1-03	416-020-0010	8-20-03	Amend	10-1-03
413-120-0400	3-13-03	Amend	4-1-03	416-020-0020	8-20-03	Amend	10-1-03
413-120-0410	3-13-03	Amend	4-1-03	416-020-0030	8-20-03	Amend	10-1-03
413-120-0420	3-13-03	Amend	4-1-03	416-020-0040	8-20-03	Amend	10-1-03
413-120-0430	3-13-03	Amend	4-1-03	416-020-0050	8-20-03	Amend	10-1-03
413-120-0440	3-13-03	Amend	4-1-03	416-020-0060	8-20-03	Repeal	10-1-03
413-120-0450	3-13-03	Amend	4-1-03	416-020-0070	8-20-03	Repeal	10-1-03
413-120-0455	3-13-03	Adopt	4-1-03	416-020-0080	8-20-03	Repeal	10-1-03
413-120-0460	3-13-03	Amend	4-1-03	416-020-0090	8-20-03	Repeal	10-1-03
413-120-0470	3-13-03	Amend	4-1-03	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	416-370-0000	8-20-03	Repeal	10-1-03
414-600-0060	11-24-02	Adopt	1-1-03	416-370-0010	8-20-03	Repeal	10-1-03
414-600-0070	11-24-02	Adopt	1-1-03	416-370-0020	8-20-03	Repeal	10-1-03
414-600-0080	11-24-02	Adopt	1-1-03	416-370-0030	8-20-03	Repeal	10-1-03
414-600-0090	11-24-02	Adopt	1-1-03	416-370-0040	8-20-03	Repeal	10-1-03
414-600-0100	11-24-02	Adopt	1-1-03	416-370-0050	8-20-03	Repeal	10-1-03
415-020-0000	7-1-03	Amend	7-1-03	416-370-0060	8-20-03	Repeal	10-1-03
415-020-0005	7-1-03	Amend	7-1-03	416-370-0070	8-20-03	Repeal	10-1-03
415-020-0010	7-1-03	Amend	7-1-03	416-370-0080	8-20-03	Repeal	10-1-03
415-020-0015	7-1-03	Amend	7-1-03	416-430-0050	1-16-03	Amend	3-1-03
415-020-0020	7-1-03	Amend	7-1-03	436-009-0004	7-1-03	Amend	7-1-03
415-020-0025	7-1-03	Amend	7-1-03	436-009-0005	7-1-03	Amend	7-1-03
415-020-0030	7-1-03	Amend	7-1-03	436-009-0008	7-1-03	Amend	7-1-03
415-020-0035	7-1-03	Amend	7-1-03	436-009-0010	7-1-03	Amend	7-1-03
415-020-0040	7-1-03	Amend	7-1-03	436-009-0015	7-1-03	Amend	7-1-03
415-020-0045	7-1-03	Repeal	7-1-03	436-009-0020	7-1-03	Amend	7-1-03
415-020-0045	9-1-03	Repeal	8-1-03	436-009-0022	7-1-03	Amend	7-1-03
415-020-0050	7-1-03	Amend	7-1-03	436-009-0030	7-1-03	Amend	7-1-03
415-020-0053	7-1-03	Adopt	7-1-03	436-009-0040	7-1-03	Amend	7-1-03
415-020-0054	7-1-03	Adopt	7-1-03	436-009-0050	7-1-03	Amend	7-1-03
415-020-0055	7-1-03	Repeal	7-1-03	436-009-0060	7-1-03	Amend	7-1-03
415-020-0055	9-1-03	Repeal	8-1-03	436-009-0070	7-1-03	Amend	7-1-03
415-020-0060	7-1-03	Amend	7-1-03	436-009-0090	7-1-03	Amend	7-1-03
415-020-0065	7-1-03	Amend	7-1-03	436-035-0001	2-1-03	Amend	2-1-03
415-020-0070	7-1-03	Amend	7-1-03	436-035-0003	2-1-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-035-0005	2-1-03	Amend	2-1-03	436-105-0003	6-8-03	Amend	7-1-03
436-035-0007	2-1-03	Amend	2-1-03	436-105-0008	6-8-03	Amend	7-1-03
436-035-0010	2-1-03	Amend	2-1-03	436-105-0500	12-11-02	Amend(T)	1-1-03
436-035-0030	2-1-03	Amend	2-1-03	436-105-0500	6-8-03	Amend	7-1-03
436-035-0040	2-1-03	Amend	2-1-03	436-105-0510	12-11-02	Amend(T)	1-1-03
436-035-0050	2-1-03	Amend	2-1-03	436-105-0510	6-8-03	Amend	7-1-03
436-035-0060	2-1-03	Amend	2-1-03	436-105-0520	6-8-03	Amend	7-1-03
436-035-0070	2-1-03	Amend	2-1-03	436-105-0530	6-8-03	Amend	7-1-03
436-035-0075	2-1-03	Amend	2-1-03	436-160-0001	4-1-03	Adopt	5-1-03
436-035-0080	2-1-03	Amend	2-1-03	436-160-0002	4-1-03	Adopt	5-1-03
436-035-0100	2-1-03	Amend	2-1-03	436-160-0003	4-1-03	Adopt	5-1-03
436-035-0110	2-1-03	Amend	2-1-03	436-160-0004	4-1-03	Adopt	5-1-03
436-035-0150	2-1-03	Amend	2-1-03	436-160-0005	4-1-03	Adopt	5-1-03
436-035-0160	2-1-03	Amend	2-1-03	436-160-0006	4-1-03	Adopt	5-1-03
436-035-0170	2-1-03	Amend	2-1-03	436-160-0010	4-1-03	Adopt	5-1-03
436-035-0190	2-1-03	Amend	2-1-03	436-160-0020	4-1-03	Adopt	5-1-03
436-035-0200	2-1-03	Amend	2-1-03	436-160-0030	4-1-03	Adopt	5-1-03
436-035-0220	2-1-03	Amend	2-1-03	436-160-0040	4-1-03	Adopt	5-1-03
436-035-0230	2-1-03	Amend	2-1-03	436-160-0050	4-1-03	Adopt	5-1-03
436-035-0250	2-1-03	Amend	2-1-03	436-160-0060	4-1-03	Adopt	5-1-03
436-035-0260	2-1-03	Amend	2-1-03	436-160-0070	4-1-03	Adopt	5-1-03
436-035-0270	2-1-03	Amend	2-1-03	436-160-0080	4-1-03	Adopt	5-1-03
436-035-0280	2-1-03	Amend	2-1-03	436-160-0090	4-1-03	Adopt	5-1-03
436-035-0300	2-1-03	Amend	2-1-03	436-160-0300	4-1-03	Adopt	5-1-03
436-035-0310	2-1-03	Amend	2-1-03	436-160-0310	4-1-03	Adopt	5-1-03
436-035-0320	2-1-03	Amend	2-1-03	436-160-0320	4-1-03	Adopt	5-1-03
436-035-0330	2-1-03	Amend	2-1-03	436-160-0330	4-1-03	Adopt	5-1-03
436-035-0340	2-1-03	Amend	2-1-03	436-160-0340	4-1-03	Adopt	5-1-03
436-035-0360	2-1-03	Amend	2-1-03	436-160-0350	4-1-03	Adopt	5-1-03
436-035-0370	2-1-03	Amend	2-1-03	436-160-0360	4-1-03	Adopt	5-1-03
436-035-0390	2-1-03	Amend	2-1-03	437-002-0080	4-21-03	Amend	6-1-03
436-035-0395	2-1-03	Amend	2-1-03	437-002-0100	4-21-03	Amend	6-1-03
436-035-0420	2-1-03	Amend	2-1-03	437-002-0107	4-21-03	Amend	6-1-03
436-035-0430	2-1-03	Amend	2-1-03	437-002-0223	1-30-03	Amend	3-1-03
436-035-0440	2-1-03	Amend	2-1-03	437-003-0001	1-30-03	Amend	3-1-03
436-035-0500	1-15-03	Amend(T)	2-1-03	437-003-0001	4-30-03	Amend	3-1-03
436-035-0500	2-1-03	Amend	2-1-03	437-003-0017	4-30-03	Adopt	3-1-03
436-035-0500	4-15-03	Amend(T)	5-1-03	437-003-0420	1-30-03	Amend	3-1-03
436-035-0500	7-15-03	Amend(T)	8-1-03	437-003-0706	4-30-03	Adopt	3-1-03
436-050-0003	9-15-03	Amend	10-1-03	437-005-0001	5-6-03	Amend	6-1-03
436-050-0060	4-1-03	Amend	5-1-03	437-006-0001	12-1-03	Repeal	7-1-03
436-050-0150	7-18-03	Amend(T)	9-1-03	437-006-0003	12-1-03	Repeal	7-1-03
436-050-0160	7-18-03	Amend(T)	9-1-03	437-006-0004	12-1-03	Repeal	7-1-03
436-050-0165	7-18-03	Adopt(T)	9-1-03	437-006-0005	12-1-03	Repeal	7-1-03
436-050-0410	9-15-03	Amend	10-1-03	437-006-0007	12-1-03	Repeal	7-1-03
436-050-0420	9-15-03	Amend	10-1-03	437-006-0008	12-1-03	Repeal	7-1-03
436-050-0430	9-15-03	Repeal	10-1-03	437-006-0015	12-1-03	Repeal	7-1-03
436-050-0440	9-15-03	Amend	10-1-03	437-006-0020	12-1-03	Repeal	7-1-03
436-050-0450	9-15-03	Amend	10-1-03	437-006-0023	12-1-03	Repeal	7-1-03
436-050-0460	9-15-03	Amend	10-1-03	437-006-0025	12-1-03	Repeal	7-1-03
436-050-0470	9-15-03	Amend	10-1-03	437-006-0028	12-1-03	Repeal	7-1-03
436-060-0010	9-2-03	Amend(T)	10-1-03	437-006-0030	12-1-03	Repeal	7-1-03
436-060-0019	9-2-03	Amend(T)	10-1-03	437-006-0035	12-1-03	Repeal	7-1-03
436-060-0035	9-2-03	Amend(T)	10-1-03	437-006-0040	12-1-03	Repeal	7-1-03
436-060-0500	9-2-03	Amend(T)	10-1-03	437-006-0045	12-1-03	Repeal	7-1-03
436-105-0003	12-11-02	Amend(T)	1-1-03	437-006-0050	12-1-03	Repeal	7-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
437-006-0100	12-1-03	Repeal	7-1-03	437-006-0480	12-1-03	Repeal	7-1-03
437-006-0105	12-1-03	Repeal	7-1-03	437-006-0485	12-1-03	Repeal	7-1-03
437-006-0110	12-1-03	Repeal	7-1-03	437-006-0490	12-1-03	Repeal	7-1-03
437-006-0120	12-1-03	Repeal	7-1-03	437-006-0495	12-1-03	Repeal	7-1-03
437-006-0125	12-1-03	Repeal	7-1-03	437-006-0500	12-1-03	Repeal	7-1-03
437-006-0130	12-1-03	Repeal	7-1-03	437-006-0505	12-1-03	Repeal	7-1-03
437-006-0135	12-1-03	Repeal	7-1-03	437-006-0510	12-1-03	Repeal	7-1-03
437-006-0140	12-1-03	Repeal	7-1-03	437-006-0515	12-1-03	Repeal	7-1-03
437-006-0145	12-1-03	Repeal	7-1-03	437-006-0530	12-1-03	Repeal	7-1-03
437-006-0150	12-1-03	Repeal	7-1-03	437-006-0535	12-1-03	Repeal	7-1-03
437-006-0155	12-1-03	Repeal	7-1-03	437-006-0540	12-1-03	Repeal	7-1-03
437-006-0160	12-1-03	Repeal	7-1-03	437-006-0545	12-1-03	Repeal	7-1-03
437-006-0162	12-1-03	Repeal	7-1-03	437-006-0550	12-1-03	Repeal	7-1-03
437-006-0165	12-1-03	Repeal	7-1-03	437-006-0555	12-1-03	Repeal	7-1-03
437-006-0170	12-1-03	Repeal	7-1-03	437-006-0565	12-1-03	Repeal	7-1-03
437-006-0175	12-1-03	Repeal	7-1-03	437-006-0570	12-1-03	Repeal	7-1-03
437-006-0205	12-1-03	Repeal	7-1-03	437-006-0575	12-1-03	Repeal	7-1-03
437-006-0210	12-1-03	Repeal	7-1-03	437-006-0580	12-1-03	Repeal	7-1-03
437-006-0215	12-1-03	Repeal	7-1-03	437-006-0585	12-1-03	Repeal	7-1-03
437-006-0220	12-1-03	Repeal	7-1-03	437-006-0590	12-1-03	Repeal	7-1-03
437-006-0225	12-1-03	Repeal	7-1-03	437-007-0001	12-1-03	Adopt	7-1-03
437-006-0230	12-1-03	Repeal	7-1-03	437-007-0002	12-1-03	Adopt	7-1-03
437-006-0235	12-1-03	Repeal	7-1-03	437-007-0003	12-1-03	Adopt	7-1-03
437-006-0240	12-1-03	Repeal	7-1-03	437-007-0004	12-1-03	Adopt	7-1-03
437-006-0245	12-1-03	Repeal	7-1-03	437-007-0010	12-1-03	Adopt	7-1-03
437-006-0260	12-1-03	Repeal	7-1-03	437-007-0025	12-1-03	Adopt	7-1-03
437-006-0265	12-1-03	Repeal	7-1-03	437-007-0100	12-1-03	Adopt	7-1-03
437-006-0270	12-1-03	Repeal	7-1-03	437-007-0105	12-1-03	Adopt	7-1-03
437-006-0275	12-1-03	Repeal	7-1-03	437-007-0110	12-1-03	Adopt	7-1-03
437-006-0280	12-1-03	Repeal	7-1-03	437-007-0125	12-1-03	Adopt	7-1-03
437-006-0285	12-1-03	Repeal	7-1-03	437-007-0130	12-1-03	Adopt	7-1-03
437-006-0290	12-1-03	Repeal	7-1-03	437-007-0135	12-1-03	Adopt	7-1-03
437-006-0295	12-1-03	Repeal	7-1-03	437-007-0140	12-1-03	Adopt	7-1-03
437-006-0300	12-1-03	Repeal	7-1-03	437-007-0145	12-1-03	Adopt	7-1-03
437-006-0310	12-1-03	Repeal	7-1-03	437-007-0200	12-1-03	Adopt	7-1-03
437-006-0350	12-1-03	Repeal	7-1-03	437-007-0205	12-1-03	Adopt	7-1-03
437-006-0355	12-1-03	Repeal	7-1-03	437-007-0210	12-1-03	Adopt	7-1-03
437-006-0360	12-1-03	Repeal	7-1-03	437-007-0215	12-1-03	Adopt	7-1-03
437-006-0365	12-1-03	Repeal	7-1-03	437-007-0220	12-1-03	Adopt	7-1-03
437-006-0370	12-1-03	Repeal	7-1-03	437-007-0225	12-1-03	Adopt	7-1-03
437-006-0375	12-1-03	Repeal	7-1-03	437-007-0230	12-1-03	Adopt	7-1-03
437-006-0380	12-1-03	Repeal	7-1-03	437-007-0235	12-1-03	Adopt	7-1-03
437-006-0400	12-1-03	Repeal	7-1-03	437-007-0240	12-1-03	Adopt	7-1-03
437-006-0405	12-1-03	Repeal	7-1-03	437-007-0245	12-1-03	Adopt	7-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
437-007-1160	12-1-03	Adopt	7-1-03	459-005-0001	7-1-03	Amend(T)	7-1-03
437-007-1165	12-1-03	Adopt	7-1-03	459-005-0058	6-13-03	Adopt	7-1-03
437-007-1200	12-1-03	Adopt	7-1-03	459-005-0060	6-13-03	Adopt	7-1-03
437-007-1205	12-1-03	Adopt	7-1-03	459-005-0180	7-2-03	Adopt	8-1-03
437-007-1391	12-1-03	Adopt	7-1-03	459-005-0320	7-1-03	Amend(T)	7-1-03
437-007-1392	12-1-03	Adopt	7-1-03	459-007-0001	7-1-03	Amend(T)	7-1-03
437-007-1393	12-1-03	Adopt	7-1-03	459-007-0025	7-1-03	Amend(T)	7-1-03
437-007-1394	12-1-03	Adopt	7-1-03	459-007-0040	7-1-03	Amend(T)	7-1-03
437-007-1395	12-1-03	Adopt	7-1-03	459-007-0050	7-1-03	Amend(T)	7-1-03
437-007-1396	12-1-03	Adopt	7-1-03	459-007-0060	7-1-03	Amend(T)	7-1-03
437-007-1397	12-1-03	Adopt	7-1-03	459-007-0110	7-1-03	Amend(T)	7-1-03
437-007-1398	12-1-03	Adopt	7-1-03	459-007-0530	7-1-03	Amend(T)	7-1-03
437-007-1399	12-1-03	Adopt	7-1-03	459-007-0900	7-1-03	Amend(T)	7-1-03
437-007-1400	12-1-03	Adopt	7-1-03	459-009-0105	7-1-03	Adopt(T)	7-1-03
437-007-1405	12-1-03	Adopt	7-1-03	459-009-0350	1-15-03	Adopt	2-1-03
438-005-0011	5-1-03	Amend	4-1-03	459-013-0300	7-1-03	Adopt(T)	7-1-03
438-005-0015	5-1-03	Amend	4-1-03	459-013-0300	7-1-03	Suspend	8-1-03
438-005-0016	5-1-03	Repeal	4-1-03	459-015-0030	8-4-03	Amend	9-1-03
438-005-0040	5-1-03	Amend	4-1-03	459-035-0000	11-18-02	Amend	1-1-03
438-006-0031	5-1-03	Amend	4-1-03	459-035-0001	11-18-02	Amend	1-1-03
438-006-0036	5-1-03	Amend	4-1-03	459-035-0010	11-18-02	Amend	1-1-03
438-006-0075	5-1-03	Amend	4-1-03	459-035-0020	11-18-02	Amend	1-1-03
438-006-0081	5-1-03	Amend	4-1-03	459-035-0030	11-18-02	Amend	1-1-03
438-006-0091	5-1-03	Amend	4-1-03	459-035-0040	11-18-02	Amend	1-1-03
438-006-0095	5-1-03	Amend	4-1-03	459-035-0050	11-18-02	Amend	1-1-03
438-006-0099	5-1-03	Adopt	4-1-03	459-035-0070	11-18-02	Amend	1-1-03
438-007-0015	5-1-03	Amend	4-1-03	459-035-0080	11-18-02	Amend	1-1-03
438-007-0018	5-1-03	Amend	4-1-03	459-035-0090	11-18-02	Amend	1-1-03
438-007-0020	5-1-03	Amend	4-1-03	459-035-0200	11-18-02	Amend	1-1-03
438-007-0024	5-1-03	Adopt	4-1-03	459-035-0210	11-18-02	Repeal	1-1-03
438-007-0027	5-1-03	Adopt	4-1-03	459-035-0220	11-18-02	Adopt	1-1-03
438-012-0001	9-1-03	Amend	8-1-03	459-045-0001	7-1-03	Amend(T)	7-1-03
438-012-0018	9-1-03	Amend	8-1-03	459-045-0040	8-4-03	Amend	9-1-03
438-012-0020	9-1-03	Amend	8-1-03	459-050-0230	8-4-03	Amend	9-1-03
438-012-0024	9-1-03	Adopt	8-1-03	461-006-0452	1-1-03	Amend	2-1-03
438-012-0030	9-1-03	Amend	8-1-03	461-025-0310	1-1-03	Amend(T)	2-1-03
438-012-0035	9-1-03	Amend	8-1-03	461-025-0310	7-1-03	Amend	8-1-03
438-012-0050	9-1-03	Amend	8-1-03	461-025-0315	1-1-03	Amend	2-1-03
438-012-0060	9-1-03	Amend	8-1-03	461-025-0315	1-1-03	Amend(T)	2-1-03
438-012-0061	9-1-03	Amend	8-1-03	461-025-0315	7-1-03	Amend	8-1-03
438-012-0062	9-1-03	Amend	8-1-03	461-101-0010	2-1-03	Amend	3-1-03
438-012-0070	9-1-03	Adopt	8-1-03	461-101-0010	4-1-03	Amend	5-1-03
438-012-0075	9-1-03	Adopt	8-1-03	461-110-0110	2-1-03	Amend	3-1-03
438-012-0080	9-1-03	Adopt	8-1-03	461-110-0115	1-1-03	Amend	2-1-03
438-012-0085	9-1-03	Adopt	8-1-03	461-110-0115	5-1-03	Amend(T)	6-1-03
438-012-0090	9-1-03	Adopt	8-1-03	461-110-0115	7-1-03	Amend	8-1-03
438-012-0095	9-1-03	Adopt	8-1-03	461-110-0115(T)	7-1-03	Repeal	8-1-03
438-012-0100	9-1-03	Adopt	8-1-03	461-110-0750	2-1-03	Amend	3-1-03
438-015-0080	9-1-03	Amend	8-1-03	461-115-0450	6-16-03	Amend	7-1-03
438-022-0005	5-1-03	Adopt	4-1-03	461-115-0530	2-1-03	Amend	3-1-03
438-022-0010	5-1-03	Adopt	4-1-03	461-115-0530	3-1-03	Amend	4-1-03
440-001-0000	1-1-04	Amend	9-1-03	461-115-0540	7-1-03	Amend	8-1-03
440-005-0030	1-1-04	Amend	9-1-03	461-115-0651	4-1-03	Amend	5-1-03
440-035-0070	5-27-03	Amend	7-1-03	461-115-0705	2-1-03	Amend	3-1-03
442-004-0010	12-6-02	Amend(T)	1-1-03	461-120-0120	1-1-03	Amend	2-1-03
442-004-0010	6-16-03	Amend	8-1-03	461-120-0125	4-1-03	Amend	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-120-0125	7-1-03	Amend	8-1-03	461-145-0460	7-1-03	Amend	8-1-03
461-120-0210	2-1-03	Amend	3-1-03	461-145-0540	11-19-02	Amend(T)	1-1-03
461-120-0345	2-1-03	Amend	3-1-03	461-145-0540	5-1-03	Amend	6-1-03
461-120-0345	7-1-03	Amend	8-1-03	461-145-0540	7-1-03	Amend	8-1-03
461-120-0630	4-1-03	Amend	5-1-03	461-145-0540(T)	5-1-03	Repeal	6-1-03
461-125-0370	4-11-03	Amend(T)	5-1-03	461-145-0820	4-1-03	Amend(T)	5-1-03
461-125-0370	7-1-03	Amend	8-1-03	461-145-0820	7-1-03	Amend	8-1-03
461-125-0600	1-1-03	Amend	2-1-03	461-145-0830	4-1-03	Amend(T)	5-1-03
461-130-0305	4-1-03	Amend	5-1-03	461-145-0830	7-1-03	Amend	8-1-03
461-130-0315	4-1-03	Amend	5-1-03	461-150-0047	8-15-03	Adopt	9-1-03
461-130-0330	4-1-03	Amend	5-1-03	461-150-0050	5-1-03	Amend(T)	6-1-03
461-135-0010	2-1-03	Amend	3-1-03	461-150-0055	2-1-03	Amend	3-1-03
461-135-0082	4-1-03	Amend	5-1-03	461-155-0035	1-1-03	Amend(T)	2-1-03
461-135-0301	1-1-03	Adopt(T)	2-1-03	461-155-0035	7-1-03	Amend	8-1-03
461-135-0301	7-1-03	Adopt	8-1-03	461-155-0150	1-1-03	Amend(T)	2-1-03
461-135-0400	4-1-03	Amend	5-1-03	461-155-0150	2-7-03	Amend(T)	3-1-03
461-135-0401	1-1-03	Adopt	2-1-03	461-155-0150	7-1-03	Amend	8-1-03
461-135-0401(T)	1-1-03	Repeal	2-1-03	461-155-0150(T)	2-7-03	Suspend	3-1-03
461-135-0415	4-1-03	Amend	5-1-03	461-155-0225	2-1-03	Amend	3-1-03
461-135-0505	2-7-03	Amend(T)	3-1-03	461-155-0225	2-7-03	Amend(T)	3-1-03
461-135-0505	7-1-03	Amend	8-1-03	461-155-0225	4-1-03	Amend	5-1-03
461-135-0506	6-16-03	Adopt	7-1-03	461-155-0225(T)	4-1-03	Repeal	5-1-03
461-135-0530	4-1-03	Amend	5-1-03	461-155-0235	2-1-03	Amend	3-1-03
461-135-0701	12-30-02	Adopt(T)	2-1-03	461-155-0235	3-1-03	Amend(T)	4-1-03
461-135-0701	6-1-03	Adopt	7-1-03	461-155-0235	4-1-03	Amend	5-1-03
461-135-0701(T)	6-1-03	Repeal	7-1-03	461-155-0235(T)	4-1-03	Repeal	5-1-03
461-135-0721	1-1-03	Adopt(T)	2-1-03	461-155-0250	1-1-03	Amend	2-1-03
461-135-0721	7-1-03	Adopt	8-1-03	461-155-0250	4-1-03	Amend	5-1-03
461-135-0725	5-1-03	Amend(T)	6-1-03	461-155-0250	5-1-03	Amend(T)	6-1-03
461-135-0725	7-1-03	Amend	8-1-03	461-155-0270	1-1-03	Amend	2-1-03
461-135-0725(T)	7-1-03	Repeal	8-1-03	461-155-0290	4-1-03	Amend	5-1-03
461-135-0730	1-1-03	Amend	2-1-03	461-155-0291	4-1-03	Amend	5-1-03
461-135-0730	1-1-03	Amend(T)	1-1-03	461-155-0295	1-1-03	Amend	2-1-03
461-135-0730(T)	1-1-03	Repeal	2-1-03	461-155-0295	1-1-03	Amend(T)	1-1-03
461-135-0780	6-18-03	Amend(T)	8-1-03	461-155-0295	4-1-03	Amend	5-1-03
461-135-0832	7-1-03	Amend	8-1-03	461-155-0295(T)	1-1-03	Repeal	2-1-03
461-135-0835	7-1-03	Amend	8-1-03	461-155-0300	1-1-03	Amend	2-1-03
461-135-0900	1-1-03	Amend	2-1-03	461-155-0360	2-1-03	Amend	3-1-03
461-135-0990	2-1-03	Amend	3-1-03	461-155-0500	5-1-03	Amend	6-1-03
461-135-1070	2-1-03	Amend	3-1-03	461-155-0526	5-1-03	Adopt	6-1-03
461-135-1100	2-1-03	Amend	3-1-03	461-155-0551	5-1-03	Adopt	6-1-03
461-135-1110	2-1-03	Amend	3-1-03	461-155-0560	5-1-03	Repeal	6-1-03
461-135-1110	4-1-03	Amend	5-1-03	461-155-0600	5-1-03	Amend	6-1-03
461-135-1110	7-1-03	Amend	8-1-03	461-155-0610	5-1-03	Amend	6-1-03
461-135-1110(T)	4-1-03	Repeal	5-1-03	461-155-0680	1-1-03	Amend	2-1-03
461-135-1120	2-1-03	Amend	3-1-03	461-160-0010	2-1-03	Amend	3-1-03
461-135-1120	7-1-03	Amend	8-1-03	461-160-0015	2-1-03	Amend	3-1-03
461-135-1120	7-1-03	Amend(T)	8-1-03	461-160-0015	7-1-03	Amend	8-1-03
461-135-1130	2-1-03	Amend	3-1-03	461-160-0040	4-1-03	Amend	5-1-03
461-135-1130	9-15-03	Amend(T)	10-1-03	461-160-0120	7-1-03	Amend	8-1-03
461-135-1180	2-1-03	Adopt	3-1-03	461-160-0193	4-1-03	Amend	5-1-03
461-145-0025	7-1-03	Amend	8-1-03	461-160-0580	1-1-03	Amend	2-1-03
461-145-0080	4-1-03	Amend	5-1-03	461-160-0600	7-1-03	Amend	8-1-03
461-145-0080	7-1-03	Amend	8-1-03	461-160-0610	7-1-03	Amend	8-1-03
461-145-0130	4-1-03	Amend	5-1-03	461-160-0620	1-1-03	Amend	2-1-03
461-145-0255	1-1-03	Amend	2-1-03	461-160-0620	7-1-03	Amend	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-160-0700	2-1-03	Amend	3-1-03	461-200-1070	7-1-03	Am. & Ren.(T)	8-1-03
461-160-0810	1-1-03	Amend	2-1-03	461-200-1080	7-1-03	Am. & Ren.(T)	8-1-03
461-165-0030	2-1-03	Amend	3-1-03	461-200-1100	7-1-03	Am. & Ren.(T)	8-1-03
461-165-0030	4-1-03	Amend	5-1-03	461-200-1120	7-1-03	Am. & Ren.(T)	8-1-03
461-165-0160	4-1-03	Amend	5-1-03	461-200-1140	7-1-03	Am. & Ren.(T)	8-1-03
461-165-0171	4-1-03	Adopt	5-1-03	461-200-1160	3-1-03	Amend	4-1-03
461-165-0180	1-1-03	Amend	2-1-03	461-200-1160	7-1-03	Am. & Ren.(T)	8-1-03
461-165-0190	4-1-03	Amend	5-1-03	461-200-1180	3-1-03	Amend	4-1-03
461-170-0010	8-15-03	Amend	9-1-03	461-200-1180	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0015	1-1-03	Amend(T)	2-1-03	461-200-1200	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0015	4-1-03	Amend	5-1-03	461-200-1320	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0015(T)	4-1-03	Repeal	5-1-03	461-200-1340	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0020	1-1-03	Amend(T)	2-1-03	461-200-1360	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0020	4-1-03	Amend	5-1-03	461-200-1500	3-1-03	Amend	4-1-03
461-170-0020	6-16-03	Amend	7-1-03	461-200-1500	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0020	8-15-03	Amend	9-1-03	461-200-1600	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0020(T)	4-1-03	Repeal	5-1-03	461-200-2020	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0030	1-1-03	Amend(T)	2-1-03	461-200-2040	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0030	4-1-03	Amend	5-1-03	461-200-2060	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0030(T)	4-1-03	Repeal	5-1-03	461-200-2080	6-30-03	Adopt	8-1-03
461-170-0035	2-1-03	Amend	3-1-03	461-200-2080	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0101	8-15-03	Adopt	9-1-03	461-200-2120	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0102	8-15-03	Adopt	9-1-03	461-200-2140	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0103	8-15-03	Adopt	9-1-03	461-200-2160	7-1-03	Am. & Ren.(T)	8-1-03
461-170-0104	8-15-03	Adopt	9-1-03	461-200-2180	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0010	1-1-03	Amend(T)	2-1-03	461-200-2320	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0010	7-1-03	Amend	8-1-03	461-200-2340	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0207	4-1-03	Amend	5-1-03	461-200-2360	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0220	8-15-03	Amend	9-1-03	461-200-2380	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0240	8-15-03	Amend	9-1-03	461-200-3020	6-30-03	Amend	8-1-03
461-175-0270	6-16-03	Amend	7-1-03	461-200-3020	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0270	8-15-03	Amend	9-1-03	461-200-3040	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0280	8-15-03	Amend	9-1-03	461-200-3060	7-1-03	Am. & Ren.(T)	8-1-03
461-175-0305	8-15-03	Amend	9-1-03	461-200-3080	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0006	8-15-03	Adopt	9-1-03	461-200-3100	6-30-03	Amend	8-1-03
461-180-0010	4-1-03	Amend	5-1-03	461-200-3100	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0030	6-16-03	Amend	7-1-03	461-200-3120	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0030	8-15-03	Amend	9-1-03	461-200-3140	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0070	4-1-03	Amend	5-1-03	461-200-3220	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0081	6-16-03	Adopt	7-1-03	461-200-3240	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0090	3-1-03	Amend	4-1-03	461-200-3260	3-1-03	Amend	4-1-03
461-180-0097	2-1-03	Amend	3-1-03	461-200-3260	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0100	2-1-03	Amend	3-1-03	461-200-3280	7-1-03	Am. & Ren.(T)	8-1-03
461-190-0161	9-1-03	Amend(T)	10-1-03	461-200-3290	6-30-03	Adopt	8-1-03
461-190-0360	4-1-03	Amend	5-1-03	461-200-3290	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0246	7-1-03	Amend	8-1-03	461-200-3300	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0560	1-1-03	Amend(T)	2-1-03	461-200-3340	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0560	2-14-03	Amend(T)	3-1-03	461-200-3360	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0560	7-1-03	Amend	8-1-03	461-200-3400	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0560(T)	2-14-03	Suspend	3-1-03	461-200-3420	3-1-03	Amend	4-1-03
461-195-0511	7-1-03	Amend	8-1-03	461-200-3420	7-1-03	Am. & Ren.(T)	8-1-03
461-195-0521	1-1-03	Amend	2-1-03	461-200-3440	7-1-03	Am. & Ren.(T)	8-1-03
461-200-1020	7-1-03	Am. & Ren.(T)	8-1-03	461-200-3460	7-1-03	Am. & Ren.(T)	8-1-03
461-200-1040	7-1-03	Am. & Ren.(T)	8-1-03	461-200-3480	7-1-03	Am. & Ren.(T)	8-1-03
461-200-1060	7-1-03	Am. & Ren.(T)	8-1-03	461-200-3490	7-1-03	Am. & Ren.(T)	8-1-03
461-200-1070	1-1-03	Adopt	2-1-03	461-200-3500	7-1-03	Am. & Ren.(T)	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-200-3620	7-1-03	Am. & Ren.(T)	8-1-03	461-200-6280	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3640	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7020	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4040	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7040	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4060	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7060	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4080	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7080	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4100	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7100	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4120	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7120	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4140	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7140	3-1-03	Amend	4-1-03
461-200-4160	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7140	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4180	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7160	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4200	7-1-03	Am. & Ren.(T)	8-1-03	461-200-7180	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4220	7-1-03	Am. & Ren.(T)	8-1-03	462-110-0010	1-1-03	Amend	1-1-03
461-200-4240	7-1-03	Am. & Ren.(T)	8-1-03	462-110-0010	4-23-03	Amend	6-1-03
461-200-4260	7-1-03	Am. & Ren.(T)	8-1-03	462-110-0020	1-1-03	Amend	1-1-03
461-200-4280	7-1-03	Am. & Ren.(T)	8-1-03	462-110-0030	4-1-03	Amend(T)	5-1-03
461-200-4300	7-1-03	Am. & Ren.(T)	8-1-03	462-120-0020	1-1-03	Amend	1-1-03
461-200-4320	7-1-03	Am. & Ren.(T)	8-1-03	462-120-0040	1-1-03	Amend	1-1-03
461-200-4340	7-1-03	Am. & Ren.(T)	8-1-03	462-120-0050	1-1-03	Amend	1-1-03
461-200-4360	7-1-03	Am. & Ren.(T)	8-1-03	462-120-0100	1-1-03	Amend	1-1-03
461-200-4420	7-1-03	Am. & Ren.(T)	8-1-03	462-130-0010	1-1-03	Amend	1-1-03
461-200-4440	7-1-03	Am. & Ren.(T)	8-1-03	462-130-0050	1-1-03	Amend	1-1-03
461-200-4460	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0030	1-1-03	Amend	1-1-03
461-200-4500	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0040	1-1-03	Amend	1-1-03
461-200-4520	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0100	1-1-03	Amend	1-1-03
461-200-4540	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0120	4-1-03	Amend(T)	5-1-03
461-200-4560	6-30-03	Amend	8-1-03	462-140-0130	1-1-03	Amend	1-1-03
461-200-4560	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0250	1-1-03	Amend	1-1-03
461-200-4620	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0370	1-1-03	Amend	1-1-03
461-200-4640	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0400	4-1-03	Amend(T)	5-1-03
461-200-5020	3-1-03	Amend	4-1-03	462-140-0420	4-1-03	Amend(T)	5-1-03
461-200-5020	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0460	4-1-03	Amend(T)	5-1-03
461-200-5040	3-1-03	Amend	4-1-03	462-150-0010	1-1-03	Amend	1-1-03
461-200-5040	7-1-03	Am. & Ren.(T)	8-1-03	462-150-0050	1-1-03	Amend	1-1-03
461-200-5060	3-1-03	Amend	4-1-03	462-150-0070	1-1-03	Amend	1-1-03
461-200-5060	7-1-03	Am. & Ren.(T)	8-1-03	462-150-0080	1-1-03	Amend	1-1-03
461-200-5080	7-1-03	Am. & Ren.(T)	8-1-03	462-160-0010	1-1-03	Amend	1-1-03
461-200-5110	7-1-03	Am. & Ren.(T)	8-1-03	462-160-0020	1-1-03	Amend	1-1-03
461-200-5120	3-1-03	Amend	4-1-03	462-160-0030	1-1-03	Amend	1-1-03
461-200-5120	7-1-03	Am. & Ren.(T)	8-1-03	462-170-0030	4-1-03	Amend(T)	5-1-03
461-200-5125	3-1-03	Amend	4-1-03	462-170-0050	4-1-03	Amend(T)	5-1-03
461-200-5125	7-1-03	Am. & Ren.(T)	8-1-03	462-170-0080	4-1-03	Amend(T)	5-1-03
461-200-5220	7-1-03	Am. & Ren.(T)	8-1-03	462-180-0010	4-1-03	Amend(T)	5-1-03
461-200-5240	6-30-03	Amend	8-1-03	462-200-0630	4-23-03	Adopt	6-1-03
461-200-5240	7-1-03	Am. & Ren.(T)	8-1-03	462-220-0040	7-1-03	Amend	7-1-03
461-200-5400	7-1-03	Am. & Ren.(T)	8-1-03	462-220-0040	7-1-03	Amend	8-1-03
461-200-5420	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0040	2-9-03	Amend	3-1-03
461-200-5520	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0050	3-29-03	Amend(T)	5-1-03
461-200-6020	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0054	12-1-02	Amend(T)	1-1-03
461-200-6025	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0054	5-25-03	Amend	7-1-03
461-200-6040	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0054(T)	5-25-03	Repeal	7-1-03
461-200-6100	7-1-03	Am. & Ren.(T)	8-1-03	471-020-0035	2-16-03	Adopt	3-1-03
461-200-6110	7-1-03	Am. & Ren.(T)	8-1-03	471-020-0035	4-27-03	Amend	6-1-03
461-200-6120	7-1-03	Am. & Ren.(T)	8-1-03	471-020-0040	2-16-03	Adopt	3-1-03
461-200-6220	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0015	2-9-03	Amend	3-1-03
461-200-6240	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0030	2-9-03	Amend	3-1-03
461-200-6260	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0036	4-13-03	Amend	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
471-030-0050	2-9-03	Amend	3-1-03	571-060-0005	7-1-03	Amend	8-1-03
471-030-0052	7-27-03	Amend	9-1-03	571-060-0005	7-1-03	Amend	8-1-03
471-030-0076	2-9-03	Amend	3-1-03	573-040-0005	4-16-03	Amend	6-1-03
471-030-0080	11-24-02	Amend	1-1-03	573-070-0011	12-30-02	Amend	2-1-03
471-030-0080	7-27-03	Amend	9-1-03	573-071-0005	4-16-03	Amend	6-1-03
471-031-0010	2-9-03	Amend	3-1-03	573-071-0030	4-16-03	Repeal	6-1-03
471-031-0035	2-9-03	Amend	3-1-03	574-031-0000	8-1-03	Amend	9-1-03
471-031-0040	2-9-03	Amend	3-1-03	574-031-0010	8-1-03	Amend	9-1-03
471-031-0055	2-9-03	Amend	3-1-03	574-031-0020	8-1-03	Amend	9-1-03
471-031-0075	2-9-03	Amend	3-1-03	574-031-0030	8-1-03	Amend	9-1-03
471-031-0095	2-9-03	Amend	3-1-03	574-031-0040	8-1-03	Amend	9-1-03
471-040-0005	4-27-03	Amend	6-1-03	574-032-0000	8-1-03	Amend	9-1-03
471-040-0021	5-25-03	Amend	7-1-03	574-032-0010	8-1-03	Amend	9-1-03
543-040-0040	12-16-02	Amend(T)	1-1-03	574-032-0020	8-1-03	Amend	9-1-03
543-050-0000	9-1-03	Suspend	10-1-03	574-032-0030	8-1-03	Amend	9-1-03
543-050-0020	9-1-03	Suspend	10-1-03	574-032-0060	8-1-03	Amend	9-1-03
543-050-0030	9-1-03	Suspend	10-1-03	574-032-0070	8-1-03	Amend	9-1-03
543-050-0040	9-1-03	Suspend	10-1-03	574-032-0080	8-1-03	Amend	9-1-03
543-050-0050	9-1-03	Suspend	10-1-03	574-032-0100	8-1-03	Amend	9-1-03
543-060-0000	9-1-03	Adopt(T)	10-1-03	574-032-0120	8-1-03	Amend	9-1-03
543-060-0010	9-1-03	Adopt(T)	10-1-03	574-032-0130	8-1-03	Amend	9-1-03
543-060-0020	9-1-03	Adopt(T)	10-1-03	574-032-0150	8-1-03	Amend	9-1-03
543-060-0030	9-1-03	Adopt(T)	10-1-03	574-050-0005	4-2-03	Amend	5-1-03
543-060-0040	9-1-03	Adopt(T)	10-1-03	574-050-0005	8-1-03	Amend	9-1-03
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-015-0042	3-10-03	Amend	4-1-03	581-015-0816	3-10-03	Amend	4-1-03
581-015-0044	3-10-03	Amend	4-1-03	581-015-0820	3-10-03	Amend	4-1-03
581-015-0048	3-10-03	Amend	4-1-03	581-015-0825	3-10-03	Amend	4-1-03
581-015-0049	3-10-03	Amend	4-1-03	581-015-0900	3-10-03	Amend	4-1-03
581-015-0051	3-10-03	Amend	4-1-03	581-015-0935	3-10-03	Amend	4-1-03
581-015-0053	4-30-03	Amend	6-1-03	581-015-0937	3-10-03	Amend	4-1-03
581-015-0054	3-10-03	Amend	4-1-03	581-015-0938	3-10-03	Amend	4-1-03
581-015-0057	3-10-03	Amend	4-1-03	581-015-0939	3-10-03	Amend	4-1-03
581-015-0059	3-10-03	Amend	4-1-03	581-015-0940	4-30-03	Amend	6-1-03
581-015-0061	3-10-03	Amend	4-1-03	581-015-0941	4-30-03	Amend	6-1-03
581-015-0062	3-10-03	Amend	4-1-03	581-015-0945	3-10-03	Amend	4-1-03
581-015-0063	3-10-03	Amend	4-1-03	581-015-0946	3-10-03	Amend	4-1-03
581-015-0066	3-10-03	Amend	4-1-03	581-015-0949	4-30-03	Amend	6-1-03
581-015-0067	3-10-03	Amend	4-1-03	581-015-0960	3-10-03	Amend	4-1-03
581-015-0068	3-10-03	Amend	4-1-03	581-015-0964	3-10-03	Amend	4-1-03
581-015-0074	4-30-03	Amend	6-1-03	581-015-0966	3-10-03	Amend	4-1-03
581-015-0075	3-10-03	Amend	4-1-03	581-015-0968	3-10-03	Amend	4-1-03
581-015-0079	3-10-03	Amend	4-1-03	581-015-0968	8-14-03	Amend	9-1-03
581-015-0080	3-10-03	Amend	4-1-03	581-015-0970	3-10-03	Amend	4-1-03
581-015-0081	3-10-03	Amend	4-1-03	581-015-0972	3-10-03	Adopt	4-1-03
581-015-0085	3-10-03	Amend	4-1-03	581-015-0980	3-10-03	Amend	4-1-03
581-015-0086	3-10-03	Amend	4-1-03	581-015-0990	3-10-03	Amend	4-1-03
581-015-0088	3-10-03	Amend	4-1-03	581-015-1000	3-10-03	Amend	4-1-03
581-015-0093	3-10-03	Amend	4-1-03	581-015-1008	3-10-03	Amend	4-1-03
581-015-0094	3-10-03	Amend	4-1-03	581-015-1051	3-10-03	Adopt	4-1-03
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
581-015-0294	4-30-03	Amend	6-1-03	581-021-0021(T)	6-20-03	Suspend	8-1-03
581-015-0296	3-10-03	Amend	4-1-03	581-021-0072	8-26-03	Amend	10-1-03
581-015-0301	4-30-03	Amend	6-1-03	581-022-0102	3-14-03	Amend	4-1-03
581-015-0550	3-10-03	Amend	4-1-03	581-022-1131	3-14-03	Adopt	4-1-03
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
581-015-0556	3-10-03	Amend	4-1-03	581-023-0040	6-13-03	Amend	7-1-03
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
581-015-0601	3-10-03	Amend	4-1-03	583-030-0010	4-16-03	Amend	6-1-03
581-015-0606	4-30-03	Amend	6-1-03	583-030-0015	4-16-03	Amend	6-1-03
581-015-0607	3-10-03	Adopt	4-1-03	583-030-0020	4-16-03	Amend	6-1-03
581-015-0608	3-10-03	Adopt	4-1-03	583-030-0021	4-16-03	Amend	6-1-03
581-015-0704	4-30-03	Amend	6-1-03	583-030-0025	4-16-03	Amend	6-1-03
581-015-0705	4-30-03	Amend	6-1-03	583-030-0030	4-16-03	Amend	6-1-03
581-015-0706	4-30-03	Amend	6-1-03	583-030-0035	4-16-03	Amend	6-1-03
581-015-0805	3-10-03	Amend	4-1-03	583-030-0036	4-16-03	Amend	6-1-03
581-015-0811	3-10-03	Amend	4-1-03	583-030-0040	4-16-03	Amend	6-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
583-030-0042	4-16-03	Amend	6-1-03	589-006-0300	1-9-03	Amend	2-1-03
583-030-0045	4-16-03	Amend	6-1-03	589-006-0350	1-9-03	Adopt	2-1-03
583-030-0046	4-16-03	Amend	6-1-03	589-006-0400	1-9-03	Amend	2-1-03
583-030-0049	4-16-03	Amend	6-1-03	589-007-0100	3-10-03	Amend	4-1-03
584-	8-25-03		10-1-03	589-007-0110	3-10-03	Adopt	4-1-03
584-005-0005	5-15-03	Amend	6-1-03	589-007-0120	3-10-03	Adopt	4-1-03
584-017-0041	3-10-03	Adopt(T)	4-1-03	589-007-0130	3-10-03	Adopt	4-1-03
584-017-0150	5-15-03	Amend	6-1-03	589-007-0140	3-10-03	Adopt	4-1-03
584-017-0170	1-13-03	Amend	2-1-03	589-007-0150	3-10-03	Adopt	4-1-03
584-036-0055	1-13-03	Amend	2-1-03	589-007-0160	3-10-03	Adopt	4-1-03
584-060-0061	1-13-03	Amend	2-1-03	589-007-0170	3-10-03	Adopt	4-1-03
584-060-0071	5-15-03	Amend	6-1-03	589-007-0180	3-10-03	Adopt	4-1-03
584-060-0210	5-15-03	Adopt	6-1-03	589-007-0200	1-9-03	Amend	2-1-03
584-065-0050	1-13-03	Adopt	2-1-03	589-007-0300	1-9-03	Amend	2-1-03
584-065-0050	5-15-03	Amend	6-1-03	589-008-0100	1-9-03	Amend	2-1-03
584-100-0001	8-25-03	Adopt(T)	10-1-03	589-008-0200	1-9-03	Amend	2-1-03
584-100-0005	8-25-03	Adopt(T)	10-1-03	589-009-0100	1-9-03	Amend	2-1-03
584-100-0010	8-25-03	Adopt(T)	10-1-03	589-020-0270	12-4-02	Adopt(T)	1-1-03
584-100-0015	8-25-03	Adopt(T)	10-1-03	589-020-0270	5-14-03	Adopt	6-1-03
584-100-0020	8-25-03	Adopt(T)	10-1-03	603-001-0005	1-7-03	Amend	2-1-03
584-100-0022	8-25-03	Adopt(T)	10-1-03	603-011-0265	3-17-03	Amend(T)	5-1-03
584-100-0025	8-25-03	Adopt(T)	10-1-03	603-011-0376	1-17-03	Adopt(T)	3-1-03
584-100-0030	8-25-03	Adopt(T)	10-1-03	603-011-0376	3-27-03	Amend(T)	5-1-03
584-100-0035	8-25-03	Adopt(T)	10-1-03	603-011-0376	6-20-03	Adopt	8-1-03
584-100-0040	8-25-03	Adopt(T)	10-1-03	603-011-0376(T)	3-27-03	Suspend	5-1-03
584-100-0045	8-25-03	Adopt(T)	10-1-03	603-012-0230	9-12-03	Amend	10-1-03
584-100-0050	8-25-03	Adopt(T)	10-1-03	603-014-0045	8-4-03	Amend(T)	9-1-03
584-100-0055	8-25-03	Adopt(T)	10-1-03	603-014-0045	9-12-03	Amend	10-1-03
584-100-0060	8-25-03	Adopt(T)	10-1-03	603-014-0046	8-4-03	Adopt(T)	9-1-03
584-100-0065	8-25-03	Adopt(T)	10-1-03	603-014-0046	9-12-03	Adopt	10-1-03
584-100-0070	8-25-03	Adopt(T)	10-1-03	603-014-0047	8-4-03	Adopt(T)	9-1-03
584-100-0090	8-25-03	Adopt(T)	10-1-03	603-014-0047	9-12-03	Adopt	10-1-03
584-100-0095	8-25-03	Adopt(T)	10-1-03	603-014-0048	8-4-03	Adopt(T)	9-1-03
584-100-0100	8-25-03	Adopt(T)	10-1-03	603-014-0048	9-12-03	Adopt	10-1-03
584-100-0105	8-25-03	Adopt(T)	10-1-03	603-014-0095	1-15-03	Amend	2-1-03
584-100-0110	8-25-03	Adopt(T)	10-1-03	603-025-0010	1-1-03	Amend	2-1-03
589-001-0000	1-9-03	Amend	2-1-03	603-025-0020	1-1-03	Amend	2-1-03
589-002-0100	12-16-02	Amend(T)	2-1-03	603-025-0030	1-1-03	Amend	2-1-03
589-002-0100	5-14-03	Amend	6-1-03	603-025-0180	1-1-03	Amend	2-1-03
589-002-0200	1-9-03	Amend	2-1-03	603-025-0190	1-1-03	Amend	2-1-03
589-002-0300	1-9-03	Amend	2-1-03	603-025-0220	1-1-03	Repeal	2-1-03
589-002-0400	1-9-03	Repeal	2-1-03	603-052-1025	4-18-03	Amend	6-1-03
589-002-0500	1-9-03	Amend	2-1-03	603-052-1150	1-14-03	Adopt	2-1-03
589-002-0600	1-9-03	Amend	2-1-03	603-052-1200	12-10-02	Amend	1-1-03
589-002-0700	1-9-03	Amend	2-1-03	603-053-0200	12-23-02	Amend	2-1-03
589-002-0800	1-9-03	Amend	2-1-03	603-054-0016	1-7-03	Amend	2-1-03
589-003-0100	1-9-03	Amend	2-1-03	603-054-0017	1-7-03	Amend	2-1-03
589-005-0100	1-9-03	Amend	2-1-03	603-054-0018	1-7-03	Amend	2-1-03
589-005-0200	1-9-03	Amend	2-1-03	603-054-0020	1-7-03	Adopt	2-1-03
589-005-0300	1-9-03	Amend	2-1-03	603-054-0024	1-7-03	Adopt	2-1-03
589-005-0400	1-9-03	Amend	2-1-03	603-054-0026	8-17-03	Adopt(T)	9-1-03
589-005-0500	1-9-03	Amend	2-1-03	603-054-0030	1-7-03	Amend	2-1-03
589-006-0050	1-9-03	Adopt	2-1-03	603-054-0080	1-7-03	Adopt	2-1-03
589-006-0100	1-9-03	Amend	2-1-03	603-056-0165	1-14-03	Amend	2-1-03
589-006-0150	1-9-03	Adopt	2-1-03	603-057-0378	3-28-03	Adopt(T)	5-1-03
589-006-0200	1-9-03	Amend	2-1-03	603-057-0378	7-15-03	Adopt	8-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-057-0378(T)	7-15-03	Repeal	8-1-03	603-095-2360	1-7-03	Adopt	2-1-03
603-057-0410	12-4-02	Amend(T)	1-1-03	603-095-2400	1-7-03	Adopt	2-1-03
603-057-0410	4-22-03	Amend(T)	6-1-03	603-095-2420	1-7-03	Adopt	2-1-03
603-059-0055	1-1-03	Adopt	1-1-03	603-095-2440	1-7-03	Adopt	2-1-03
603-059-0070	1-1-03	Adopt	1-1-03	603-095-2460	1-7-03	Adopt	2-1-03
603-059-0080	1-1-03	Adopt	1-1-03	603-095-2500	7-8-03	Adopt	8-1-03
603-059-0100	1-1-03	Adopt	1-1-03	603-095-2520	7-8-03	Adopt	8-1-03
603-073-0070	6-11-03	Amend	7-1-03	603-095-2540	7-8-03	Adopt	8-1-03
603-074-0005	10-1-03	Amend	10-1-03	603-095-2560	7-8-03	Adopt	8-1-03
603-074-0010	10-1-03	Amend	10-1-03	603-095-2600	7-8-03	Adopt	8-1-03
603-074-0012	10-1-03	Adopt	10-1-03	603-095-2620	7-8-03	Adopt	8-1-03
603-074-0014	10-1-03	Adopt	10-1-03	603-095-2640	7-8-03	Adopt	8-1-03
603-074-0018	10-1-03	Adopt	10-1-03	603-095-2660	7-8-03	Adopt	8-1-03
603-074-0020	10-1-03	Amend	10-1-03	603-095-2700	7-8-03	Adopt	8-1-03
603-074-0040	10-1-03	Amend	10-1-03	603-095-2720	7-8-03	Adopt	8-1-03
603-074-0060	10-1-03	Amend	10-1-03	603-095-2740	7-8-03	Adopt	8-1-03
603-074-0070	10-1-03	Amend	10-1-03	603-095-2760	7-8-03	Adopt	8-1-03
603-074-0080	10-1-03	Amend	10-1-03	603-095-3000	7-8-03	Adopt	8-1-03
603-077-0101	5-15-03	Amend	6-1-03	603-095-3020	7-8-03	Adopt	8-1-03
603-077-0105	5-15-03	Amend	6-1-03	603-095-3040	7-8-03	Adopt	8-1-03
603-077-0110	5-15-03	Amend	6-1-03	603-095-3060	7-8-03	Adopt	8-1-03
603-077-0112	5-15-03	Amend	6-1-03	603-095-3100	7-8-03	Adopt	8-1-03
603-077-0115	5-15-03	Amend	6-1-03	603-095-3120	7-8-03	Adopt	8-1-03
603-077-0125	5-15-03	Amend	6-1-03	603-095-3140	7-8-03	Adopt	8-1-03
603-077-0131	5-15-03	Amend	6-1-03	603-095-3160	7-8-03	Adopt	8-1-03
603-077-0133	5-15-03	Amend	6-1-03	603-095-3200	8-4-03	Adopt	9-1-03
603-077-0137	5-15-03	Amend	6-1-03	603-095-3220	8-4-03	Adopt	9-1-03
603-077-0155	5-15-03	Amend	6-1-03	603-095-3240	8-4-03	Adopt	9-1-03
603-077-0165	5-15-03	Amend	6-1-03	603-095-3260	8-4-03	Adopt	9-1-03
603-077-0175	5-15-03	Amend	6-1-03	603-105-0010	12-23-02	Adopt	2-1-03
603-077-0180	5-15-03	Amend	6-1-03	606-010-0015	8-5-03	Amend	9-1-03
603-077-0195	5-15-03	Amend	6-1-03	611-010-0010	5-12-03	Amend	6-1-03
603-082-0010	2-27-03	Adopt	4-1-03	621-001-0005	2-1-03	Adopt	2-1-03
603-082-0020	2-27-03	Adopt	4-1-03	621-001-0010	2-1-03	Adopt	2-1-03
603-082-0030	2-27-03	Adopt	4-1-03	622-001-0000	1-16-03	Amend	2-1-03
603-082-0040	2-27-03	Adopt	4-1-03	622-001-0005	1-16-03	Amend	2-1-03
603-082-0050	2-27-03	Adopt	4-1-03	622-001-0010	1-16-03	Repeal	2-1-03
603-082-0060	2-27-03	Adopt	4-1-03	622-010-0000	1-16-03	Amend	2-1-03
603-082-0070	2-27-03	Adopt	4-1-03	622-010-0006	1-16-03	Amend	2-1-03
603-082-0080	2-27-03	Adopt	4-1-03	622-010-0011	1-16-03	Amend	2-1-03
603-082-0090	2-27-03	Adopt	4-1-03	622-020-0001	1-16-03	Amend	2-1-03
603-082-0100	2-27-03	Adopt	4-1-03	622-020-0140	1-16-03	Amend	2-1-03
603-095-0200	1-7-03	Amend	2-1-03	622-020-0141	1-16-03	Amend	2-1-03
603-095-0220	1-7-03	Amend	2-1-03	622-020-0142	1-16-03	Amend	2-1-03
603-095-0240	1-7-03	Amend	2-1-03	622-020-0144	1-16-03	Amend	2-1-03
603-095-0280	1-7-03	Amend	2-1-03	622-020-0145	1-16-03	Amend	2-1-03
603-095-0600	1-7-03	Amend	2-1-03	622-020-0147	1-16-03	Amend	2-1-03
603-095-0640	1-7-03	Amend	2-1-03	622-020-0149	1-16-03	Amend	2-1-03
603-095-0660	1-7-03	Amend	2-1-03	622-020-0151	1-16-03	Repeal	2-1-03
603-095-2000	1-7-03	Adopt	2-1-03	622-020-0153	1-16-03	Amend	2-1-03
603-095-2020	1-7-03	Adopt	2-1-03	622-030-0005	1-16-03	Amend	2-1-03
603-095-2040	1-7-03	Adopt	2-1-03	622-030-0010	1-16-03	Amend	2-1-03
603-095-2060	1-7-03	Adopt	2-1-03	622-045-0000	1-16-03	Amend	2-1-03
603-095-2300	1-7-03	Adopt	2-1-03	622-045-0005	1-16-03	Amend	2-1-03
603-095-2320	1-7-03	Adopt	2-1-03	622-045-0010	1-16-03	Amend	2-1-03
603-095-2340	1-7-03	Adopt	2-1-03	622-045-0015	1-16-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
622-045-0019	1-16-03	Amend	2-1-03	632-007-0020	1-1-03	Adopt	2-1-03
622-050-0000	1-16-03	Repeal	2-1-03	632-007-0020	1-1-03	Suspend	2-1-03
622-050-0010	1-16-03	Repeal	2-1-03	632-007-0020	6-29-03	Amend	8-1-03
622-050-0020	1-16-03	Repeal	2-1-03	632-007-0030	1-1-03	Adopt	2-1-03
622-050-0030	1-16-03	Repeal	2-1-03	632-007-0030	1-1-03	Suspend	2-1-03
622-050-0040	1-16-03	Repeal	2-1-03	632-007-0030	6-29-03	Amend	8-1-03
622-050-0050	1-16-03	Repeal	2-1-03	632-030-0017	8-22-03	Amend	10-1-03
622-050-0060	1-16-03	Repeal	2-1-03	632-030-0022	8-22-03	Amend	10-1-03
622-055-0003	1-16-03	Adopt	2-1-03	632-030-0022	9-1-03	Amend	10-1-03
622-055-0005	1-16-03	Amend	2-1-03	635-001-0005	8-28-03	Amend	10-1-03
622-055-0010	1-16-03	Adopt	2-1-03	635-003-0003	5-1-03	Amend	6-1-03
622-055-0015	1-16-03	Adopt	2-1-03	635-003-0004	3-1-03	Amend(T)	4-1-03
622-055-0020	1-16-03	Adopt	2-1-03	635-003-0004	5-1-03	Amend	6-1-03
622-055-0025	1-16-03	Adopt	2-1-03	635-003-0004	6-6-03	Amend(T)	7-1-03
622-065-0001	1-16-03	Amend	2-1-03	635-003-0076	5-1-03	Amend	6-1-03
622-065-0002	1-16-03	Amend	2-1-03	635-003-0085	5-1-03	Amend	6-1-03
622-065-0003	1-16-03	Amend	2-1-03	635-004-0005	1-1-03	Amend	2-1-03
622-065-0004	1-16-03	Repeal	2-1-03	635-004-0018	1-1-03	Amend	2-1-03
622-065-0010	1-16-03	Amend	2-1-03	635-004-0025	1-1-03	Amend	2-1-03
622-065-0011	1-16-03	Amend	2-1-03	635-004-0027	2-10-03	Amend(T)	3-1-03
622-065-0012	1-16-03	Repeal	2-1-03	635-004-0029	1-1-03	Amend	2-1-03
629-001-0055	9-8-03	Adopt(T)	10-1-03	635-004-0033	1-1-03	Amend	2-1-03
629-600-0100	1-1-03	Amend	1-1-03	635-004-0033	2-21-03	Amend(T)	4-1-03
629-605-0100	7-1-03	Amend	8-1-03	635-004-0033	3-26-03	Amend	5-1-03
629-605-0105	7-1-03	Adopt	8-1-03	635-004-0033	7-16-03	Amend(T)	8-1-03
629-606-0200	1-1-03	Amend	1-1-03	635-004-0033	8-18-03	Amend(T)	10-1-03
629-606-0600	1-1-03	Amend	1-1-03	635-004-0050	1-1-03	Amend	2-1-03
629-623-0000	1-1-03	Adopt	1-1-03	635-005-0045	11-20-02	Amend(T)	1-1-03
629-623-0100	1-1-03	Adopt	1-1-03	635-005-0045	11-25-02	Amend(T)	1-1-03
629-623-0200	1-1-03	Adopt	1-1-03	635-005-0045	12-6-02	Amend(T)	1-1-03
629-623-0250	1-1-03	Adopt	1-1-03	635-005-0045(T)	12-6-02	Suspend	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-005-0190	3-26-03	Amend	5-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-006-0001	7-17-03	Amend	9-1-03
629-623-0450	1-1-03	Adopt	1-1-03	635-006-0132	7-17-03	Amend	9-1-03
629-623-0500	1-1-03	Adopt	1-1-03	635-006-0133	7-17-03	Adopt	9-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-006-0210	7-17-03	Amend	9-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-006-0211	7-17-03	Amend	9-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-006-0212	7-17-03	Amend	9-1-03
629-623-0800	1-1-03	Adopt	1-1-03	635-006-0213	7-17-03	Amend	9-1-03
629-625-0100	1-1-03	Amend	1-1-03	635-006-0232	2-1-03	Amend	3-1-03
629-625-0200	1-1-03	Amend	1-1-03	635-006-0850	1-1-03	Amend	2-1-03
629-625-0310	1-1-03	Amend	1-1-03	635-006-0850	3-26-03	Amend	5-1-03
629-625-0330	1-1-03	Amend	1-1-03	635-006-0850	5-12-03	Amend(T)	6-1-03
629-625-0600	1-1-03	Amend	1-1-03	635-006-1010	2-10-03	Amend(T)	3-1-03
629-625-0700	1-1-03	Adopt	1-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
629-630-0100	1-1-03	Amend	1-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-007-0501	11-22-02	Amend	1-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-007-0501	7-17-03	Amend	9-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03	635-007-0502	11-22-02	Adopt	1-1-03
629-630-0500	7-1-03	Amend	8-1-03	635-007-0503	11-22-02	Adopt	1-1-03
632-007-0000	1-1-03	Adopt	2-1-03	635-007-0504	11-22-02	Adopt	1-1-03
632-007-0000	1-1-03	Suspend	2-1-03	635-007-0505	11-22-02	Adopt	1-1-03
632-007-0000	6-29-03	Amend	8-1-03	635-007-0506	11-22-02	Adopt	1-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-007-0540	7-17-03	Repeal	9-1-03
632-007-0010	1-1-03	Suspend	2-1-03	635-007-0541	7-17-03	Repeal	9-1-03
632-007-0010	6-29-03	Amend	8-1-03	635-007-0542	7-17-03	Adopt	9-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-007-0543	7-17-03	Adopt	9-1-03	635-021-0090	8-22-03	Amend(T)	10-1-03
635-007-0544	7-17-03	Adopt	9-1-03	635-021-0100	1-1-03	Repeal	1-1-03
635-007-0545	7-17-03	Adopt	9-1-03	635-023-0080	1-1-03	Amend	1-1-03
635-007-0547	7-17-03	Adopt	9-1-03	635-023-0090	1-1-03	Amend	1-1-03
635-007-0548	7-17-03	Adopt	9-1-03	635-023-0090	2-14-03	Amend	3-1-03
635-007-0550	9-12-03	Suspend	10-1-03	635-023-0090	3-1-03	Amend(T)	4-1-03
635-007-0555	9-12-03	Suspend	10-1-03	635-023-0090	4-3-03	Amend(T)	5-1-03
635-007-0560	9-12-03	Suspend	10-1-03	635-023-0090	5-1-03	Amend	6-1-03
635-007-0565	9-12-03	Suspend	10-1-03	635-023-0090	5-1-03	Amend(T)	6-1-03
635-007-0570	9-12-03	Suspend	10-1-03	635-023-0090	5-30-03	Amend(T)	7-1-03
635-007-0575	9-12-03	Suspend	10-1-03	635-023-0090	6-21-03	Amend(T)	7-1-03
635-007-0580	9-12-03	Suspend	10-1-03	635-023-0090	6-28-03	Amend(T)	8-1-03
635-007-0585	9-12-03	Suspend	10-1-03	635-023-0090	6-30-03	Amend(T)	8-1-03
635-007-0590	9-12-03	Suspend	10-1-03	635-023-0090	7-28-03	Amend(T)	9-1-03
635-008-0151	8-3-03	Amend(T)	9-1-03	635-039-0080	1-1-03	Amend	1-1-03
635-011-0101	1-1-03	Amend	1-1-03	635-039-0090	1-1-03	Amend	1-1-03
635-011-0101	8-3-03	Amend(T)	9-1-03	635-039-0090	5-1-03	Amend	6-1-03
635-013-0003	1-1-03	Amend	1-1-03	635-041-0030	3-25-03	Amend(T)	5-1-03
635-013-0003	5-1-03	Amend	6-1-03	635-041-0040	4-24-03	Amend(T)	6-1-03
635-013-0004	1-1-03	Amend	1-1-03	635-041-0063	6-5-03	Amend(T)	7-1-03
635-013-0004	3-1-03	Amend(T)	4-1-03	635-041-0063	7-9-03	Amend(T)	8-1-03
635-013-0004	5-1-03	Amend	6-1-03	635-041-0063	7-21-03	Amend(T)	9-1-03
635-013-0004	7-25-03	Amend(T)	9-1-03	635-041-0065	12-19-02	Amend(T)	2-1-03
635-013-0004	7-25-03	Amend(T)	9-1-03	635-041-0065	3-13-03	Amend(T)	4-1-03
635-013-0004	8-20-03	Amend(T)	9-1-03	635-041-0067	4-24-03	Amend(T)	6-1-03
635-013-0009	3-1-03	Amend(T)	4-1-03	635-041-0067	5-22-03	Amend(T)	7-1-03
635-013-0009	5-1-03	Amend	6-1-03	635-041-0067	5-29-03	Amend(T)	7-1-03
635-014-0080	1-1-03	Amend	1-1-03	635-041-0073	7-3-03	Adopt(T)	8-1-03
635-014-0090	1-1-03	Amend	1-1-03	635-041-0073	7-9-03	Amend(T)	8-1-03
635-014-0090	3-1-03	Amend(T)	4-1-03	635-041-0073	7-21-03	Amend(T)	9-1-03
635-014-0090	5-10-03	Amend(T)	6-1-03	635-041-0075	8-13-03	Amend(T)	9-1-03
635-014-0090	6-13-03	Amend(T)	7-1-03	635-041-0075	8-26-03	Amend(T)	10-1-03
635-014-0090	9-13-03	Amend	10-1-03	635-041-0075	9-16-03	Amend(T)	10-1-03
635-016-0080	1-1-03	Amend	1-1-03	635-042-0020	2-14-03	Amend	3-1-03
635-016-0090	1-1-03	Amend	1-1-03	635-042-0020	2-20-03	Amend(T)	4-1-03
635-016-0090	9-13-03	Amend	10-1-03	635-042-0021	3-21-03	Adopt(T)	5-1-03
635-017-0080	1-1-03	Amend	1-1-03	635-042-0031	8-1-03	Amend(T)	9-1-03
635-017-0090	1-1-03	Amend	1-1-03	635-042-0031	8-13-03	Amend(T)	9-1-03
635-017-0090	3-1-03	Amend(T)	4-1-03	635-042-0031	8-25-03	Amend(T)	10-1-03
635-017-0090	5-16-03	Amend	7-1-03	635-042-0031	8-27-03	Amend(T)	10-1-03
635-017-0090	6-18-03	Amend(T)	8-1-03	635-042-0032	9-15-03	Amend(T)	10-1-03
635-017-0090	7-8-03	Amend(T)	8-1-03	635-042-0060	9-15-03	Amend(T)	10-1-03
635-017-0090	7-11-03	Amend(T)	8-1-03	635-042-0110	2-14-03	Amend	3-1-03
635-017-0090	7-23-03	Amend(T)	9-1-03	635-042-0130	12-19-02	Amend(T)	2-1-03
635-017-0090	7-25-03	Amend(T)	9-1-03	635-042-0135	12-19-02	Amend(T)	2-1-03
635-017-0090	9-13-03	Amend	10-1-03	635-042-0135	1-28-03	Amend(T)	3-1-03
635-018-0080	1-1-03	Amend	1-1-03	635-042-0135	2-3-03	Amend(T)	3-1-03
635-018-0090	1-1-03	Amend	1-1-03	635-042-0145	2-14-03	Amend	3-1-03
635-018-0090	4-15-03	Amend(T)	5-1-03	635-042-0145	3-1-03	Amend(T)	4-1-03
635-018-0090	8-1-03	Amend(T)	9-1-03	635-042-0145	4-23-03	Amend(T)	6-1-03
635-019-0080	1-1-03	Amend	1-1-03	635-042-0145	4-24-03	Amend(T)	6-1-03
635-019-0090	1-1-03	Amend	1-1-03	635-042-0145	5-1-03	Amend(T)	6-1-03
635-019-0090	5-28-03	Amend(T)	7-1-03	635-042-0145	5-7-03	Amend(T)	6-1-03
635-019-0090	6-5-03	Amend(T)	7-1-03	635-042-0145	8-1-03	Amend(T)	9-1-03
635-021-0080	1-1-03	Amend	1-1-03	635-042-0145	9-9-03	Amend(T)	10-1-03
635-021-0090	1-1-03	Amend	1-1-03	635-042-0160	2-14-03	Amend	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-042-0160	4-24-03	Amend(T)	6-1-03	635-065-0765	6-13-03	Amend	7-1-03
635-042-0160	5-1-03	Amend(T)	6-1-03	635-065-0765	7-16-03	Amend	9-1-03
635-042-0160	8-1-03	Amend(T)	9-1-03	635-066-0000	1-17-02	Amend	3-1-03
635-042-0160	9-9-03	Amend(T)	10-1-03	635-066-0020	1-17-02	Amend	3-1-03
635-042-0170	2-14-03	Amend	3-1-03	635-067-0000	1-17-02	Amend	3-1-03
635-042-0170	4-24-03	Amend(T)	6-1-03	635-067-0000	6-13-03	Amend	7-1-03
635-042-0170	5-1-03	Amend(T)	6-1-03	635-067-0004	1-17-02	Amend	3-1-03
635-042-0170	8-1-03	Amend(T)	9-1-03	635-067-0015	1-17-02	Amend	3-1-03
635-042-0170	9-9-03	Amend(T)	10-1-03	635-067-0031	9-12-03	Amend(T)	10-1-03
635-042-0180	4-17-03	Amend(T)	4-1-03	635-067-0032	1-17-02	Amend	3-1-03
635-042-0180	4-24-03	Amend(T)	6-1-03	635-067-0034	1-17-02	Amend	3-1-03
635-042-0180	5-1-03	Amend(T)	6-1-03	635-067-0040	1-17-02	Amend	3-1-03
635-042-0180	8-1-03	Amend(T)	9-1-03	635-068-0000	1-20-03	Amend	3-1-03
635-042-0180	9-9-03	Amend(T)	10-1-03	635-068-0000	6-13-03	Amend	7-1-03
635-042-0190	8-1-03	Amend(T)	9-1-03	635-069-0000	2-1-03	Amend	3-1-03
635-042-0190	9-9-03	Amend(T)	10-1-03	635-069-0000	6-13-03	Amend	7-1-03
635-043-0056	1-14-03	Adopt(T)	2-1-03	635-069-0010	1-17-02	Amend	3-1-03
635-043-0056	4-15-03	Adopt(T)	5-1-03	635-069-0010	6-13-03	Amend	7-1-03
635-043-0056	4-17-03	Adopt	6-1-03	635-070-0000	1-17-02	Amend	3-1-03
635-043-0056	5-12-03	Amend(T)	6-1-03	635-070-0000	1-28-03	Amend(T)	3-1-03
635-045-0000	1-17-02	Amend	3-1-03	635-070-0000	6-13-03	Amend	7-1-03
635-045-0000	8-13-03	Amend	9-1-03	635-071-0000	1-17-02	Amend	3-1-03
635-045-0002	1-17-02	Amend	3-1-03	635-071-0000	1-28-03	Amend(T)	3-1-03
635-047-0010	7-30-03	Amend(T)	9-1-03	635-071-0000	6-13-03	Amend	7-1-03
635-050-0170	8-27-03	Amend(T)	10-1-03	635-071-0030	1-17-02	Amend	3-1-03
635-051-0000	8-13-03	Amend	9-1-03	635-072-0000	1-17-02	Amend	3-1-03
635-051-0000	8-26-03	Amend(T)	10-1-03	635-073-0000	1-20-03	Amend	3-1-03
635-052-0000	8-13-03	Amend	9-1-03	635-073-0000	6-13-03	Amend	7-1-03
635-053-0000	8-13-03	Amend	9-1-03	635-073-0001	1-17-02	Amend	3-1-03
635-053-0100	5-13-03	Amend	6-1-03	635-073-0070	1-17-02	Amend	3-1-03
635-053-0105	5-13-03	Amend	6-1-03	635-073-0070	6-13-03	Amend	7-1-03
635-053-0125	5-13-03	Amend	6-1-03	635-073-0080	1-17-02	Amend	3-1-03
635-054-0000	8-13-03	Amend	9-1-03	635-073-0090	1-17-02	Amend	3-1-03
635-056-0075	7-17-03	Amend	9-1-03	635-075-0020	4-1-03	Amend	3-1-03
635-060-0000	1-17-02	Amend	3-1-03	635-075-0029	3-28-03	Amend(T)	5-1-03
635-060-0000	8-13-03	Amend	9-1-03	635-078-0008	1-17-02	Amend	3-1-03
635-060-0030	8-29-03	Amend(T)	10-1-03	635-080-0070	1-17-02	Amend	3-1-03
635-060-0046	4-9-03	Amend(T)	5-1-03	635-090-0170	7-16-03	Amend	9-1-03
635-060-0055	4-1-03	Amend	3-1-03	635-090-0180	7-16-03	Amend	9-1-03
635-065-0001	1-17-02	Amend	3-1-03	635-160-0000	2-14-03	Amend	3-1-03
635-065-0001	1-28-03	Amend(T)	3-1-03	635-160-0010	2-14-03	Amend	3-1-03
635-065-0001	8-27-03	Amend(T)	10-1-03	635-160-0020	2-14-03	Amend	3-1-03
635-065-0001	9-3-03	Amend(T)	10-1-03	635-160-0030	2-14-03	Amend	3-1-03
635-065-0015	1-17-02	Amend	3-1-03	635-190-0000	2-14-03	Amend	3-1-03
635-065-0090	1-17-02	Amend	3-1-03	635-190-0010	2-14-03	Amend	3-1-03
635-065-0101	1-17-02	Amend	3-1-03	635-190-0020	2-14-03	Amend	3-1-03
635-065-0301	1-17-02	Amend	3-1-03	635-190-0030	2-14-03	Amend	3-1-03
635-065-0401	1-17-02	Amend	3-1-03	635-412-0020	3-26-03	Adopt	5-1-03
635-065-0625	1-17-02	Amend	3-1-03	635-412-0025	3-26-03	Adopt	5-1-03
635-065-0625	1-28-03	Amend(T)	3-1-03	635-412-0030	3-26-03	Adopt	5-1-03
635-065-0705	8-27-03	Amend(T)	10-1-03	644-001-0000	1-6-03	Amend	2-1-03
635-065-0735	1-17-02	Amend	3-1-03	644-001-0005	1-6-03	Repeal	2-1-03
635-065-0740	1-17-02	Amend	3-1-03	644-001-0010	1-6-03	Repeal	2-1-03
635-065-0740	8-27-03	Amend(T)	10-1-03	644-010-0015	1-6-03	Amend	2-1-03
635-065-0760	7-1-03	Amend	3-1-03	647-010-0010	6-1-03	Amend	6-1-03
635-065-0765	1-17-02	Amend	3-1-03	660-022-0030	3-28-03	Amend(T)	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
660-026-0000	1-17-03	Adopt	3-1-03	690-240-0020	3-14-03	Amend	4-1-03
660-026-0010	1-17-03	Adopt	3-1-03	690-240-0035	3-14-03	Amend	4-1-03
660-026-0020	1-17-03	Adopt	3-1-03	690-240-0055	3-14-03	Amend	4-1-03
660-026-0030	1-17-03	Adopt	3-1-03	690-240-0065	3-14-03	Amend	4-1-03
660-026-0040	1-17-03	Adopt	3-1-03	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
690-015-0001	5-1-03	Am. & Ren.	6-1-03	690-240-0082	3-14-03	Renumber	4-1-03
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
690-015-0025	5-1-03	Renumber	6-1-03	690-240-0100	3-14-03	Am. & Ren.	4-1-03
690-015-0030	5-1-03	Am. & Ren.	6-1-03	690-240-0110	3-14-03	Renumber	4-1-03
690-015-0040	5-1-03	Am. & Ren.	6-1-03	690-240-0115	3-14-03	Renumber	4-1-03
690-015-0045	5-1-03	Am. & Ren.	6-1-03	690-240-0118	3-14-03	Am. & Ren.	4-1-03
690-015-0048	5-1-03	Am. & Ren.	6-1-03	690-240-0120	3-14-03	Renumber	4-1-03
690-015-0050	5-1-03	Am. & Ren.	6-1-03	690-240-0126	3-14-03	Am. & Ren.	4-1-03
690-015-0057	5-1-03	Am. & Ren.	6-1-03	690-240-0130	3-14-03	Renumber	4-1-03
690-015-0060	5-1-03	Am. & Ren.	6-1-03	690-240-0131	3-14-03	Renumber	4-1-03
690-015-0070	5-1-03	Am. & Ren.	6-1-03	690-240-0132	3-14-03	Am. & Ren.	4-1-03
690-015-0073	5-1-03	Am. & Ren.	6-1-03	690-240-0135	3-14-03	Am. & Ren.	4-1-03
690-015-0075	5-1-03	Renumber	6-1-03	690-240-0137	3-14-03	Am. & Ren.	4-1-03
690-015-0080	5-1-03	Am. & Ren.	6-1-03	690-240-0139	3-14-03	Renumber	4-1-03
690-015-0085	5-1-03	Am. & Ren.	6-1-03	690-240-0145	3-14-03	Renumber	4-1-03
690-015-0087	5-1-03	Am. & Ren.	6-1-03	690-240-0150	3-14-03	Renumber	4-1-03
690-015-0090	5-1-03	Am. & Ren.	6-1-03	690-240-0155	3-14-03	Am. & Ren.	4-1-03
690-015-0100	5-1-03	Am. & Ren.	6-1-03	690-240-0160	3-14-03	Renumber	4-1-03
690-015-0110	5-1-03	Am. & Ren.	6-1-03	690-240-0165	3-14-03	Renumber	4-1-03
690-015-0120	5-1-03	Renumber	6-1-03	690-240-0170	3-14-03	Renumber	4-1-03
690-015-0125	5-1-03	Am. & Ren.	6-1-03	690-240-0175	3-14-03	Am. & Ren.	4-1-03
690-015-0130	5-1-03	Am. & Ren.	6-1-03	690-240-0180	3-14-03	Am. & Ren.	4-1-03
690-015-0140	5-1-03	Am. & Ren.	6-1-03	690-240-0200	3-14-03	Adopt	4-1-03
690-015-0150	5-1-03	Am. & Ren.	6-1-03	690-240-0210	3-14-03	Adopt	4-1-03
690-015-0210	5-1-03	Am. & Ren.	6-1-03	690-240-0220	3-14-03	Adopt	4-1-03
690-015-0240	5-1-03	Am. & Ren.	6-1-03	690-240-0240	3-14-03	Adopt	4-1-03
690-015-0300	5-1-03	Am. & Ren.	6-1-03	690-240-0250	3-14-03	Adopt	4-1-03
690-015-0310	5-1-03	Renumber	6-1-03	690-240-0260	3-14-03	Adopt	4-1-03
690-015-0320	5-1-03	Am. & Ren.	6-1-03	690-240-0270	3-14-03	Adopt	4-1-03
690-015-0400	5-1-03	Renumber	6-1-03	690-240-0280	3-14-03	Adopt	4-1-03
690-200-0050	3-14-03	Amend	4-1-03	690-380-0090	5-1-03	Adopt	6-1-03
690-205-0005	3-14-03	Amend	4-1-03	690-380-2000	5-1-03	Adopt	6-1-03
690-205-0020	3-14-03	Amend	4-1-03	690-380-2200	5-1-03	Adopt	6-1-03
690-205-0030	3-14-03	Renumber	4-1-03	690-380-2260	5-1-03	Adopt	6-1-03
690-205-0035	3-14-03	Adopt	4-1-03	690-380-2300	5-1-03	Adopt	6-1-03
690-205-0040	3-14-03	Renumber	4-1-03	690-380-2330	5-1-03	Adopt	6-1-03
690-205-0045	3-14-03	Adopt	4-1-03	690-380-2340	5-1-03	Adopt	6-1-03
690-205-0050	3-14-03	Renumber	4-1-03	690-380-3050	5-1-03	Adopt	6-1-03
690-205-0055	3-14-03	Adopt	4-1-03	690-380-3400	5-1-03	Adopt	6-1-03
690-205-0060	3-14-03	Renumber	4-1-03	690-380-3410	5-1-03	Adopt	6-1-03
690-205-0070	3-14-03	Am. & Ren.	4-1-03	690-380-4000	5-1-03	Adopt	6-1-03
690-205-0075	3-14-03	Adopt	4-1-03	690-380-4010	5-1-03	Adopt	6-1-03
690-205-0080	3-14-03	Renumber	4-1-03	690-380-4200	5-1-03	Adopt	6-1-03
690-205-0085	3-14-03	Adopt	4-1-03	690-380-5030	5-1-03	Adopt	6-1-03
690-205-0095	3-14-03	Adopt	4-1-03	690-380-5040	5-1-03	Adopt	6-1-03
690-205-0110	3-14-03	Adopt	4-1-03	690-380-5050	5-1-03	Adopt	6-1-03
690-205-0120	3-14-03	Adopt	4-1-03	690-380-6050	5-1-03	Adopt	6-1-03
690-240-0010	3-14-03	Amend	4-1-03	695-020-0040	4-12-03	Amend(T)	5-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
695-020-0041	4-12-03	Adopt(T)	5-1-03	735-018-0030	5-14-03	Adopt	6-1-03
695-020-0053	6-6-03	Amend	7-1-03	735-018-0040	5-14-03	Adopt	6-1-03
718-005-0005	4-1-03	Repeal	5-1-03	735-018-0050	5-14-03	Adopt	6-1-03
718-005-0010	4-1-03	Repeal	5-1-03	735-018-0060	5-14-03	Adopt	6-1-03
718-005-0015	4-1-03	Amend	5-1-03	735-018-0070	5-14-03	Adopt	6-1-03
718-010-0000	4-1-03	Amend	5-1-03	735-018-0080	5-14-03	Adopt	6-1-03
718-010-0005	4-1-03	Amend	5-1-03	735-018-0090	5-14-03	Adopt	6-1-03
718-010-0025	4-1-03	Repeal	5-1-03	735-018-0100	5-14-03	Adopt	6-1-03
718-010-0030	4-1-03	Repeal	5-1-03	735-018-0110	5-14-03	Adopt	6-1-03
718-010-0035	4-1-03	Amend	5-1-03	735-032-0010	7-1-03	Amend(T)	6-1-03
718-010-0040	4-1-03	Repeal	5-1-03	735-050-0080	7-17-03	Amend	9-1-03
718-010-0045	4-1-03	Repeal	5-1-03	735-050-0090	7-17-03	Amend	9-1-03
718-010-0050	4-1-03	Repeal	5-1-03	735-050-0110	1-1-03	Amend	1-1-03
718-010-0055	4-1-03	Repeal	5-1-03	735-050-0115	1-1-03	Adopt	1-1-03
718-010-0060	4-1-03	Repeal	5-1-03	735-050-0120	1-1-03	Amend	1-1-03
718-010-0070	4-1-03	Repeal	5-1-03	735-062-0000	4-21-03	Amend	6-1-03
718-010-0080	4-1-03	Repeal	5-1-03	735-062-0060	3-20-03	Amend(T)	5-1-03
718-010-0085	4-1-03	Amend	5-1-03	735-062-0060	6-1-03	Amend	6-1-03
718-010-0090	4-1-03	Amend	5-1-03	735-062-0060(T)	6-1-03	Repeal	6-1-03
718-020-0000	4-1-03	Amend	5-1-03	735-062-0135	2-13-03	Adopt	3-1-03
718-020-0010	4-1-03	Amend	5-1-03	735-072-0023	5-15-03	Amend(T)	6-1-03
718-020-0020	4-1-03	Amend	5-1-03	735-074-0000	6-1-03	Repeal	6-1-03
718-020-0050	4-1-03	Amend	5-1-03	735-074-0005	1-1-03	Adopt	1-1-03
718-020-0080	4-1-03	Amend	5-1-03	735-074-0010	1-1-03	Amend	1-1-03
718-020-0110	4-1-03	Amend	5-1-03	735-074-0010	6-1-03	Am. & Ren.	6-1-03
718-020-0120	4-1-03	Amend	5-1-03	735-074-0020	1-1-03	Amend	1-1-03
718-020-0130	4-1-03	Amend	5-1-03	735-074-0020	6-1-03	Am. & Ren.	6-1-03
718-020-0140	4-1-03	Amend	5-1-03	735-074-0030	6-1-03	Repeal	6-1-03
718-020-0150	4-1-03	Amend	5-1-03	735-074-0040	6-1-03	Repeal	6-1-03
718-040-0030	4-1-03	Amend	5-1-03	735-074-0045	6-1-03	Adopt	6-1-03
718-040-0110	4-1-03	Amend	5-1-03	735-074-0050	6-1-03	Adopt	6-1-03
731-007-0050	8-1-03	Amend(T)	9-1-03	735-074-0060	6-1-03	Adopt	6-1-03
731-010-0030	1-16-03	Amend(T)	3-1-03	735-074-0070	6-1-03	Adopt	6-1-03
731-010-0030	3-24-03	Amend	5-1-03	735-074-0080	6-1-03	Adopt	6-1-03
731-010-0030(T)	3-24-03	Repeal	5-1-03	735-074-0090	6-1-03	Adopt	6-1-03
733-020-0005	9-11-03	Repeal	10-1-03	735-074-0100	6-1-03	Adopt	6-1-03
733-020-0010	9-11-03	Repeal	10-1-03	735-074-0110	6-1-03	Adopt	6-1-03
733-020-0015	9-11-03	Repeal	10-1-03	735-074-0120	6-1-03	Adopt	6-1-03
733-020-0020	9-11-03	Repeal	10-1-03	735-074-0130	6-1-03	Adopt	6-1-03
733-020-0025	9-11-03	Repeal	10-1-03	735-074-0140	6-1-03	Adopt	6-1-03
733-020-0030	9-11-03	Repeal	10-1-03	735-074-0150	6-1-03	Adopt	6-1-03
733-020-0035	9-11-03	Repeal	10-1-03	735-074-0160	6-1-03	Adopt	6-1-03
733-020-0040	9-11-03	Repeal	10-1-03	735-074-0190	6-1-03	Adopt	6-1-03
733-020-0045	9-11-03	Repeal	10-1-03	735-074-0200	6-1-03	Adopt	6-1-03
733-020-0050	9-11-03	Repeal	10-1-03	735-074-0210	6-1-03	Adopt	6-1-03
733-030-0350	9-11-03	Amend	10-1-03	735-074-0220	6-1-03	Adopt	6-1-03
734-070-0020	12-13-02	Adopt	1-1-03	735-076-0000	6-1-03	Amend	6-1-03
734-070-0020(T)	12-13-02	Repeal	1-1-03	735-076-0005	6-1-03	Adopt	6-1-03
734-071-0005	8-21-03	Amend	10-1-03	735-076-0010	6-1-03	Amend	6-1-03
734-071-0010	12-13-02	Amend	1-1-03	735-076-0020	6-1-03	Amend	6-1-03
734-071-0010	8-21-03	Amend	10-1-03	735-076-0030	6-1-03	Amend	6-1-03
734-082-0009	8-21-03	Amend	10-1-03	735-076-0040	6-1-03	Amend	6-1-03
735-010-0045	11-18-02	Amend	1-1-03	735-076-0050	6-1-03	Amend	6-1-03
735-018-0000	5-14-03	Adopt	6-1-03	735-076-0060	6-1-03	Amend	6-1-03
735-018-0010	5-14-03	Adopt	6-1-03	735-090-0000	11-18-02	Amend	1-1-03
735-018-0020	5-14-03	Adopt	6-1-03	735-090-0010	11-18-02	Repeal	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-090-0020	11-18-02	Amend	1-1-03	738-035-0045	3-1-03	Adopt	4-1-03
735-090-0030	11-18-02	Repeal	1-1-03	738-035-0050	3-1-03	Adopt	4-1-03
735-090-0040	11-18-02	Amend	1-1-03	738-035-0055	3-1-03	Adopt	4-1-03
735-090-0050	11-18-02	Repeal	1-1-03	738-035-0060	3-1-03	Adopt	4-1-03
735-090-0060	11-18-02	Repeal	1-1-03	738-035-0065	3-1-03	Adopt	4-1-03
735-090-0070	11-18-02	Repeal	1-1-03	738-035-0070	3-1-03	Adopt	4-1-03
735-090-0080	11-18-02	Repeal	1-1-03	738-035-0075	3-1-03	Adopt	4-1-03
735-090-0090	11-18-02	Repeal	1-1-03	738-040-0010	12-1-02	Amend	1-1-03
735-090-0100	11-18-02	Repeal	1-1-03	738-040-0020	12-1-02	Amend	1-1-03
735-090-0110	11-18-02	Amend	1-1-03	738-040-0040	12-1-02	Amend	1-1-03
735-116-0000	7-17-03	Amend(T)	9-1-03	738-050-0020	12-1-02	Amend	1-1-03
735-140-0000	7-17-03	Amend(T)	9-1-03	738-050-0060	12-1-02	Amend	1-1-03
735-140-0010	7-17-03	Amend(T)	9-1-03	738-050-0070	12-1-02	Amend	1-1-03
735-140-0015	7-17-03	Amend(T)	9-1-03	738-050-0090	12-1-02	Amend	1-1-03
735-140-0025	7-17-03	Amend(T)	9-1-03	738-060-0050	12-1-02	Amend	1-1-03
735-140-0060	7-17-03	Amend(T)	9-1-03	738-070-0010	12-1-02	Amend	1-1-03
735-140-0080	7-17-03	Amend(T)	9-1-03	738-070-0020	12-1-02	Amend	1-1-03
735-140-0090	7-17-03	Amend(T)	9-1-03	738-070-0040	12-1-02	Amend	1-1-03
735-150-0060	11-18-02	Amend	1-1-03	738-070-0060	12-1-02	Amend	1-1-03
736-018-0045	2-27-03	Amend	4-1-03	738-070-0070	12-1-02	Amend	1-1-03
736-018-0045	2-27-03	Amend	4-1-03	738-070-0080	12-1-02	Amend	1-1-03
736-018-0045	7-8-03	Amend	8-1-03	738-070-0100	12-1-02	Amend	1-1-03
736-052-0000	5-16-03	Adopt	7-1-03	738-070-0160	12-1-02	Amend	1-1-03
736-052-0001	5-16-03	Adopt	7-1-03	738-070-0170	12-1-02	Amend	1-1-03
736-052-0010	5-16-03	Adopt	7-1-03	738-070-0180	12-1-02	Amend	1-1-03
736-052-0020	5-16-03	Adopt	7-1-03	738-070-0210	12-1-02	Amend	1-1-03
736-052-0030	5-16-03	Adopt	7-1-03	738-070-0230	12-1-02	Amend	1-1-03
736-052-0040	5-16-03	Adopt	7-1-03	738-080-0030	12-1-02	Amend	1-1-03
736-100-0000	2-1-03	Adopt	3-1-03	738-090-0030	12-1-02	Amend	1-1-03
736-100-0010	2-1-03	Adopt	3-1-03	738-090-0040	12-1-02	Amend	1-1-03
736-100-0020	2-1-03	Adopt	3-1-03	738-090-0050	12-1-02	Amend	1-1-03
736-100-0030	2-1-03	Adopt	3-1-03	738-100-0010	12-1-02	Amend	1-1-03
736-100-0040	2-1-03	Adopt	3-1-03	738-100-0035	12-1-02	Amend	1-1-03
736-100-0050	2-1-03	Adopt	3-1-03	740-020-0010	7-17-03	Adopt	9-1-03
736-100-0060	2-1-03	Adopt	3-1-03	740-020-0020	7-17-03	Adopt	9-1-03
736-100-0070	2-1-03	Adopt	3-1-03	740-035-0200	11-18-02	Amend	1-1-03
736-100-0080	2-1-03	Adopt	3-1-03	740-035-0210	11-18-02	Repeal	1-1-03
738-001-0035	12-1-02	Amend	1-1-03	740-035-0220	11-18-02	Repeal	1-1-03
738-010-0025	12-1-02	Amend	1-1-03	740-035-0230	11-18-02	Repeal	1-1-03
738-010-0025	4-3-03	Amend	5-1-03	740-035-0240	11-18-02	Repeal	1-1-03
738-020-0020	12-1-02	Amend	1-1-03	740-035-0250	11-18-02	Amend	1-1-03
738-020-0025	12-1-02	Amend	1-1-03	740-035-0260	11-18-02	Amend	1-1-03
738-020-0030	12-1-02	Amend	1-1-03	740-045-0160	8-21-03	Repeal	10-1-03
738-020-0040	12-1-02	Amend	1-1-03	740-055-0120	2-13-03	Amend	3-1-03
738-020-0045	12-1-02	Amend	1-1-03	740-100-0010	4-21-03	Amend	6-1-03
738-030-0015	12-1-02	Amend	1-1-03	740-100-0070	4-21-03	Amend	6-1-03
738-030-0020	12-1-02	Amend	1-1-03	740-100-0080	4-21-03	Amend	6-1-03
738-030-0025	12-1-02	Amend	1-1-03	740-100-0090	4-21-03	Amend	6-1-03
738-035-0005	3-1-03	Adopt	4-1-03	740-110-0010	4-21-03	Amend	6-1-03
738-035-0010	3-1-03	Adopt	4-1-03	740-200-0010	11-18-02	Amend	1-1-03
738-035-0015	3-1-03	Adopt	4-1-03	740-200-0020	11-18-02	Amend	1-1-03
738-035-0020	3-1-03	Adopt	4-1-03	740-200-0040	11-18-02	Adopt	1-1-03
738-035-0025	3-1-03	Adopt	4-1-03	741-060-0010	7-17-03	Amend	9-1-03
738-035-0030	3-1-03	Adopt	4-1-03	741-060-0020	7-17-03	Amend	9-1-03
738-035-0035	3-1-03	Adopt	4-1-03	741-060-0030	7-17-03	Amend	9-1-03
738-035-0040	3-1-03	Adopt	4-1-03	741-060-0040	7-17-03	Amend	9-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
741-060-0050	7-17-03	Amend	9-1-03	808-002-0220	12-4-02	Amend	1-1-03
741-060-0060	7-17-03	Amend	9-1-03	808-002-0290	12-4-02	Adopt	1-1-03
741-060-0070	7-17-03	Amend	9-1-03	808-002-0620	6-1-03	Amend	7-1-03
741-060-0080	7-17-03	Amend	9-1-03	808-002-0670	12-4-02	Amend	1-1-03
741-060-0090	7-17-03	Amend	9-1-03	808-002-0670	12-4-02	Renumber	1-1-03
741-060-0100	7-17-03	Adopt	9-1-03	808-002-0680	12-4-02	Amend	1-1-03
741-060-0110	7-17-03	Adopt	9-1-03	808-002-0785	8-1-03	Adopt	9-1-03
741-500-0010	3-24-03	Repeal	5-1-03	808-003-0015	2-1-03	Amend	3-1-03
741-500-0020	3-24-03	Repeal	5-1-03	808-003-0020	2-1-03	Amend	3-1-03
741-500-0030	3-24-03	Repeal	5-1-03	808-003-0025	12-4-02	Amend	1-1-03
741-500-0040	3-24-03	Repeal	5-1-03	808-003-0025	6-1-03	Amend	7-1-03
741-500-0050	3-24-03	Repeal	5-1-03	808-003-0035	2-1-03	Amend	3-1-03
801-001-0000	1-1-03	Amend	2-1-03	808-003-0040	2-1-03	Amend	3-1-03
801-001-0005	1-1-03	Amend	2-1-03	808-003-0045	2-1-03	Amend	3-1-03
801-001-0010	1-1-03	Amend	2-1-03	808-003-0045	2-1-03	Amend	3-1-03
801-001-0020	1-1-03	Amend	2-1-03	808-003-0045	6-1-03	Amend	7-1-03
801-001-0030	1-1-03	Adopt	2-1-03	808-003-0050	6-1-03	Amend	7-1-03
801-005-0010	1-1-03	Amend	2-1-03	808-003-0055	12-4-02	Amend	1-1-03
801-010-0010	1-1-03	Amend	2-1-03	808-003-0060	2-1-03	Amend	3-1-03
801-010-0045	1-1-03	Amend	2-1-03	808-003-0065	2-1-03	Amend	3-1-03
801-010-0050	1-1-03	Amend	2-1-03	808-003-0070	12-4-02	Amend	1-1-03
801-010-0060	1-1-03	Amend	2-1-03	808-003-0075	12-4-02	Amend	1-1-03
801-010-0065	1-1-03	Amend	2-1-03	808-003-0081	12-4-02	Adopt	1-1-03
801-010-0075	1-1-03	Amend	2-1-03	808-003-0085	12-4-02	Adopt	1-1-03
801-010-0078	1-1-03	Amend	2-1-03	808-003-0090	8-1-03	Amend	9-1-03
801-010-0079	1-1-03	Amend	2-1-03	808-003-0095	2-1-03	Amend	3-1-03
801-010-0080	1-1-03	Amend	2-1-03	808-003-0100	12-4-02	Amend	1-1-03
801-010-0085	1-1-03	Amend	2-1-03	808-003-0100	8-1-03	Amend	9-1-03
801-010-0100	1-1-03	Amend	2-1-03	808-003-0105	2-1-03	Amend	3-1-03
801-010-0110	1-1-03	Amend	2-1-03	808-003-0130	2-1-03	Amend	3-1-03
801-010-0115	1-1-03	Amend	2-1-03	808-003-0210	8-1-03	Adopt	9-1-03
801-010-0340	1-1-03	Amend	2-1-03	808-004-0120	12-4-02	Adopt	1-1-03
801-020-0620	1-1-03	Amend	2-1-03	808-004-0180	12-4-02	Amend	1-1-03
801-020-0690	1-1-03	Amend	2-1-03	808-004-0200	12-4-02	Am. & Ren.	1-1-03
801-020-0710	1-1-03	Amend	2-1-03	808-004-0250	12-4-02	Amend	1-1-03
801-020-0720	1-1-03	Amend	2-1-03	808-004-0260	12-4-02	Adopt	1-1-03
801-030-0020	1-1-03	Amend	2-1-03	808-004-0300	8-1-03	Amend	9-1-03
801-040-0010	1-1-03	Amend	2-1-03	808-004-0320	12-4-02	Amend	1-1-03
801-040-0030	1-1-03	Amend	2-1-03	808-004-0340	12-4-02	Amend	1-1-03
801-040-0050	1-1-03	Amend	2-1-03	808-004-0340	8-1-03	Amend	9-1-03
806-001-0003	7-1-03	Amend	5-1-03	808-004-0350	8-1-03	Adopt	9-1-03
806-010-0020	8-14-03	Amend	9-1-03	808-004-0400	8-1-03	Amend	9-1-03
806-010-0035	8-14-03	Amend	9-1-03	808-004-0420	8-1-03	Adopt	9-1-03
806-010-0080	4-11-03	Amend	5-1-03	808-004-0440	12-4-02	Amend	1-1-03
806-010-0090	1-15-03	Amend	2-1-03	808-004-0440	2-1-03	Amend	3-1-03
806-010-0095	12-12-02	Amend	1-1-03	808-004-0450	12-4-02	Adopt	1-1-03
806-010-0105	1-15-03	Amend	2-1-03	808-004-0460	12-4-02	Amend	1-1-03
806-010-0110	4-11-03	Amend	5-1-03	808-004-0480	12-4-02	Amend	1-1-03
806-010-0145	1-15-03	Amend	2-1-03	808-004-0500	12-4-02	Amend	1-1-03
808-001-0000	2-1-03	Amend	3-1-03	808-004-0520	12-4-02	Amend	1-1-03
808-001-0005	2-1-03	Amend	3-1-03	808-004-0540	12-4-02	Amend	1-1-03
808-001-0008	6-1-03	Adopt	7-1-03	808-004-0550	12-4-02	Amend	1-1-03
808-001-0020	12-4-02	Amend	1-1-03	808-004-0550	8-1-03	Amend	9-1-03
808-001-0020	2-1-03	Amend	3-1-03	808-004-0560	12-4-02	Amend	1-1-03
808-001-0030	12-4-02	Amend	1-1-03	808-004-0560	2-1-03	Amend	3-1-03
808-001-0040	2-1-03	Repeal	3-1-03	808-004-0560	8-1-03	Amend	9-1-03
				808-004-0580	12-4-02	Am. & Ren.	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
808-004-0590	2-1-03	Adopt	3-1-03	812-002-0280	6-3-03	Amend	7-1-03
808-004-0600	12-4-02	Amend	1-1-03	812-002-0330	8-8-03	Repeal	9-1-03
808-004-0600	8-1-03	Amend	9-1-03	812-002-0335	8-8-03	Repeal	9-1-03
808-005-0020	12-4-02	Amend	1-1-03	812-002-0340	6-3-03	Amend	7-1-03
808-005-0020	6-1-03	Amend	7-1-03	812-002-0420	6-3-03	Amend	7-1-03
808-005-0030	12-4-02	Amend	1-1-03	812-002-0420	7-9-03	Amend(T)	8-1-03
808-008-0020	2-1-03	Amend	3-1-03	812-002-0480	3-4-03	Amend	4-1-03
808-008-0030	2-1-03	Adopt	3-1-03	812-002-0530	8-8-03	Adopt	9-1-03
808-008-0040	2-1-03	Amend	3-1-03	812-002-0640	6-3-03	Amend	7-1-03
808-008-0060	2-1-03	Amend	3-1-03	812-003-0000	6-3-03	Amend	7-1-03
808-008-0080	2-1-03	Amend	3-1-03	812-003-0000	10-1-03	Amend	7-1-03
808-008-0085	2-1-03	Adopt	3-1-03	812-003-0000	1-1-04	Amend	9-1-03
808-008-0090	2-1-03	Adopt	3-1-03	812-003-0002	6-3-03	Amend	7-1-03
808-008-0100	2-1-03	Amend	3-1-03	812-003-0020	6-3-03	Amend	7-1-03
808-008-0100	8-1-03	Amend	9-1-03	812-003-0025	6-3-03	Amend	7-1-03
808-008-0110	2-1-03	Amend	3-1-03	812-003-0050	6-3-03	Amend	7-1-03
808-008-0120	2-1-03	Amend	3-1-03	812-004-0001	3-4-03	Amend	4-1-03
808-008-0140	2-1-03	Amend	3-1-03	812-004-0250	8-8-03	Amend	9-1-03
808-008-0160	2-1-03	Amend	3-1-03	812-004-0260	8-8-03	Amend	9-1-03
808-008-0180	2-1-03	Amend	3-1-03	812-004-0300	3-4-03	Amend	4-1-03
808-008-0220	2-1-03	Amend	3-1-03	812-004-0320	3-4-03	Amend	4-1-03
808-008-0300	2-1-03	Amend	3-1-03	812-004-0320	8-8-03	Amend	9-1-03
808-008-0400	2-1-03	Amend	3-1-03	812-004-0325	3-4-03	Adopt	4-1-03
808-008-0420	2-1-03	Amend	3-1-03	812-004-0340	3-4-03	Amend	4-1-03
808-008-0425	2-1-03	Adopt	3-1-03	812-004-0350	3-4-03	Adopt	4-1-03
808-008-0430	2-1-03	Adopt	3-1-03	812-004-0360	11-20-02	Amend	1-1-03
808-008-0440	2-1-03	Amend	3-1-03	812-004-0400	6-3-03	Amend	7-1-03
808-008-0460	2-1-03	Amend	3-1-03	812-004-0520	3-4-03	Amend	4-1-03
808-008-0480	2-1-03	Amend	3-1-03	812-004-0520	8-8-03	Amend	9-1-03
808-009-0020	12-4-02	Amend	1-1-03	812-004-0535	3-4-03	Adopt	4-1-03
808-009-0020	2-1-03	Amend	3-1-03	812-004-0535	8-8-03	Amend	9-1-03
808-009-0070	12-4-02	Amend	1-1-03	812-004-0540	11-20-02	Amend	1-1-03
808-009-0100	12-4-02	Amend	1-1-03	812-004-0540	3-4-03	Amend	4-1-03
808-009-0120	12-4-02	Amend	1-1-03	812-004-0540	8-8-03	Amend	9-1-03
808-009-0140	12-18-02	Amend	2-1-03	812-004-0550	3-4-03	Amend	4-1-03
808-009-0160	12-4-02	Amend	1-1-03	812-004-0550	8-8-03	Amend	9-1-03
808-009-0160	2-1-03	Amend	3-1-03	812-004-0560	11-20-02	Amend	1-1-03
808-009-0160	8-1-03	Amend	9-1-03	812-004-0560	3-4-03	Amend	4-1-03
808-009-0200	2-1-03	Adopt	3-1-03	812-004-0560	8-8-03	Amend	9-1-03
808-009-0220	12-4-02	Amend	1-1-03	812-004-0560(T)	11-20-02	Repeal	1-1-03
808-009-0400	12-4-02	Amend	1-1-03	812-004-0590	8-8-03	Amend	9-1-03
808-009-0400	2-1-03	Amend	3-1-03	812-006-0012	3-4-03	Amend	4-1-03
808-009-0420	12-4-02	Amend	1-1-03	812-006-0012	8-8-03	Amend	9-1-03
808-009-0420	2-1-03	Amend	3-1-03	812-006-0030	6-3-03	Amend	7-1-03
808-009-0430	12-4-02	Adopt	1-1-03	812-006-0050	3-4-03	Amend	4-1-03
808-009-0440	12-4-02	Amend	1-1-03	812-008-0050	6-3-03	Amend	7-1-03
809-010-0025	7-1-03	Amend	7-1-03	812-008-0060	6-3-03	Amend	7-1-03
809-050-0030	12-2-02	Suspend	1-1-03	812-008-0070	3-4-03	Amend	4-1-03
809-050-0030	4-4-03	Repeal	5-1-03	812-008-0072	11-20-02	Amend	1-1-03
812-001-0020	12-23-02	Amend	2-1-03	812-008-0072	6-3-03	Amend	7-1-03
812-001-0020	3-11-03	Amend(T)	4-1-03	812-008-0074	6-3-03	Amend	7-1-03
812-001-0020	6-3-03	Amend	7-1-03	812-008-0110	1-14-03	Amend(T)	2-1-03
812-001-0020(T)	6-3-03	Repeal	7-1-03	812-008-0110	6-3-03	Amend	7-1-03
812-002-0011	8-8-03	Adopt	9-1-03	812-008-0110(T)	6-3-03	Repeal	7-1-03
812-002-0100	6-3-03	Amend	7-1-03	812-009-0020	11-20-02	Amend	1-1-03
812-002-0260	6-3-03	Amend	7-1-03	812-009-0020	8-8-03	Amend	9-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
812-010-0085	8-8-03	Amend	9-1-03	813-140-0050	11-25-02	Adopt	1-1-03
812-010-0090	8-8-03	Amend	9-1-03	813-140-0050(T)	11-25-02	Repeal	1-1-03
812-010-0100	11-20-02	Amend	1-1-03	813-140-0060	11-25-02	Adopt	1-1-03
812-010-0100	8-8-03	Amend	9-1-03	813-140-0060(T)	11-25-02	Repeal	1-1-03
812-010-0100(T)	11-20-02	Repeal	1-1-03	813-140-0070	11-25-02	Adopt	1-1-03
812-010-0110	11-20-02	Amend	1-1-03	813-140-0070(T)	11-25-02	Repeal	1-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03	813-140-0080	11-25-02	Adopt	1-1-03
812-010-0120	11-20-02	Amend	1-1-03	813-140-0080(T)	11-25-02	Repeal	1-1-03
812-010-0120	8-8-03	Amend	9-1-03	813-140-0090	11-25-02	Adopt	1-1-03
812-010-0120(T)	11-20-02	Repeal	1-1-03	813-140-0090(T)	11-25-02	Repeal	1-1-03
812-010-0160	8-8-03	Amend	9-1-03	813-140-0100	11-25-02	Adopt	1-1-03
812-010-0220	11-20-02	Amend	1-1-03	813-140-0100(T)	11-25-02	Repeal	1-1-03
812-010-0400	8-8-03	Amend	9-1-03	813-140-0110	11-25-02	Adopt	1-1-03
812-010-0420	11-20-02	Amend	1-1-03	813-140-0110(T)	11-25-02	Repeal	1-1-03
812-010-0420	8-8-03	Amend	9-1-03	813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03
812-010-0425	8-8-03	Amend	9-1-03	813-200-0000	5-15-03	Am. & Ren.	6-1-03
812-010-0440	11-20-02	Amend	1-1-03	813-200-0001	11-20-02	Adopt(T)	1-1-03
812-010-0440(T)	11-20-02	Repeal	1-1-03	813-200-0001	5-15-03	Adopt	6-1-03
813-008-0005	12-5-02	Amend	1-1-03	813-200-0001	5-15-03	Repeal	6-1-03
813-008-0010	12-5-02	Amend	1-1-03	813-200-0005	5-15-03	Repeal	6-1-03
813-008-0015	12-5-02	Amend	1-1-03	813-200-0010	11-20-02	Amend(T)	1-1-03
813-008-0020	12-5-02	Amend	1-1-03	813-200-0010	5-15-03	Amend	6-1-03
813-008-0025	12-5-02	Amend	1-1-03	813-200-0010	5-15-03	Repeal	6-1-03
813-008-0030	12-5-02	Amend	1-1-03	813-200-0020	11-20-02	Amend(T)	1-1-03
813-008-0040	12-5-02	Adopt	1-1-03	813-200-0020	5-15-03	Amend	6-1-03
813-047-0001	11-20-02	Amend(T)	1-1-03	813-200-0020	5-15-03	Repeal	6-1-03
813-047-0001	5-16-03	Amend	7-1-03	813-200-0030	11-20-02	Amend(T)	1-1-03
813-047-0001(T)	5-16-03	Repeal	7-1-03	813-200-0030	5-15-03	Amend	6-1-03
813-047-0005	11-20-02	Amend(T)	1-1-03	813-200-0030	5-15-03	Repeal	6-1-03
813-047-0005	5-16-03	Amend	7-1-03	813-200-0040	11-20-02	Amend(T)	1-1-03
813-047-0005(T)	5-16-03	Repeal	7-1-03	813-200-0040	5-15-03	Amend	6-1-03
813-047-0006	11-20-02	Adopt(T)	1-1-03	813-200-0040	5-15-03	Repeal	6-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-200-0050	11-20-02	Amend(T)	1-1-03	813-280-0020(T)	12-13-02	Repeal	1-1-03
813-200-0050	5-15-03	Amend	6-1-03	813-280-0030	12-13-02	Adopt	1-1-03
813-200-0050	5-15-03	Repeal	6-1-03	813-280-0030(T)	12-13-02	Repeal	1-1-03
813-200-0060	11-20-02	Amend(T)	1-1-03	813-280-0040	12-13-02	Adopt	1-1-03
813-200-0060	5-15-03	Amend	6-1-03	813-280-0040(T)	12-13-02	Repeal	1-1-03
813-200-0060	5-15-03	Repeal	6-1-03	813-280-0050	12-13-02	Adopt	1-1-03
813-202-0005	5-15-03	Adopt	6-1-03	813-280-0050(T)	12-13-02	Repeal	1-1-03
813-202-0010	5-15-03	Adopt	6-1-03	813-280-0060	12-13-02	Adopt	1-1-03
813-202-0015	5-15-03	Adopt	6-1-03	813-280-0060(T)	12-13-02	Repeal	1-1-03
813-202-0020	5-15-03	Adopt	6-1-03	813-280-0070	12-13-02	Adopt	1-1-03
813-202-0030	5-15-03	Adopt	6-1-03	813-280-0070(T)	12-13-02	Repeal	1-1-03
813-202-0040	5-15-03	Adopt	6-1-03	813-300-0005	4-4-03	Adopt	5-1-03
813-202-0050	5-15-03	Adopt	6-1-03	813-300-0005(T)	4-4-03	Repeal	5-1-03
813-202-0060	5-15-03	Adopt	6-1-03	813-300-0010	4-4-03	Adopt	5-1-03
813-205-0000	12-13-02	Adopt	1-1-03	813-300-0010(T)	4-4-03	Repeal	5-1-03
813-205-0000(T)	12-13-02	Repeal	1-1-03	813-300-0020	4-4-03	Adopt	5-1-03
813-205-0010	12-13-02	Adopt	1-1-03	813-300-0020(T)	4-4-03	Repeal	5-1-03
813-205-0010(T)	12-13-02	Repeal	1-1-03	813-300-0030	4-4-03	Adopt	5-1-03
813-205-0020	12-13-02	Adopt	1-1-03	813-300-0030(T)	4-4-03	Repeal	5-1-03
813-205-0020(T)	12-13-02	Repeal	1-1-03	813-300-0040	4-4-03	Adopt	5-1-03
813-205-0030	12-13-02	Adopt	1-1-03	813-300-0040(T)	4-4-03	Repeal	5-1-03
813-205-0030(T)	12-13-02	Repeal	1-1-03	813-300-0050	4-4-03	Adopt	5-1-03
813-205-0040	12-13-02	Adopt	1-1-03	813-300-0050(T)	4-4-03	Repeal	5-1-03
813-205-0040(T)	12-13-02	Repeal	1-1-03	813-300-0060	4-4-03	Adopt	5-1-03
813-205-0050	12-13-02	Adopt	1-1-03	813-300-0060(T)	4-4-03	Repeal	5-1-03
813-205-0050(T)	12-13-02	Repeal	1-1-03	813-300-0070	4-4-03	Adopt	5-1-03
813-205-0051	12-13-02	Adopt	1-1-03	813-300-0070(T)	4-4-03	Repeal	5-1-03
813-205-0060	12-13-02	Adopt	1-1-03	813-300-0080	4-4-03	Adopt	5-1-03
813-205-0060(T)	12-13-02	Repeal	1-1-03	813-300-0080(T)	4-4-03	Repeal	5-1-03
813-205-0070	12-13-02	Adopt	1-1-03	813-300-0090	4-4-03	Adopt	5-1-03
813-205-0070(T)	12-13-02	Repeal	1-1-03	813-300-0090(T)	4-4-03	Repeal	5-1-03
813-205-0080	12-13-02	Adopt	1-1-03	813-300-0100	4-4-03	Adopt	5-1-03
813-205-0080(T)	12-13-02	Repeal	1-1-03	813-300-0100(T)	4-4-03	Repeal	5-1-03
813-205-0090	12-13-02	Adopt	1-1-03	813-300-0110	4-4-03	Adopt	5-1-03
813-205-0090(T)	12-13-02	Repeal	1-1-03	813-300-0110(T)	4-4-03	Repeal	5-1-03
813-220-0000	5-12-03	Am. & Ren.	6-1-03	813-300-0120	4-4-03	Adopt	5-1-03
813-220-0001	5-12-03	Adopt	6-1-03	813-300-0120(T)	4-4-03	Repeal	5-1-03
813-220-0010	5-12-03	Amend	6-1-03	813-300-0130	4-4-03	Adopt	5-1-03
813-220-0015	5-12-03	Adopt	6-1-03	813-300-0130(T)	4-4-03	Repeal	5-1-03
813-220-0020	5-12-03	Amend	6-1-03	813-300-0140	4-4-03	Adopt	5-1-03
813-220-0030	5-12-03	Amend	6-1-03	813-300-0140(T)	4-4-03	Repeal	5-1-03
813-220-0040	5-12-03	Repeal	6-1-03	813-300-0150	4-4-03	Adopt	5-1-03
813-220-0050	5-12-03	Amend	6-1-03	813-300-0150(T)	4-4-03	Repeal	5-1-03
813-220-0060	5-12-03	Amend	6-1-03	813-300-0160	4-4-03	Adopt	5-1-03
813-220-0070	5-12-03	Adopt	6-1-03	813-300-0160(T)	4-4-03	Repeal	5-1-03
813-250-0000	5-12-03	Amend	6-1-03	813-300-0170	4-4-03	Adopt	5-1-03
813-250-0010	5-12-03	Amend	6-1-03	813-300-0170(T)	4-4-03	Repeal	5-1-03
813-250-0020	5-12-03	Amend	6-1-03	813-300-0180	4-4-03	Adopt	5-1-03
813-250-0030	5-12-03	Amend	6-1-03	813-300-0180(T)	4-4-03	Repeal	5-1-03
813-250-0040	5-12-03	Amend	6-1-03	813-350-0005	5-1-03	Adopt	6-1-03
813-250-0050	5-12-03	Adopt	6-1-03	813-350-0010	5-1-03	Adopt	6-1-03
813-280-0000	12-13-02	Adopt	1-1-03	813-350-0020	5-1-03	Adopt	6-1-03
813-280-0000(T)	12-13-02	Repeal	1-1-03	813-350-0030	5-1-03	Adopt	6-1-03
813-280-0010	12-13-02	Adopt	1-1-03	813-350-0040	5-1-03	Adopt	6-1-03
813-280-0010(T)	12-13-02	Repeal	1-1-03	813-350-0050	5-1-03	Adopt	6-1-03
813-280-0020	12-13-02	Adopt	1-1-03	813-350-0060	5-1-03	Adopt	6-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-350-0070	5-1-03	Adopt	6-1-03	833-040-0001	4-28-03	Amend	6-1-03
818-021-0011	4-18-03	Amend	6-1-03	833-040-0001(T)	4-28-03	Repeal	6-1-03
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
818-042-0130	7-18-03	Amend	8-1-03	836-011-0505	11-27-02	Adopt	1-1-03
820-010-0200	1-28-03	Amend	3-1-03	836-011-0510	11-27-02	Adopt	1-1-03
820-010-0202	3-14-03	Adopt	4-1-03	836-011-0515	11-27-02	Adopt	1-1-03
820-010-0305	12-3-02	Amend	1-1-03	836-011-0520	11-27-02	Adopt	1-1-03
820-010-0325	7-1-03	Amend	6-1-03	836-011-0525	11-27-02	Adopt	1-1-03
820-010-0500	5-15-03	Amend	6-1-03	836-011-0530	11-27-02	Adopt	1-1-03
820-010-0635	1-28-03	Amend	3-1-03	836-011-0535	11-27-02	Adopt	1-1-03
820-040-0040	1-28-03	Adopt	3-1-03	836-011-0540	11-27-02	Adopt	1-1-03
833-020-0015	12-16-02	Amend(T)	1-1-03	836-011-0545	11-27-02	Adopt	1-1-03
833-020-0015	4-28-03	Amend	6-1-03	836-011-0550	11-27-02	Adopt	1-1-03
833-020-0015(T)	4-28-03	Repeal	6-1-03	836-012-0000	11-27-02	Amend	1-1-03
833-020-0040	12-16-02	Amend(T)	1-1-03	836-012-0011	11-27-02	Amend	1-1-03
833-020-0040	4-28-03	Amend	6-1-03	836-012-0021	11-27-02	Amend	1-1-03
833-020-0040(T)	4-28-03	Repeal	6-1-03	836-012-0031	11-27-02	Amend	1-1-03
833-020-0060	12-16-02	Amend(T)	1-1-03	836-012-0041	11-27-02	Amend	1-1-03
833-020-0060	4-28-03	Amend	6-1-03	836-012-0051	11-27-02	Amend	1-1-03
833-020-0060(T)	4-28-03	Repeal	6-1-03	836-012-0060	11-27-02	Amend	1-1-03
833-020-0090	12-16-02	Amend(T)	1-1-03	836-012-0070	11-27-02	Amend	1-1-03
833-020-0090	4-28-03	Amend	6-1-03	836-012-0080	11-27-02	Amend	1-1-03
833-020-0090(T)	4-28-03	Repeal	6-1-03	836-012-0090	11-27-02	Amend	1-1-03
833-020-0111	12-16-02	Amend(T)	1-1-03	836-012-0100	11-27-02	Amend	1-1-03
833-020-0111	4-28-03	Amend	6-1-03	836-020-0900	11-27-02	Am. & Ren.	1-1-03
833-020-0111(T)	4-28-03	Repeal	6-1-03	836-043-0024	1-17-03	Amend	3-1-03
833-020-0130	12-16-02	Suspend	1-1-03	836-043-0044	1-17-03	Amend	3-1-03
833-020-0130	4-28-03	Repeal	6-1-03	836-052-0142	12-13-02	Amend	1-1-03
833-025-0001	12-16-02	Amend(T)	1-1-03	836-053-0005	7-1-03	Adopt	5-1-03
833-025-0001	4-28-03	Amend	6-1-03	836-053-0021	11-27-02	Amend	1-1-03
833-025-0001(T)	4-28-03	Repeal	6-1-03	836-053-0430	11-27-02	Amend	1-1-03
833-025-0005	12-16-02	Amend(T)	1-1-03	836-053-0440	11-27-02	Amend	1-1-03
833-025-0005	4-28-03	Amend	6-1-03	836-054-0300	11-27-02	Amend	1-1-03
833-025-0005(T)	4-28-03	Repeal	6-1-03	836-071-0180	7-1-03	Amend(T)	8-1-03
833-025-0006	12-16-02	Amend(T)	1-1-03	836-080-0425	6-1-03	Adopt	2-1-03
833-025-0006	4-28-03	Amend	6-1-03	836-080-0430	6-1-03	Adopt	2-1-03
833-025-0006(T)	4-28-03	Repeal	6-1-03	836-080-0432	6-1-03	Adopt	2-1-03
833-040-0001	12-16-02	Amend(T)	1-1-03	836-080-0435	6-1-03	Adopt	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
836-080-0440	6-1-03	Adopt	2-1-03	845-006-0396	5-20-03	Amend(T)	7-1-03
836-081-0101	3-17-03	Adopt	5-1-03	845-006-0398	5-20-03	Amend(T)	7-1-03
836-081-0106	3-17-03	Adopt	5-1-03	845-006-0430	5-20-03	Amend(T)	7-1-03
836-081-0111	3-17-03	Adopt	5-1-03	845-006-0433	5-20-03	Amend(T)	7-1-03
836-081-0116	3-17-03	Adopt	5-1-03	845-006-0434	5-20-03	Amend(T)	7-1-03
836-081-0121	3-17-03	Adopt	5-1-03	845-006-0450	1-1-03	Amend	2-1-03
836-081-0126	3-17-03	Adopt	5-1-03	845-006-0450	5-20-03	Amend(T)	7-1-03
837-012-0021	2-10-03	Repeal	3-1-03	845-007-0015	7-1-03	Amend	8-1-03
837-012-0610	2-10-03	Amend	3-1-03	845-007-0020	7-1-03	Amend	8-1-03
837-012-0615	2-10-03	Amend	3-1-03	845-007-0035	9-1-03	Amend	9-1-03
837-012-0630	2-10-03	Amend	3-1-03	845-009-0005	7-1-03	Amend	8-1-03
837-012-0635	2-10-03	Amend	3-1-03	845-009-0010	7-1-03	Amend	8-1-03
837-012-0645	2-10-03	Amend	3-1-03	845-009-0015	7-1-03	Amend	8-1-03
837-012-0720	2-10-03	Amend	3-1-03	845-009-0085	7-1-03	Amend	8-1-03
837-012-0740	2-10-03	Amend	3-1-03	845-009-0105	7-1-03	Amend	8-1-03
837-012-0760	2-10-03	Amend	3-1-03	845-009-0140	4-1-03	Amend	5-1-03
837-012-0780	2-10-03	Amend	3-1-03	845-010-0166	5-1-03	Amend	6-1-03
837-012-0790	2-10-03	Amend	3-1-03	845-010-0210	5-1-03	Amend	6-1-03
837-012-0810	2-10-03	Amend	3-1-03	845-010-0915	6-1-03	Amend	7-1-03
837-012-0820	2-10-03	Amend	3-1-03	845-013-0030	5-1-03	Amend	6-1-03
837-012-0830	2-10-03	Amend	3-1-03	845-013-0070	7-1-03	Amend	8-1-03
837-012-0835	2-10-03	Amend	3-1-03	845-013-0075	7-1-03	Amend	8-1-03
837-012-0860	2-10-03	Amend	3-1-03	845-015-0007	2-1-03	Am. & Ren.	3-1-03
837-012-0865	2-10-03	Amend	3-1-03	845-015-0010	2-1-03	Am. & Ren.	3-1-03
837-012-0940	2-10-03	Amend	3-1-03	845-015-0012	2-1-03	Am. & Ren.	3-1-03
837-020-0040	12-6-02	Amend	1-1-03	845-015-0020	2-1-03	Am. & Ren.	3-1-03
837-020-0050	12-6-02	Amend	1-1-03	845-015-0022	2-1-03	Am. & Ren.	3-1-03
837-020-0060	12-6-02	Amend	1-1-03	845-015-0025	2-1-03	Am. & Ren.	3-1-03
837-020-0080	12-6-02	Amend	1-1-03	845-015-0027	2-1-03	Am. & Ren.	3-1-03
837-020-0125	12-6-02	Amend	1-1-03	845-015-0028	2-1-03	Am. & Ren.	3-1-03
837-061-0015	7-3-03	Amend	8-1-03	845-015-0030	2-1-03	Am. & Ren.	3-1-03
837-110-0007	2-1-03	Adopt	2-1-03	845-015-0032	2-1-03	Am. & Ren.	3-1-03
837-110-0060	2-1-03	Amend	2-1-03	845-015-0035	2-1-03	Renumber	3-1-03
837-110-0070	2-1-03	Amend	2-1-03	845-015-0045	2-1-03	Renumber	3-1-03
837-110-0075	2-1-03	Adopt	2-1-03	845-015-0050	2-1-03	Renumber	3-1-03
837-110-0140	2-1-03	Amend	2-1-03	845-015-0055	2-1-03	Am. & Ren.	3-1-03
837-110-0150	2-1-03	Amend	2-1-03	845-015-0060	2-1-03	Renumber	3-1-03
837-110-0155	2-1-03	Adopt	2-1-03	845-015-0065	2-1-03	Am. & Ren.	3-1-03
839-016-0700	1-1-03	Amend	2-1-03	845-015-0070	2-1-03	Am. & Ren.	3-1-03
839-016-0700	2-14-03	Amend	3-1-03	845-015-0075	2-1-03	Am. & Ren.	3-1-03
839-016-0700	4-1-03	Amend(T)	5-1-03	845-015-0078	2-1-03	Am. & Ren.	3-1-03
839-016-0700	7-1-03	Amend	8-1-03	845-015-0080	2-1-03	Am. & Ren.	3-1-03
839-016-0750	3-28-03	Amend(T)	5-1-03	845-015-0085	2-1-03	Repeal	3-1-03
845-003-0270	7-1-03	Amend	8-1-03	845-015-0086	2-1-03	Am. & Ren.	3-1-03
845-003-0590	8-15-03	Amend(T)	9-1-03	845-015-0090	2-1-03	Renumber	3-1-03
845-003-0670	7-1-03	Amend	8-1-03	845-015-0091	2-1-03	Am. & Ren.	3-1-03
845-004-0005	2-1-03	Amend	3-1-03	845-015-0092	2-1-03	Am. & Ren.	3-1-03
845-004-0100	5-1-03	Amend	6-1-03	845-015-0093	2-1-03	Renumber	3-1-03
845-005-0327	4-1-03	Adopt	5-1-03	845-015-0095	2-1-03	Renumber	3-1-03
845-005-0415	5-20-03	Amend(T)	7-1-03	845-015-0096	2-1-03	Renumber	3-1-03
845-005-0422	5-20-03	Amend(T)	7-1-03	845-015-0100	2-1-03	Renumber	3-1-03
845-005-0423	5-20-03	Amend(T)	7-1-03	845-015-0130	9-1-03	Amend	9-1-03
845-005-0427	5-20-03	Amend(T)	7-1-03	845-015-0165	9-1-03	Amend	9-1-03
845-006-0345	4-1-03	Amend	5-1-03	845-015-0175	9-1-03	Amend	9-1-03
845-006-0390	5-20-03	Amend(T)	7-1-03	845-015-0177	9-1-03	Amend	9-1-03
845-006-0395	5-20-03	Amend(T)	7-1-03	845-015-0178	9-1-03	Repeal	9-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
845-016-0020	5-1-03	Amend	6-1-03	851-031-0090	3-6-03	Amend	4-1-03
847-001-0010	1-27-03	Amend	3-1-03	851-050-0131	12-17-02	Amend	2-1-03
847-005-0005	4-24-03	Amend	6-1-03	851-050-0131	3-6-03	Amend	4-1-03
847-008-0005	1-27-03	Amend	3-1-03	851-050-0131	4-23-03	Amend	6-1-03
847-010-0051	1-27-03	Amend	3-1-03	851-050-0131	7-7-03	Amend	8-1-03
847-010-0052	1-27-03	Amend	3-1-03	851-063-0060	4-23-03	Amend	6-1-03
847-010-0056	1-27-03	Amend	3-1-03	852-005-0005	7-1-03	Amend	7-1-03
847-010-0070	5-2-03	Amend	6-1-03	852-010-0025	7-1-03	Amend	7-1-03
847-020-0170	1-27-03	Amend	3-1-03	852-010-0027	12-18-02	Amend	2-1-03
847-020-0170	5-2-03	Amend	6-1-03	852-010-0051	12-18-02	Amend	2-1-03
847-020-0170	9-9-03	Amend(T)	10-1-03	852-010-0080	7-1-03	Amend	7-1-03
847-020-0180	5-2-03	Amend	6-1-03	852-050-0005	12-18-02	Amend	2-1-03
847-020-0190	7-15-03	Amend	8-1-03	852-050-0005	7-1-03	Amend	7-1-03
847-030-0041	7-15-03	Amend	8-1-03	852-050-0006	7-1-03	Amend	7-1-03
847-035-0030	1-27-03	Amend	3-1-03	852-050-0012	7-1-03	Amend	7-1-03
847-035-0030	7-15-03	Amend	8-1-03	852-050-0014	7-1-03	Amend	7-1-03
847-050-0005	7-15-03	Amend	8-1-03	852-050-0018	12-18-02	Adopt	2-1-03
847-050-0010	7-15-03	Amend	8-1-03	852-070-0010	1-1-04	Amend	10-1-03
847-050-0020	1-27-03	Amend	3-1-03	852-070-0040	7-1-03	Amend	7-1-03
847-050-0023	7-15-03	Amend	8-1-03	852-070-0060	1-1-04	Amend	10-1-03
847-050-0025	7-15-03	Amend	8-1-03	852-080-0040	10-1-03	Amend	10-1-03
847-050-0027	7-15-03	Amend	8-1-03	855-041-0065	1-14-03	Amend	2-1-03
847-050-0029	1-27-03	Amend	3-1-03	855-041-0205	3-1-03	Amend	2-1-03
847-050-0042	1-27-03	Amend	3-1-03	855-080-0021	1-14-03	Amend	2-1-03
847-080-0022	1-27-03	Amend	3-1-03	855-110-0005	1-14-03	Amend	2-1-03
848-010-0010	8-22-03	Amend	10-1-03	856-010-0010	2-26-03	Amend	4-1-03
848-010-0015	8-22-03	Amend	10-1-03	856-010-0028	3-21-03	Adopt	5-1-03
848-010-0105	7-1-03	Amend	8-1-03	856-030-0000	5-23-03	Amend	7-1-03
848-030-0000	2-6-03	Amend	3-1-03	856-030-0001	5-23-03	Adopt	7-1-03
848-030-0000	8-22-03	Amend	10-1-03	856-030-0002	5-23-03	Adopt	7-1-03
848-040-0040	8-22-03	Amend	10-1-03	856-030-0010	5-23-03	Amend	7-1-03
848-040-0050	8-22-03	Amend	10-1-03	856-030-0015	5-23-03	Amend	7-1-03
850-010-0055	12-6-02	Adopt(T)	1-1-03	856-030-0020	5-23-03	Amend	7-1-03
850-010-0055	4-11-03	Adopt	5-1-03	860-011-0010	7-3-03	Amend	8-1-03
850-010-0195	2-14-03	Adopt	3-1-03	860-011-0022	7-24-03	Amend	9-1-03
850-010-0210	12-10-02	Amend	1-1-03	860-011-0023	7-24-03	Amend	9-1-03
850-010-0225	6-9-03	Amend	7-1-03	860-011-0024	7-24-03	Amend	9-1-03
850-010-0226	6-9-03	Amend	7-1-03	860-012-0010	12-9-02	Amend	1-1-03
851-001-0020	12-17-02	Adopt	2-1-03	860-012-0035	3-11-03	Amend	4-1-03
851-002-0010	7-7-03	Amend	8-1-03	860-012-0040	4-28-03	Adopt	6-1-03
851-002-0040	7-7-03	Amend	8-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
851-021-0010	7-7-03	Amend	8-1-03	860-014-0023	3-11-03	Adopt	4-1-03
851-021-0040	7-7-03	Amend	8-1-03	860-016-0015	6-10-03	Adopt	7-1-03
851-021-0120	4-23-03	Amend	6-1-03	860-016-0050	12-9-02	Amend	1-1-03
851-031-0005	3-6-03	Amend	4-1-03	860-017-0050	7-9-03	Adopt(T)	8-1-03
851-031-0006	3-6-03	Amend	4-1-03	860-017-0100	7-9-03	Adopt(T)	8-1-03
851-031-0010	3-6-03	Amend	4-1-03	860-021-0015	7-3-03	Amend	8-1-03
851-031-0025	3-6-03	Repeal	4-1-03	860-021-0034	7-24-03	Amend	9-1-03
851-031-0030	3-6-03	Amend	4-1-03	860-021-0036	4-28-03	Amend	6-1-03
851-031-0040	3-6-03	Amend	4-1-03	860-021-0037	4-28-03	Adopt	6-1-03
851-031-0045	3-6-03	Amend	4-1-03	860-021-0037	7-24-03	Amend	9-1-03
851-031-0060	3-6-03	Amend	4-1-03	860-021-0335	12-9-02	Amend	1-1-03
851-031-0070	3-6-03	Amend	4-1-03	860-022-0040	7-24-03	Amend	9-1-03
851-031-0080	3-6-03	Amend	4-1-03	860-022-0042	7-24-03	Amend	9-1-03
851-031-0085	3-6-03	Adopt	4-1-03	860-022-0070	4-14-03	Amend	5-1-03
851-031-0086	3-6-03	Amend	4-1-03	860-027-0052	12-20-02	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
860-032-0001	2-12-03	Amend	3-1-03	863-015-0085	8-1-03	Amend	9-1-03
860-032-0002	3-11-03	Amend	4-1-03	863-015-0090	2-28-03	Amend(T)	4-1-03
860-032-0005	3-11-03	Amend	4-1-03	863-015-0090	8-1-03	Repeal	9-1-03
860-032-0020	2-12-03	Amend	3-1-03	863-015-0095	2-28-03	Amend(T)	4-1-03
860-032-0095	4-28-03	Amend	6-1-03	863-015-0095	8-1-03	Amend	9-1-03
860-032-0097	4-28-03	Adopt	6-1-03	863-015-0100	2-28-03	Amend(T)	4-1-03
860-032-0610	12-9-02	Adopt	1-1-03	863-015-0100	8-1-03	Amend	9-1-03
860-032-0620	12-9-02	Adopt	1-1-03	863-015-0120	2-28-03	Amend(T)	4-1-03
860-032-0630	12-9-02	Adopt	1-1-03	863-015-0120	8-1-03	Amend	9-1-03
860-032-0640	12-9-02	Adopt	1-1-03	863-015-0125	2-28-03	Amend(T)	4-1-03
860-032-0650	12-9-02	Adopt	1-1-03	863-015-0125	8-1-03	Amend	9-1-03
860-032-0660	12-9-02	Adopt	1-1-03	863-015-0135	2-28-03	Amend(T)	4-1-03
860-032-0670	4-28-03	Adopt	6-1-03	863-015-0135	8-1-03	Amend	9-1-03
860-034-0060	7-3-03	Amend	8-1-03	863-015-0140	2-28-03	Amend(T)	4-1-03
860-034-0095	4-28-03	Amend	6-1-03	863-015-0140	8-1-03	Amend	9-1-03
860-034-0097	4-28-03	Adopt	6-1-03	863-015-0145	2-28-03	Amend(T)	4-1-03
860-034-0250	12-9-02	Amend	1-1-03	863-015-0145	8-1-03	Amend	9-1-03
860-034-0310	7-3-03	Amend	8-1-03	863-015-0175	2-28-03	Amend(T)	4-1-03
860-034-0330	7-24-03	Amend	9-1-03	863-015-0175	8-1-03	Amend	9-1-03
860-034-0394	12-20-02	Amend	2-1-03	863-015-0185	2-28-03	Amend(T)	4-1-03
860-034-0740	12-20-02	Amend	2-1-03	863-015-0185	8-1-03	Amend	9-1-03
860-036-0080	12-9-02	Amend	1-1-03	863-015-0255	2-28-03	Amend(T)	4-1-03
860-036-0095	7-24-03	Amend	9-1-03	863-015-0255	8-1-03	Amend	9-1-03
860-036-0097	7-24-03	Adopt	9-1-03	863-015-0260	2-28-03	Amend(T)	4-1-03
860-036-0250	5-15-03	Adopt	6-1-03	863-015-0260	8-1-03	Amend	9-1-03
860-036-0365	5-15-03	Adopt	6-1-03	863-025-0010	2-28-03	Amend(T)	4-1-03
860-036-0716	5-15-03	Adopt	6-1-03	863-025-0010	8-1-03	Amend	9-1-03
860-036-0745	7-24-03	Amend	9-1-03	863-025-0020	2-28-03	Amend(T)	4-1-03
860-036-0756	5-15-03	Adopt	6-1-03	863-025-0020	8-1-03	Amend	9-1-03
860-037-0075	12-9-02	Amend	1-1-03	863-025-0025	2-28-03	Amend(T)	4-1-03
860-037-0095	7-24-03	Amend	9-1-03	863-025-0025	8-1-03	Amend	9-1-03
860-037-0097	7-24-03	Adopt	9-1-03	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
863-015-0030	8-1-03	Amend	9-1-03	863-040-0040	7-1-03	Amend	8-1-03
863-015-0040	2-28-03	Amend(T)	4-1-03	877-020-0020	7-1-03	Amend(T)	6-1-03
863-015-0040	8-1-03	Amend	9-1-03	918-001-0010	1-1-03	Amend	2-1-03
863-015-0045	2-28-03	Amend(T)	4-1-03	918-001-0036	1-1-03	Adopt	2-1-03
863-015-0045	8-1-03	Amend	9-1-03	918-008-0100	1-1-03	Repeal	2-1-03
863-015-0055	2-28-03	Amend(T)	4-1-03	918-090-0900	1-1-03	Repeal	2-1-03
863-015-0055	8-1-03	Amend	9-1-03	918-225-0240	3-14-03	Amend	4-1-03
863-015-0065	2-28-03	Amend(T)	4-1-03	918-225-0315	3-14-03	Adopt	4-1-03
863-015-0065	8-1-03	Amend	9-1-03	918-225-0560	3-14-03	Amend	4-1-03
863-015-0080	2-28-03	Amend(T)	4-1-03	918-225-0562	7-1-03	Adopt	4-1-03
863-015-0080	8-1-03	Amend	9-1-03	918-225-0610	1-1-03	Amend	2-1-03
863-015-0085	2-28-03	Amend(T)	4-1-03	918-225-0610(T)	1-1-03	Repeal	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-225-0660	3-14-03	Amend	4-1-03	918-306-0710	5-5-03	Amend(T)	6-1-03
918-225-0665	3-14-03	Adopt	4-1-03	918-306-0710	6-24-03	Suspend	8-1-03
918-225-0670	2-3-03	Amend	3-1-03	918-306-0710(T)	6-24-03	Suspend	8-1-03
918-225-0690	7-1-03	Repeal	4-1-03	918-306-0715	5-5-03	Amend(T)	6-1-03
918-225-0691	7-1-03	Adopt	4-1-03	918-306-0715	6-24-03	Suspend	8-1-03
918-225-0691	7-1-03	Amend	8-1-03	918-306-0715(T)	6-24-03	Suspend	8-1-03
918-225-0700	7-1-03	Amend	4-1-03	918-306-0720	5-5-03	Amend(T)	6-1-03
918-225-0720	7-1-03	Amend	4-1-03	918-306-0720	6-24-03	Suspend	8-1-03
918-225-0740	7-1-03	Amend	4-1-03	918-306-0720(T)	6-24-03	Suspend	8-1-03
918-225-0760	1-1-03	Repeal	2-1-03	918-306-0730	5-5-03	Amend(T)	6-1-03
918-225-0900	2-3-03	Adopt	3-1-03	918-306-0730	6-24-03	Suspend	8-1-03
918-225-0910	2-3-03	Adopt	3-1-03	918-306-0730(T)	6-24-03	Suspend	8-1-03
918-225-0920	2-3-03	Adopt	3-1-03	918-306-0740	5-5-03	Amend(T)	6-1-03
918-225-0930	2-3-03	Adopt	3-1-03	918-306-0740	6-24-03	Suspend	8-1-03
918-225-0940	2-3-03	Adopt	3-1-03	918-306-0740(T)	6-24-03	Suspend	8-1-03
918-225-0950	2-3-03	Adopt	3-1-03	918-306-0750	5-5-03	Suspend	6-1-03
918-225-0960	2-3-03	Adopt	3-1-03	918-306-0760	5-5-03	Amend(T)	6-1-03
918-225-0970	2-3-03	Adopt	3-1-03	918-306-0760	6-24-03	Suspend	8-1-03
918-251-0090	1-1-03	Amend	2-1-03	918-306-0760(T)	6-24-03	Suspend	8-1-03
918-251-0090	6-24-03	Amend(T)	8-1-03	918-306-0770	5-5-03	Amend(T)	6-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03	918-306-0770	6-24-03	Suspend	8-1-03
918-261-0020	6-24-03	Amend(T)	8-1-03	918-306-0770(T)	6-24-03	Suspend	8-1-03
918-282-0017	1-1-03	Adopt	2-1-03	918-306-0780	5-5-03	Amend(T)	6-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03	918-306-0780	6-24-03	Suspend	8-1-03
918-282-0185	1-1-03	Adopt	2-1-03	918-306-0780(T)	6-24-03	Suspend	8-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03	918-307-0000	1-1-03	Repeal	2-1-03
918-282-0290	1-1-03	Amend	2-1-03	918-308-0020	1-1-03	Amend	2-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03	918-308-0020(T)	1-1-03	Repeal	2-1-03
918-306-0000	6-24-03	Suspend	8-1-03	918-308-0060	1-1-03	Amend	2-1-03
918-306-0010	6-24-03	Suspend	8-1-03	918-308-0060(T)	1-1-03	Repeal	2-1-03
918-306-0100	6-24-03	Suspend	8-1-03	918-308-0200	1-1-03	Amend	2-1-03
918-306-0110	6-24-03	Suspend	8-1-03	918-308-0200(T)	1-1-03	Repeal	2-1-03
918-306-0120	6-24-03	Suspend	8-1-03	918-308-0210	1-1-03	Amend	2-1-03
918-306-0130	6-24-03	Suspend	8-1-03	918-308-0210(T)	1-1-03	Repeal	2-1-03
918-306-0140	6-24-03	Suspend	8-1-03	918-309-0000	4-1-03	Amend	4-1-03
918-306-0150	6-24-03	Suspend	8-1-03	918-309-0025	7-1-03	Adopt	7-1-03
918-306-0160	6-24-03	Suspend	8-1-03	918-309-0030	7-1-03	Amend(T)	8-1-03
918-306-0170	6-24-03	Suspend	8-1-03	918-311-0020	7-1-03	Amend	7-1-03
918-306-0200	6-24-03	Suspend	8-1-03	918-400-0280	1-1-03	Amend	2-1-03
918-306-0210	6-24-03	Suspend	8-1-03	918-400-0280	3-1-03	Amend	4-1-03
918-306-0220	6-24-03	Suspend	8-1-03	918-400-0280(T)	1-1-03	Repeal	2-1-03
918-306-0230	6-24-03	Suspend	8-1-03	918-400-0333	1-1-03	Adopt	2-1-03
918-306-0300	6-24-03	Suspend	8-1-03	918-400-0333(T)	1-1-03	Repeal	2-1-03
918-306-0310	6-24-03	Suspend	8-1-03	918-400-0335	1-1-03	Repeal	2-1-03
918-306-0320	6-24-03	Suspend	8-1-03	918-400-0340	1-1-03	Amend	2-1-03
918-306-0330	6-24-03	Suspend	8-1-03	918-400-0340(T)	1-1-03	Repeal	2-1-03
918-306-0500	6-24-03	Suspend	8-1-03	918-400-0345	1-1-03	Repeal	2-1-03
918-306-0510	6-24-03	Amend(T)	8-1-03	918-400-0350	1-1-03	Repeal	2-1-03
918-306-0600	6-24-03	Suspend	8-1-03	918-400-0355	1-1-03	Repeal	2-1-03
918-306-0610	6-24-03	Suspend	8-1-03	918-400-0360	1-1-03	Repeal	2-1-03
918-306-0700	5-5-03	Amend(T)	6-1-03	918-400-0365	1-1-03	Repeal	2-1-03
918-306-0700	6-24-03	Suspend	8-1-03	918-400-0370	1-1-03	Repeal	2-1-03
918-306-0700(T)	6-24-03	Suspend	8-1-03	918-400-0375	1-1-03	Repeal	2-1-03
918-306-0705	5-5-03	Amend(T)	6-1-03	918-400-0380	1-1-03	Adopt	2-1-03
918-306-0705	6-24-03	Suspend	8-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-306-0705(T)	6-24-03	Suspend	8-1-03	918-400-0385	1-1-03	Adopt	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-400-0385(T)	1-1-03	Repeal	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-400-0390	1-1-03	Adopt	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-400-0390(T)	1-1-03	Repeal	2-1-03	918-460-0015	10-1-03	Amend	9-1-03
918-400-0395	1-1-03	Adopt	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-400-0395(T)	1-1-03	Repeal	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-400-0455	3-1-03	Amend	4-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-400-0465	3-1-03	Amend	4-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-400-0525	3-1-03	Amend	4-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-400-0630	3-1-03	Amend	4-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-400-0740	3-1-03	Amend	4-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-400-0780	1-1-03	Repeal	2-1-03	918-785-0030	1-1-03	Repeal	2-1-03