

# OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

**Volume 42, No. 9**  
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For July 16, 2003–August 15, 2003



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**BILL BRADBURY**  
Secretary of State  
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# INFORMATION AND PUBLICATION SCHEDULE

## General Information

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

## Background on Oregon Administrative Rules

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

## How to Cite

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

## Understanding an Administrative Rule's "History"

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

## Locating the Most Recent Version of an Administrative Rule

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

## Locating Administrative Rules Unit Publications

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

## 2002-2003 Oregon Bulletin Publication Schedule

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

## Submission Deadline — Publishing Date

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

## Reminder for Agency Rules Coordinators

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

## Publication Authority

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

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## EXECUTIVE ORDERS

### EXECUTIVE ORDER NO. 03 - 08

#### AMENDS EXECUTIVE ORDER NO. 99 - 09 REGARDING GOVERNOR'S ADVISORY COMMITTEE ON MOTORCYCLE SAFETY

##### IT IS HEREBY DIRECTED AND ORDERED:

1. Executive Order No. 99-09, relating to the Governor's Advisory Committee on Motorcycle Safety, is restated and reaffirmed, with the following amendment.
2. Section 7 of Executive Order No. 99-09 is amended to state as follows:

"This Order shall expire on July 31, 2007."

Done at Salem, Oregon this 15th day of August, 2003.

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

ATTEST

/s/ Bill Bradbury  
Bill Bradbury  
SECRETARY OF STATE

### EXECUTIVE ORDER NO. 03 - 09

#### DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN SHERMAN COUNTY AND WALLOWA 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 Sherman County and Wallowa County (the "Affected Counties"). 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 Counties, I am therefore declaring a "state of drought emergency" in the Affected Counties 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 affect agricultural recovery in the Affected Counties.

II. The Department of Water Resources is directed to coordinate and provide assistance and regulation for the Affected Counties 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 Counties.

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 Counties.

V. This Executive Order expires on December 31, 2003

Done at Salem, Oregon this 15th day of August, 2003

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

ATTEST

/s/ Bill Bradbury  
Bill Bradbury  
SECRETARY OF STATE

## OTHER NOTICES

### CHANCE TO COMMENT ON... PROPOSED CERTIFICATION OF COMPLETION FOR REMEDIAL ACTION FOR THE FORMER DANT AND RUSSELL SITE, NORTH PLAINS, OREGON

**COMMENTS DUE:** October 1, 2003

**PROJECT LOCATION:** Former Dant and Russell Site, 818 Hillcrest Avenue, North Plains, Oregon.

**PROPOSAL:** Pursuant to Oregon Revised Statutes, ORS.465.320 and 465.325(10)(b), the Department of Environmental Quality (DEQ) requests public comment on its proposal to issue a Certification of Completion to Burlington Northern Railroad Company (BNR) and its successor, Burlington Northern and Santa Fe Railway Company (BNSF), for satisfactory completion of remedial actions to address contaminated soils at the former Dant and Russell site. These remedial actions were required under Consent Decree No. C930383CV, filed with the Circuit Court of the State of Oregon for Washington County on April 13, 1993.

**HIGHLIGHTS:** BNR and BNSF performed remedial actions for contaminated soils at the site from April 1993 through January 2003, which included excavation, off-site disposal, on-site treatment of contaminated soils, and construction of a cap. The remedial actions were performed in accordance with the requirements of the Record of Decision, Consent Decree, and DEQ-approved work plans.

**HOW TO COMMENT:** To obtain more information about the remedial actions completed at the site, the project reports and files may be reviewed by appointment at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon. Appointments to review these documents and files can be made by calling 503-229-6729, toll free at 1-800-452-4011, or TTY at 503-229-5471.

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

Jill Kiernan, P.E.

Senior Project Engineer

DEQ Northwest Region

2020 SW Fourth Avenue, Suite 400

Portland, OR 97201-4987

Fax: 503-229-6945

A public meeting will be held to receive verbal comments if requested by 10 or more persons, or by a group with a membership of 10 or more. A separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

**THE NEXT STEP:** DEQ will consider all public comments received by the October 1, 2003 deadline. DEQ intends to issue the final Certification of Completion if no adverse comments are received.

### PROPOSED APPROVAL OF ENVIRONMENTAL CLEANUP CAMPBELL CRANE SITE, 8001 NE 14TH PLACE PORTLAND, OREGON

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

**COMMENTS DUE:** September 30, 2003

**PROPOSAL:** The Oregon Department of Environmental Quality (DEQ) proposes to approve of a soil cleanup at the southern portion of the Campbell Crane site.

**HIGHLIGHTS:** Sandblast grit from piles on an adjacent property migrated on to the site via storm water. Grit material on the Campbell Crane site was removed and confirmation samples indicated soil does not pose an unacceptable risk to human health and the environment.

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

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

### PROPOSED APPROVAL OF CLEANUP NEW SYSTEM LAUNDRY FORMER DRY CLEANING OPERATIONS 432 NE 10TH AVENUE, PORTLAND, OREGON

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

**COMMENTS DUE:** September 30, 2003

**PROPOSAL:** The Oregon Department of Environmental Quality (DEQ) proposes to approve a soil cleanup at the New System Laundry.

**HIGHLIGHTS:** Dry cleaning operations were conducted at the facility from 1930 through 1942, and again from 1972 until 1988. A site investigation completed in 2000 showed that tetrachloroethene (PCE) was present in soils beneath the building. A soil vapor extraction system was installed in the area where the PCE-contaminated soils were discovered. The extraction system was operated for approximately two years. Confirmation testing was conducted in August 2002 and June 2003. DEQ reviewed the investigation results and conducted risk screening for all applicable exposure pathways. Based on the investigation and screening results, DEQ concluded that the residual contamination does not pose an unacceptable risk to human health or the environment. DEQ recommends that the cleanup of contamination related to the former dry cleaning operations be approved and no further action required at the site.

Historically, a number of petroleum underground storage tanks (USTs) were operated on the property. These included 10 small gasoline USTs, two heating oil tanks, and a fuel oil UST. Evaluation of potential residual contamination associated with the USTs was not within the scope the investigation or cleanup and is not included in the proposed no further action recommendation.

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

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

### PROPOSED APPROVAL OF SOIL CLEANUP AT THE FOREIGN ENGINE SERVICE SITE MILWAUKIE, OREGON

**COMMENTS DUE:** October 1, 2003

**PROJECT LOCATION:** 5811 SE Johnson Creek Blvd., Milwaukie, Oregon

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

**HIGHLIGHTS:** The Foreign Engine Service site is approximately 12,800 square feet, and is occupied by two structures, including a two-story structure with a motorcycle service shop on the ground floor that operated as a service station from 1928 to 1959. Two relatively small (250-gallon) underground storage tanks (USTs) were abandoned in place in 1959. Foreign Engine Service operates in the other site building. The areas of environmental concern at the site include petroleum contaminated soil at the former USTs, and at a former oil-water separator (OWS) and associated dry well. To address the soil contamination, a soil removal action was conducted on March 12 and 13, 2003. Approximately 90 tons of soil were removed and disposed off-site. Confirmation samples were collected and analyzed for total petroleum hydrocarbons (TPH) in the drywell area, and TPH and benzene, toluene, ethylbenzene, and total xylenes at the

## OTHER NOTICES

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former UST area. Analytical results showed the residual contaminant concentrations are below acceptable risk-based concentrations. Due to utility lines, approximately 15 cubic yards of low level petroleum-contaminated soil could not be removed and remain at the site. Groundwater sampling showed relatively low levels of volatile organic compounds (VOCs) in groundwater. DEQ has concluded that residual contaminated soil and site groundwater do not pose an unacceptable risk to human health or the environment.

**HOW TO COMMENT:** The staff memorandum and other files will be available for public review beginning Monday 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 Wednesday, October 1, 2003. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more.

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

# NOTICES OF PROPOSED RULEMAKING

## Notice of Periodic Review of Rules

Every three years an agency reviews their Administrative Rules to determine whether rulemaking action is necessary to minimize the economic effect of individual rules on small business. ORS 183.545 As part of the Periodic Review, agencies invite the public to submit written comment upon their existing rules. ORS 183.550 In reviewing individual rules agencies consider: the continued need for the rule; the nature of complaints or comments received concerning the rule from the public; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other state rules, federal regulations and, to the extent feasible, local governmental regulations; the degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and the statutory citation or legal basis for each rule.

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### **Oregon University System Western Oregon University Chapter 574**

**Rules to be Reviewed:** Ch. 574

<u>Division</u>	<u>Title</u>
001	Procedural Rules
010	Rules of Procedures for the Handling of Disputes and Grievances for Both Employees and Students of WOSC
020	Faculty Records Policy
035	Health Requirements for International Students and Scholars
040	Student Records
060	Athletic Events — General
070	Student Activities Travel
080	Authority of Security Personnel
085	Parking and Traffic Enforcement Regulations
090	Access to Student Housing at Western Oregon State College
095	Revolving Charge Plan

**Last Date for Comment:** 9-23-03

**Rules Coordinator:** Debra L. Charlton

**Comments:** Western Oregon University is opening the comment period for review of the text in these divisions.

**Telephone:** (503) 838-8175

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## **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.

## **Appraiser Certification and Licensure Board Chapter 161**

**Date:** 10-20-03  
**Time:** 9 a.m.  
**Location:** West Coast Bank  
2nd Flr. Community Conf. Rm.  
301 Church St. NE  
Salem, OR

**Hearing Officer:** Terry Bernhardt

**Stat. Auth.:** ORS 183.341(4), 674.305(8) & 674.310

**Stats. Implemented:** ORS 674.305(8) & 674.130

**Proposed Amendments:** 161-002-0000, 161-006-0025, 161-006-0160, 161-010-0080, 161-015-0030, 161-020-0045, 161-020-0055, 161-020-0140, 161-025-0000, 161-025-0005, 161-025-0010, 161-025-0030, 161-025-0050, 161-050-0040, 161-050-0050

**Last Date for Comment:** 10-20-03

**Summary:** Proposed changes to Oregon Administrative Rules 161, Division 2 regarding definitions; Division 6 regarding adoption of 2003-2005 biennium budget, and complaints and investigations; Division 10 regarding licensure and certification requirements; Division 15 regarding submission of application; Division 20 regarding education courses and requirements; Division 25 regarding scope of practice and procedures and records retention requirements; and Division 50 regarding address changes and reciprocity.

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

**Rules Coordinator:** Karen Turnbow

**Address:** Appraiser Certification and Licensure Board, 1860 Hawthorne Ave NE, Suite 200, Salem, OR 97303

**Telephone:** (503) 485-2555

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## **Board of Chiropractic Examiners Chapter 811**

**Date:** 11-20-03  
**Time:** 1 p.m.  
**Location:** OBCE Conference Rm.  
3218 Pringle Rd. SE  
Salem, OR

**Hearing Officer:** Dave McTeague

**Stat. Auth.:** ORS 684 & 058

**Stats. Implemented:** ORS 684.150 & 684.155

**Proposed Adoptions:** 811-010-0097

**Proposed Amendments:** 811-010-0095, 811-015-0010, 811-035-0005, 811-035-0015

**Last Date for Comment:** 11-20-03

**Summary:** New Rule: **811-010-0097**, Independent and Second Opinion Examinations.

Amended Rules: **811-010-0095**, changes the status of the existing Oregon Chiropractic Practice & Utilization Guidelines to a "guide to assist the Board and Peer Review Committee in determining..." accepted standards of care for chiropractic in Oregon.

**811-015-0010**, establishes standards for clinical justification and rationale.

**811-035-0005**, clarifies minimum requirements for informed consent and patient termination.

**811-035-0015**, clarifies that licensee may not engage in a romantic relationship with a current patient.

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

**Rules Coordinator:** Dave McTeague

**Address:** Board of Chiropractic Examiners, 3218 Pringle Rd. SE - Suite 150, Salem, OR 97302-6311

**Telephone:** (503) 378-5816, ext. 23

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## **Construction Contractors Board Chapter 812**

**Stat. Auth.:** ORS 670.310, 701.235, 701.280, 701.992 & 183.310 - 183.500

**Stats. Implemented:** ORS 701.055, 701.075, 701.102, 701.125 & 701.280

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 812-003-0000

**Last Date for Comment:** 9-22-03

**Summary:** After notice and hearing on May 27, 2003, OAR 812-003-0000(11) was filed as a permanent rule on June 3, 2003. This rule establishes a fee increase for license reinstatements effective after October 1, 2003. At the August 5, 2003, Construction Contractors Board meeting, Board members determined that license fee increases would not be necessary until January 1, 2004, to adequately fund the CCB for the 2003-05 biennium. This proposed rule amendment delays implementation of the reinstatement fee increase until January 1, 2004, to coincide with the implementation of the license fee implementation date.

**Rules Coordinator:** Cathy Heine

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

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

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## Department of Agriculture Chapter 603

Date:	Time:	Location:
9-23-03	9 a.m.	635 Capitol St. NE Salem, OR 97301-2532

**Hearing Officer:** Kathryn L. Alvey

**Stat. Auth.:** ORS 634; Other Auth.: OR 1999, Ch. 1059, Sec. 15

**Stats. Implemented:** ORS 634

**Proposed Amendments:** 603-057-0006

**Last Date for Comment:** 9-30-03

**Summary:** Changes rule language to be more consistent with language of enabling statutes. Does not change fee charged, nor program components authorized to receive fee revenues.

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

**Rules Coordinator:** Sherry Kudna

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

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

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Date:	Time:	Location:
9-23-03	9 a.m.	635 Capitol St. NE Salem, OR 97301-2532

**Hearing Officer:** Kathryn L. Alvey

**Stat. Auth.:** ORS 634

**Stats. Implemented:** ORS 634

**Proposed Amendments:** 603-057-0100

**Last Date for Comment:** 9-30-03

**Summary:** Increase the annual license fees for Pesticide Operators, Applicators, Trainees, Dealers and Consultants, and Public Applicators and Trainees to the maximums allowed by statute.

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

**Rules Coordinator:** Sherry Kudna

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

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

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Date:	Time:	Location:
9-23-03	1:30 p.m.	635 Capitol St. NE Salem, OR 97301-2532

**Hearing Officer:** Kathryn L. Alvey

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

**Stats. Implemented:** OR 1999, Ch. 1059

**Proposed Amendments:** 603-057-0410

**Last Date for Comment:** 9-30-03

**Summary:** States that the Department will not take enforcement action for failure to report pesticide use for 2002, 2003 and any other years in which the Department lacks funds to provide a means for pesticide users to report pesticide use.

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

**Rules Coordinator:** Sherry Kudna

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

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

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Date:	Time:	Location:
9-30-03	7 p.m.	Multnomah Bldg. 501 SE Hawthorn Ave. Board Conf. Rm. 112 Portland, OR 97214

**Hearing Officer:** Jim Johnson

**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:** 603-095-3700, 603-095-3720, 603-095-3740, 603-095-3760

**Last Date for Comment:** 10-15-03

**Summary:** The rules effectuate the implementation of the Lower Willamette 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

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## Department of Agriculture, Oregon Hazelnut Commission Chapter 623

Date:	Time:	Location:
9-26-03	8 a.m.	Dennys Restaurant 30175 SW Parkway Wilsonville, OR

**Hearing Officer:** Polly Owen

**Stat. Auth.:** ORS 576

**Stats. Implemented:** ORS 576

**Proposed Amendments:** 410-127-0060

**Last Date for Comment:** 9-26-03

**Summary:** Proposed amendment to OAR 410-127-0060 will increase the assessment to hazelnut producers. Increased revenue is being used to file an anti-dumping petition against the Turkish hazelnut industry. The expected result will be an increase in price for U.S. produced hazelnuts to both handlers and producers.

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

**Rules Coordinator:** Polly Owen

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

**Telephone:** (503) 678-6823

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

Date:	Time:	Location:
9-18-03	9:30 a.m.	1535 Edgewater NW Salem, OR 97304

**Hearing Officer:** Joan Davies

**Stat. Auth.:** ORS 479.540; Other Auth.: HB 2717, 2003

**Stats. Implemented:** ORS 479.540

**Proposed Amendments:** 918-251-0090, 918-261-0020, 918-306-0510

**Proposed Repeals:** 918-306-0000, 918-306-0010, 918-306-0100, 918-306-0110, 918-306-0120, 918-306-0130, 918-306-0140, 918-306-0150, 918-306-0160, 918-306-0170, 918-306-0200, 918-306-0210, 918-306-0220, 918-306-0230, 918-306-0300, 918-306-0310,



# NOTICES OF PROPOSED RULEMAKING

918-306-0320, 918-306-0330, 918-306-0500, 918-306-0600, 918-306-0610, 918-306-0700, 918-306-0705, 918-306-0710, 918-306-0715, 918-306-0720, 918-306-0730, 918-306-0740, 918-306-0750, 918-306-0760, 918-306-0770, 918-306-0780

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** Repeals rule requirements for semiconductor electrical industrial manufacturing equipment approval. Repeals produce certification and laboratory approval requirements for electrical products.

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

**Rules Coordinator:** Louann P. Rahmig

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

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

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**Stat. Auth.:** ORS 455.030 & 479.870

**Stats. Implemented:** ORS 455.030 & 479.870

**Proposed Amendments:** 918-309-0030

**Proposed Repeals:** 918-309-0030(T)

**Last Date for Comment:** 9-22-03, 5 p.m.

**Summary:** Reduces certain electrical permit fees for residential wiring.

**Rules Coordinator:** Louann P. Rahmig

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

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

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

Date:	Time:	Location:
10-9-03	9 a.m.	Labor & Industries Bldg. 350 Winter St. NE Conf. Rm. E

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 705.135, 656.726 & 656.612

**Stats. Implemented:** ORS 656.612 & 656.614

**Proposed Amendments:** Rules in 440-045

**Last Date for Comment:** 10-13-03

**Summary:** OAR Chapter 440, division 045: The Director shall adopt by rule the percentage amount to be levied on insurers, self-insured employers and self-insured employer groups, based on workers' compensation premiums, to meet the expenses of the department in carrying out its duties under ORS 656, ORS 654 and the Insurance Code. The assessment amount will be in effect from January 1, 2004 to December 31, 2004. The actual amount proposed will be announced on or before October 3, 2003.

Address questions to: Myrna Curzon, Rules Coordinator; Phone 503-947-7866; fax 503-947-6444; or e-mail myrna.curzon@state.or.us

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

**Rules Coordinator:** Myrna Curzon

**Address:** Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, Salem, OR 97301

**Telephone:** (503) 947-7866

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## Department of Environmental Quality Chapter 340

Date:	Time:	Location:
9-17-03	1 p.m.	811 SW 6th Ave. Portland, OR Rm. 10

**Hearing Officer:** Susan Greco

**Stat. Auth.:** ORS 183.341 & 468.020

**Stats. Implemented:** ORS 183.341 & 183.464

**Proposed Adoptions:** 340-011-0520, 340-011-0535, 340-011-0545, 340-011-0550, 340-011-0555, 340-011-0580, 340-011-0585

**Proposed Amendments:** 340-011-0005

**Proposed Renumberings:** 340-011-0122 to 340-011-0560, 340-011-0106 to 340-011-0515

**Proposed Ren. & Amends:** 340-011-0098 to 340-011-0500, 340-011-0136 to 340-011-0505, 340-011-0103 to 340-011-0510, 340-011-0097 to 340-011-0525, 340-011-0107 to 340-011-0530, 340-012-0035 to 340-011-0540, 340-011-0124 to 340-011-0565, 340-011-0131 to 340-011-0570, 340-011-0132 to 340-011-0575

**Last Date for Comment:** 9-19-03

**Summary:** This proposal would adopt into rule, certain policies that the Department has been following in regards to contested case hearings. Additionally, the rule changes will align the Department's rules with the most recent version of the Attorney General's Hearing Panel Rules.

To submit comments or request additional information, please contact Susan Greco at the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, toll free in Oregon at 800-452-4011 or (503) 229-5152, greco.susan@deq.state.or.us, (503) 229-6762, or visit DEQ's website <http://www.deq.state.or.us/news/index.asp>.

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

**Rules Coordinator:** Rachel Sakata

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

**Telephone:** (503) 229-5659

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Date:	Time:	Location:
9-15-03	1-3 p.m.	Hatfield Marine Science Ctr. 2030 Marine Science Dr. Newport, OR
9-16-03	10 a.m.-1 p.m.	North Bend Public Library 1800 Sherman Ave. North Bend, OR
9-16-03	6:30-9:30 p.m.	Jackson Co. Courthouse Auditorium 10 South Oakdale Medford, OR
9-17-03	1-4 p.m.	Eugene Public Library Downtown 100 W 10th Ave. Eugene, OR
9-18-03	10 a.m.-1 p.m.	900 Building 1900 SW 4th Ave. 2nd Floor Portland, OR
9-18-03	6-9 p.m.	DEQ Headquarters 3rd Floor 811 SW Sixth Ave. (Sixth & Yamhill) Portland, OR
9-22-03	1-4 p.m.	Police Department City Council Chambers 777 SW Deschutes Ave. Redmond, OR
9-23-03	6-9 p.m.	Harney Co. Senior Ctr. 17 South Alder Burns, OR
9-24-03	10 a.m.-1 p.m.	Malheur National Forest Bldg. 431 Patterson Bridge Rd. John Day, OR
9-24-03	6-9 p.m.	La Grande Fire Station 1806 Cove Ave. La Grande, OR

**Hearing Officer:** Mark Charles

**Stat. Auth.:** ORS 183.500, 468.020, 468.705, 468.710, 468.735, 468B.010, 468B.030, 468B.035, 468B.048 & 454.625

**Stats. Implemented:** ORS 468B.048 & 454.685

**Proposed Adoptions:** 340-041-0002, 340-041-0004, 340-041-0007, 340-041-0009, 340-041-0013, 340-041-0016, 340-041-0021,

# NOTICES OF PROPOSED RULEMAKING

340-041-0028, 340-041-0031, 340-041-0033, 340-041-0036, 340-041-0046, 340-041-0053, 340-041-0057, 340-041-0061, 340-041-0101, 340-041-0103, 340-041-0104, 340-041-0121, 340-041-0122, 340-041-0124, 340-041-0130, 340-041-0133, 340-041-0135, 340-041-0140, 340-041-0143, 340-041-0145, 340-041-0151, 340-041-0154, 340-041-0156, 340-041-0160, 340-041-0164, 340-041-0165, 340-041-0170, 340-041-0174, 340-041-0175, 340-041-0180, 340-041-0184, 340-041-0185, 340-041-0190, 340-041-0194, 340-041-0195, 340-041-0201, 340-041-0204, 340-041-0207, 340-041-0220, 340-041-0224, 340-041-0225, 340-041-0230, 340-041-0234, 340-041-0235, 340-041-0250, 340-041-0254, 340-041-0256, 340-041-0260, 340-041-0264, 340-041-0265, 340-041-0271, 340-041-0274, 340-041-0275, 340-041-0286, 340-041-0289, 340-041-0290, 340-041-0300, 340-041-0304, 340-041-0305, 340-041-0310, 340-041-0314, 340-041-0315, 340-041-0320, 340-041-0324, 340-041-0326, 340-041-0330, 340-041-0334, 340-041-0336, 340-041-0340, 340-041-0344, 340-041-0345, 340-041-0350

**Proposed Repeals:** 340-041-0006, 340-041-0026, 340-041-0034, 340-041-0120, 340-041-0202, 340-041-0205, 340-041-0215, 340-041-0242, 340-041-0245, 340-041-0255, 340-041-0270, 340-041-0282, 340-041-0285, 340-041-0295, 340-041-0322, 340-041-0325, 340-041-0335, 340-041-0362, 340-041-0365, 340-041-0375, 340-041-0385, 340-041-0442, 340-041-0445, 340-041-0455, 340-041-0470, 340-041-0482, 340-041-0485, 340-041-0495, 340-041-0522, 340-041-0525, 340-041-0535, 340-041-0562, 340-041-0565, 340-041-0575, 340-041-0580, 340-041-0602, 340-041-0605, 340-041-0615, 340-041-0642, 340-041-0645, 340-041-0655, 340-041-0682, 340-041-0685, 340-041-0695, 340-041-0722, 340-041-0725, 340-041-0735, 340-041-0745, 340-041-0762, 340-041-0765, 340-041-0775, 340-041-0802, 340-041-0805, 340-041-0815, 340-041-0842, 340-041-0845, 340-041-0855, 340-041-0882, 340-041-0885, 340-041-0895, 340-041-0922, 340-041-0925, 340-041-0935, 340-041-0962, 340-041-0965, 340-041-0975

**Proposed Renumberings:** 340-041-0027 to 340-041-0011, 340-041-0150 to 340-041-0019

**Last Date for Comment:** 10-3-03

**Summary:** Proposed changes would revise Oregon's water quality standards as follows:

- revise the ambient water quality criteria for temperature;
- revise the ambient water quality criteria for intergravel dissolved oxygen;
- clarify specific applications of the antidegradation policy for surface waters;
- add requirements for temperature mixing zones;
- add definitions to support these revisions; and
- reorganize Division 041.

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

**Rules Coordinator:** Rachel Sakata

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

**Telephone:** (503) 229-5659

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## Department of Fish and Wildlife Chapter 635

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-10-03	8 a.m.	Roseburg City Hall 900 SE Douglas City Council Chambers Roseburg, OR 97470

**Hearing Officer:** Fish & Wildlife Commission

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

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

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

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

**Summary:** Establish 2004 hunting regulations for game mammals, including season dates, open areas, locations of cooperative travel

management areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include; changes to cougar quotas; set 2004 spring bear controlled tag numbers. Rules for modifying black-tailed deer seasons will be considered.

Modifications in rules governing the Bighorn Sheep Auction Tag and Bighorn Sheep Raffle Tags will be made. New rules will be established for auction and raffle tags for pronghorn antelope, and auction and raffle tags for Rocky Mountain goats.

*\*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) 947-6044

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-10-03	8 a.m.	Roseburg City Hall 900 SE Douglas City Council Chambers Roseburg, OR 97470

**Hearing Officer:** Fish & Wildlife Commission

**Stat. Auth.:** ORS 496.012, 496.138, 496.146, 496.232 & 496.242

**Stats. Implemented:** ORS 496.012, 496.138, 496.146, 496.232 & 496.242

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

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

**Summary:** Amend rules relating to the Access and Habitat Raffle 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) 947-6044

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-10-03	8 a.m.	Roseburg City Hall 900 SE Douglas City Council Chambers Roseburg, OR 97470

**Hearing Officer:** Fish & Wildlife Commission

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

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

**Proposed Amendments:** Rules in 635-050

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

**Summary:** Amend rules regarding trap check requirements for predators.

*\*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) 947-6044

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-03	11 a.m.	Conference Room 276 Human Services Bldg. 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:**

**Proposed Adoptions:** 413-020-0700, 413-020-0705, 413-020-0710, 413-020-0715, 413-020-0720, 413-020-0725

**Last Date for Comment:** 9-30-03

# NOTICES OF PROPOSED RULEMAKING

**Summary:** The purpose of these rules is to outline the procedures that the Department of Human Services, Child Protective Services Program (Department) will use when a child fatality that may be the result of child abuse or neglect occurs.

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

**Rules Coordinator:** Barbara J. Carranza

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-63, Salem, OR 97301-1067

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

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

Date:	Time:	Location:
9-19-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409-010 & 409.110

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0146, 410-121-0160

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** The Pharmaceutical Services Program Administrative Rules govern the Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. 410-121-0146 and 410-121-0160 are being revised to change the compound dispensing fee from one dispensing fee per prescription ingredient to \$7.50 per compound prescription.

*\*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:
9-19-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409-010 & 409.110

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-122-0030, 410-122-0203, 410-122-0208, 410-122-0630

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DME) Program Administrative Rules govern the Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rule 410-122-0030 is being revised to address pricing pursuant to Oregon Health Plan Cost Containment measures. Rule 410-122-0203 is being revised to give time window to oxygen supply providers to collect Certificate of Medical Necessity (CMN) and on client transitioning to Fee for Service (FFS) OMAP pursuant to requests by oxygen supply providers and industry association and dialogue by CIGNA. Rule 410-122-0208 is being revised to add rental to gastric suction pump pursuant to OMAP fee schedule. Rule 410-122-0630 is being revised to address incontinence supplies categories and quantity specification pursuant to OMAP and industry requests and Statistical Analysis Durable Medical Equipment Regional Carrier (SADMERC) guideline.

*\*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:
9-19-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409-010 & 409.110

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-127-0060

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** The Home Health Program Administrative Rules govern the Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP will revise rule 410-127-0060 to update the reimbursement methodology and implement a new fee schedule for Home Health providers pursuant to budget note attached to Senate Bill 5527 (2001).

*\*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

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Date:	Time:	Location:
9-19-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-120-1230, 410-120-1580, 410-120-1600

**Proposed Repeals:** 410-120-1135

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** The General Rules program Administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Rules 410-120-1230 will be amended to add clarifying language regarding provider billing and collection of copayments. Other rules listed above will be amended to correct statutory references. Rule 410-120-1235 will be repealed and the contents placed into OAR 410-120-1230.

*\*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

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Date:	Time:	Location:
9-19-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065

**Proposed Adoptions:** 410-130-xxxx

**Last Date for Comment:** 9-19-03, 5 p.m.

**Summary:** The Medical Surgical Rule program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Due to HIPAA requirements, use of unique encounter codes for family planning services by Family Planning Clinics will end September 30, 2003 and a new HCPCS encounter code will be implemented October 1, 2003. Rule 410-130-

# NOTICES OF PROPOSED RULEMAKING

xxxx will be adopted to specify use of code by Family Planning Clinics and instructions to bill family planning supplies and labs separately.

*\*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

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0300

**Last Date for Comment:** 9-21-03, 5 p.m.

**Summary:** Subject Matter: The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0300 is being amended to update the CMS Federal Upper Limits for Drug Payments listing. This filing is to update Transmittal #37, with Title XIX State Agency Letter Number 03-04, changes to be effective August 24, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS).

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-1077

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

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

Date:	Time:	Location:
9-23-03	10 a.m.	Rm. 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 411.060, 411.816 & 418.100; Other Auth.: Food and Nutrition Service Administrative Notice 03-33 and Approval of Full Utility Allowance (FUA) and Limited Utility Allowance (LUA); SSA's Program Operations Manual System (POMS) SI 00503.200 Basic SSI Alien Eligibility Requirements

**Stats. Implemented:** ORS 411.060, 411.816, 411.825 & 418.100

**Proposed Amendments:** 461-110-0370, 461-120-0125, 461-155-0190, 461-160-0420, 461-160-0430

**Last Date for Comment:** 9-23-03

**Summary:** Rules 461-110-0370 and 461-155-0190 are being amended to reflect the annual increase in the income and payment standards for the Food Stamp program as published by the Food and Nutrition Service.

Rule 461-120-0125 is being amended because Social Security Administration clarified that noncitizens who were in the United States on or after August 22, 1996 would not be eligible for SSI if they do not meet the disability criteria. Since OSIP and OSIPM are based on SSI eligibility, qualified noncitizens who have been living in the U.S. with a qualified status may be eligible for other medical programs but not OSIP or OSIPM.

Rule 461-160-0420 is being amended to reflect the annual increase in the Full Utility Allowance (FUA) and Limited Utility Allowance (LUA) for food stamp households. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan.

Rule 461-160-0430 is being amended to reflect the annual increase in the standard deduction and the shelter deduction standard for the Food Stamp program as published by the Food and Nutrition Service.

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

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

**Rules Coordinator:** Annette Tesch

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

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

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

Date:	Time:	Location:
9-24-03	2 p.m.	500 Summer St. NE Room 137D Salem, OR

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 409.050, 410.070 & 410.090

**Stats. Implemented:** ORS 409.050 & 410.070

**Proposed Adoptions:** 411-030-0065

**Proposed Amendments:** 411-030-0020, 411-030-0033, 411-030-0040, 411-030-0050, 411-030-0060, 411-030-0070, 411-030-0080

**Last Date for Comment:** 9-24-03

**Summary:** The In-Home Services rules are being amended, and rule 411-030-0065, Administrative Review and Hearing Rights, is being adopted as a result of the collective bargaining agreement between the Home Care Commission (represented by the Department of Administrative Services) and SEIU 503, OPEU Sub-local 99, the Homecare Workers' union. Other minor changes were also made for clarification.

*\*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 97301-1098

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

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## Department of Human Services, Vocational Rehabilitation Services Chapter 582

Date:	Time:	Location:
9-15-03	3 p.m.	DHS Building Rm. 252 500 Summer St. NE Salem, OR

**Hearing Officer:** Robert Trachtenberg

**Stat. Auth.:** ORS 344.530 & 344.550

**Stats. Implemented:** ORS 344.530 & 344.550

**Proposed Amendments:** 582-070-0020, 582-070-0025

**Last Date for Comment:** 9-18-03

**Summary:** The Office of Vocational Rehabilitation Services (OVRs) intends to amend permanent Division 70 rules on Applicant/Client Transportation. These amended rules more accurately describe the standards for OVRs services related to vehicle modification and vehicle purchase including a definition of critical terms, the nature and scope of program services, the general purpose of the provision for vehicle modifications, and funding limitations. These amendments accurately reflect existing spending authority and more directly correlate the approval process involved in second or subsequent modifications to accommodation needs due to changes in individuals disability. Interested persons may obtain a copy of the proposed rule by contacting the Rules Coordinator listed.

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

**Rules Coordinator:** Robert Trachtenberg

# NOTICES OF PROPOSED RULEMAKING

**Address:** Department of Human Services, Vocational Rehabilitation Services, 500 Summer St. NE, E-87, Salem, OR 97301-1120  
**Telephone:** (503) 945-6734

.....  
**Department of Justice**  
**Chapter 137**

**Stat. Auth.:** ORS 025.270 - 025.290 & 180.340  
**Stats. Implemented:** ORS 025.270 - 025.290  
**Proposed Amendments:** 137-050-0320, 137-050-0450, 137-050-0455  
**Last Date for Comment:** 9-21-03

**Summary:** The proposed amendments to OAR 137-050-0320 are to correct grammatical errors, add the definition of "Survivors' and Dependents' Educational Assistance" and "split custody". The new definition of "Survivors' and Dependents' Educational Assistance" is to include the new provisions as passed by the legislature in section 6, chapter 572, OL 2003. This definitional change will allow all Veterans' benefits received by a child to be considered when calculating a child support obligation, including Survivors' and Dependents' Educational Assistance under 38 USC chapter 35. "Split custody" is defined for use by practitioners when calculating parenting time. Per public comments, the word "parents" will replace the phrase "mother and the father" in the definition of "joint child" to cover the various makeups of the family unit. The word "adjusted" is being replaced with "modified", as this is the correct type of gross income to use when applying the low income adjustment.

The proposed amendment to OAR 137-050-0450 is to allow for the calculation of parenting time and/or parenting time credit for families where each parent has custody of at least one joint child, regardless of whether or not a written parenting time agreement or court order providing for the parenting time exists.

The proposed amendments to OAR 137-050-0455 are to correct the amount of overall parenting time that will be calculated from "more than 20 percent" to "20 percent of greater for each parent" to correspond correctly to the rest of the rule, and to remove redundant phraseology.

**Rules Coordinator:** Shani Fuller  
**Address:** Department of Justice, Division of Child Support Administration, 494 State St., Ste 300, Salem, OR 97301  
**Telephone:** (503) 986-6232

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**Department of Oregon State Police**  
**Chapter 257**

**Stat. Auth.:** ORS 181.440  
**Stats. Implemented:** ORS 181.440  
**Proposed Adoptions:** 257-050-0095, 257-050-0125, 257-050-0145, 257-050-0157, 257-050-0170  
**Proposed Amendments:** 257-050-0040, 257-050-0050, 257-050-0060, 257-050-0070, 257-050-0090, 257-050-0100, 257-050-0110, 257-050-0140  
**Proposed Repeals:** 257-050-0080  
**Proposed Ren. & Amends:** 257-050-0115 to 257-050-0155, 257-050-0120 to 257-050-0170, 257-050-0130 to 257-050-0180, 257-050-0150 to 257-050-0190, 257-050-0160 to 257-050-0200  
**Last Date for Comment:** 10-1-03

**Summary:** Based on recommendations made by the Oregon Department of Justice and the towing industry, the Department made the decision to completely rewrite existing administrative rules (257-050-0040 to 257-050-0160) governing the non-preference tow program. Changes were made to standardize and better define the Department's requirements of towing companies who apply to become part of the agency's non-preference tow program. Additional changes were made based on public, industry and agency input regarding better screening of applicants and those approved for the program based on prior criminal activity/history.

**Rules Coordinator:** David Yandell

**Address:** Department of State Police, 3772 Portland Rd. NE, Salem, OR 97303

**Telephone:** (503) 378-3055, ext. 55000

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

**Stat. Auth.:** ORS 181.667  
**Stats. Implemented:** ORS 181.667  
**Proposed Amendments:** 259-008-0011, 259-008-0060  
**Last Date for Comment:** 9-22-03

**Summary:** Changes the timeframe that telecommunicators and EMD's must be fingerprinted from applying for certification to on or before date of hire.

Proposed rules can be viewed on our webpage: <http://www.oregonvos.net/dpsst/>

**Rules Coordinator:** Shawn M. Irish  
**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361  
**Telephone:** (503) 378-2100, ext. 2223

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**Stat. Auth.:** ORS 181.875, 181.878, 181.883  
**Stats. Implemented:** ORS 181.875, 181.878, 181.883  
**Proposed Amendments:** 259-060-0020, 259-060-0300  
**Last Date for Comment:** 9-22-03

**Summary:** The rule changes add moral fitness to the minimum standards for certification or licensure. They also broaden the falsification portion to include falsification of any documents related to certification or licensure.

Proposed rules can be viewed on our webpage: <http://www.dpsst.state.or.us/>

**Rules Coordinator:** Shawn M. Irish  
**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361  
**Telephone:** (503) 378-2100, ext. 2223

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**Stat. Auth.:** ORS 181.667  
**Stats. Implemented:** ORS 181.667  
**Proposed Adoptions:** 259-008-0068  
**Last Date for Comment:** 9-22-03

**Summary:** Provides a certification program for honorably retired police officers to maintain their certification.

Proposed rules can be viewed on our webpage: <http://www.oregonvos.net/dpsst/>

**Rules Coordinator:** Shawn M. Irish  
**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361  
**Telephone:** (503) 378-2100, ext. 2223

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**Department of Revenue**  
**Chapter 150**

Date:	Time:	Location:
12-2-03	10-11:30 a.m.	Oregon Department of Revenue 955 Center St. NE Salem, OR 97301-2555

**Hearing Officer:** Rick Schack  
**Stat. Auth.:** ORS 305.100 & 305.220(3)(a)  
**Stats. Implemented:** ORS 305.220  
**Proposed Amendments:** 150-305.220(1), 150-305.220(2)  
**Last Date for Comment:** 12-2-03

**Summary:** Determination of interest rates to be charged by the department on deficiencies and delinquencies and paid on refunds.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Xann-Marie Culver  
**Address:** Department of Revenue, 955 Center St. NE, Room 457, Salem, OR 97301  
**Telephone:** (503) 947-2099

# NOTICES OF PROPOSED RULEMAKING

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

**Date:** 9-25-03  
**Time:** 2 p.m.  
**Location:** ODOT Bldg.  
Rm. 122  
355 Capitol St. NE  
Salem, OR

**Hearing Officer:** Liz Woods

**Stat. Auth.:** ORS 184.616, 184.619, 807.040, 807.045, 808.050, 807.060, 807.070, 807.072, 807.080, 807.150, 807.170 & 809.310  
**Stats. Implemented:** ORS 802.200, 807.040, 807.045, 807.072, 807.080 & 807.100

**Proposed Adoptions:** 735-060-0065, 735-060-0115

**Proposed Amendments:** 735-060-0000, 735-060-0030, 735-060-0040, 735-060-0050, 735-060-0060, 735-060-0090, 735-060-0095, 735-060-0100, 735-060-0110, 735-060-0120, 735-060-0130

**Proposed Repeals:** 735-060-0070, 735-060-0080

**Proposed Ren. & Amends:** 735-060-0015 to 735-062-0200, 735-060-0017 to 735-062-0210, 735-060-0050(9) & (13) to 735-060-0055, 735-060-0050(10), (11) & (12) to 735-060-0057, 735-060-0100 (8), (9) & (10) to 735-060-0105, 735-060-0140 to 735-074-0260, 735-060-0150 to 735-074-0270, 735-060-0160 to 735-074-0280, 735-060-0170 to 735-074-0290

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

**Summary:** OAR Chapter 735, Division 60 establishes the CDL third party testing program, which authorizes persons certified by DMV to test the driving competency of applicants for a commercial driver license (CDL). Division 60 also contains rules that pertain to the issuance of a CDL and specific qualifications, including medical qualifications, necessary to qualify for a CDL. This rulemaking reorganizes the rules within Division 60 to clarify qualifications, eligibility requirements and responsibilities of CDL Third Party Testers and CDL Examiners, and moves rules not relating to the testing program to other divisions. Proposed amendments relate to: CDL applicant eligibility based on the applicant's driving record, Tester and Examiner violations and possible sanctions, addition and modification of definitions, and other general housekeeping changes. New rules are proposed to establish record requirements and a code of ethics and rules of conduct. Rules relating to training are being repealed.

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

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

**Rules Coordinator:** Brenda Trump

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

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

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**Stat. Auth.:** ORS 184.616, 184.619, 811.602, 811.604, 811.607 & 811.609

**Stats. Implemented:** ORS 811-602 - 811.640

**Proposed Amendments:** 735-080-0010, 735-080-0030

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

**Summary:** These rules relate to the program for issuance of disabled person parking permits. The proposed amendments redefine what constitutes an authorized program for purposes of obtaining a program placard issued under ORS 811.607. Currently the applicant must provide documentation from a city, county, or state that the program is a recognized program for the transportation of disabled persons or an adult foster care home. The proposed amendments would allow the applicant to certify it is an authorized program.

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

**Rules Coordinator:** Brenda Trump

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

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

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

**Stat. Auth.:** ORS 823.001 & 825.232

**Stats. Implemented:** ORS 825.210, 825.232 & 825.252

**Proposed Repeals:** 740-115-0010, 740-115-0020, 740-115-0030, 740-115-0040, 740-115-0050, 740-115-0060, 740-115-0070, 740-120-0010, 740-120-0020, 740-120-0030, 740-120-0040, 740-125-0010, 740-125-0020, 740-125-0030, 740-125-0040, 740-130-0010, 740-130-0020, 740-130-0030, 740-130-0040, 740-130-0050, 740-130-0060, 740-130-0070, 740-130-0080, 740-130-0090, 740-135-0010, 740-135-0020, 740-135-0030, 740-135-0040, 740-140-0010, 740-140-0020, 740-140-0030, 740-140-0040, 740-140-0050, 740-140-0060, 740-145-0010, 740-145-0020, 740-145-0030, 740-145-0040, 740-145-0050, 740-145-0060, 740-150-0010, 740-150-0020, 740-150-0030, 740-150-0040, 740-150-0050, 740-155-0010, 740-155-0020, 740-155-0030, 740-155-0040, 740-155-0050, 740-155-0060, 740-160-0010, 740-160-0020, 740-160-0030, 740-160-0040, 740-160-0050, 740-160-0060, 740-160-0070, 740-165-0010, 740-165-0020, 740-165-0030, 740-165-0040

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

**Summary:** Current Motor Carrier Transportation Division (MCTD) load securement rules that apply to intrastate motor carrier transportation were originally adopted to provide commodity specific securement requirements, because the Federal Motor Carrier Safety Regulations adopted by MCTD only provided general standards. New Federal Motor Carrier Safety Regulations codified at Title 49 CFR Part 393.100-136 are based on years of research and now provide commodity specific standards. Oregon annually adopts by rule Federal Motor Carrier Safety Regulations to govern intrastate motor carrier operations. The new federal load securement regulations are more comprehensive than the old rules and adequately address the concerns MCTD had when it promulgated separate intrastate rules. Therefore, MCTD proposed to repeal its load securement rules.

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

**Rules Coordinator:** Brenda Trump

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

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

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**Stat. Auth.:** ORS 802.500, 803.370, 823.011, 825.232, 825.555 & 826.007

**Stats. Implemented:** ORS 803.370(5), 825.490, 825.555, 826.005, 826.007 & 826.033

**Proposed Amendments:** 740-200-0010, 740-200-0020, 740-200-0040

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

**Summary:** Provisions of the International Fuel Tax Agreement (IFTA) and associated material are applicable to Oregon-based motor carriers who participate in IFTA as a way to report and pay fuel tax to other jurisdictions. The proposed revision to OAR 740-200-0040 adopts the most recent version of IFTA and associated material as the procedures and guidelines for Oregon-based IFTA participants is necessary to ensure Oregon remains current with national and international IFTA standards. The International Registration Plan (IRP) and 26 CFR Part 41 (Heavy Vehicle Use Tax - HVUT) relate to commercial motor vehicle registration and heavy vehicle taxation respectively. Proposed amendments to OAR 740-200-0010 and 740-200-0020 adopt IRP and HVUT and amendments thereto in effect as of January 1, 2004 and are necessary to ensure Oregon remains current with national and international commercial motor vehicle registration standards.

# NOTICES OF PROPOSED RULEMAKING

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

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

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**Stat. Auth.:** ORS 823.011, 823.061, 825.137, 825.210, 825.232, 825.252 & 825.258

**Stats. Implemented:** ORS 825.210, 825.250, 825.252, 825.258 & 825.260

**Proposed Amendments:** 740-100-0010, 740-100-0060, 740-100-0070, 740-100-0080, 740-100-0090, 740-110-0010

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

**Summary:** These rules cover the annual adoption of federal motor carrier safety and hazardous materials transportation regulations. In addition, these rules cover the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes are necessary to ensure Oregon's motor carrier safety; hazardous materials; and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards. In addition, it is proposed that Oregon intrastate driver's hours of service rules be modified to reflect changes in federal regulations. It has been standard practice to adopt these rules to become effective April 1, however, because revisions to federal driver hours-of-service regulations become enforceable January 4, 2004, it is necessary to adopt those regulations prior to January 4, 2004.

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

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

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## Department of Veterans' Affairs Chapter 274

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

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

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

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

**Last Date for Comment:** 9-22-03

**Summary:** This rule replaces and supersedes the Temporary Rule 274-020-0341(T) filed on August 14, 2003, and effective August 15, 2003 through October 17, 2003.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after August 15, 2003, shall have the interest rate of 5.75 percent with an origination fee of 1.0 percent or 5.625 percent with an origination fee of 1.5 percent.

PLEASE NOTE: The interest rate on the Certificate and Order for Filing of the Permanent Administrative Rule may change due to changes in the market rate.

**Rules Coordinator:** Charles E. Gehley  
**Address:** Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285  
**Telephone:** (503) 373-2142

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**Stat. Auth.:** ORS 406.030, 407.115, 407.125, 407.169, 407.179, 407.181, 407.205, 407.225, 407.485 & 407.305; Other Auth.: Senate Bill 193, 2003 Regular Session of Leg.

**Stats. Implemented:** ORS 406.030, 407.115, 407.125, 407.179, 407.181, 407.205, 407.225, 407.275 & 407.485

**Proposed Amendments:** 274-020-0340, 274-020-0445, 274-028-0020, 274-045-0060, 274-045-0441

**Proposed Repeals:** 274-020-0340(T), 274-020-0445(T), 274-028-0020(T), 274-045-0060(T), 274-045-0441(T)

**Last Date for Comment:** 9-22-03

**Summary:** This rule replaces and supersedes the Temporary Rule filed on April 7, 2003, which was effective upon filing through October 3, 2003.

Senate Bill 193, of the 2003 Regular Session of Legislature increased the maximum allowable veterans' home loan amount from 95 percent to 97 percent of the net appraised value.

In addition to the maximum loan amount change, these rules are also being amended for housekeeping purposes. The words "net appraised value" are being inserted immediately after "loan value" in subsection (1) of OAR 274-020-0340 and 274-045-0060 for clarification and in order to be consistent with ORS 407.225(3).

**Rules Coordinator:** Charles E. Gehley  
**Address:** Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285  
**Telephone:** (503) 373-2142

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## Employment Department Chapter 471

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

**Hearing Officer:** Richard Luthé

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:** ORS 657.665 & 657

**Proposed Amendments:** 471-010-0050

**Proposed Repeals:** 471-010-0050(T)

**Last Date for Comment:** 9-17-03, 5 p.m.

**Summary:** This rule is being amended to clarify who can be considered to be a "Hosted Worker" for Employment Department purposes.

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

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

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## Landscape Contractors Board Chapter 808

Date:	Time:	Location:
9-26-03	1 p.m.	Roth's IGA West Salem Glen Creek Rm.

**Hearing Officer:** Carl Cory

**Stat. Auth.:** ORS 670, 671 & 183

**Stats. Implemented:** ORS 670, 671 & 183

**Proposed Amendments:** 808-003-0070, 808-003-0130

**Last Date for Comment:** 9-26-03

**Summary:** 808-003-0070: Amends requirement to request oral examination after three unsuccessful attempts to pass all sections of the examination.

808-003-0130: Adjust initial individual application fee, initial exam fee and retake fees, includes extra fee for processing and mailing examinations to DMV.

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

**Rules Coordinator:** Kim Gladwill-Rowley  
**Address:** Landscape Contractors Board, 235 Union St. NE, Salem, OR 97301  
**Telephone:** (503) 986-6561

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**Stat. Auth.:** ORS 670 & 671

**Stats. Implemented:** ORS 670 & 671

**Proposed Adoptions:** 808-002-0130, 808-002-0275

**Proposed Amendments:** 808-003-0200, 808-004-0260, 808-004-0520, 808-004-0540, 808-004-0550, 808-004-0560, 808-004-0590,

# NOTICES OF PROPOSED RULEMAKING

808-008-0020, 808-008-0030, 808-008-0060, 808-008-0080, 808-008-0085, 808-008-0090, 808-008-0120, 808-008-0160, 808-008-0400, 808-008-0425, 808-009-0020, 808-009-0050, 808-009-0070, 808-009-0100, 808-009-0120, 808-009-0140, 808-009-0160, 808-009-0200, 808-009-0220, 808-009-0400, 808-009-0430

**Proposed Repeals:** 808-002-0440, 808-002-0450

**Last Date for Comment:** 9-26-03

**Summary:** 808-002-0130 & 808-002-0275 Adopted to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003.

808-002-0440 & 808-002-0450: Repealed to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003.

808-003-0200: Deletes authority for a CCB licensee to advertise for landscape construction under the landscape contracting heading.

The following rules are amended to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003: 808-004-0260, 808-004-0520, 808-004-0540, 808-004-0550, 808-004-0560, 808-004-0590, 808-008-0020, 808-008-0030, 808-008-0060, 808-008-0080, 808-008-0085, 808-008-0090, 808-008-0120, 808-008-0160, 808-008-0400, 808-008-0425, 808-009-0020, 808-009-0050, 808-009-0070, 808-009-0100, 808-009-0120, 808-009-0140, 808-009-0160, 808-009-0200, 808-009-0220, 808-009-0400, 808-009-0430

**Rules Coordinator:** Kim Gladwill-Rowley

**Address:** Landscape Contractors Board, 235 Union St. NE, Salem, OR 97301

**Telephone:** (503) 986-6570

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## Oregon Economic and Community Development Department Chapter 123

**Stat. Auth.:** ORS 285A.075(5), 285A.110(1) & 285A.213(4)

**Stats. Implemented:** ORS 285A.213

**Proposed Adoptions:** Rules in 123-049

**Proposed Amendments:** Rules in 123-049

**Proposed Repeals:** Rules in 123-049

**Last Date for Comment:** 9-25-03

**Summary:** These administrative rules expand on basic enabling provisions under federal and State Law for the department to establish and operate the "State Drinking Water Revolving Loan Fund" and "Drinking Water Protection Loan Fund" to provide financial assistance for improvements (respectively to infrastructure and sources of drinking water), in order to prevent health risks and achieve environmental/regulatory compliance by local public water systems. The primary and only significant purpose of this rulemaking is to adopt and incorporate by reference newly revised State program guidelines and applicant's handbook for the administration of both financial programs. These revisions incorporate not only the current temporary rulemaking, but also thoroughly revise and bring up to date the rule-established Handbook. A copy of this new "draft" document is available at the Web Site: [http://www.econ.state.or.us/safe\\_wtr.htm](http://www.econ.state.or.us/safe_wtr.htm). (Appendix A therein contains administrative-rule language, as it would hereby be amended) Also, of note is the potential amendment of the Handbook, so that points are awarded for "Readiness to Proceed" as a secondary criterion in annually ranking project to determine those water systems that may apply for funds in a given annual cycle (see Appendix I & J of the draft handbook).

**Rules Coordinator:** Margie N. Druery

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

**Telephone:** (503) 986-0206

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## Oregon Liquor Control Commission Chapter 845

Date:	Time:	Location:
9-24-03	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

**Hearing Officer:** Katie Hilton

**Stat. Auth.:** ORS 471, 471.030, 471.040, 471.730 (1) & 471.730(5)

**Stats. Implemented:** ORS 741.166

**Proposed Amendments:** 845-005-0304

**Last Date for Comment:** 10-8-03

**Summary:** This is the rule wherein the Commission lists requirements and processes for local governing bodies to give recommendations on initial and renewing liquor licenses to OLCC. In accordance with the 2003 legislature's Senate Bill 724, we propose to amend section (5) of the rule to change the timeframe for processing an initial license application from the current 30 days to 45 days. *\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Katie Hilton

**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355

**Telephone:** (503) 872-5004

\*\*\*\*\*

**Stat. Auth.:** ORS 183, 471, 183.341(2), 471.730(5) & 471.730(6)

**Stats. Implemented:** ORS 183.341(2) & 183.460

**Proposed Amendments:** 845-003-0590

**Last Date for Comment:** 10-1-03

**Summary:** The Attorney General's model rules have been amended effective July 21, 2003. We need to make a minor amendment to our rule on Exceptions to continue our practice of requiring that exceptions or comments to proposed orders be received by the deadline in order to be timely filed. Because the model rule change is effective July 21, 2003, we will temporarily amend this rule so that we are in compliance during the permanent rulemaking process.

**Rules Coordinator:** Katie Hilton

**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355

**Telephone:** (503) 872-5004

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

**Stats. Implemented:** ORS 471.478

**Proposed Amendments:** 845-006-0441

**Last Date for Comment:** 10-1-03

**Summary:** This is the rule wherein the Commission describes licensees' responsibilities and requirements for filling out the Receipt for Sale of Malt Beverages in Kegs to Unlicensed Group or Individual (keg tag form). We have recently discovered that our rule lacks specificity on what information should appear on the form. We propose to amend the rule to add a section which lists the information the licensee is required to verify on the keg tag form.

**Rules Coordinator:** Katie Hilton

**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355

**Telephone:** (503) 872-5004

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## Oregon Public Employees Retirement System Chapter 459

Date:	Time:	Location:
9-17-03	10:30 a.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

**Hearing Officer:** Yvette Elledge

**Stat. Auth.:** ORS 192.440, 192.502, 238.650 & 243.470

**Stats. Implemented:** ORS 192.410 - 192.505, 237.410 - 237.520, 237.600, 237.610 - 237.620, 237.950 - 237.980, 238 & 243.401 - 243.507

**Proposed Amendments:** 459-060-0001, 459-060-0010, 459-060-0020

**Last Date for Comment:** 9-30-03

**Summary:** These proposed rule modifications pertain to the administration of public records maintained by PERS. The modifications



# NOTICES OF PROPOSED RULEMAKING

to OAR 459-060-0001 and 459-060-0020 clarify to whom PERS may release a member's information and which records are exempt from public disclosure under ORS 192.502(2) and (12). Modifications in OAR 459-060-0010 are necessary to delete language regarding the waiver of fees. In light of a recent legal challenge, the agency needs to clarify that as a fiduciary, PERS is prohibited from waiving fees for public records and must charge actual costs.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the address listed or sent via email to [yvette.s.elledge@state.or.us](mailto:yvette.s.elledge@state.or.us)

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

**Rules Coordinator:** Yvette S. Elledge

**Address:** Oregon Public Employees' Retirement System, PO Box 23700, Tigard, OR 97281-3700

**Telephone:** (503) 603-7713

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## Oregon University System, Western Oregon University Chapter 574

**Stat. Auth.:** ORS 351.070 & 351.072

**Stats. Implemented:** ORS 351.070 & 351.072

**Proposed Amendments:** 574-001-0000, 574-010-0005, 574-010-0010, 574-010-0020, 574-010-0030, 574-010-0060, 574-010-0067, 574-010-0068, 574-010-0070, 574-010-0075, 574-010-0080, 574-010-0085, 574-020-0001, 574-020-0010, 574-020-0020, 574-035-0005, 574-040-0001, 574-040-0010, 574-040-0020, 574-040-0025, 574-060-0005, 574-060-0010, 574-070-0010, 574-080-0010, 574-080-0020, 574-085-0010, 574-085-0020, 574-085-0030, 574-085-0040, 574-085-0050, 574-085-0070, 574-085-0090, 574-085-0100, 574-085-0110, 574-085-0120, 574-085-0130, 574-090-0000, 574-090-0010, 574-090-0020, 574-090-0030, 574-090-0050, 574-090-0060, 574-095-0010

**Proposed Repeals:** 574-010-0015, 574-010-0025, 574-010-0035, 574-010-0040, 574-010-0045, 574-010-0050, 574-010-0055

**Last Date for Comment:** 9-23-03

**Summary:** Amendments reflect analysis and update of rules for divisions of Chapter 574.

**Rules Coordinator:** Debra L. Charlton

**Address:** Oregon State System of Higher Education, Western Oregon University, 345 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 838-8175

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## Parks and Recreation Department Chapter 736

Date:	Time:	Location:
9-17-03	5 p.m.	1115 Commercial St. NE Salem, OR

**Hearing Officer:** Jana Tindall

**Stat. Auth.:** ORS 390.124

**Stats. Implemented:** ORS 390.111, 390.121 & 390.124

**Proposed Amendments:** 736-010-0099

**Last Date for Comment:** 9-17-03

**Summary:** Establishes authority of the Director of the Oregon Parks and Recreation Department to waive or grant exceptions to fees and deposits related to use of state park facilities. Provides for the collection of transaction fees for reservation services. Establishes rules for taking customer reservations of state park facilities.

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

**Rules Coordinator:** Angie Springer

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

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

**Stat. Auth.:** ORS 390.180(1)(c)

**Stats. Implemented:** ORS 390.180(1)(c)

**Proposed Amendments:** 736-018-0045

**Last Date for Comment:** 9-30-03

**Summary:** ORS 390.180(1)(c) requires the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a new master plan for the Detroit Lake State Park Master Plan. The master plan responds to the most current information on the parks resource conditions and public recreation needs as they pertain to the parks. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt as state rule, the master plan for Detroit Lake State Park.

**Rules Coordinator:** Angie Springer

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

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

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**Stat. Auth.:** ORS 390.180(1)(c)

**Stats. Implemented:** ORS 390.180(1)(c)

**Proposed Amendments:** 736-018-0045

**Last Date for Comment:** 9-30-03

**Summary:** ORS 390.180(1)(c) requires the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a new master plan for the Prineville Reservoir State Park Master Plan. The master plan responds to the most current information on the parks resource conditions and public recreation needs as they pertain to the parks. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt as state rule, the master plan for Prineville Reservoir State Park which was developed in coordination with US Bureau of Reclamation's Prineville Reservoir Resource Management Plan.

**Rules Coordinator:** Angie Springer

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

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## Public Utility Commission Chapter 860

**Stat. Auth.:** ORS 183, 756, 759 & OL 1987, Ch. 290

**Stats. Implemented:** ORS 756.040, 759.030 & OL 1987, Ch. 290

**Proposed Adoptions:** 860-033-0006, 860-033-0007, 860-033-0008, 860-033-0009

**Proposed Amendments:** 860-033-0005, 860-033-0010, 860-033-0030, 860-033-0045, 860-033-0050, 860-033-0505, 860-033-0530, 860-033-0535, 860-033-0536, 860-033-0537, 860-033-0540

**Last Date for Comment:** 9-21-03

**Summary:** The proposed rulemaking changes for RSPF include minor housekeeping changes in terminology that make them consistent with other rules (i.e. "providers" instead of "carriers"), clarifies the billing and report periods for providers to submit RSPF revenue and reports, and adopts language similar to the Oregon Universal Service Fund rules on penalties for failing to submit billing and reports for the RSPF surcharge remittance. Clarifications are made for OTAP and Link Up America services, including when information can be released to the provider, Department of Human Services and legal guardians, and requires Link Up America applications to go through the PUC, rather than directly to the telecommunications provider. Link Up America recipients who are qualified through LIEAP (Low Income Energy Assistance Program) must provide documentation of their participation in LIEAP. The proposed rule making also stipulates the length of time that TDAP recipients may receive equipment for trial purposes, clarifies the responsibility of parents and minor applicants to return equipment when the

# NOTICES OF PROPOSED RULEMAKING

child is no longer a minor, clarifies when a TDAP recipient may be liable for damages to their equipment, clarifies procedures for determining Oregon residency, and appropriate professionals or agencies that may certify their eligibility as a disabled recipient of TDAP services.

**Rules Coordinator:** Lauri Salsbury

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

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

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

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

**Proposed Amendments:** 860-021-0034, 860-021-0036, 860-021-0037, 860-032-0095, 860-032-0097, 860-034-0095, 860-034-0097, 860-036-0095, 860-036-0097, 860-037-0095, 860-037-0097

**Last Date for Comment:** 9-21-03

**Summary:** OARs 860-021-0034, 860-021-0036, 860-021-0037, 860-032-0095, 860-032-0097, 860-034-0095, 860-034-0097, 860-036-0095, 860-036-0097, 860-037-0095 and 860-037-0097 require public utilities and telecommunications providers to file annual fee statements and pay penalties for failure to do so. The rules should be revised to include penalties for failure to file completed statements.

**Rules Coordinator:** Lauri Salsbury

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

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

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## Teacher Standards and Practices Commission Chapter 584

**Date:**  
10-9-03

**Time:**  
3 p.m.

**Location:**  
Oregon Education Association  
6900 SW Atlanta St.  
Portland, OR 97223

**Hearing Officer:** Patricia Evenson-Brady, TSPC Chair

**Stat. Auth.:** ORS 342.120-342.200, 342.400 & 342.985

**Stats. Implemented:**

**Proposed Adoptions:** 584-100-0001, 584-100-0005, 584-100-0010, 584-100-0015, 584-100-0020, 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, 584-100-0075, 584-100-0080, 584-100-0090, 584-100-0095, 584-100-0100, 584-100-0105, 584-100-0110

**Proposed Amendments:** 584-036-0017, 584-060-0181

**Last Date for Comment:** 10-8-03

**Summary:** 1. Establishes requirements and procedures for highly qualified teachers under the federal No Child Left Behind Act.

2. Allows more flexibility to schools in supervising distance-learn courses.

3. Places restrictions on the Substitute Teaching License.

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

**Rules Coordinator:** Robyn MacKillop

**Address:** Teacher Standards and Practices Commission, 255 Capitol St. NE, Suite 105, Salem, OR 97310

**Telephone:** (503) 373-1060

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## Water Resources Department Chapter 690

**Date:**  
10-13-03

**Time:**  
7-8 p.m.

**Location:**  
Lake Co. Courthouse  
County Commissioner's Mtg Rm.  
513 Center St.  
Lakeview, OR 97630

**Hearing Officer:** Juno Pandian

**Stat. Auth.:** ORS 537.780, 536.027 & 536.090

**Stats. Implemented:** ORS 537.505 - 537.795 & 537.780(1)

**Proposed Adoptions:** 690-200-0028

**Last Date for Comment:** 10-31-03

**Summary:** The Department is proposing administrative rules that establish special areas standards for well construction. Specifically, the proposed special area standards would apply to the alteration, conversion or deepening of any well in the sedimentary units (clay, sand, silt, gravel) in a specified area to the north of the Town of Lakeview, in Lake County. The proposed rules include deeper casing and sealing requirements to prevent commingling of contaminated and uncontaminated aquifers and to ensure the safe development of ground water.

Uranium ore was processed between 1958 and 1974 at a site that is located immediately north of the Town of Lakeview in Lake County. The milling operation produced tailings that contained a high amount of contamination. A few years ago, the United States Department of Energy (USDOE) completed a project that cleaned the surface area of this contamination, but the ground water remains contaminated and according to USDOE, the contamination is spreading. USDOE has determined that the water quality below the mill site is unfit for human consumption.

The USDOE is working with the Oregon Department of Energy (ODOE) and local governments to prevent human consumption of contaminated ground water in the area. To restrict ground water development in the contaminated area, the Town of Lakeview and Lake County have adopted ordinances creating restricted ground water use to overlay zones. In these zones, all proposed residential, commercial, or industrial development requiring potable water must either connect to the Town's municipal water system or develop a well in compliance with well construction standards administered by the Department. To address this unique situation, the Department is proposing administrative rules to establish special area standards for well construction.

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

**Rules Coordinator:** Adam Sussman

**Address:** Water Resources Department, 158 12th St. NE, Salem, OR 97301-4172

**Telephone:** (503) 378-8455, ext. 297

# ADMINISTRATIVE RULES

## Board of Architect Examiners Chapter 806

**Adm. Order No.:** BAE 4-2003

**Filed with Sec. of State:** 8-13-2003

**Certified to be Effective:** 8-14-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 806-010-0020, 806-010-0035

**Subject:** This rule clarifies that the jurisprudence examination will be held in the same city as the Board meeting, but not necessarily the exact same location. In addition, this rule clarifies that reviews and challenges to test results are not allowed.

**Rules Coordinator:** Carol Halford—(503) 378-4270

### 806-010-0020

#### Registration Examination

(1) The Board finds the content of the Architectural Registration Examination (A.R.E.) prepared by the National Council of Architectural Registration Boards (NCARB) as the most practicable to test the applicant's qualifications for registration and adopts it for use in determining the minimum competency needed for registration.

(2) The intent of the examination is to evaluate an applicant's competence in the protection of public health, safety and welfare to provide the architectural services of Pre-Design, Site Design, Building Design, Building Systems (Structural, Mechanical, Electrical, Methods and Materials and Life Safety) and Construction Documents and Services as these relate to the Social/Cultural, Natural and Physical Forces, Design Process, Building Systems/Materials and Methods, and other related external constraints.

(3) The subject of life safety is the basic purpose of the registration examination and this subject permeates the entire examination; the subject of energy conservation is an economic and welfare issue and as a subject is considered through the syncretical process of developing architecture:

(4) **Requirements for Admittance to the Architectural Registration Examination:** A candidate shall have a first professional degree in architecture from an NAAB accredited program of architecture and 700 Training Units of training requirements evaluated as per the NCARB table on Training Requirements for the Intern Development Program (IDP). (Handbook for Interns and Architects).

#### (a) Application and Fee for Examination:

(A) An application for examination must be received by the Board and approved prior to a candidate scheduling any division of the examination.

(B) The application shall be on forms provided by the Board and must be accompanied by an NCARB council record (Green Cover) verifying the completion of the Intern Development Program.

(C) An application fee must accompany all applications. (See Schedule of Actual Fees, OAR 806-010-0105).

(D) Notice of Board action on applications will be mailed to all applicants with copy to the Test Administrator.

(E) No examination fee will be refunded because of withdrawal from the examination. (Attorney General Opinion No. 6474).

#### (b) Form of Examination:

(A) The Architectural Registration Examination (A.R.E.) is divided into nine Divisions which will be administered by a Test Administrator approved by the Board. Test administration will be in the form and content approved by the Board. Examinees are tested on their ability to exercise value judgments in actual architectural practice situations. The examination covers the following descriptive areas:

- (i) Division PD — Pre-Design;
- (ii) Division GS — General Structures;
- (iii) Division SP — Site Planning;
- (iv) Division BP — Building Planning;
- (v) Division BT — Building Technology;
- (vi) Division LF — Lateral Forces;
- (vii) Division ME — Mechanical & Electrical;
- (viii) Division MM — Materials & Methods;
- (ix) Division CD — Construction Documents & Services.

(B) The Board adopts the grading procedures established by the National Council of Architectural Registration Boards (NCARB). The Site Planning, Building Planning, and Building Technology solutions will be evaluated in accordance with the evaluation criteria provided for each Division Vignette established by NCARB.

(C) To pass the examination, an applicant must achieve a passing grade on each Division. NCARB's test result findings are binding. Candidates will have no opportunity to review or challenge test results.

(D) To protect an examinee's right to control the distribution of his or her scores, the Board will not divulge test results except at the specific written request of the examinee.

#### (c) Retakes:

(A) Examinees may schedule the examination Divisions in any order of administration and on a time schedule of the examinees choice. A failed Division cannot be rescheduled within the six month period following the failed Division.

(B) In the A.R.E., examinees have unlimited opportunities to pass Divisions not previously passed.

(d) **Fee schedule:** An examination application fee must accompany the initial application. (See Schedule of Actual Fees, OAR 806-010-0105.) The Administration fee for each Division shall be according to the published schedule of fees charged by the approved Test Administrator.

(5) **Jurisprudence Examination:** After the candidate has successfully completed the Architectural Registration Examination (A.R.E.), the candidate shall sit for and pass the Oregon Board of Architect Examiners examination based on the Oregon Statutes and the Oregon Administrative Rules governing the practice of architecture prior to appearing before the Board for the Oral Interview.

(a) The examination shall be administered in the same city and on the same day as the Board Meeting, successful candidates will appear before the Board for their Oral Interview that same day.

(b) Unsuccessful candidates will not be allowed any opportunity to review or challenge test results and will be required to reschedule the examination no sooner than the next regularly scheduled board meeting.

(c) The examination will be scheduled for 60 minutes in length, a passing score of 84 percent is minimum acceptable and candidates are allowed to have copies of the Statutes and Rules during the examination.

(6) **Oral Interview:** Prior to registration each applicant for registration by examination shall appear before the Board for an Oral Interview. The Oral Interview will be held after the applicant has successfully completed the Architectural Registration Examination (A.R.E.) and the Jurisprudence Examination.

(7) **Registration:** Upon successful completion of the requirements of this section and upon payment of the registration fee, the Board may grant a certificate of registration.

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

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050 & ORS 671.060

Hist.: AE 5, f. 12-22-64; AE 6, f. 6-5-69; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1980, f. & ef. 2-14-80; AE 2-1980, f. & ef. 10-3-80; AE 2-1981(Temp), f. & ef. 7-28-81; AE 2-1983, f. & ef. 1-12-83; AE 2-1984, f. & ef. 10-23-84; AE 1-1986, f. 11-12-86, ef. 11-13-86; AE 2-1992, f. & cert. ef. 3-30-92; AE 5-1992(Temp), f. & cert. ef. 10-21-92; AE 1-1993, f. & cert. ef. 7-1-93; AE 1-1996, f. 1-23-96, f. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; Administrative correction, 6-17-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2001, f. & cert. ef. 10-24-01; BAE 5-2002 f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03

### 806-010-0035

#### Reciprocal Transfer

(1) Any registered or certified architect from another state or a territory, or Canadian Province who desires registration to practice in Oregon, must furnish, with an Oregon Board application, a National Council of Architectural Registration Boards' (NCARB) Blue Cover to aid the Board in determining the applicant's qualifications. In addition, the applicant must provide all of the following:

(a) If an architect has not been examined for seismic and lateral forces knowledge through successful completion of an NCARB examination in 1965 or later, the architect must then provide evidence of successfully completing the NCARB Division LF Lateral Forces examination.

(b) Verification of two years of practice in architecture after initial registration or proof of completion of the NCARB/IDP training requirements.

(c) The reciprocal application fee (See Schedule of Actual Fees, OAR 806-010-0105).

(2) **Jurisprudence Examination:** After the candidate has completed the application process, the candidate shall sit for and pass the Oregon Board of Architect Examiners examination based on the Oregon Statutes and the Oregon Administrative rules governing the practice of architecture prior to appearing before the Board for Oral Interview.

(a) The examination shall be administered in the same city and on the same day as the Board Meeting, successful candidates will appear before the Board for their Oral Interview that same day.

# ADMINISTRATIVE RULES

(b) Unsuccessful candidates will not be allowed any opportunity to review or challenge test results and will be required to reschedule the examination no sooner than the next regularly scheduled board meeting.

(c) The examination will be scheduled for 60 minutes in length, a passing score of 84 percent is minimum acceptable and candidates are allowed to have copies of the Statutes and Rules during the examination.

(3) **Oral Interview:** Prior to registration, each applicant for registration by examination shall appear before the Board for an Oral Interview. The Oral Interview will be held after the applicant has successfully completed the Architectural Registration Examination (A.R.E.) and the Jurisprudence Examination.

(4) **Registration:** Upon successful completion of the requirements of this section and upon payment of the registration fee, the Board may grant a certificate of registration by reciprocity.

(5)(a) The notice to the Board of intent to offer architectural services prior to registration as required by ORS 671.065(2) shall be in writing and shall be accompanied by a completed application along with the required supporting documents and the reciprocal application fee (See Schedule of Actual Fees, OAR 806-010-0105).

(b) The phrase "Offering to render architectural services," as used in this rule and in ORS 671.065(2), means to solicit an architectural project in Oregon. The applicant may not commence the project until Oregon registration is granted. The applicant must advise the prospective client of this fact in writing and forward a copy to this Board.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050 & ORS 671.065

Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1980, f. & ef. 10-3-80; AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 1-1988, f. & cert. ef. 3-14-88; AE 1-1992, f. 1-9-92, cert. ef. 1-10-92; AE 3-1992, f. & cert. ef. 6-30-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2002, f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03

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## Board of Radiologic Technology Chapter 337

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

**Filed with Sec. of State:** 8-14-2003

**Certified to be Effective:** 8-15-03

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

**Rules Adopted:** 337-001-0025, 337-020-0015

**Rules Amended:** 337-010-0006, 337-010-0025

**Rules Repealed:** 337-020-0000, 337-020-0020

**Subject:** These rules add the model rule for confidentiality and inadmissibility of mediation communications in order to facilitate negotiated settlements. They also add violation of any order of the board to the definition of unprofessional conduct and further definition of positioning. The material on renewals clarifies the responsibilities of licensees in the renewal process. The language on continuing education clarifies board standards for both consumers and providers of continuing education. The repeal of two sections of administrative rule is a housekeeping measure.

**Rules Coordinator:** Lianne Thompson—(503) 731-4088, ext. 21

### 337-001-0025

#### Confidentiality and Inadmissibility of Mediation Communication

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation; or

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantial form. This form may be used separately or incorporated into an "agreement to mediate." [Form not included. See ED, NOTE.]

(9) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person

# ADMINISTRATIVE RULES

for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure. (i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation, or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation, or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712, or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial, or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation, or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for

research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

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

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, ORS 36.228, ORS 36.230, ORS 36.232

Hist.: BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03

## 337-010-0006

### Definitions

For purposes of ORS 688.405 to 688.605 and these rules:

(1) The "Practice of Radiologic Technology" shall be defined as but not limited to the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, and the handling of the ionizing radiation equipment.

(2) "Unprofessional Conduct" shall be defined as but not limited to the following:

(a) Engaging in the practice of radiologic technology while under the influence of intoxicating liquor, controlled substance, or any other drugs which impair consciousness, judgment, or behavior to the extent that normal physical or mental faculties are impaired. For purposes of this definition, a person is "under the influence" of intoxicating liquor if either the person has 0.08 or more of alcohol in the blood as shown by a chemical analysis of breath or blood or other evidence establishes that the person's normal physical or mental faculties are impaired after having consumed intoxicating liquor; or

(b) Willfully making or filing false reports or records in the practice of radiologic technology, willfully impeding or obstructing the proper making and filing of reports or records, or willfully failing to file the proper report or record; or

(c) Disclosure of information relating to a patient or his/her records except to the patient's physician without the patient's consent; or

(d) Discrimination in the practice of radiologic technology against any person on account of sex, race, religion, creed, color, or national origin; or

(e) Repeatedly or knowingly failing to abide by city, state, and federal regulations or laws pertaining to the practice of radiologic technology; or

(f) Engaging in sexual harassment in the practice of radiologic technology. "Sexual Harassment" is defined as deliberate or repeated comments or gestures of a sexual nature or touching of the sexual or other intimate parts of a person when the recipient states expressly or it can be reasonably inferred, that the comment, gesture or touching is unwanted by the recipient;

(g) Failing to respond to inquiries by the Board;

(h) Failing to cooperate in investigations conducted by the Board;

(i) Failing to provide competent care to a patient. Competent care requires the technical knowledge, skill, thoroughness, and preparation reasonably necessary for the care;

(j) Violation of ORS 688.405 to 688.605 or any rule of the Board;

(k) Failure to timely pay any civil penalty imposed by the Board;

(l) Violation of any order of the Board.

(3) "Positioning" is the act of placing the patient in the standard or appropriate position for a radiographic examination or radiation therapy based on the medical condition of patient.

Stat. Auth.: ORS 183.310(7) & ORS 688.555(1)

Stats. Implemented: ORS 688.415, ORS 688.525, ORS 688.915

Hist.: RT 2-1986, f. 4-29-86, ef. 7-1-86; RT 1-1989, f. & cert. ef. 1-24-89; RT 1-1990, f. & cert. ef. 2-2-90; RT 1-1992, f. & cert. ef. 1-15-92; BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03

## 337-010-0025

### Continuing Education

(1) All licensees and limited permit holders shall submit evidence of continuing education at the time they file an application for license renewal. An initial permanent license or limited permit that is prorated for a period of less than 24 months includes the requirement of an average of either 0.75 or one hour of continuing education per month, depending on the number of anatomic areas in a limited permit.

(2) Diagnostic and therapeutic licensees shall obtain a minimum of one hour of continuing education for each month of licensure.

(3) Limited permit holders shall obtain a minimum of continuing education hours according to the following schedule:

# ADMINISTRATIVE RULES

(a) One to three anatomic areas: 0.75 hours of continuing education for each month of licensure

(b) Four or more anatomic areas: 1.0 hours of continuing education for each month of licensure.

(4) The Board may require licensees and limited permit holders to produce documents verifying continuing education activities for purposes of an audit by the Board. All licensees and limited permit holders are required to retain verification documents for a period of two years following the renewal date. At any time during that two years the Board may require licensees and limited permit holders to produce those documents for purposes of an audit by the Board.

(5) Verification Documents for Renewal Applicants:

(a) For ARRT-registered radiologic technologists not on CE probation with ARRT, a copy of their currently valid ARRT card.

(b) For ARRT-registered radiologic technologists on CE probation with ARRT and for non-ARRT-registered radiologic technologists, a completed OBRT worksheet, listing all continuing education activities performed during the immediately preceding licensing period.

(c) For limited permit holders, a completed OBRT worksheet, listing all continuing education activities performed during the immediately preceding licensing period.

(d) All renewal applicants are subject to audit of their Continuing Education hours by the Board.

(6) Topics and Maximum Hours for Continuing Education Activities:

(a) Any independent reading, video or audiocassette must include a pre-approved post-test to be acceptable for meeting OBRT's continuing education requirements.

(b) Acceptable forms of continuing education activities for both licensees and limited permit holders:

(A) Attendance at meetings of professional organizations that are directly related to Radiologic Technology (educational portions of the meetings only).

(B) One hour of continuing education credit granted for each educational meeting hour attended.

(7) No maximum:

(a) Directed reading of professional and scientific journals and newsletters related to radiologic technology, listening to or viewing cassette or videotapes related to radiologic technology, all of which include a post-test.

(b) One hour of continuing education credit granted for each hour spent reading, or listening to, or viewing tapes.

(8) No limit:

(a) Symposia, workshops, lectures, refresher courses, correspondence courses, etc. pertaining to radiologic technology.

(b) One hour of continuing education credit per classroom hour.

(9) No maximum.

(a) College-sponsored courses related to radiologic technology.

(b) One hour of continuing education credit per classroom hour.

(c) No maximum, with grades of C or better.

(d) In-service education when related to radiologic technology.

(e) One hour of continuing education credit per hour of in-service education.

(9) No maximum:

(a) Passage of advanced American Registry of Radiologic Technologists' certification examinations involving radiologic technology specialties, including:

(A) Mammography;

(B) Cardiovascular Intervention;

(C) Computed Tomography;

(D) Quality Management;

(E) Magnetic Resonance Imaging;

(F) Sonography;

(G) Vascular Sonography;

(H) Bone Densitometry;

(I) 24 hours of continuing education credit per certification exam passed.

(10) Acceptable forms of continuing education activities for licensees only:

(a) Tumor Board Attendance;

(b) 1 hour of continuing education credit per hour of meeting;

(c) Maximum 6 hours.

(11) Main Categories of Continuing Education:

(a) Technical;

(b) Applications training;

(c) Positioning;

(d) Digital Imaging;

(e) Computer Technology;

(f) Radiation Use and Safety;

(g) Radiation safety;

(h) Technique control;

(i) Patient shielding;

(j) Quality Assurance, Quality Improvement, Continuous Quality

Improvement:

(A) Processor control;

(B) Radiographic quality assurance and repeat analysis;

(C) Patient Care;

(D) HIV/AIDS precautions;

(E) Cardio-Pulmonary Resuscitation;

(F) Infection control;

(G) Communication;

(H) Pediatric;

(I) Geriatric;

(J) Adult;

(K) Ethics;

(12) Practice Standards:

(a) Legal Issues;

(b) Other;

(c) Radiation physics;

(d) Anatomy Osteology;

(e) Billing Codes.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.505

Hist.: RT 2-1978, f. & ef. 7-7-78; RT 1-1985, f. & ef. 2-21-85; RT 1-1987, f. & ef. 1-27-87;

RT 2-1990, f. & cert. ef. 4-27-90; RT 1-1992, f. & cert. ef. 1-15-92; BRT 3-1998, f. & cert.

ef. 7-15-98; BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03

## 337-020-0015

### Renewal of Radiologic Technology Licenses and Limited Permits—Permanent

(1) Before the expiration date of a license or limited permit, the Board will, as a courtesy, mail notice for renewal of license or limited permit to the last mailing address on file in the Board's records to every person holding a current license or limited permit.

(2) An applicant for renewal of a license or limited permit must accurately complete the renewal form.

(3) No applicant for initial or renewal licensure may practice radiologic technology until s/he has received a certificate of licensure, either a license or a limited permit, from the Board.

(4) No person who has allowed his or her license or limited permit to expire may practice radiologic technology until s/he has renewed or reinstated a license or limited permit and has received a certificate of licensure from the Board.

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

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.445(5), ORS 688.515(4)

Hist.: BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03

## Construction Contractors Board Chapter 812

**Adm. Order No.:** CCB 7-2003

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

**Certified to be Effective:** 8-8-03

**Notice Publication Date:** 7-1-03

**Rules Adopted:** 812-002-0011, 812-002-0530

**Rules Amended:** 812-004-0250, 812-004-0260, 812-004-0320, 812-004-0520, 812-004-0535, 812-004-0540, 812-004-0550, 812-004-0560, 812-004-0590, 812-006-0012, 812-009-0020, 812-009-0050, 812-009-0070, 812-009-0090, 812-009-0100, 812-009-0120, 812-009-0140, 812-009-0160, 812-009-0200, 812-009-0220, 812-009-0300, 812-009-0320, 812-009-0400, 812-009-0430, 812-009-0440, 812-010-0020, 812-010-0030, 812-010-0060, 812-010-0080, 812-010-0085, 812-010-0090, 812-010-0100, 812-010-0120, 812-010-0160, 812-010-0400, 812-010-0420, 812-010-0425

**Rules Repealed:** 812-002-0330, 812-002-0335

# ADMINISTRATIVE RULES

**Subject:** OAR 812-002-0011 and 812-002-0530 are adopted to implement HB 2526 (chapter 75, Oregon Laws 2003) that went in to affect on May 22, 2003.

OAR 812-002-0330 and 812-002-0335 are repealed to implement HB 2526 (chapter 75, Oregon Laws 2003) that went in to affect on May 22, 2003.

OAR 812-004-0250 is amended to clarify when attorney fees, interest or other costs may be included in an award.

OAR 812-004-0320 is amended to clarify Board policy to process all possible claims pursuant to ORS 701.140.

OAR 812-004-0260, 812-004-0520, 812-004-0535, 812-004-0540, 812-004-0560, 812-004-0590, 812-009-0020, 812-009-0050, 812-009-0070, 812-009-0090, 812-009-0100, 812-009-0120, 812-009-0140, 812-009-0200, 812-009-0220, 812-009-0300, 812-009-0320, 812-009-0400, 812-009-0430, 812-010-0020, 812-010-0030, 812-010-0060, 812-010-0080, 812-010-0085, 812-010-0090, 812-010-0120, 812-010-0160, 812-010-0400, 812-010-0425 are amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went in to affect on May 22, 2003.

812-004-0550 is amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went in to affect on May 22, 2003 and to update a cite reference.

812-006-0012 is amended to clarify language, deletes the effective July 1, 2003 date reference because it is no longer necessary after July 1, 2003, and to eliminate the waiting periods before retaking the test.

812-009-0160 is amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went in to affect on May 22, 2003 and to reflect a procedural change regarding intermediate orders.

812-009-0440 is amended to clarify where a case will be referred back to and where to refer for further processing by Appeal Committee.

812-010-0100 is amended to establish the procedure for arbitration award final orders upon settlement.

812-010-0420 is amended to clarify awards for attorney fees, court costs, other costs or interest from the bond.

**Rules Coordinator:** Cathy Heine—(503) 38-4621, ext. 4077

## 812-002-0011

### Administrative Law Judge

“Administrative law judge” means a person authorized to conduct hearings for the Office of Administrative Hearings.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.145 & ORS 701.147

Hist.: CCB 7-2003, f. & cert. ef. 8-8-03

## 812-002-0530

### Office of Administrative Hearings

“Office of Administrative Hearings” means the Office of Administrative Hearings established under chapter 75, Oregon Laws 2003.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.145 & ORS 701.147

Hist.: CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0250

### Award of Attorney Fees, Interest and Other Costs

(1) Except as provided in section (2) of this rule and subject to OAR 812-010-0420, an order or arbitration award of the board awarding monetary damages in a claim that are payable from respondent’s bond required under ORS 701.085, including, but not limited to an order of the board arising from a court order, may not include an award for:

- (a) Attorney fees;
- (b) Court costs;
- (c) Interest;
- (d) Costs to pursue litigation or the claim;
- (e) Service charges or fees; or
- (f) Other administrative damages.

(2) An order or arbitration award by the board awarding monetary damages that are payable from respondent’s bond required under ORS 701.085 may include an award for costs as follows:

(a) An order in a construction lien claim may include attorney fees, court costs, interest and service charges allowed under OAR 812-004-0530(5).

(b) An order or arbitration award in an owner claim may include interest expressly allowed as damages under a contract that is the basis of the claim.

(c) An order or arbitration award may include attorney fees, court costs, other costs and interest included in an order or award of a court or other entity that are related to the portion of the order or award of the court or other entity that is within the jurisdiction of the board if the order or award of the court or other entity arises from litigation, arbitration or other proceedings authorized by law or the parties to effect a resolution to the dispute:

(A) That was initiated by the respondent; or

(B) That the agency required the claimant to initiate under ORS 701.145 because of the nature or complexity of the claim.

(3) This rule does not apply to a claim filed and processed under ORS 701.146.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235

Stats. Implemented: ORS 813.415, ORS 183.460 & ORS 70.145, ORS 701.146

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0260

### Order Closing a Claim

(1) If the agency closes a claim because the claimant failed to act in response to a request from the agency, the closure of the claim is an order that is not an order in a contested case. An order to close a claim is subject to a motion for reconsideration under ORS 183.484 and OAR 137-004-0080 and an appeal for judicial review under ORS 183.484.

(2) The agency may close a claim under this rule only if it complies with the following:

(a) The agency must include notification in its request to claimant that failure to act as requested may result in closure of the claim and that closure of the claim will prevent access to the bond.

(b) The agency may not close the claim sooner than 14 days after giving the notification required in subsection (a) of this section.

(c) The agency shall notify the parties to the claim that the claim is closed and cite the statutes and rules under which the order may be appealed.

(3) The agency may reopen a claim closed under this rule if the record of the claim contains evidence that shows that the cause of the failure of claimant to act as requested by the agency was due to excusable neglect by the claimant. The agency may reopen the claim:

(a) In response to a motion for reconsideration; or

(b) On the agency’s own initiative under OAR 137-004-0080 after receiving evidence supporting reconsideration of the order closing the claim.

(4) At the agency’s discretion, the agency may refer a claim to the Office of Administrative Hearings for a contested case hearing on whether closure of the claim under this rule is proper.

(5) A party must file a motion for reconsideration of an order closing a claim under this rule before seeking judicial review of the order.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235

Stats. Implemented: ORS 183.480, ORS 701.140 & ORS 701.145

Hist.: CCB 2-2001, f. & cert. ef. 4-6-01; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0320

### Jurisdictional Requirements

(1) A claim must be of a type described under ORS 701.140.

(2) A claim must be filed with the agency within the time allowed under ORS 701.143.

(3) A claim will be processed only against a licensed entity. Whether a contractor is licensed for purposes of this subsection shall be determined as follows:

(a) For an owner claim, employee claim, primary contractor claim or subcontractor claim, the entity against which the claim is filed will be considered licensed if that entity was licensed during all or part of the work period.

(b) For a material claim, the entity against which the claim is filed will be considered licensed if one or more invoices involve material delivered while the entity was licensed. Damages will be awarded only for material delivered within the period of time that contractor was licensed.

(4)(a) Claimant must have been properly licensed at the time the bid was made or the contract was entered into and must have remained licensed continuously throughout the work period if:

(A) The work at issue in the claim requires that claimant be licensed under ORS 701.055 in order to perform the work; and

(B) Claimant files a primary contractor or subcontractor claim.

# ADMINISTRATIVE RULES

(b) As used in this subsection, "properly licensed" means the claimant:

(A) Had a current valid license issued by the agency and was not on inactive status;

(B) Was licensed for the type of work at issue in the claim;

(C) Complied with the requirements of ORS 701.035 and OAR 812-003-0002 as they applied to claimant's license status as an "exempt" or "nonexempt" contractor; and

(D) Complied with any other requirements and restrictions on claimant's license.

(5) Claims will be accepted only when one or more of the following relationships exists between the claimant and the respondent:

(a) A direct contractual relationship based on a contract entered into by the claimant and the respondent, or their agents;

(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim; or

(c) A real estate purchase conditioned upon an inspection report or repairs made by the respondent.

(6) Claims will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Oregon.

(7) The agency may refuse to process a claim or any portion of a claim that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a claim previously filed by the same claimant against the same respondent.

(8) A claim by a person furnishing material, or renting or supplying equipment to a contractor may not include a claim for non-payment for tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

(9) Claims by a contractor or by persons furnishing material, or renting or supplying equipment to a contractor will not be processed unless they are at least \$150 in amount.

(10) The agency may process a claim against a licensed contractor whose license was inactive under OAR 812-003-0050 during the work period.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.065, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00;  
CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0520

### Processing of Claim Submitted to Court or Other Entity

(1) "Court or other entity" has the meaning given that phrase in division 2 of this chapter.

(2) The agency may suspend processing a claim if:

(a) Respondent submits a complaint against claimant to a court or other entity that relates to same facts and issues contained in the claim filed against respondent, including but not limited to a breach of contract claim or a suit to foreclose a lien involving the same contract at issue in the claim;

(b) Claimant submits a complaint against respondent to a court or other entity that relates to same facts and issues contained in the claim filed against respondent; or

(c) The agency requires the claimant to submit the claim to a court because the agency determined that a court is the appropriate forum for the adjudication of the claim because of the nature or complexity of the claim.

(3) If the agency suspends processing a claim under subsection (2) of this rule, the agency shall notify the claimant on the date it suspends processing the claim that processing has been suspended. The following provisions apply to the agency and the claimant if processing is suspended:

(a) The notice of suspension of processing shall include notification of the requirements contained in subsections (b) and (d) of this section and shall comply with the requirements of OAR 812-004-0260.

(b) Beginning six months after the date that the agency suspends processing the claim and no less frequently than every sixth month thereafter, the claimant shall deliver to the agency a written report describing the current status of the action before the court or other entity.

(c) The agency may, at any time, demand from the claimant a written report describing the current status of the action before the court or other entity. The demand shall be in writing and shall comply with the requirements of OAR 812-004-0260. The claimant shall deliver a written response to the agency within 30 days of the date the demand letter is mailed by the agency.

(d) Within 30 days of the date of final action by the court or other entity, the claimant shall deliver to the agency a copy of the judgment or decision together with a copy of the complaint or other pleadings on which the judgment or decision is based.

(e) If claimant complies with subsections (b), (c) and (d) of this section, the agency may resume processing the claim. If the claimant fails to comply with subsections (b), (c) or (d) of this section, the agency may close the claim under OAR 812-004-0260.

(4) If the agency suspends processing a claim under subsection (2)(a) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

(a) The agency shall notify the claimant that the claimant must file the claim as a counter-suit or complaint in the court or other entity and submit evidence, including a copy of the counter-suit or complaint, to the agency that the claimant has done so within 30 days of notification. The notice shall comply with the requirements of OAR 812-004-0260.

(b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 812-004-0260.

(5) If the agency suspends processing a claim under subsection (2)(c) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

(a) The agency shall notify the claimant, in a notice that complies with the requirements of OAR 812-004-0260, that agency has suspended processing the claim and that the claimant must:

(A) File the claim as a complaint in a court of competent jurisdiction within 90 days of notification that the agency has suspended processing the claim; and

(B) Submit evidence, including a copy of the complaint, to the agency that the claimant complied with paragraph (A) of this subsection within 21 days of filing the complaint.

(b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 812-004-0260.

(6) If the agency resumes processing a claim under section (3) of this rule:

(a) The agency shall accept a judgment of a court of competent jurisdiction or a decision of another entity as the final determination of the merits of the claim.

(b) Based on the judgment or decision, the agency shall issue a proposed default order to pay damages or to dismiss or refer the claim to the Office of Administrative Hearings for arbitration or a contested case hearing. The following apply to proceedings under this subsection:

(A) The provisions of OAR 812-004-0560 and 812-004-0590 apply to a proposed default order or a referral to the Office of Administrative Hearings.

(B) A proposed default order to pay damages issued under this section must include a statement of the portion of the judgment that the agency finds is within the jurisdiction of the agency.

(C) If the agency refers the claim to the Office of Administrative Hearings for arbitration or a contested case hearing, the arbitrator or administrative law judge shall determine the portion of the judgment, if any, that is within the jurisdiction of the agency.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235

Stats. Implemented: ORS 183.415, ORS 183.460 & ORS 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0535

### Elements of Claim That Must Be Proved

For purposes of OAR 812-004-0540(5), 812-004-0550(2), 812-009-0100 and 812-009-0120 in order for the agency to award damages to claimant, the record of the claim must contain evidence that persuades the agency or the administrative law judge that:

(1) Claimant suffered damages;

(2) Respondent caused those damages by acts or omissions within the scope of ORS 701.140;

(3) The monetary value of those damages is substantiated on the record.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.139, ORS 701.140, ORS 701.143, ORS 701.146, ORS 701.147

Hist.: CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03



# ADMINISTRATIVE RULES

## 812-004-0540

### Establishing Monetary Damages and Issuing Proposed Default Order or Referral for Hearing

(1) A claimant may seek monetary damages if the agency has not closed the claim and:

(a) The claimant disagrees with the resolution recommended by the agency;

(b) The respondent cannot or will not comply with the recommended resolution; or

(c) The parties signed the settlement agreement proposed by the agency but, through no fault of the claimant, the terms of the settlement agreement have not been fulfilled by the respondent, and the agency is so advised in writing by the claimant within 30 days of the date the settlement agreement was to have been completed.

(2) If the claimant seeks monetary damages or the agency so requests, the claimant shall file a declaration of damages stating the amount the claimant alleges the respondent owes the claimant, limited to claim items listed in the Statement of Claim and those claim items added up to and through any initial on-site meeting. The agency may require the claimant to submit, in support of the amount alleged:

(a) One or more estimates from licensed contractors for the cost of correction of the claim items; or

(b) Other bases for a monetary award.

(3) If the agency does not hold an on-site meeting, the agency may issue a proposed default order or refer the claim for an arbitration or contested case hearing under section (4) of this rule after each party to the claim has had an opportunity to provide evidence supporting its position with regard to the claim. The agency may require that the claimant file a declaration of damages and supporting evidence described under section (2) of this rule, except that the declaration of damages shall be limited to claim items listed in the Statement of Claim.

(4) After documentation required under sections (2) or (3) is received, the agency may:

(a) Issue a proposed default order proposing dismissal of the claim under OAR 812-004-0550(2) or payment of an amount by the respondent to the claimant; or

(b) Refer the claim to the Office of Administrative Hearings for an arbitration or contested case hearing to determine the validity of the claim and whether the amount claimed, or some lesser amount is proper.

(5)(a) The agency may issue a proposed default order that the respondent pay damages to claimant only if the record of the claim complies with OAR 812-004-0535.

(b) The agency may issue a proposed default order that is not described in subsection (a) of this section only if the record of the claim contains evidence that persuades the agency of the existence of facts necessary to support the order.

(6) The provisions of OAR 812-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 183.415, ORS 183.460, ORS 183.470 & ORS 701.145, ORS 701.147

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 10-2002, f. & cert. ef. 11-20-02; Hist.: CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0550

### Proposed Default Order to Dismiss, Other Resolution of Claim by Proposed Default Order

(1) The agency may issue a proposed default order proposing dismissal of a claim if the evidence in the claim record persuades the agency that one of the following grounds for dismissal exists:

(a) The claim is not the type of claim that the agency has jurisdiction to determine under ORS 701.140.

(b) The claim was not filed within the time limit specified under ORS 701.143.

(c) The claimant did not permit the respondent to comply with agency recommendations under ORS 701.145(3)(b).

(d) The claim must be dismissed for lack of jurisdiction under OAR 812-004-0320(4) or (5).

(e) The respondent breached a contract or performed work negligently or improperly, but the monetary value of damages sustained by the claimant is less than an amount due to the respondent from the claimant under the terms of the contract.

(f) The claimant contends that the respondent failed to fulfill the terms of a settlement that resolved the claim but the agency finds that the respondent fulfilled the respondent's obligation under the settlement agreement.

(2) The agency may issue a proposed default order proposing dismissal of a claim if the agency investigates the claim and after the investigation finds that the record of the claim does not contain evidence required under OAR 812-004-0535.

(3) If the claimant makes a timely request for a hearing after the agency issued a proposed default order under section (1) or (2) of this rule, the agency may:

(a) Refer the claim for an arbitration or contested case hearing solely to determine whether the dismissal was proper; or

(b) Require that the claimant file a declaration of damages stating an amount the claimant alleges the respondent owes the claimant and refer the claim for an arbitration or contested case hearing to determine if the claim should be dismissed and if not, the validity of the claim and whether the amount claimed, or some lesser amount is proper.

(4) The provisions of OAR 812-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 183.415, ORS 183.460, ORS 183.470 & ORS 701.145, ORS 701.147

Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0560

### General Requirements for Proposed Default Order or Referral to Hearing Officer Panel, Hearing Request

(1) A proposed default order on a claim issued by the agency shall include a contested case notice that complies with OAR 137-003-0505.

(2) A referral to the Office of Administrative Hearings for arbitration or a contested case hearing must:

(a) Comply with 812-004-0590, which regulates whether the claim will be arbitrated or heard as a contested case hearing.

(b) Comply with OAR 137-003-0515, which sets out requirements for the referrals including, but not limited to formal requirements.

(c) Include a contested case notice if the agency did not issue a contested case notice under OAR 137-003-0505 prior to the agency's referral of the claim to the Office of Administrative Hearings.

(3) If the agency refers a claim to the Office of Administrative Hearings for arbitration or a contested case hearing on the amount, if any, that the respondent owes the claimant, the following requirements apply:

(a) The referral to the Office of Administrative Hearings shall identify by date the declaration of damages or the Statement of Claim that limits the amount that the respondent may be ordered to pay the claimant and state the amount that the order is limited to under OAR 812-009-0160 and 812-010-0420.

(b) The agency shall serve on the parties an explanation of:

(A) The limitation on the amount a respondent may be ordered to pay a claimant under OAR 812-009-0160 and 812-010-0420; and

(B) The procedure to file a new declaration of damages under OAR 812-009-0020 and 812-010-0110.

(4)(a) To be timely, a request for hearing must be in writing and be received by the agency within 21 days from the date a proposed default order is mailed by the agency.

(b) An untimely request for a hearing must comply with the requirements of OAR 137-003-0528. The agency may require that the request be supported by an affidavit setting out facts that affirmatively show that the failure to make a timely request was beyond the reasonable control of the party.

(5) The agency may issue a proposed default order under OAR 137-003-0670(4) that will automatically become a final order 21 days after the date of issue without further notice if no party makes a timely request for a hearing.

(6)(a) Except as provided in subsection (b) of this section, a contested case notice issued under this rule shall include a statement that the agency's file on the claim is designated as the record only for purposes of a default order issued under this rule and not for purposes of an order by default issued after a hearing under OAR 812-009-0140.

(b) If a proposed default order issued under this rule is an order to dismiss a claim, a contested case notice issued under this rule shall include a statement that the agency's file on the claim is designated as the record for purposes of a default order issued under this rule and of an order by default issued after a hearing under OAR 812-009-0140.

# ADMINISTRATIVE RULES

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 183.415, ORS 183.460, ORS 183.470 & ORS 701.145, ORS 701.147  
Hist.: 1BB 1-1986, f. & cert. ef. 5-30-86; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-001-0004; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 6-2002, f. 6-10-02, cert. ef. 7-1-02; CCB 9-2002(Temp), f. & cert. ef. 9-6-02 thru 3-5-03; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-004-0590

### Referral of Claim to Arbitration or Contested Case Hearing or Removal to Court

(1) If a hearing on a claim is conducted by the Office of Administrative Hearings:

(a) The hearing shall be held as an arbitration under the rules in division 10 of this chapter, unless a party requests that the hearing be held as a contested case hearing under subsection (b) of this section or files the dispute in court under section (2) of this rule.

(b) Except as provided in sections (2) and (6) of this rule, the hearing shall be held as a contested case hearing under OAR 137-003-0501 to 137-003-0700 and the rules in division 9 of this chapter if:

(A) A party to the claim makes a timely written request under section

(4) of this rule that the claim be heard as a contested case; or

(B) The agency requests under sections (4) and (7) of this rule that the claim be heard as a contested case.

(2) Subject to section (3) of this rule, a claim shall be decided in court if:

(A) The claimant files a complaint in court that alleges the elements of the claim in the complaint; or

(B) The respondent files a complaint in court for damages, a complaint for declaratory judgment or other complaint that arises from the contract or work that is the subject of the claim and that allows the claimant to file a response alleging the elements of the claim.

(3) A copy of a complaint filed under section (2) of this rule must be received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration or contested case hearing is scheduled. Failure to deliver the copy of the complaint within the time limitation in this rule constitutes waiver of the right to have the claim decided in court and consent to the hearing being held as binding arbitration or a contested case hearing under section (1) of this rule. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 812-010-0085, whichever is applicable.

(4) A request that a claim be heard as a contested case filed under section (1)(b) of this rule is subject to the following:

(a) The request by a party or the agency must be in writing and received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration is scheduled. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 812-010-0085, whichever is applicable.

(b) A referral of a claim to the Office of Administrative Hearings by the agency for a contested case hearing shall be deemed a request that the claim be heard as a contested case under section (1)(b) of this rule.

(c) A party or the agency may not withdraw a request made under this section without the written consent of the agency and all parties to the claim.

(5) Failure to deliver a timely written request for a contested case hearing under sections (1)(b) and (4) of this rule or a copy of a filed complaint under sections (2) and (3) of this rule constitutes consent to the hearing on the claim being held as binding arbitration under section (1)(a) of this rule.

(6) Except as provided in sections (1)(b)(B) and (7) of this rule, if the claimant in a claim does not seek \$1,000 or more, a hearing on the claim may not be conducted as a contested case hearing.

(7) Notwithstanding section (6) of this rule, the agency may request under section (1)(b)(B) of this rule that a hearing be held as a contested case hearing if:

(a) The agency's jurisdiction to decide the claim under ORS 701.139 to 701.180 is at issue; or

(b) The agency determines that the agency has an interest in interpreting the rules and statutes that apply to the claim.

(8) The amendments to this rule that became effective on or after July 1, 2002 apply to a claim that is referred to the Office of Administrative Hearings after July 1, 2002.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235

Stats. Implemented: ORS 701.145, ORS 701.147  
Hist.: CCB 5-1999, f. & cert. ef. 9-10-99; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-006-0012

### Testing Requirements

(1) The agency shall arrange for the development and administration of a test covering the topics listed in OAR 812-006-0060.

(2) No business may be licensed unless the business' responsible managing individual has:

(a) Passed a test approved by the agency with a passing score approved by the agency; or

(b) Documented an exemption to the testing requirements to the agency's satisfaction under OAR 812-006-0020.

(3) A person seeking to take the test shall:

(a) Pay any fees required by the test administrator;

(b) Provide approved government-issued picture identification to the test administrator;

(c) Pay for any state-certified interpreter needed to take the test; and

(d) Complete the test within a time limit approved by the agency.

(4) A person taking the test shall be allowed to use an Oregon Contractor's Reference Manual during the test.

(5) A person taking the test shall not:

(a) Retake the same version of the test on consecutive attempts;

(b) Have with them or use any notes or other materials except the Oregon Contractor's Reference Manual during the test;

(c) Copy test questions for removal from the testing area;

(d) Write notes or questions in their Oregon Contractor's Reference Manual;

(e) Be accompanied by anyone while taking the test, except a state-certified interpreter; and

(f) Leave the room during the test; and

(6) After the test is completed, a person shall not review the test questions or answers.

(7) There are no reciprocal agreements with other states or organizations that test contractors.

Stat. Auth.: ORS 670.310, ORS 701.235 & ORS 701.280

Stats. Implemented: ORS 701.280

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0020

### Amendment to Declaration of Damages

(1) If the agency refers a claim to the Office of Administrative Hearings for a hearing on the amount the respondent owes the claimant, the claimant may amend the amount the claimant alleges the respondent owes the claimant by filing an amended declaration of damages. An amended declaration of damages must be delivered to the administrative law judge or Office of Administrative Hearings as required by OAR 137-003-0520 and 812-009-0085. An amended declaration of damages filed under this section must be received by the administrative law judge or the Office of Administrative Hearings no later than 14 days prior to the scheduled date of a hearing on the matter.

(2) An amended declaration of damages filed under section (1) of this rule must be on a form provided by the agency or on a form that substantially duplicates the form provided by the agency. The amended declaration of damages must state the amount alleged to be owed by the respondent, limited to items of complaint in the Statement of Claim and claim items added up to and through the initial on-site meeting. The amended declaration of damages must be signed by the claimant.

(3) An amended declaration of damages making a significant change in the amount the claimant alleges that the respondent owes the claimant may be good cause to postpone the scheduled hearing under OAR 137-003-0525 if the time left before the hearing is insufficient to prepare for a hearing on the amended amount.

Stat. Auth.: ORS 670.310, ORS 701.235 & OL 1999, Ch. 849, Sec. 8

Stats. Implemented: ORS 183.413, ORS 183.415 & ORS 701.145, ORS 701.147

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03

# ADMINISTRATIVE RULES

## 812-009-0050

### Providing Required Information to Parties

The agency delegates to the Office of Administrative Hearings or the administrative law judge assigned to hear a claim the responsibility to provide the information required to be given to each party under ORS 183.413(2) and OAR 137-003-0510(1).

Stat. Auth.: ORS 670.310, ORS 701.235 & OL 1999, Ch. 849, Sec. 8  
Stats. Implemented: ORS 183.413, ORS 183.415 & ORS 701.145, ORS 701.147  
Hist.: CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00, CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0070

### Suspending Processing

(1) An administrative law judge may suspend or cancel a hearing at any time if the administrative law judge finds that the nature or complexity of the issues is such that a court is a more appropriate forum for adjudication. If an administrative law judge suspends or cancels a hearing under this rule, the administrative law judge shall refer the claim to the agency with a memorandum recommending that processing of the claim be suspended under ORS 701.145 and OAR 812-004-0520 and stating the basis of the recommendation. A copy of this memorandum shall be served on the parties.

(2) If a claim is referred to the agency under section (1) of this rule, the agency may:

- (a) Suspend processing the claim; or
- (b) Refer the claim back to the administrative law judge with instructions to resume the hearing.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 701.145, ORS 701.147  
Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0090

### Discovery and Subpoenas

(1) The agency delegates to the administrative law judge assigned to hear a claim the authority to:

- (a) Order and control discovery under OAR 137-003-0570 related to the hearing on the claim, except an administrative law judge may not authorize a party to take a deposition that must be paid for by the agency.
- (b) Issue subpoenas under OAR 137-003-0585 that are related to the hearing on the claim.

(2) The agency waives receipt of notice that a party seeks to take the testimony of a witness by deposition under OAR 137-003-0570.

Stat. Auth.: ORS 670.310, ORS 701.235 & OL 1999, Ch. 849, Sec. 8  
Stats. Implemented: ORS 183.425, 183.440, 183.445, 183.450 & 701.145, ORS 701.147  
Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0100

### Burden of Proof and Failure to Meet Burden

Claimant must submit sufficient credible evidence into the record to meet the requirements of OAR 812-004-0535. If claimant fails to carry this burden of proof, the administrative law judge shall dismiss the claim.

Stat. Auth.: ORS 670.310, ORS 701.235  
Stats. Implemented: ORS 183 & ORS 701  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0120

### Determination of Validity of Claim

In determining the validity of the claim, the administrative law judge shall determine:

- (1) Whether the claim arose out of a transaction within the scope of ORS chapter 701;
- (2) Whether the agency has jurisdiction over the matters at issue; and
- (3) Whether the record of the claim complies with OAR 812-004-0535.

Stat. Auth.: ORS 670.310, ORS 701.235  
Stats. Implemented: ORS 183 & ORS 701  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0140

### Failure to Appear

(1) "Order" as used in this rule means a proposed and final order an administrative law judge is authorized to issue under OAR 812-009-0160

or a final order an administrative law judge is authorized to issue under OAR 812-009-0200.

(2) If the administrative law judge notified the parties to a claim of the time and place of a hearing on the claim and a party failed to appear at the hearing, the administrative law judge may enter an order by default under OAR 137-003-0670(1)(c) that:

- (a) Is adverse to a party only upon a prima facie case made on the record as required by OAR 137-003-0670(3); or
- (b) Dismisses the claim based on a lack of evidence in the record supporting claimant's claim, but only if:

(A) The agency did not designate the agency's file as the record for purposes of an order by default issued in the contested case notice issued under OAR 812-004-0560; and

(B) The claimant failed to appear at the hearing.

Stat. Auth.: ORS 670.310, ORS 701.235 & OL 1999, Ch. 849, Sec. 8  
Stats. Implemented: ORS 183.415, 183.450, 183.460, 183.464, 183.470 & 701.145, ORS 701.147  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2000(Temp), f. 7-21-00, cert. ef. 7-21-00 thru 1-15-01; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0160

### Order Based on Hearing, Limitation on Order

(1) "Order" as used in sections (2) to (5) of this rule means a proposed and final order an administrative law judge is authorized to issue under section (6) of this rule or a final order an administrative law judge is authorized to issue under OAR 812-009-0200.

(2) If a claim is referred for a hearing to determine the amount, if any, that a respondent owes a claimant, the administrative law judge may not issue an order in an amount greater than the total amount claimant alleges respondent owes claimant in:

(a) The most recent declaration of damages or amended declaration of damages filed under OAR 812-004-0540, 812-004-0550 or 812-009-0020; or

(b) The Statement of Claim filed under OAR 812-004-0340, if no declaration of damages was filed.

(3) If a claim is referred for a hearing to determine whether any portion of a judgment is within the jurisdiction of the agency, the administrative law judge may not issue an order requiring payment of an amount greater than the amount of the judgment.

(4) An order issued by an administrative law judge may direct specific performance on the part of the respondent, order the respondent to pay monetary damages to the claimant or dismiss the claim.

(5) An administrative law judge shall consider any amounts due to the respondent from the claimant under the terms of the contract and reduce the amount of an order by that amount.

(6) Except as provided in section 8 of this rule and OAR 812-009-0200, an administrative law judge shall issue a proposed and final order under OAR 137-003-0645(4) that shall automatically become a final order 21 days after the date of issue without further notice unless:

- (a) A party files timely exceptions under OAR 812-009-0400;
- (b) The agency requests that the administrative law judge hold further hearing or revise or amend the proposed order under OAR 137-033-0655 (1);

(c) The agency issues an amended proposed order under OAR 137-003-0655 (3); or

(d) The agency notifies the parties and the administrative law judge that the agency will issue the final order.

(7) If a limitation on damages under section (2) is based on a declaration of damages or Statement of Claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

(8) If a claim is referred for a hearing solely to determine if the Board has jurisdiction over the claim and the administrative law judge finds that the Board has jurisdiction over the claim, the administrative law judge shall issue an intermediate order that the Board resume processing the claim. The Board may accept the order to resume processing or issue a proposed and final order to dismiss the claim for lack of jurisdiction.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 183.415, 183.450, 183.460, 183.464, 183.470 & 701.145, ORS 701.147  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2000(Temp), f. 7-21-00, cert. ef. 7-21-00 thru 1-15-01; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03

# ADMINISTRATIVE RULES

## 812-009-0200

### Final Order Without a Proposed Order

(1) Notwithstanding OAR 812-009-0160(6), an administrative law judge shall issue a final order under OAR 137-003-0665 in a contested case without issuing a proposed order if:

(a) The total amount claimed to be due to any claimant in a hearing does not exceed \$2,500;

(b) The parties voluntarily agree to a settlement of a claim in accordance with ORS 183.415(5), except as provided in section (2) of this rule; or

(c) The hearing was requested by respondent after the parties voluntarily agreed to a settlement of a claim and the following conditions exist:

(A) The settlement's essential terms are limited to the respondent's agreement to pay money to claimant in exchange for claimant's release of the claim; and

(B) The amount of the final order does not exceed the amount the respondent agreed to pay under the settlement agreement.

(2) If the parties voluntarily agree to a settlement of a claim in accordance with ORS 183.415(5) and the settlement agreement includes an agreement for future performance, the administrative law judge shall issue an intermediate order containing any necessary findings of fact and return the claim to the agency for further processing and issuance of the final order.

Stat. Auth.: ORS 670.310, 701.145, 701.235; & 1999 OL, ch. 849, sect. 8  
Stats. Implemented: ORS 183.415, 183.450, 183.460, 183.464, 183.470, & 701.145, ORS 701.147  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0220

### Petition for Reconsideration or Rehearing; Request for Stay

A petition for reconsideration or rehearing under OAR 137-003-0675 or a request for a stay under OAR 137-003-0690 of a final order on a claim issued by an administrative law judge under this division shall be filed with the agency.

Stat. Auth.: ORS 670.310, ORS 701.235 & OL 1999, Ch. 849, Sec. 8  
Stats. Implemented: ORS 183.482, ORS 701.145 & OL 1999, Ch. 849, Sec. 12  
Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0300

### Hearing Notice and Limitation on Final Civil Penalty Order

A notice of hearing shall contain the duration of any suspension and the amount of any civil penalty sought by the agency. The administrative law judge shall not issue a final civil penalty order in an amount greater than that shown in the notice of hearing.

Stat. Auth.: ORS 183.310, ORS 670.310, ORS 701.235 & ORS 701.992  
Stats. Implemented: ORS 183 & ORS 701  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0320

### Entry of Agency Evidence

Contested case enforcement hearings may be held before a hearing officer. The agency's evidence may be entered into the record by the hearing officer, or by another representative of the agency.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235  
Stats. Implemented: ORS 701.145 & ORS 701.147  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0400

### Exceptions to Agency Orders, Claims

(1) After a contested case claim hearing, claimant or respondent may file written exceptions if they believe that the administrative law judge has made a procedural error or that the proposed order is not supported by evidence received at the hearing.

(2)(a) To be considered, the first exceptions must be received by the agency within 21 days of the date of mailing the proposed order.

(b) If one party files timely exceptions, the opposing party may also file exceptions if those exceptions are received by the agency within 14 days after the date the agency mails a copy of the first exceptions to the opposing party.

(3)(a) If written exceptions are not timely received, the order will become final under OAR 812-009-0160.

(b) If exceptions are timely received, the matter will be set for consideration by the Board's Appeal Committee at a regular meeting of the committee.

(4) The exceptions must substantially conform to the requirements of OAR 812-009-0430.

(5) Copies of exceptions filed will be mailed to the other side who may respond to the exceptions. Response and any written argument for or against the proposed order will be accepted up to 15 days before the Committee meeting date if the original exceptions were timely received.

(6)(a) If a party filing exceptions intends to rely on oral testimony given at the hearing, the party shall include in the exceptions:

(A) A notice of the intention to rely on oral testimony; and

(B) A request for a copy of the tape of the hearing with the fee required under OAR 812-001-0015.

(b) After receipt, exceptions containing a notice of an intention to reply on oral testimony under subsection (a) of this section, the agency shall send a copy of the tape of the hearing to the party that did not file the exceptions without charge unless that party also filed exceptions that included a notice of intention to rely on oral testimony.

(c) The party that filed the notice of intention to rely on oral testimony shall prepare a typed transcript of the portions of the hearing testimony that the party contends support the exceptions. The party must deliver the transcript to the agency 21 days after the date the agency mails the tape of the hearing to the party.

(d) The agency shall mail a copy of the transcript to the other party to the claim.

(7)(a) The party opposing the exceptions may prepare a typed transcript of the portions of the hearing testimony that the party contends support opposition to the exceptions. The opposing party must deliver the transcript to the agency 21 days after the date the agency mailed the transcript under subsection (6)(d) of this rule.

(b) The agency shall mail a copy of the transcript prepared under this section to the party that filed the exceptions.

(8) The Appeal Committee may refuse to consider evidence of oral testimony submitted by a party if the party fails to comply with the requirements of sections (6) and (7) of this rule.

(9) Claimant and respondent may appear before the members of the Committee to argue for or against the proposed order.

(10) The agency may waive or extend the time limitations in sections (5) through (7) of this rule on a showing of good cause by the person requesting the waiver.

Stat. Auth.: ORS 670.310 & ORS 701.235  
Stats. Implemented: ORS 183.460 & ORS 701.260  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0430

### Form of Exceptions to Agency Order in a Claim

(1) Exceptions to an agency order filed by a party to a claim under OAR 812-009-0400 or a respondent under 812-009-0420 shall conform to the following requirements:

(a) Exceptions shall be typed or legibly printed on 8-1/2 by 11" sheets of paper.

(b) The first page of the exceptions shall be titled "Exceptions to Proposed Order." If the exceptions are filed in a claim, the first page shall show the claim number, the names of the parties to the claim and the party submitting the exceptions at the top of the page. If the exceptions are filed in an enforcement action, the first page shall show the name of the respondent at the top of the page.

(c) Each page of the exceptions shall be numbered at the bottom of the page.

(d) For each finding of fact in the proposed order that the party alleges is not supported by the evidence in the record the following information shall be included in the exceptions:

(A) The pages on which the finding of fact appear and the number, if any of the finding of fact;

(B) The text of the finding of fact; and

(C) An explanation or argument supporting the party's contention that the finding of fact is not supported by the evidence in the record.

(e) For each conclusion in the proposed order that the party alleges is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision the following information shall be included in the exceptions:

(A) The pages on which the conclusion and the opinion that supports it appear;

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(B) The text of the conclusion; and

(C) An explanation or argument supporting the party's contention that the conclusion is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision.

(f) For each procedural error committed by the administrative law judge that the party contends directly affected the decision in the proposed order in a manner prejudicial to the party the following information shall be included in the exceptions:

(A) A description of the procedural error; and

(B) An explanation or argument supporting the party's contention that the procedural error affected the decision and was prejudicial to the party filing the exceptions.

(g) If the party intends to rely on oral testimony at the hearing, a notification that the party intends to rely on oral testimony shall be included in the exceptions.

(h) The party submitting the exceptions shall sign and date the exceptions.

(2) The Appeal Committee may refuse to consider exceptions that do not substantially meet the requirements of section (1) of this rule.

Stat. Auth.: ORS 670.310, ORS 701.145 & ORS 701.235

Stats. Implemented: ORS 183 & ORS 701.145, ORS 701.147

Hist.: CCB 2-2001, f. & cert. ef. 4-6-01; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-009-0440

### Appeal Committee Meeting

(1) At the meeting of the Board's Appeal Committee, the Committee will consider documentary evidence received at the hearing and exceptions and written or oral argument for or against the proposed order, but the Committee will not consider new or additional evidence.

(2) The Committee may limit the time allowed for oral argument by a party before the Committee to five minutes.

(3) After hearing oral argument, the Committee may conduct its deliberations privately, under authority of ORS 192.690(1). If the Committee conducts its deliberations privately, it will return to public meeting for any motions and voting.

(4) The Committee may affirm the proposed order and findings of fact, modify either or both, or send the case back to the Office of Administrative Hearings for a new hearing or to the agency for further processing. Unless the case is sent back to a new hearing, the agency will issue a final order after the Committee meeting.

(5) Final orders are subject to judicial review as set forth in ORS Chapter 183.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 183.460 & ORS 701.260

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99;

CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0020

### Applicability of Rule

(1) The rules in division 10 of this chapter apply when:

(a) A claim is referred to the Office of Administrative Hearings for arbitration under OAR 812-004-0590.

(b) The parties to the arbitration agree that the Construction Contractors Board may arbitrate a construction dispute and the agency accepts the dispute for arbitration under ORS 701.148.

(c) A timely claim is filed relative to work performed under a contract, which contains an arbitration clause specifying that the Construction Contractors Board shall arbitrate disputes arising from the contract and the agency accepts the dispute for arbitration under ORS 701.148.

(d) Arbitration by the Construction Contractors Board is ordered by a court in accordance with ORS 36.310.

(2) The amendments to the rules in division 10 of this chapter that became effective on or after July 1, 2002 apply only to disputes referred to the Office of Administrative Hearings for an arbitration:

(a) On or after July 1, 2002; and

(b) Before July 1, 2002, if each party to the dispute files a written consent to the application of these amendments to the arbitration.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 183, ORS 701.139, ORS 701.147 & ORS 701.148

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0030

### Incorporation of Office of Administrative Hearings Rules

(1) The following rules related to the contested case hearings conducted by hearings officers assigned to the Office of Administrative

Hearings are incorporated into these rules by this reference and apply to arbitrations conducted under the rules in this division:

(a) OAR 137-003-0580 (Summary judgment);

(b) OAR 137-003-0590 (Qualified interpreters); and

(c) OAR 137-003-0605 (Telephone testimony).

(2) In interpreting rules incorporated under section (1) of this rule:

(a) "Hearing" in the incorporated rule shall be given the same meaning as "arbitration" in these rules; and

(b) "Administrative law judge" in the incorporated rule shall be given the same meaning as "arbitrator" in these rules.

Stat. Auth.: ORS 670.310, & ORS 701.235

Stats. Implemented: ORS 183, ORS 701

Hist.: CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0060

### Appointment of Arbitrator

Assignment of arbitrator shall be as provided in ORS 701.147 and shall be subject to a request for a different administrative law judge to act as arbitrator under section 11, chapter 849, Oregon Laws 1999 and OAR 471-060-0005.

Stat. Auth.: ORS 670.310, ORS 701.235

Stats. Implemented: ORS 701.147 & ORS 701.148

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0080

### Delegation of Duties

If the agency refers a dispute to the Office of Administrative Hearings for arbitration under these rules, the duties of the agency under these rules may be carried out through representatives as directed by the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge, except that the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may not perform the duties of the agency under OAR 812-010-0040, 812-010-0100 or 812-010-0440.

Stat. Auth.: ORS 670.310, ORS 701.148 & ORS 701.235

Stats. Implemented: ORS 701.147 & ORS 701.148

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0085

### Filing and Service of Pleadings and Other Documents

(1) Unless otherwise provided by these rules, documents, correspondence, motions, pleadings, rulings and orders filed in an arbitration under these rules shall be filed as follows:

(a) With the agency before the claim is referred by the agency to the Office of Administrative Hearings.

(b) With the Office of Administrative Hearings or assigned arbitrator after the agency refers the claim to the Office of Administrative Hearings and before the arbitrator issues an award.

(c) With the agency after the arbitrator issues an award.

(2) After the agency refers the claim to the Office of Administrative Hearings and before the arbitrator issues an award, a person who files a document, correspondence, motion, pleading, ruling or order with the Office of Administrative Hearings or arbitrator in an arbitration shall serve copies of the document filed on the parties to the claim or their counsel if the parties are represented.

(3) Service shall be by hand delivery, by facsimile or by mail.

(4) A party shall notify the Office of Administrative Hearings or arbitrator, the agency and other parties to the claim of any change in the party's address or withdrawal or change of the party's legal counsel.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 183, 701

Hist.: CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0090

### Request for Contested Case Hearing or Removal to Court

(1) If the Office of Administrative Hearings receives a request under OAR 812-004-0590 to conduct the hearing on a claim as a contested case, the Office of Administrative Hearings shall retain jurisdiction over the claim. The Office of Administrative Hearings shall hold the contested case hearing at the time scheduled for the arbitration unless good cause exists to reschedule the hearing date and time.

(2) If the Office of Administrative Hearings receives notice under OAR 812-004-0590 that a party to the claim filed a complaint under that rule that requires that the claim be decided in court, the Office of Administrative Hearings shall return the claim to the agency.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310, & ORS 701.235

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Stats. Implemented: ORS 183, ORS 701.147 & ORS 701.148  
Hist.: CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0100

### On-Site Investigation, Settlement Discussions

(1) At the discretion of the agency, arbitration may be preceded by an on-site investigation or settlement discussions.

(2) At the discretion of the arbitrator, the arbitration may be preceded by settlement discussions.

(3) The arbitrator may request that the agency conduct an on-site investigation prior to arbitration. The agency may grant or deny the request at its discretion.

(4) If the parties to an arbitration settle a claim referred to arbitration under OAR 812-004-0560, the parties may agree that the arbitrator may issue a final order under ORS 183.415(5).

Stat. Auth.: ORS 183.310 to 183.500, ORS 670.310, & ORS 701.235  
Stats. Implemented: ORS 701.148  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 9-2002(Temp), f. & cert. ef. 9-6-02 thru 3-5-03; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0120

### Time and Place of Arbitration Hearing; Notice

The Office of Administrative Hearings shall fix a time and place for the arbitration hearing. The Office of Administrative Hearings will mail notice of the time and place of the arbitration at least 21 days prior to the arbitration, unless otherwise agreed to by the parties.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 701.235  
Stats. Implemented: ORS 701.147, ORS 701.148  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2000(Temp), f. 7-21-00, cert. ef. 7-21-00 thru 1-15-01; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 9-2002(Temp), f. & cert. ef. 9-6-02 thru 3-5-03; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0160

### Substitution of Arbitrator

(1) The agency administrator or a person designated by the agency administrator may substitute another arbitrator at any time before the arbitration hearing begins.

(2) If the agency refers a dispute to the Office of Administrative Hearings for arbitration under these rules, the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may substitute another arbitrator at any time before the arbitration hearing begins.

Stat. Auth.: ORS 670.310, ORS 701.148 & ORS 701.235  
Stats. Implemented: ORS 701.147 & ORS 701.148  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0400

### Service of Notices and Other Communications

Initial notice of an arbitration hearing directed by the agency to the last-known address of record shall be considered delivered when deposited in the United States mail and sent registered certified or post office receipt secured. Any other communication, including the arbitrator's award, directed by the agency or the Office of Administrative Hearings to the last-known address of record shall be considered delivered when deposited in the United States mail, regular mail.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 701.235  
Stats. Implemented: ORS 701.080, ORS 701.147 & ORS 701.148  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0420

### Time, Form, and Scope of Award; Limitation on Award

(1) An award shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, not later than thirty days from the date of the closing of the arbitration hearing.

(2) The agency may extend the time to issue an award under section (1) of this rule.

(3) The award shall be in writing and shall be signed by the arbitrator. The award shall fully dispose of all issues presented to the arbitrator that are required to resolve the dispute. The arbitrator may summarily dismiss issues that raise no substantive factual or legal questions. The award shall contain sufficient rulings on issues and explanations of the reasoning of the arbitrator that a party may reasonably understand the basis of the decision and evaluate the award to determine if filing a petition for reconsideration would be appropriate.

(4) An arbitrator may not issue an award in an amount greater than the total amount a party alleges another party owes the party in:

(a) The most recent declaration of damages or amended declaration of damages filed by the party under OAR 812-004-0540, 812-004-0550 or 812-010-0110; or

(b) The Statement of Claim filed by the party under OAR 812-004-0340, if no declaration of damages was filed.

(5) When a claimant makes a claim against a respondent's surety bond required under ORS 701.085 and the parties to the claim have not agreed that the arbitration will bind claimant, only the claimant may assert damages. The arbitrator may award damages to claimant, but not to respondent. Respondent may assert amounts owed to it as an offset under section (6) of this rule.

(6) An arbitrator shall consider any amounts owed by a party claiming damages to another party under the terms of the contract at issue in the arbitration and reduce the amount of an award of damages to the party claiming the damages by the amount owed as an offset to the damages, regardless of whether the other party asserting the offset filed a declaration of damages as to the offset. If the party asserting the offset did not file a declaration of damages, the amount of the offset may not exceed the amount of the award.

(7) Except as provided in OAR 812-010-0440 and 812-010-0460, an arbitration award is effective as an order to pay under OAR 812-004-0600 or may be delivered to the clerk of a circuit court under ORS 36.350:

(a) Only after the 21st day after service on the parties; and

(b) Only if no party files a timely petition for reconsideration under OAR 812-010-0425.

(8)(a) Except as otherwise provided in this rule, the arbitrator may dismiss a claim or may grant to any party any remedy or relief, including equitable relief, that the arbitrator deems just and equitable, consistent with the parties' contract or their agreement to arbitrate.

(b) If the award contains an award of monetary amounts that are payable from respondent's bond required under ORS 701.085 and other amounts that are not payable from the bond under OAR 812-004-0250 or any other law, the award shall segregate these amounts.

(c) If the parties to the arbitration mutually consent to the arbitration in a written agreement and the contract at issue in the arbitration provides for an award of attorney fees, court costs, other costs or interest, the arbitrator may include these fees, costs, or interest in the award, subject to subsection (b) of this section.

(9) If a limitation on damages under section (4) is based on a declaration of damages or Statement of Claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 701.235  
Stats. Implemented: ORS 701.145, ORS 701.148  
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03

## 812-010-0425

### Petition for Reconsideration

(1) A party to an arbitration or the agency may petition the arbitrator to reconsider an award. A party may file only one petition for reconsideration of an award.

(2) The petition for reconsideration must be in writing and substantially conform to the requirements of OAR 812-010-0430.

(3) To be considered, a petition for reconsideration must be received by the arbitrator within 21 days of mailing the proposed award.

(4) If the arbitrator receives a timely petition for reconsideration, the arbitrator shall mail copies of the petition to the other parties to the arbitration and the agency. A party may respond to the petition for reconsideration. To be considered, a response to the petition must be received by the arbitrator within 14 days of the date that the arbitrator mailed a copy of the petition for reconsideration to the party.

(5) The arbitrator may waive or extend the time limitations in sections (3) and (4) of this rule on a showing of good cause by the person requesting the waiver or extension.

(6) Within 30 days after the date allowed for receiving a response to the petition, the arbitrator shall issue and serve on the parties and the agency a written decision to grant the petition and reconsider the award or deny the petition and refuse reconsideration. The following apply to a decision under this section:

(a) The decision may include an award on reconsideration under section (8) of this rule.

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(b) The arbitrator may deny a petition for reconsideration if the petition is untimely, defective in form or raises no substantial grounds for reconsideration.

(7) The agency may extend the time to issue a decision on a petition for reconsideration under section (6) of this rule.

(8) If the arbitrator grants reconsideration, the arbitrator shall consider the petition and any response received from a non-petitioning party, except that the arbitrator may not consider evidence that was not introduced at the arbitration. The arbitrator shall issue an award on reconsideration that addresses each substantial issue raised in the petition. The award on reconsideration may summarily dismiss issues as appropriate. The arbitrator may:

(a) Affirm the original award and incorporate it in the award on reconsideration by reference;

(b) Issue a new award on reconsideration; or

(c) Conduct additional arbitration and issue an award under subsection (a) or (b) of this section as the arbitrator deems appropriate.

(9) If an arbitrator issues denial of a request for reconsideration under section (6) of this rule or an award on reconsideration under section (8) of this rule, a party to the arbitration may not file a further petition for reconsideration of the denial or the award on reconsideration.

(10) If the arbitrator who prepared the award is not available to consider a petition for reconsideration on the award, the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may assign another arbitrator to review the tapes and exhibits of the arbitration, the award, the petition and any response and render a decision on the petition. If the new arbitrator is unable to render a decision on the petition, the petition shall be deemed denied.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310, & ORS 701.235

Stats. Implemented: ORS 183, ORS 701.147 & ORS 701.148

Hist.: CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03

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**Adm. Order No.:** CCB 8-2003

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

**Certified to be Effective:** 1-1-04

**Notice Publication Date:** 7-1-03

**Rules Amended:** 812-003-0000

**Subject:** OAR 812-003-0000 is amended to reflect the fee increase and change to a flat fee structure effective January 1, 2004. The flat license fee will be \$295 for all categories of licensure and for renewal of a license.

**Rules Coordinator:** Cathy Heine—(503) 378-4621, ext. 4077

## 812-003-0000

### Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS Chapter 701 through the use of another entity's license.

(2) The Board adopts the form "Independent Contractor Certification Statement" as approved October 24, 1989, as required by ORS 701.075(3).

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture seeks to change to another entity, the former license may be terminated. The new entity must license anew.

(4) All partners within a partnership shall be on record with the Construction Contractors Board. Partnerships consisting of spouses shall be treated the same as partnerships consisting of unrelated persons. License becomes invalid upon any change in the composition of that partnership.

(5) Each entity shall:

(a) List on its license application or renewal all assumed business names under which business as a contractor is conducted. All assumed business names listed shall be on record with the Corporation Division; and

(b) Provide evidence to the agency that the applicant's responsible managing individual has completed the education required by ORS 701.280 as governed by Division 6 of these rules.

(c) List on its license application or renewal the Standard Industrial Classification (SIC) code number of its main construction activities.

(6)(a) A license card is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The surety bond remains in effect and undiminished by payment of Construction Contractors Board final orders; and

(B) The insurance required by ORS 701.105 remains in effect; and

(C) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(D) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(E) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee's bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(e) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(7) No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

(8) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS chapter 701 prepared by a contractor or at the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) Except as set forth in sub paragraph (e) all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor's license number. This rule is effective upon filing for all contractors filing for new license, and is effective for all existing contractors when they purchase new business cards, business letterhead, and business signs for construction sites, or January 1, 1998, whichever date occurs sooner.

(e) Sub paragraph (d) does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(9) The initial two-year license fee for all license applications received on or after January 1, 2004 is \$295 for all categories.

(10) The two-year renewal fee for all license renewals with a renewal date of January 1, 2004, and after and all other license renewal applications received by the agency on or after January 1, 2004 is \$295 for all categories.

(11) The reinstatement fee is \$20 for all categories.

(a) Except as set forth in (b), the reinstatement fee shall be charged for any renewal, reissue, or reinstatement received by the agency after the prior license expiration date.

(b) The agency may waive the reinstatement fee if:

(A) The properly-completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(B) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) A person licensed as a General Contractor-All-Structures may also perform the work of a Specialty Contractor-All-Structures. A person licensed as a General Contractor-Residential-Only may also perform the work of a Specialty Contractor-Residential-Only.

(13) A Limited Contractor may perform Specialty Contractor, General Contractor, residential, small commercial and large commercial construction work, so long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000;

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000;

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000;

# ADMINISTRATIVE RULES

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with subsection (a).

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(14) An Inspector may perform inspections, but may not construct, alter, repair, add to, subtract from, improve, move, wreck or demolish for another, any building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or do any part thereof, or act as a contractor performing construction management on a project that involves any of these activities.

(15) The following surety bond amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the bond amount required is as follows:

- (A) General Contractor—All Structures—\$10,000
- (B) General Contractor—Residential—\$10,000
- (C) Specialty Contractor—All Structures—\$5,000
- (D) Specialty Contractor—Residential—\$5,000
- (E) Limited Contractor—\$2,000

(b) As required by ORS 701.085 as amended by chapter 325, 1999 Session Laws, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the bond amount required is as follows:

- (A) General Contractor—All Structures—\$15,000
- (B) General Contractor—Residential—\$15,000
- (C) Specialty Contractor—All Structures—\$10,000
- (D) Specialty Contractor—Residential—\$10,000
- (E) Limited Contractor—\$5,000
- (F) Inspector—\$10,000

(c) A contractor may obtain or maintain a bond in an amount that exceeds the amount required under subsection (b) of this section if the bond obtained or maintained is in an amount that is equal to an amount required under subsection (b) of this section.

(16) The following general liability insurance amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the following general liability insurance amount is required as follows:

- (A) General Contractor—All Structures—\$500,000
- (B) General Contractor—Residential—\$100,000
- (C) Specialty Contractor—All Structures—\$500,000
- (D) Specialty Contractor—Residential—\$100,000
- (E) Limited Contractor—\$100,000

(b) As required by ORS 701.105, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the following general liability insurance amount is required as follows:

- (A) General Contractor—All Structures—\$500,000
- (B) General Contractor—Residential—\$500,000
- (C) Specialty Contractor—All Structures—\$500,000
- (D) Specialty Contractor—Residential—\$300,000
- (E) Limited Contractor—\$100,000
- (F) Inspector—\$300,000

(17) A fee of \$20 shall be charged for any changed license category.

(18) On all construction projects regulated under the state Prevailing Wage Law, ORS 279.348 to 279.365 or the Davis Bacon Act and related acts, 40 USC 276a, the primary contractor shall provide the list of subcontractors required by ORS 701.055(11) to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries, 800 NE Oregon #32, Portland, OR 97232.

(a) The initial list of subcontractors will be submitted to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries on the same date that the initial Payroll and Certified Statement form (WH-38) is due. Instructions for submitting form WH-38 are contained in OAR 839-016-0010.

(b) The primary contractor will prepare and submit updated lists of subcontractors with each submittal of the Payroll and Certified Statement form (WH-38).

(19) A contractor shall not engage in dishonest or fraudulent conduct injurious to the welfare of the public.

(20) A contractor shall cooperate fully with any investigation undertaken by the Board pursuant to ORS 701.225.

[ED. NOTE: Forms & Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310, 701.235, 701.280, 701.992 & 183.310 - 183.500

Stats. Implemented: ORS 701.055, 701.075, 701.102, 701.125 & 701.280

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 2-1982, f. 4-1-82, ef. 7-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0010; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 1-1987, f. & ef. 3-5-87; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 8-1992(Temp), f. & cert. ef. 12-4-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 4-1996, f. 11-7-96, cert. ef. 11-8-96; CCB 5-1996, f. 11-25-96, cert. ef. 11-27-96; CCB 7-1996, f. & cert. ef. 12-11-96; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 5-2003, f. 6-3-03, cert. ef. 10-1-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 8-2003, f. 8-8-03 cert. ef. 1-1-04

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## Department of Administrative Services, Budget and Management Division Chapter 122

**Adm. Order No.:** BMD 3-2003(Temp)

**Filed with Sec. of State:** 7-25-2003

**Certified to be Effective:** 7-25-03 thru 8-31-03

**Notice Publication Date:**

**Rules Adopted:** 122-001-0030

**Subject:** This rule extends expenditure limits allowing state agencies without a 2003-05 legislatively adopted budget to continue operating after July 31, 2003.

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

### 122-001-0030

#### Continuing Resolution for State Agency Expenditure Limitations

(1) A state agency, as defined in House Bill 5078 (Oregon Laws 2003), may incur obligations and authorize expenditures to continue operations into the 2003-2005 biennium at:

(a) The agency's 2001-2003 eighth quarter allotment level; or

(b) A higher or lower level as approved by the Budget and Management Division.

(c) In establishing an alternative expenditure level, the Budget and Management Division shall consider pending legislative budget direction.

(2) Each state agency without a legislatively adopted budget as of July 31, 2003, shall send a signed letter of verification to the Budget and Management Division on or before August 1, 2003, acknowledging:

(a) The agency does not have a legislatively adopted budget as of July 31, 2003;

(b) The continuing resolution ends August 31, 2003 or when an adopted budget is signed by the Governor;

(c) Expenditures will not be authorized above the level established pursuant to section (1) of this rule;

(d) Expenditures incurred under the continuing resolution will be part of the 2003-2005 adopted budget and not permanently charged against 2001-2003 expenditure limitation or appropriation; and

(e) The agency will not begin new programs or hire new staff positions until an adopted budget is signed by the Governor.

(3) Upon receipt of the signed verification letter, the Budget and Management Division shall establish an allotment level pursuant to section (1) of this rule. The Budget and Management Division shall notify each agency of the action taken.

Stat. Auth.: ORS 184.340

Stats. Implemented: OL 2003 (House Bill 5078)

Hist.: BMD 3-2003(Temp), f. & cert. ef. 7-25-03 thru 8-31-03

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## Department of Agriculture Chapter 603

**Adm. Order No.:** DOA 27-2003(Temp)

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-4-03 thru 11-1-03

**Notice Publication Date:**



# ADMINISTRATIVE RULES

**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

## 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

## 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

## 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

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**Adm. Order No.:** DOA 28-2003

**Filed with Sec. of State:** 8-4-2003

**Certified to be Effective:** 8-4-03

# ADMINISTRATIVE RULES

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 603-095-3200, 603-095-3220, 603-095-3240, 603-095-3260

**Subject:** The rules effectuate the implementation of the Burnt River Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et seq.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-095-3200

### Purpose

(1) These rules have been developed to implement a water quality management area plan for the Burnt River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 - 568.933. The area plan is known as the Burnt River Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Burnt River Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with Division 95 rules is expected to aid in the achievement of applicable water quality standards in the Burnt River Water Quality Management Area.

(3) Failure to comply with any provisions of the Burnt River Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-095-0000 to 603-090-0120, or of 603-095-0010 to 603-095-3260;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Burnt River Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC §§ 1251-1376;

(b) Used to interpret any requirement of OAR 603-095-3200 to 603-095-3260.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 28-2003, f. & cert. ef. 8-4-03

## 603-095-3220

### Geographic and Programmatic Scope

(1) The Burnt River Agricultural Water Quality Management Area includes all the drainage area of the Burnt River, from the headwaters to the confluence with the Snake River. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries:

(a) All lands within the Burnt River Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities are subject to OAR 603-095-0010 to 603-095-0040 and 603-095-3200 to 603-095-3260, except those lands excluded under paragraph (b) of this section.

(b) Lands excluded from OAR 603-095-3220(2)(a) are:

(A) Public lands managed by federal agencies;

(B) Tribal Trust Lands; and

(C) The property owned by Daryl and Barbara Hawes located at 20588 Hwy. 245 (T12S R37E: parts of sections 14, 23, 24, and 25. County tax lot number 2300)

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Burnt River Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

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

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 28-2003, f. & cert. ef. 8-4-03

## 603-095-3240

### Prohibited Conditions

(1) A landowner shall be responsible for only those conditions caused by activities conducted on land owned or managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances, which could not have been reasonably anticipated.

(2) Pollution Control and Waste Management. Effective on rule adoption: No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Streamside Conditions.

(a) By January 1, 2006, activities will allow the establishment and development of riparian vegetation, consistent with site capability. Site capability will be determined by ODA in consultation with local resource management agencies.

(b) Landowners are not responsible for browsing and grazing by wildlife.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 28-2003, f. & cert. ef. 8-4-03

## 603-095-3260

### Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted there under to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted there under may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3260(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted there under.

(5) As used in section OAR 603-095-3260(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3260, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 28-2003, f. & cert. ef. 8-4-03

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**Adm. Order No.:** DOA 29-2003(Temp)

**Filed with Sec. of State:** 8-7-2003

**Certified to be Effective:** 8-17-03 thru 2-13-04

**Notice Publication Date:**

**Rules Adopted:** 603-054-0026

**Subject:** This temporary rule requires recipients of imported tree and shrub nursery stock to notify the Oregon Department of Agriculture. Notifications can be via mail, FAX, or e-mail and must occur no later than two business days after its arrival. ODA will contact nurseries within one business day of receipt of notification if the imported nursery stock must be held for inspection.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

# ADMINISTRATIVE RULES

603-054-0026

## Notification of Imported Trees and Shrubs

(1) Recipients of tree and shrub nursery stock imported into the state of Oregon from any out-of-state source are required to notify the Oregon Department of Agriculture. Notification shall be via mail, FAX or e-mail to: Nursery Program Supervisor, Plant Division, Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301; FAX 503-986-4564; quarantine@oda.state.or.us.

(2) For purposes of this section, "tree and shrub nursery stock" means woody forest and ornamental trees, shrubs and vines grown or kept for propagation or sale, including bareroot, balled and burlaped, and containerized plants, liners, budwood, seedlings and cuttings. Fruit, seeds and tissue culture plantlets are not considered tree and shrub nursery stock.

(3) Notice under (1) of this section in advance of arrival of the shipment is encouraged but must be no later than two business days (Monday to Friday) after its arrival. Notification shall include the species of plant(s), quantities, source, and recipient's contact information. Copies of regular shipping documents, e.g. load lists, with this information are encouraged. ODA may approve alternative notification systems if such systems allow ODA at least one business day to determine if an inspection is necessary.

(4) ODA will contact nurseries within one business day of receipt of notification if the tree and shrub nursery stock must be held for inspection under ORS 571.220 and 570.305. Recipients are not obligated to hold the imported tree and shrub nursery stock for inspection unless contacted directly by an ODA inspector, except that the imported tree and shrub nursery stock must not be sold or distributed to untraceable buyers, e.g. final consumers, for one business day after notifying ODA.

(5) Failure to comply with this rule could result in criminal penalties authorized in 571.991 of up to \$5,000. Violation of this rule by a licensed nursery may also result in license suspension or revocation.

(6) This temporary rule will take effect on August 17, 2003. It will be effective for 180 days.

Stat. Auth.: ORS 570.305 & ORS 571.220

Stats. Implemented: ORS 561.190

Hist.: DOA 29-2003(Temp), f. 8-7-03, cert. ef. 8-17-03 thru 2-13-04

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## Department of Agriculture, Oregon Bartlett Pear Commission Chapter 606

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

**Filed with Sec. of State:** 8-5-2003

**Certified to be Effective:** 8-5-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 606-010-0015

**Subject:** The assessment level for fresh Oregon Bartlett pears is being reduced from \$.34 to \$.0275 per standard box.

**Rules Coordinator:** Linda Bailey —(503) 652-9720

606-010-0015

## Assessments

(1) As authorized or required by ORS 576.325 and 576.335, any person who is a first purchaser (or who otherwise is required to pay an assessment to the Oregon Bartlett Pear Commission) for all purchases made on or after August 1, 2003, shall deduct and withhold an assessment of: \$.0275 per standard box for fresh, and \$.50 per processing ton net paid weight from the price paid to the producer thereof for Bartlett pears grown in Oregon. The determination for the utilization and the assessment of Bartlett pears for either the fresh or processing market shall be made at shipping point. (See definition of "First Purchaser".)

(2) All casual sales of Bartlett pears shall be exempt from the assessment. (See definition of "Casual Sale".)

(3) Bartlett pears in any form donated to charitable institutions are exempt from the assessment.

Stat. Auth.: ORS 576.305(12) & ORS 576.325

Stats. Implemented: ORS 576.305 & ORS 576.325

Hist.: BP 1, f. 8-17-65, ef. 8-18-65; BP 3, f. 7-18-73, ef. 8-1-73; BP 5, f. & ef. 8-10-76; BP 6(Temp), f. & ef. 8-11-77; BP 7, f. & ef. 9-6-77; BP 1-1979, f. & ef. 8-3-79; BP 2-1980, f. & ef. 7-30-80; BP 1-1981, f. & ef. 7-31-81; BP 1-1982, f. & ef. 7-26-82; BP 1-1983, f. & ef. 7-21-83; BP 2-1984, f. & ef. 8-6-84; BP 1-1985, f. & ef. 7-26-85; BP 1-1986, f. & ef. 7-28-86; BP 2-1987, f. & ef. 7-27-87; BP 1-1993, f. & cert. ef. 8-23-93; BP 1-1994, f. & cert. ef. 8-4-94; BP 1-1996, f. & cert. ef. 7-25-96; BP 1-1997, f. & cert. ef. 7-25-97; OBPC 1-1998, f. & cert. ef. 7-29-98; OBPC 1-2003, f. & cert. ef. 8-5-03

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

**Adm. Order No.:** BCD 14-2003

**Filed with Sec. of State:** 8-13-2003

**Certified to be Effective:** 10-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 918-460-0015

**Subject:** Amends the Oregon Structural Specialty Code effective October 1, 2003.

**Rules Coordinator:** Louann P. Rahmig—(503) 373-7438

918-460-0015

## Amendments to the Structural Specialty Code

(1) The Structural Specialty Code is generally readopted every three years coinciding with the national adoption of a nationally recognized Building Code and other referenced supporting nationally recognized codes pursuant to chapter 918, division 8. Amendments adopted are placed in this rule, showing the division reference, the date the board took formal action, a descriptive caption and a short description of the amendment. When the code is readopted, these amendments will be physically integrated into the new code and removed from rule.

(2) On March 3, 1999, the Building Codes Structures Board recommended amending the following **Structural Specialty Code** sections effective April 1, 1999, to adopt revised formulas to correct errors published in Volume 2 of the 1997 Uniform Building Code:

(a) Amend Section 1612.2.1 by changing equation numbers 12-5 and 12-6;

(b) Amend **Section 1921.0** to correct formula;

(c) Amend **Section 1921.2.1.7** to correct formula;

(d) Amend **Section 1921.6.6.5** to correct formulas; and

(e) Delete **Section 1928**.

(3) The amendments to **Sections 1612, 1921, and 1928** are adopted by reference effective April 1, 1999.

(4) On March 3, 1999, the Building Codes Structures Board recommended amending the following **Structural Specialty Code** sections effective October 1, 1999:

(a) **Section 904.2.9** adding references to the fire code and Appendix Chapter 9, Division III;

(b) **Section 1003.3.3.10** adding Exception 4;

(c) **Section 1005.3.3.1** adding Exception 4;

(d) **Section 1006.3.2.3** adding Exception 3;

(e) **Section 1006.3.3.3** adding Exception 4;

(f) **Section 1101.2** clarifying dimensional specifications;

(g) **Section 1104.3** clarifying accessible parking requirements;

(h) **Section 1106.1.10.3** adding an exception;

(i) **Section 1106.1.10.4** adding requirements for accessible doors;

(j) **Section 1108.4.4** adding reference;

(k) **Section 1109.14.2** clarifying where visual alarm signal appliances are required;

(l) **Section 1109.18.2** bringing code into compliance with ADA;

(m) **Section 1109.23.1.3** clarifying where benches are required;

(n) **Sections 1312.1.3.1 and 1312.1.3.2** updating to current window rating standards;

(o) **Section 2318.3.1** making Oregon amendment compatible with model code;

(p) **Section 2320.11.4** clarifying footing and foundation reinforcement requirements;

(q) **Section 3004** clarifying energy conservation requirements;

(r) **Appendix Chapter 3**, adding new **Section 324.7** on guardrail openings;

(s) **Appendix Chapter 9, Division I, Section 907.2.8** adding references; and

(t) **Appendix Chapter 9**, new **Division III** on fire sprinklers.

(5) The amendments to **Sections 904, 1003, 1005, 1006, 1101, 1104, 1106, 1108, 1109, 1312, 2318, 2320, 3004, Appendix Chapter 3, and Appendix Chapter 9** are adopted by reference effective October 1, 1999.

(6) On January 5, 2000, the Building Codes Structures Board recommended amending the following **Structural Specialty Code** sections effective April 1, 2000:

(a) **Section 308.1** deleting Division 4;

(b) **Section 308.2.2.2** referring to Appendix Chapter 3, Division I and deleting the exception;

(c) **Section 308.2.2.3** deleting all language;

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- (d) **Table 3-A** deleting Group I, Division 4 Occupancy;
- (e) **Section 312A.1.1, Exception 2** deleting reference to Group I, Division 4 and amending Exception 2;
- (f) **Table 3-B** adding footnote 7;
- (g) **Section 505.3** adding an exception;
- (h) **Table 5-A** adding a row for Group I, Division 3;
- (i) **Table 5-B** amending types of construction allowed and deleting footnote 7;
- (j) **Section 1007.5.8 Exception 2** by adding language;
- (k) **Section 1106.1.8** deleting reference to Group I, Division 4 and amending item 5;
- (l) **Section 1108.3.1.1** deleting reference to Group I, Division 4 and amending items 3 and 3.1; and
- (m) **Section 1109.8.2** deleting reference to Group I, Division 4; and
- (n) **Appendix Chapter 3, Division I** replacing language with Sections 313-323.
- (7) The amendments to **Sections 308, 312A, 505, 1007, 1106, 1108 and 1109, Tables 3-A, 3-B, 5-A and 5-B** and Appendix Chapter 3, Division I are adopted by reference effective April 1, 2000.
- (8) On April 5, 2000, the Building Codes Structures Board recommended amending the following **Structural Specialty Code** sections effective October 1, 2000:
  - (a) **Section 106.3.2** to include registration requirements to perform engineering services on significant structures;
  - (b) **Section 304.1** clarifying outpatient clinic and medical offices definition;
  - (c) **Section 308** clarifying terminology within health care facilities;
  - (d) **Section 308.2.2.1** adding an occupancy classification;
  - (e) **Section 312A** adding definitions and clarifying requirements;
  - (f) **Tables 3-I-1, 3-I-2 and 3-I-3** clarifying requirements;
  - (g) **Section 1003.3.3.3** to provide consistency with the dwelling code;
  - (h) **Section 1101.1** clarifying accessibility requirements;
  - (i) **Section 1101.2** identifying references for accessible design standards;
  - (j) **Section 1102** amending definitions;
  - (k) **Section 1103.2.1** adding references;
  - (l) **Section 1104** clarifying accessible parking requirements;
  - (m) **Section 1105.2.1** adding a reference;
  - (n) **Section 1106.1.1** adding references;
  - (o) **Section 1106.1.12** adding an exception for storage facilities;
  - (p) **Section 1106.1.13** clarifying intent of the code;
  - (q) **Section 1107.1** adding a reference and an exception;
  - (r) **Sections 1108.1, 1108.1.1.1, 1108.1.1.2, 1108.1.1.3, 1108.1.1.4 and 1108.4.17** by relocating requirements previously in Section 1106;
  - (s) **Section 1108.3.3** adding requirements for accessibility to judicial facilities;
  - (t) **Section 1108.4.8** deleting a requirement and placing it in new Section 1110.3.4;
  - (u) **Section 1108.4.10** providing consistency with ADA guidelines;
  - (v) **Section 1108.4.12.1** adding requirements for directional signs;
  - (w) **Section 1108.5** adding new requirements for judicial, legislative and regulatory facilities;
  - (x) **Section 1108.6** adding new requirements for detention and correctional facilities;
  - (y) **Section 1109.1** clarifying language;
  - (z) **Section 1109.3.1** adding new general requirements for controls and hardware;
  - (aa) **Section 1109.4.1** adding general requirements and references;
  - (bb) **Section 1109.10.6** clarifying clear floor space;
  - (cc) **Section 1109.12.3** clarifying spout locations;
  - (dd) **Section 1109.15.1.2** clarifying text telephone requirements;
  - (ee) **Section 1109.16** clarifying detectable warning requirements;
  - (ff) **Section 1110.2.1** adding an exception;
  - (gg) **Sections 1110.6.4.1.1 and 1110.6.4.2.1** clarifying the exceptions;
  - (hh) **Section 1113.1.1** clarifying requirements for alterations;
  - (ii) **Section 1203.2.6** adding occupancies;
  - (jj) **Sections 1302, 1307, 1308, 1312, 1313, 1315, 1316, 1321 and 1323** making editorial changes;
  - (kk) **Section 1307.1.3** deleting redundant exception;
  - (ll) **Section 1312.1.3.3** clarifying window labeling and revising the exception;
  - (mm) **Section 1312.2.1** correcting prescriptive path approach;
  - (nn) **Section 1320.1** updating code references;
  - (oo) **Tables 13-D, 13-E, 13-G, 13-H, 13-I, 13-J** and 13-K making editorial changes to footnotes and amending tables to specify efficiency requirements;
  - (pp) **Section 1605.1** clarifying that requirements apply to all portions of structures;
  - (qq) **Section 1703** removing radiography option and deleting a redundant exception;
  - (rr) **Section 2106.2.14.1** deleting unnecessary requirement;
  - (ss) **Section 2213.8.6** correcting typographical error; and
  - (tt) **Chapter 29** adding plumbing requirements for Group A occupancies.
- (9) The amendments to the sections specified in Section (8)(a) through (tt) are adopted by reference effective October 1, 2000.
- (10) On April 4, 2001, the **Building Codes Structures Board** recommended amending the following **Structural Specialty Code** sections effective October 1, 2001:
  - (a) **Section 904.2.4.1** to clarify intent of code application;
  - (b) **Section 1003.3.4.4** to eliminate conflict with other code sections;
  - (c) **Section 1103.2.2.3** to change the reference to Figure 12b;
  - (d) **Section 1103.2.2.6** to add reference to Figure 15;
  - (e) **Section 1105** to delete "drop-off zones" to be consistent with ADAAG;
  - (f) **Section 1107.1** to delete requirement for an emergency evacuation plan;
  - (g) **Section 1108.2.2** to reword for clarity;
  - (h) **Section 1108.4.9.1** to conform to ADA requirements;
  - (i) **Section 1109.10.1** to create an exception to language that prohibits floor drains;
  - (j) **Section 1110.6.3** to add a reference;
  - (k) **Section 1204.1** to add a reference to the One- and Two-Family Dwelling Specialty Code for light and ventilation requirements;
  - (l) **Sections 1301.1.1 and 1301.1.3** to make editorial table reference changes;
  - (m) **Section 1302** to add a definition for vaulted ceiling;
  - (n) **Sections 1307.1 and 1307.1.3** to make editorial table reference changes;
  - (o) **Section 1308.1** to add section number;
  - (p) **Section 1308.1.4** to add language on economizer cooling;
  - (q) **Section 1312.1** to add provisions for condition spaces;
  - (r) **Section 1316.1 and Table 13-P** to clarify lighting requirements for dwelling units;
  - (s) **Section 1321.1** to make editorial table reference change;
  - (t) **Table 13-A** to align the insulation requirement for basement walls to those specified in the **One- and Two-Family Dwelling Specialty Code**, reorganize the footnotes and add a prescriptive Path 10;
  - (u) **Table 13-B** to renumber and add a new Table 13-B-2; and
  - (v) **Tables 13-D and 13-E** to delete footnote exempting vertical glazing for merchandise displays
- (11) The amendments to the sections specified in Section (10)(a) through (v) are adopted by reference effective October 1, 2001.
- (12) On November 7, 2001, the **Building Codes Structures Board** recommended amending the following **Structural Specialty Code** sections effective January 1, 2002:
  - (a) **Section 902, Volume 1**, adopting the 1999 editions of NFPA 13 and NFPA 13R; and
  - (b) **Sections 9.101 and 9.301, Volume 3**, correcting language to agree with the 1999 editions of NFPA 13 and 13R.
- (13) On July 31, 2003, the administrator approved amending the following **Structural Specialty Code** sections to be effective October 1, 2003:
  - (a) **Section 101.3**, deleting Appendix Chapter 29;
  - (b) **Section 106.1**, adding an exception 2 for emergency repairs;
  - (c) **Section 106.2**, adding language on membrane structures;
  - (d) **Section 312A.3.3.5.2**, changing "smoke detection" to "fire alarm" systems;
  - (e) **Section 312A.3.3.5.3**, deleting language and placing in a footnote to **Table 3-I-1**;
  - (f) **Section 312A.3.3.5.4**, adding requirement that fire alarm and detection systems be "automatic";
  - (g) **Tables 3-I-1, 3-I-2 and 3-I-3**, relocating footnotes for clarity;
  - (h) **Section 1201**, updating the edition of ASHRAE Standard 62 to 2001;
  - (i) **Section 1203.2.4**, clarifying ventilation requirements and adding an exception;
  - (j) **Section 1203.2.11**, adding paragraph on ventilation requirements;

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(k) **Section 1203.2.12**, adding section on ventilation controls for high occupancy areas;

(l) **Chapter 13**, Energy Conservation, amending, reformatting and renumbering entire chapter;

(m) **Section 2406.3**, clarifying when wired glass may be used;

(n) **Sections 2408.1, 2408.2, 2408.2.1 and 2408.3**, prescribing the use of safety glazing in athletic facilities;

(o) **Section 2903.1**, adding an exception on drinking fountains;

(p) **Appendix Chapter 3, Division II, Section 326.2**, revising definition of "farm"; and

(q) **Appendix Chapter 31, Division II, Section 3111.2**, adding a reference to **Article 32 of the Oregon Fire Code**.

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

Stat. Auth.: ORS 447.231, ORS 447.247, ORS 455.030 & ORS 455.110

Stats. Implemented: ORS 447.247 & ORS 455.110

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03

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

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

**Filed with Sec. of State:** 8-15-2003

**Certified to be Effective:** 1-1-04

**Notice Publication Date:** 7-1-03

**Rules Amended:** 440-001-0000, 440-005-0030

**Subject: OAR 440-001-0000:** Agencies shall adopt rules of procedure which will provide a reasonable opportunity for interested persons to be notified of the agencies intention to adopt, amend or repeal a rule. The proposed amendment to OAR 440-001-0000 continues to require that notice be given to persons who the Director determines may have an interest in the subject matter of the proposal, but deletes reference to notice requirements in OAR chapters 436, 441, 805, 814, and 836.

**OAR 440-005-0030:** An agency may establish fees reasonably calculated to reimburse it for its actual cost in making records available including costs for summarizing, compiling or tailoring such record, either in organization or media, to meet the person's request. The proposed amendment changes the review of agency policy establishing such fees to a periodic review not less than every three years.

**Rules Coordinator:** Myrna Curzon—(503) 947-7866

### 440-001-0000

#### Notice of Rulemaking

(1) Prior to rulemaking to which this rule applies, the Director shall give notice as provided in this rule. This rule applies to rulemaking that carries out any of the following rulemaking authority of the Director:

(a) Rulemaking authority under ORS 705.135;

(b) Rulemaking authority of the Director other than as provided under ORS 705.135, with respect to the Department as a whole;

(c) Rulemaking authority with respect to duties and functions assigned to the Director or the Department by law when the duties and functions are not carried out through an administrative division or staff office created under ORS 705.115.

(2) The rulemaking authority to which this rule applies includes, by way of example only, authority under ORS 646.859 which provides for approval by the Department of signs to be posted by auto rental companies, and authority under ORS 293.445, which governs the refund of moneys by agencies.

(3) The Director shall give notice of an intended action of rulemaking to which this rule applies:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 prior to the effective date of the intended action as required by ORS 183.335;

(b) By mailing copies of the notice to persons on the mailing list established by the Director under ORS 183.335;

(c) By mailing or delivering copies of the notice to the Associated Press and other members of the media who have requested notification or who the Director determines may have an interest in the subject matter of the proposal;

(d) By mailing copies of the notice to persons who the Director determines may have an interest in the subject matter of the proposal.

(e) By mailing or delivering copies of the notice to the appropriate state legislators as required by ORS 183.335.

Stat. Auth.: ORS 183.341 & ORS 705.135

Stats. Implemented: ORS 183.335

Hist.: IF 7-1989(Temp), f. & cert. ef. 9-1-89; IF 1-1990, f. & cert. ef. 4-19-90; DO 4-1999, f. & cert. ef. 12-10-99; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 2-2003, f. 8-15-03, cert. ef. 1-1-04

### 440-005-0030

#### Fees and Miscellaneous Charges

The director establishes fees and miscellaneous charges in agency policy, reviewed periodically, but not less than every three years, to insure all charges reflect no more than the actual cost of producing and processing.

Stat. Auth.: ORS 192.430, ORS 192.440, ORS 656.726, ORS 697.732, ORS 731.244, ORS 731.282, ORS 731.284 & ORS 731.804

Stats. Implemented: ORS 192.440, ORS 731.282, ORS 731.284 & ORS 731.804

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; IF 2-1990, f. & cert. ef. 6-4-90; DCBS 2-1994, f. 7-8-94, cert. ef. 8-1-94; DO 2-2003, f. 8-15-03, cert. ef. 1-1-04

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

**Adm. Order No.:** WCD 8-2003(Temp)

**Filed with Sec. of State:** 7-18-2003

**Certified to be Effective:** 7-18-03 thru 1-13-04

**Notice Publication Date:**

**Rules Adopted:** 436-050-0165

**Rules Amended:** 436-050-0150, 436-050-0160

**Subject:** These rules affect self-insured employers and self-insured employer groups, or employers and groups applying to the director of the Department of Consumer and Business Services for self-insurance certification. These adopted and amended rules:

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 require that the letter be issued in a format provided by the director;

Require the self-insured employer or prospective self-insured employer to submit a memorandum of understanding with the irrevocable standby letter of credit.

List the criteria the director will use to determine if an irrevocable standby letter of credit is an acceptable security deposit.

State the conditions under which an irrevocable standby letter of credit will be extended;

State the conditions under which an irrevocable standby letter of credit will be called; and

Incorporate by reference, *International Standby Practices, ICC Publication No. 590*.

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

### 436-050-0150

#### Qualifications of a Self-Insured Employer

(1) An employer shall qualify as a self-insured employer by:

(a) Establishing proof that the employer has an adequate staff qualified to process claims;

(b) Establishing proof of the financial ability to make certain the prompt payment of all compensation and other payments due under ORS 656; and

(c) Obtaining excess insurance coverage in the amounts approved by the director.

(2) An employer shall establish proof of an adequate staff qualified to process claims by:

(a) Employing and retaining at each claims processing location, at least one person that is qualified in accordance with OAR 436-055-0070 and is actually involved in the claims processing function; or

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(b) Contracting the services of one or more service companies that employ at each claims processing location, at least one person qualified in accordance with OAR 436-055-0070 and that is actually involved in the self-insured employer's claims processing

(3) An employer shall establish proof of financial ability by depositing in a depository designated by the director, money, government securities or surety as a security deposit that the director determines is acceptable in accordance with OAR 436-050-0165 and in an amount as determined in accordance with OAR 436-050-0180.

(4) Failure of a certified self-insured employer to maintain the qualifications required in this rule shall result in revocation of the employer's self-insured certification. The employer will be given 30 days written notice of the intent to revoke the self-insured certification, to be effective 30 days from the date of receipt of the revocation notice. If the employer complies with the qualification requirements within the 30-day period, the revocation is canceled and the certification remains in effect.

Stat. Auth.: ORS 656.407, ORS 656.704, & ORS 656.726(4)  
Stats. Implemented: ORS 656.407

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0305; 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 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 8-2003(Temp), f. & cert. ef. 7-18-03 thru 1-13-04

## 436-050-0160

### Applying for Certification as a Self-Insured Employer

(1) An employer applying for certification as a self-insured employer must submit the following information:

(a) An application in a form and format prescribed by the director to become a self-insured employer;

(b) Proof of the employer's claims processing ability employing and retaining at each claims processing location, at least one person that is actually involved in the claims processing function and is qualified in accordance with OAR 436-055-0070;

(c) The employer's audited financial statements or audited annual reports for the last three fiscal or calendar years. If the audited financial statements of a parent company are provided in lieu of statements for the employer, the director will not authorize the individual employer to be self-insured under its own program, unless a parental company guarantee can be obtained. Otherwise, it will be necessary for the parent company to be the self-insured employer or to separately insure the employer. In the context of this section, a parent company is a legal entity which owns a majority interest in the employer, or owns a majority interest in another entity or succession of entities which owns a majority interest in the employer;

(d) The employer's most recently promulgated experience rating modification worksheet and supporting documentation. Applicants with prior Oregon experience who do not submit this data will be assigned a 1.50 experience rating modification pending receipt of the data. All those without prior Oregon experience will be assigned a 1.00 experience rating modification;

(e) The type, retention and limitation levels of excess insurance the employer is planning to obtain as required by OAR 436-050-0170;

(f) If applicable, a service agreement between the employer and each service company that has been signed by both parties. The agreement shall also contain the location, mailing address, telephone number, and any other contact information of each service company;

(g) Evidence from a surety bond company that they will issue a surety bond for the employer, as Principal, and the Workers' Compensation Division, as Oblige; or evidence from a qualified bank that they will issue an irrevocable standby letter of credit for the employer with the Department of Consumer and Business Services, Workers' Compensation Division as the beneficiary; and

(h) Evidence of an occupational safety and health loss control program in accordance with OAR 437-001 as required by ORS 656.430(10).

(2) Within 30 days of receipt of all information required in section (1) of this rule, the director will review the application and notify the employer that the request for certification as a self-insured employer is denied and the reason therefore; or, that the employer is qualified as a self-insured employer. If the employer qualifies as a self-insured employer, the notice shall include:

(a) The type and the amount of the security deposit required;

(b) Approval of the type, retention and limitation levels of the excess insurance; or

(c) The type, retention and limitation levels of excess insurance required.

(3) The certification of self-insurance will be issued upon receipt of the security deposit, the appropriate excess insurance binder and if applicable, a service agreement between the employer and service company that has been signed by both parties.

(4) Unless a date is specified by the applicant, the effective date of certification will be the first day of the calendar quarter following the date the requirements of section (3) of this rule are met.

(5) Notwithstanding subsection (1)(c) of this rule, an employer making application may submit certified financial statements in lieu of audited financial statements or annual reports if the employer:

(a) Provides a surety bond or irrevocable standby letter of credit that is approved by the director as the security deposit; or

(b) Increases the security deposit, approved by the director, by \$100,000 over the amount as determined pursuant to OAR 436-050-0180.

Stat. Auth.: ORS 656.407, ORS 656.430, ORS 656.455 & ORS 656.726  
Stats. Implemented: ORS 656.430

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0310; 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 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 8-2003(Temp), f. & cert. ef. 7-18-03 thru 1-13-04

## 436-050-0165

### Security Deposit Requirements

(1) For the purposes of this rule:

(a) "Employer" includes employer groups

(b) "Self-insured employer" includes self-insured employer groups; and

(c) "ISLOC" means irrevocable standby letter of credit.

(2) An employer is required to provide a security deposit that is acceptable to the director, to establish proof of its financial ability, and to be qualified and certified as a self-insured employer or to be certified as a self-insured employer group. In accordance with ORS 656.407, surety bonds, irrevocable standby letters of credit, government securities, money, or time deposits may be accepted for the required security deposit if they comply with the following conditions and requirements:

(a) An ISLOC may be approved by the director as an alternative security deposit to a surety bond and as all or part of the security deposit. The director may approve the ISLOC if the issuing bank and the ISLOC meet the requirements of this rule:

(A) The ISLOC shall be issued by or confirmed by an Oregon state chartered bank or a federally chartered bank with an Oregon branch office from which funds will be immediately payable on demand. The bank issuing an ISLOC shall have at the time of issuance a credit rating as set forth below:

(i) An "Aaa", "Aa", or "A" long term certificate of deposit (CD) rating in the current monthly edition of "Moody's Statistical Handbook" prepared by Moody's Investors Service Inc., New York;

(ii) An "AAA", "AA" or "A" long term certificate of deposit (CD) rating in the current quarterly edition or monthly supplement of "Financial Institutions Ratings" prepared by Standard & Poors Corporation, New York; or

(iii) An "AAA", "AA+" or "AA" credit quality rating along with a CD/Debt Credit Limit Code above the dollar amount of the ISLOC found in the current annual edition of "GFI Credit Ratings" or the latest monthly "GFI Bank Letter" supplement thereto.

(B) Federally chartered instrumentalities of the United States operating under authority of the Farm Credit Act of 1971 as amended, are not rated, and are acceptable without rating.

(C) An ISLOC issued by a bank that does not meet the credit rating set forth in paragraph (A) at the time of issuance shall only be accepted with a confirming ISLOC issued by an Oregon state chartered bank or federally chartered bank with an Oregon branch office meeting the credit criteria of paragraph (A). The confirming ISLOC shall state that the confirming bank is primarily obligated to pay on demand the full amount of the ISLOC regardless of reimbursement from the bank whose ISLOC is being confirmed.

(D) The issuing bank will utilize the Irrevocable Standby Letter of Credit, Form 440-3640, approved by the director.

(E) The ISLOC will be automatically extended without amendment for an additional one (1) year from the expiry date, or any subsequent expiry date unless, at least 60 days before the expiry date, the director is notified in writing by registered mail or overnight delivery, that the bank has elected not to extend the ISLOC for another period.

(F) If the issuing bank or any confirming bank is closed at the time of expiry of the ISLOC for any reason that would prevent delivery of a

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demand notice during its normal hours of operation, the ISLOC will be automatically extended for a period of 30 days commencing on the next day of operation.

(G) The ISLOC can be called immediately if:

(i) The self-insured employer has defaulted in payment of its workers' compensation liabilities or obligations, or in payments due to the director under ORS 656;

(ii) The self-insured employer has filed for bankruptcy;

(iii) The self-insured employer has failed to renew or provide acceptable substitute security by fifteen (15) days prior to the expiry date of the ISLOC; or

(iv) The beneficiary has determined the existing security is deemed inadequate, that additional or replacement security must be provided by the self-insured employer, and that neither has been provided, notwithstanding written notice to the self-insured employer.

(H) The credit shall be available by presentation of the beneficiary's draft drawn at sight on the issuing bank, payable within three business days, when accompanied by one of the statements contained in 436-050-0165(2)(a)(G) signed by the Director of the Department of Consumer and Business Services, or the Administrator of the Workers' Compensation Division or their designated authorized representative.

(I) The ISLOC is not subject to any qualifications or conditions by the issuing bank or confirming bank and is each bank's individual obligation, which is in no way contingent upon reimbursement.

(J) All ISLOCs shall include a statement that the funds provided by the ISLOC are not construed to be an asset of the self-insurer and a statement that if legal proceedings are initiated by any party with respect to the payment of any ISLOC, it is agreed that such proceedings shall be subject to the jurisdiction of Oregon courts and Oregon Law.

(K) Payment of any amount under an ISLOC shall be made only by wire transfer in the name of the "Department of Consumer and Business Services In Trust For [the legal name of the certified self-insured employer]" to a department account, with the State Treasurer, at a designated bank.

(L) ISLOCs shall be subject to the International Standby Practices 1998 (ISP98), ICC Publication No. 590, which is hereby incorporated by reference, and a reference to this publication shall be included in the text of the ISLOC. ICC Publication 590 may be obtained from the International Chamber of Commerce.

(M) All bank charges for the ISLOC are for the account of the applicant.

(N) Any amendment to the ISLOC must be approved and accepted by the director before the amendment is effective.

(O) If a bank's rating subsequent to the issuance of the ISLOC falls below the acceptable rating level as set forth in paragraph (A), the self-insured employer shall be required within 60 days of the publication of the lower credit rating to:

(i) Replace the ISLOC with a new ISLOC issued by an Oregon state chartered bank or with a federally chartered bank with an Oregon branch office with an acceptable credit rating;

(ii) Confirm the ISLOC by an Oregon state chartered bank or a federally chartered bank with an Oregon branch office that has an acceptable credit rating; or

(iii) Replace the ISLOC with a policy of insurance or a surety bond of equal amount that is approved by the director, as substitute security for the ISLOC, if the policy of insurance or surety bond covers all workers' compensation liabilities and obligations that would have been covered by the ISLOC.

(P) Each self-insured employer that submits an acceptable ISLOC as its security deposit, shall furnish a memorandum of understanding with the ISLOC, on the department's Form 440-3529, which affirms the self-insured employer's acceptance of all of the following requirements:

(i) An ISLOC is furnished to the director instead of a surety bond or other forms of security that may be determined to be acceptable for certification as a self-insured employer or for continuing as a certified self-insured employer;

(ii) The self-insured employer understands the ISLOC will be automatically extended without amendment for an additional one (1) year from the expiry date, or any subsequent expiry date, unless, at least 60 days before the expiry date the director is notified in writing by the bank that the irrevocable standby letter of credit will not be renewed;

(iii) The ISLOC may be replaced with an ISLOC or surety bond of equal amount or a policy of insurance that is accepted by the director as substitute security for the ISLOC, if the new ISLOC or surety bond or policy of insurance covers all workers' compensation liabilities and obligations that would have been covered by the ISLOC to be replaced;

(iv) The self-insured employer shall affirm that the ISLOC, in the amount required, is being offered with the understanding that the ISLOC can be called immediately, at the director's discretion, if the director receives notice that the ISLOC will not be renewed; if the self-insured employer fails to pay its workers' compensation liabilities, obligations or payments due to the director under ORS 656; or the self-insured employer files bankruptcy; or the self-insured employer fails to renew or provide acceptable substitute security by fifteen (15) days prior to the expiry date of the ISLOC; or the director has determined the existing security is deemed inadequate; that additional or replacement security must be provided by the self-insured employer and that neither has been provided, notwithstanding written notice to the self-insured employer; and

(v) If legal proceedings are initiated by any party with respect to payment of any ISLOC, then it is agreed that the proceedings shall be subject to the jurisdiction of Oregon courts and application of Oregon Law(s).

(b) A surety bond may be accepted by the director as a security deposit or substitute security deposit for an ISLOC, government securities, monies, or time deposits. A surety bond may be accepted as all or part of the security deposit. The director, in each particular case, will determine if the surety bond submitted is acceptable, if the issuing Surety is acceptable, and if its language and format are acceptable.

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

Stat. Auth: ORS 656.430, ORS 656.704, ORS 656.726(4)

Stats. Implemented: ORS 656.430

Hist.: WCD 8-2003(Temp), f. & cert. ef. 7-18-03 thru 1-13-04

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## Department of Corrections Chapter 291

**Adm. Order No.:** DOC 11-2003

**Filed with Sec. of State:** 8-6-2003

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**Rules Adopted:** 291-203-0010, 291-203-0020, 291-203-0030, 291-203-0040, 291-203-0050, 291-203-0060, 291-203-0070, 291-203-0080, 291-203-0090, 291-203-0100

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

**Rules Coordinator:** Carolyn Schnoor—(503) 945-0933

### 291-203-0010

#### Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 179.640, 179.770, 423.020, 423.030, and 423.075.

(2) Purpose: An inmate and the personal estate of an inmate, or a decedent's estate are liable for the full cost of care. The purpose of these rules is to establish guidelines for:

(a) Determination of ability to pay;

(b) Notification to the inmate of his/her obligation to pay for the cost of care; and

(c) Appeal rights and process.

(3) Policy: Within the inherent limitation of resources, the efficient and orderly administration of the Department and its facilities, it is the policy of the Department of Corrections to investigate and pursue reimbursement from inmates for the costs of their incarceration and care in accordance with the criteria and procedures established in these rules.

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

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03

### 291-203-0020

#### Definitions

(1) Assets: The total value of an inmate's (subject to the provisions of ORS 179.640(5)) equity in real and personal property of whatever kind or nature. Assets include, but are not limited to, the inmate's stocks, bonds, cash, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative, or by any other individual or entity on behalf of the inmate. Assets held in trust are subject to laws generally applicable to trusts.

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(2) Authorized Representative: An individual or entity appointed as guardian or conservator of an inmate, or an individual who has been legally appointed by the inmate as their legal representative, or an individual who has been appointed by a court in this state or any other state or by a federal court to serve as the legal representative of the inmate who has the ability to control the inmate's finances, and any other individual or entity holding funds or receiving benefits or incomes on behalf of the inmate.

(3) Charges: The amount the department has determined that the inmate is required to pay toward the cost of care.

(4) Cost of Care: All services including medical care, room, board, administrative costs and other costs not otherwise excluded by law.

(5) Custody of the Department: The court ordered sentence of an inmate to the Department of Corrections to imprison in a department operated correctional facility or contracted housing through a county, other state, or other jurisdiction.

(6) Dependents: The individuals for whom an inmate has a legal duty to support.

(7) Fair Market Value: The cash price a capable and diligent individual could obtain in a reasonable amount of time for an asset.

(8) Income: All funds received by an inmate, or for an inmate by an authorized representative from any source, whether earned or unearned, after making applicable deductions for state and federal income taxes. Income includes benefits from life insurance, income protection insurance, or any other form of award to the inmate except as prohibited by ORS 179.620(5)(a).

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

(10) Cash Assets/Liquid Reserves: Cash and cash equivalents, accounts receivable, temporary investments such as CDs or Treasury Bills, money market accounts, and bonds that can be cashed at any time.

(11) Personal Estate: All assets including cash, liquid reserves, stocks, bonds, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative. Personal estate also includes benefits from income protection insurance, governmental retirement or disability insurance, such as Social Security, Veterans, state, federal, and railroad retirement benefits and benefits from life insurance or any other form of award except as prohibited in ORS 179.610(5)(a) and (5)(b).

(12) Primary Automobile: The automobile, if the person has more than one, which the person would choose to keep if required to sell all but one. If the person has only one, it is the primary personal automobile.

(13) Primary Person Residence: The home the inmate owns, or is purchasing, and in which the inmate lived prior to entering the custody of the department, or in which the inmate will live after leaving the custody of the department.

(14) Personal Support Allowance: The cash allowed for reasonable miscellaneous expenses while in the custody of the department, including but not limited to, expenses for personal grooming and hygiene items; books, newspapers, or other publications; or snacks or refreshments not provided by the department.

(15) Recoupment Liens: A charge or security or encumbrance upon real or personal property that can be used to satisfy the amount due for the inmate's cost of care.

(16) Support for Dependents: The cash necessary to meet the reasonable needs of the dependents, less the amount the dependent receives from any other source. Support for dependents excludes administratively or judicially ordered child and/or spousal support.

(17) Dstraint Warrant: A warrant or document issued by the department directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property which is subject to satisfaction of the recoupment lien.

[Publications: Publications referenced are available from the agency.]  
Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075  
Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075  
Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0030

### Requirements for Obtaining Financial Information

(1) The department may require the inmate and/or the inmate's representative to submit financial information on forms provided by the department.

(2) The department may obtain financial information regarding the inmate from other sources the department considers reliable. These sources

may include, but are not limited to, the Social Security and Veterans Administration, Oregon Department of Revenue, and other State of Oregon agencies.

[Publications: Publications referenced are available from the agency.]  
Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075  
Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075  
Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0040

### Ability to Pay Order

(1) An inmate and the personal estate of an inmate, or a decedent's estate, is liable for the full cost of care as established in ORS 179.701. The department may collect charges in advance for inmates with determinate sentences.

(2) The department shall make a determination of the inmate's ability to pay which is set forth in the Ability to Pay Order. The two types of Ability to Pay Orders are: determination of charges and a modification of charges. Each order shall be given one of these titles to identify the type of determination it sets forth, based on the factors and criteria described in the following sections.

(3) The inmate's ability to pay will be investigated and an Ability to Pay Order may be issued when the department is aware of an inmate or the inmate's representative with cash assets or liquid reserves in excess of the current biennial cost of care or \$55,000 whichever is greater. This Ability to Pay threshold is applicable only to the determination of who will be reviewed for an Ability to Pay Order. (ORS 179.640(1)(b)).

(4) The determination of the ability to pay may be assessed at intake or any time during the inmate's sentence, based on notification by sources the department considers reliable. These sources include, but are not limited to, the District Attorney's Office, the Social Security and Veterans Administration, Oregon Department of Revenue, State of Oregon agencies, or any other sources the department deems credible.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075  
Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075  
Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0050

### Determination of Charges

(1) The amount determined by the department to be the inmate's charges shall not exceed the full cost of care for the dates covered by the Ability to Pay Order, less payments and/or credits from any other sources the department has received, or reasonably anticipates receiving.

(2) Charges will be assessed using the inmate's equity in all assets whether the asset is controlled by the person, or by the person's authorized representative.

(a) Any asset may be liquidated in a lump sum to pay charges assessed the inmate in the Ability to Pay Order.

(b) Equity in each asset will be determined from the fair market value of the asset less any bona fide encumbrance against the asset.

(c) When assets are used as the basis for ongoing charges, the department will estimate the length of time the assets are expected to last. During the final 60 days of that time period, the department will review the inmate's financial circumstances for modifying the inmate's charges.

(3) Charges will be assessed using the total amount of all income received either by the inmate or for the inmate by the inmate's authorized representative.

(4) Charges may be assessed using the inmate's equity in a primary personal residence only if:

(a) The inmate is sentenced to death or to life without possibility of parole; and

(b) None of the following individuals reside in the residence:

(A) The inmate's spouse.

(B) The inmate's child or children under age 21, or blind or disabled children over 21.

(C) The inmate's sibling or siblings who own an interest in the residence, and who lived in the residence for at least one year immediately prior to the inmate becoming the custody of the department.

(D) The inmate's parents or emancipated children who are unable to work to maintain themselves as declared in ORS 109.010.

(5) Charges may be assessed using the inmate's equity in an automobile only if it is not the inmate's primary personal automobile.



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(6) Deductions may be allowed for legal obligations, other than administratively or judicially ordered child and/or spousal support, as determined by the department.

(a) Funds set aside as legal obligations may not be accumulated by, or on behalf of the inmate, or used for purposes other than that for which it was approved.

(b) The inmate must have demonstrated an intent to pay the obligation. The department may request verification of actual payments.

(c) Any deduction allowed for the financial support of dependents must be used to provide current support. It may not be accumulated by, or on behalf of the inmate, and it may not be used for other purposes.

(7) Deductions allowed for a personal expense allowance shall be established by the department to reflect a reasonable monthly spending limit for use at the correctional institution canteen consistent with the department's rule on Trust Accounts (Inmate), OAR 291-158.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0060

### Modification of Charges

A modification of charges sets forth, in a new Ability to Pay Order, a change to the inmate's charges established by a prior Ability to Pay Order. When issuing a modification to charges, the department will consider the same factors as described in OAR 291-203-050. A modification to charges may be made to reflect:

(1) A change in the inmate's financial circumstances that affects the inmate's ability to pay ongoing monthly charges; or

(2) A reduction in the cost of care amount due to a change in the previously scheduled release date.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0070

### Notice of Ability to Pay

The department shall provide actual notice to the inmate and any authorized representative, where known, of the inmate's ability to pay.

(1) The notice shall include the inmate's full liability, a description of the person's appeal rights under a contested case hearing, the date those rights terminate, and the address where a request for hearing may be mailed or delivered.

(2) If the inmate has an authorized representative, the original Ability to Pay Order shall be delivered to the representative, and a copy shall be delivered to the inmate. Any Ability to Pay Order delivered to an authorized representative shall include an explanation of the department's right to demand payment of the charges assessed by the order, and the consequences to the authorized representative of failing to comply, as provided by ORS 179.653(3).

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0080

### Waiver of Collection Action

The department may issue a waiver to the collection of all or part of an inmate's unpaid charges based upon the best interest of the inmate or the department. Charges may be reassessed at a later time by a new Ability to Pay Order if the basis for waiver under this section ceases to exist.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0090

### Hearing/Appeal Rights, Effect of Final Order

(1) If an inmate or the inmate's authorized representative disagrees with any Ability-to-Pay Order issued by the department, the inmate or the inmate's authorized representative may request a contested case hearing. The request must be postmarked within 60 days from the date of the mailing of the Ability-to-Pay Order.

(2) If the inmate or the inmate's authorized representative makes a timely request for a contested case hearing, the hearing and any appeal of

the final hearing order shall be governed by ORS 183.413 to 183.497. If the inmate or the inmate's authorized representative fails to make a timely request for a contested case hearing, the Ability-to-Pay Order shall be final and not subject to judicial review, except as subsequently modified by the department as provided in ORS 179.640(5).

(3) On appeal, regardless of other information presented, payment of the full cost of care may be ordered if the inmate or the inmate's authorized representative refuses to produce financial information that the hearings officer determines is relevant and must be produced.

(4) Effect of Order on Authorized Representatives:

(a) An authorized representative who has not had an opportunity to request a contested case hearing, either because the authorized representative was not appointed at the time of the Ability-to-Pay Order became final, or was not given notice of the Ability-to-Pay Order as required by ORS 179.640(4), shall not be bound by the department's order. To bind the authorized representative, the department must reissue the Ability-to-Pay Order and provide notice to the authorized representative as required by ORS 179.640(4).

(b) The authorized representative shall have the same appeal rights as if the order had originally been issued to the authorized representative.

(c) After the order becomes final, the authorized representative shall be bound by the order as provided in ORS 179.653.

(d) The department will not issue an execution of a lien or foreclose against property held by or in the control of the authorized representative until the authorized representative is bound by the department's order as provided in ORS 179.653.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## 291-203-0100

### Enforcement of Lien

If an inmate refuses to pay for the cost of care, the unpaid amount plus interest shall be a lien in favor of the State of Oregon. The lien shall be upon the title to and interest in the real and personal property of the personal estate.

(1) If any amount due the department for the cost of care of an inmates is not paid within 30 days after it becomes due, and no provision is made to secure the payment by bond, deposit or otherwise, pursuant to these rules, the department may enforce its recoupment lien created by ORS 179.653 by issuance of a Distraint warrant in the manner provided in ORS 179.655.

(2) Any warrant issued by the department pursuant to ORS 179.655 shall clearly provide that the sheriff or other person executing the warrant shall not levy upon and sell any real or personal property that would be exempt under Oregon law from execution pursuant to a judgment. However, the department shall not issue a warrant pursuant to ORS 179.655 where:

(a) The amount due the department for the cost of care of an inmate is not at least 30 days over due;

(b) Provision has been made to secure the payment by bond or deposit or otherwise in conformation with this rule;

(c) The inmate has exercised the right to appeal the Ability to Pay Order pursuant to OAR 291-203-0090;

(d) Sixty-one days have not passed since the issuance of the Ability to Pay Order; or

(e) The inmate or the inmate's authorized representative has not been given at least ten days prior notice that the department intends to issue such a warrant.

(3) Securing Satisfaction of Ability to Pay Order:

(a) The issuance of a warrant to the sheriff to enforce collection of delinquent money will be stayed either by paying the amount due and accrued interest after it becomes due or by securing payment of that amount by bond or deposit.

(b) The bond given by the inmate to an inmate's authorized representative must be for an amount not less than the amount due, plus interest for a reasonable period of time as determined by the department.

(A) The bond must be executed by a surety company that is registered with, and under the supervision of, the insurance commissioner of the State of Oregon.

(B) The department may allow more than two sureties to justify several amounts less than that expressed in the undertaking, if the whole justification is equivalent to that of two sufficient undertakings.

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(C) Any one of the following items or combination of items acceptable to the department, equal to the amount due, plus accrued interest thereon, may be deposited with the department:

- (i) A deposit of money;
- (ii) A certified check or checks on any state or national bank within the State of Oregon payable to the department;
- (iii) Satisfactory bonds negotiable by delivery, or obligations by the U. S. Government negotiable by delivery; or
- (iv) Any other security satisfactory to the department.

(c) The department may require additional security whenever, in its opinion, the value of the security pledged is no longer sufficient to adequately secure the payment of the amount due, plus accrued interest thereon.

(d) Release of Tax Lien and Clouds on Title: When such a warrant is not in fact a lien on title to the real property, but merely a cloud on the title, a request for release of a warrant shall include the reason why the warrant does not constitute a lien and a copy of the current title report. The department may require other documentary proof showing the present condition of the title to the property in question.

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

## Department of Environmental Quality Chapter 340

**Adm. Order No.:** DEQ 11-2003

**Filed with Sec. of State:** 7-23-2003

**Certified to be Effective:** 7-23-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 340-220-0030, 340-220-0040, 340-220-0050

**Subject:** These rule amendments increase permitting fees for the Oregon Title V Permit Program according to the U.S. Consumer Price Index (CPI). Federal law requires that Title V permitting fees be sufficient to fully fund the program. The Environmental Quality Commission adopted rules on July 18, 2003 to increase Base Fees, Emission Fees, and Special Activity fees 4.59 percent, which represents the CPI adjustment since fees were last increased in 2001. The fee increase is needed to pay for increased program costs due to inflation and personnel service increases.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

### 340-220-0030

#### Annual Base Fee

The Department will assess an annual base fee of \$3,116 for each source subject to the Oregon Title V Operating Permit program. The fee covers the period from November 15 of the current calendar year to November 14 of the following year.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03

### 340-220-0040

#### Emission Fee

(1) The Department will assess an emission fee of \$36.30 per ton to each source subject to the Oregon Title V Operating Permit Program.

(2) The emission fee will be applied to emissions from the previous calendar year based on the elections made according to OAR 340-220-0190.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03

### 340-220-0050

#### Specific Activity Fees

The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as follows:

- (1) Existing Source Permit Revisions:

(a) Administrative\* — \$312;

(b) Simple — \$1,247;

(c) Moderate — \$9,349;

(d) Complex — \$18,699;

(2) Ambient Air Monitoring Review — \$2,493.

\*includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03

## Department of Fish and Wildlife Chapter 635

**Adm. Order No.:** DFW 61-2003

**Filed with Sec. of State:** 7-16-2003

**Certified to be Effective:** 7-16-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 635-065-0765

**Subject:** Amended rules regarding importation of hunter killed cervids for 2003-04 season.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

### 635-065-0765

#### Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to the carcass or parts until processed or until replaced by a tag or seal of the department.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer and elk is:

(a) Evidence of sex for deer and elk which will be taken out of Oregon is:

(i) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(ii) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(iii) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(iv) For hunts where only white-tailed deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the

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species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(i) The animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male; or

(ii) The head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4)(a)(i)-(iv) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

(a) Is not properly tagged;

(b) Was taken in violation of any wildlife laws or regulations; or

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

(a) Meat that is cut and wrapped commercially or privately;

(b) Meat that has been boned out;

(c) Quarters or other portions of meat with no part of the spinal column or head attached;

(d) Hides and/or capes with no head attached;

(e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;

(f) Antlers with no tissue attached;

(g) Upper canine teeth (buglers, whistlers, ivories);

(h) Finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Kansas, Minnesota, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Wisconsin, Wyoming, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(14) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection (11) shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection (11) shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

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

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

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; 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 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. ef. 11-12-02; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 61-2003, f. & cert. ef. 7-16-03

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**Adm. Order No.:** DFW 62-2003

**Filed with Sec. of State:** 7-16-2003

**Certified to be Effective:** 7-16-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 635-090-0170, 635-090-0180

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

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-090-0170

### 2002 Deer and Elk Auction Tags

(1) The following tags will be auctioned to the highest bidder in such manner and at such time as determined by the Department pursuant to OAR 635-090-0140. Hunters successful in bidding for one of the following tags are subject to the provisions of OAR 635-090-0140 and OAR chapter 635, division 065.

(2) Governor's Statewide Combination Hunt.

(a) Bag Limit: One elk and one deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One (1) elk and one (1) deer.

(3) Statewide Deer Hunt.

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 80 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: Four.

(4) Statewide Elk Hunt

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: Four.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Hist.: FWC 52-1995, f. & cert. ef. 6-16-95; FWC 37-1997, f. & cert. ef. 6-17-97; DFW 46-1999, f. & cert. ef. 6-15-99; Administrative correction 6-30-99; DFW 62-2001, f. & cert. ef. 7-25-01; DFW 62-2003, f. & cert. ef. 7-16-03

## 635-090-0180

### 2002 Deer and Elk Raffle Tags

(1) The following tags will be issued to individuals selected through a public drawing.

(2) Statewide Deer Hunt #AH001

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

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(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 80 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(3) Statewide Combination Elk and Deer #AH002

(a) Bag Limit: One elk and one deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 80 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One (1) elk and one (1) deer.

(4) Northeast Oregon Deer Hunt #AH003

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Columbia Basin, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Snake River, Imnaha, Minam, Catherine Creek, Mt. Emily, Ukiah, Heppner, Fossil, Northside, Desolation, Starkey, Sumpter, Lookout Mountain, Keating, and Pine Creek.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(5) Southeast Oregon Deer Hunt #AH004

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Murderers Creek, Beulah, Owyhee, Malheur River, Silvies, Juniper, Steens Mountain, Whitehorse, Beatys Butte, and Warner.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(6) Central Oregon Deer Hunt #AH005

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Hood, White River, Biggs, Maupin, Grizzly, Metolius, Ochoco, Maury, Paulina, Upper Deschutes, Fort Rock, Wagonfire, Silver Lake, Sprague, Keno, Klamath Falls, and Interstate.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(7) Northeast Oregon Elk Hunt #AH006

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area open to controlled or general season elk rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Columbia Basin, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Snake River, Imnaha, Minam, Catherine Creek, Mt. Emily, Ukiah, Heppner, Fossil, Northside, Desolation, Starkey, Sumpter, Lookout Mountain, Keating, and Pine Creek.

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(8) High Desert Elk Hunt #AH007

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area open to controlled or general season elk rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Murderers Creek, Beulah, Owyhee, Malheur River, Silvies, Juniper, Steens Mountain, Whitehorse, Beatys Butte, Warner, Hood, White River, Biggs, Maupin, Grizzly, Metolius, Ochoco, Maury, Paulina, Upper Deschutes, Fort Rock, Wagonfire, Silver Lake, Sprague, Keno, Klamath Falls, and Interstate.

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(9) Western Oregon Elk Hunt #AH008

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Western Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(10) Statewide Elk Hunt #AH009

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1, 2004 through November 30, 2004.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Hist.: FWC 52-1995, f. & cert. ef. 6-16-95; FWC 37-1997, f. & cert. ef. 6-17-97; DFW 46-1999, f. & cert. ef. 6-15-99; DFW 62-2001, f. & cert. ef. 7-25-01

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**Adm. Order No.:** DFW 63-2003

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03

**Notice Publication Date:** 6-1-03

**Rules Adopted:** 635-006-0133

**Rules Amended:** 635-006-0001, 635-006-0132, 635-006-0210, 635-006-0211, 635-006-0212, 635-006-0213

**Subject:** Implement a pilot program that allows Columbia River gill-net fishers to sell fish at locations away from their vessel, as authorized by the 2003 Oregon Legislature.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-006-0001

### Definitions

For the purposes of OAR 635-006-0001 through 635-006-1210:

(1) "Commercial fishing license" means those things required by ORS 508.235 and, for purposes of the Limited Fish Seller Permit, includes an Albacore Tuna Landing License.

(2) "Fair market value" shall be based on the market price of food fish or shellfish at the same time and place that the fish are landed, or the price established in OAR 635-006-0232 when the market price cannot be determined. For species not listed in OAR 635-006-0232, fair market value shall be based on the average price per pound paid to law enforcement officials for any fish or shellfish confiscated from persons landing legal overages, or the average ex-vessel price per pound paid for that species in that port during the month in which the overage occurred, whichever is greater. Unless otherwise noted, the fair market value is the price per pound and is based on round weight.

(3) "Fish buyer" means an individual employed by a wholesale fish dealer or food fish canner to purchase or receive food fish or shellfish from commercial fishermen at locations other than the licensed premises of the wholesale fish dealer or food fish canner.

(4) "Fish-buying station" means a location other than the licensed premises of a wholesale fish dealer or food fish canner at which such wholesale fish dealer or food fish canner purchases or receives food fish or shellfish from commercial fishermen.

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(5) "Food fish canner" means a wholesale fish dealer who cans food fish including shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(6) "Harvester" means any person legally authorized to take food fish for commercial purposes.

(7) "Import" means to transport into Oregon from outside the State of Oregon.

(8) "Land" or "landing" means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.

(9) "Landing fees" means all fees due to the Department based on the pounds of fish or value of fish landed.

(10) "Limited fish seller" means any person who holds a valid Oregon commercial fishing license and who has obtained an annual limited fish seller permit which enables him/her to sell any species of food fish, taken in lawful activity directly from his/her boat, pursuant to ORS 508.550.

(11) "Limited fish seller — nontreaty Columbia River Gillnet Salmon Vessel Permit fishery" means a person who holds a valid Oregon commercial fishing license, a Columbia River Gillnet Salmon Vessel Permit, and who has obtained an annual limited fish seller permit which enables him/her to sell any species of food fish, taken in lawful activity directly from his/her boat or at locations away from the boat.

(12) "Nonreporting fish dealer" means a wholesale fish dealer or fish bait dealer who buys food fish exclusively from other wholesale fish dealers or bait dealers.

(13) "Overage" means any landing or portion of a landing that exceeds groundfish trip limits. Groundfish trip limits are approved by Pacific Fisheries Management Council and implemented by the National Marine Fisheries Service.

(14) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.

(15) "Processing" means smoking, reducing, loining, steaking, pickling, filleting, or fresh packaging requiring freezing of food fish, or any part thereof. (Does not include cooking crab.)

(16) "Processor" means a person who buys fresh food fish from a licensed commercial fisher or a wholesale fish dealer and processes food fish for sale through retail outlets or for sale to the ultimate consumer.

(17) "Purchase" means to obtain by paying money or its equivalent, trade, or barter.

(18) "Receive" or "Receiving" means to take or come into possession of.

(19) "Retail fish bait dealer" means a person who buys fresh food fish or shellfish from a wholesale fish dealer or wholesale fish bait dealer, and sells to the ultimate consumer for use as bait.

(20) "Retail fish dealer" means a person who buys fresh food fish or shellfish from wholesale fish dealers, undertakes limited processing activity (limited to loining of tuna, filleting, smoking, steaking, or pickling food fish or shellfish), and sells only to the ultimate consumer.

(21) "Retain" means to keep in possession or use.

(22) "Shellfish canner" means a wholesale fish dealer who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(23) "Transport" means, for purposes of OAR 635-006-0165, to move the food fish after landing.

(24) "Ultimate consumer" means the party that utilizes the product as food, including restaurants.

(25) "Value" means the monetary value of the food fish, or parts thereof, including eggs and other by-products, at the point of landing as usually determined by the first exchange between the harvester and the first purchaser. In addition:

(a) Value is typically the amount of money which the first purchaser pays at the time and place that the fish are off-loaded from a vessel, or brought to shore if there is no vessel involved in harvesting, before any reductions or deductions in the amount of money as a result of the dealer furnishing ice, fuel, food or other commodities; and

(b) Value includes bonuses and other payments based directly on the quantity or quality of food fish exchanged, regardless of the time of payment of such bonuses or other payments; and

(c) Value includes any payments based on the proportion or percentage of processed products recovered from the food fish landed in the round or other form; and

(d) Value for food fish not sold by the harvester is the value received for comparable fish sold to a wholesale fish dealer at the same time and place that the fish are landed; and

(e) Value for food fish purchased from a harvester, by the harvester when acting as a wholesale fish dealer, is the price that is or would be paid to any other harvester for the same fish; and

(f) Value for food fish sold by a limited fish seller is the retail price received by the harvester from the first purchaser; and

(g) Value for food fish imported from out of state but not previously taxed out of state is the price paid for the fish by the first Oregon purchaser.

(26) "Wholesale fish bait dealer" means a person who buys food fish or shellfish, or parts thereof, from a licensed commercial fisherman, licensed commercial bait fisherman, or licensed angler, and sells or uses such food fish or shellfish for bait, scientific or educational purposes, or live public display.

(27) "Wholesale fish dealer" means a person who:

(a) Buys food fish or shellfish from a commercial fisherman; or

(b) Processes food fish or shellfish or any part thereof; or

(c) Sells food fish or shellfish to retail dealers or other wholesale fish dealers.

Stat. Auth.: ORS 506.119 & ORS 513.020

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

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0132

### Limited Fish Sellers Permit

(1) The permit referred to in ORS 508.550 shall be available to commercial fishermen who hold a valid commercial fishing license, including albacore tuna landing license, and who sell the catch off his/her own vessel, or a vessel operated by him/her.

(2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel which were not taken by that vessel.

(3) Prior to selling food fish from their vessel, the holder of a Limited Fish Seller Permit must notify the Oregon Department of Fish and Wildlife of the estimated number of food fish on board the vessel and the location where sales are to take place. Completion of a fish ticket prior to selling with the estimated number of fish on board and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur constitutes the required notice. Change in location of sales from that reported in the Limited Fish Seller Permit application must be reported to Oregon Department of Fish and Wildlife in Portland at (503) 872-5252, extension 5417.

(4) Dressed fish must have an established dressed to round weight conversion factor.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing on his/her boat (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer. Dressed fish must have an established dressed to round weight conversion factor.

Stat. Auth.: ORS 506.119 & ORS 513.020

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

Hist.: FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 84-1999, f. & cert. ef. 11-1-99; DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0133

### Limited Fish Seller Permit-nontreaty Columbia River Gillnet Salmon Vessel Permit Fishery Pilot Program

(1) The permit referred to in ORS 508.550 and as authorized by HB 3094 (2003) shall be available to commercial fishermen who hold a valid commercial fishing license and a Columbia River Gillnet Salmon Vessel Permit (Columbia River Gillnet Permit) and who sell the catch off his/her own vessel, or a vessel operated by him/her or at locations away from the vessel.

(2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel or at locations away from the vessel which were not taken by the licensed vessel.

(3) Prior to selling food fish away from their vessel, the holder of a Limited Fish Seller Permit and a Columbia River Gillnet Permit must complete and forward a fish receiving ticket at the time of landing in accordance with OAR 635-006-0210 and 635-006-0212 and must notify the Oregon Department of Fish and Wildlife of the location where sales are to take place. Compliance with these rules prior to selling and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur and port of landing constitutes the required notice. Change in location of sales from that reported on the Limited Fish Seller Permit application must be reported to Oregon Department of Fish and Wildlife in Portland at (503) 872-5252, extension 5417.

# ADMINISTRATIVE RULES

(4) The permittee may designate other persons to sell fish at locations away from the vessel that were taken by the licensed vessel. The designees must carry a copy of the permit during sales. A copy of the fish receiving ticket or a signed statement pursuant to ORS 509.110 must accompany the permittee and designees while transporting and selling fish. The permittee will also designate on the fish ticket or sworn statement the location the fish are to be sold.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer.

(6) Activities conducted pursuant to this permit must be in accordance with the state Department of Agriculture licensing and food safety regulations.

(7) This authority expires January 2, 2008.

Stat. Auth.: ORS 506.119, ORS 513.020

Stats. Implemented: ORS 506.129, ORS 508.025, ORS 508.040, ORS 508.550, HB3094 (2003)

Hist.: DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0210

### Fish Receiving Ticket — All Fish

(1) Except as provided in OAR 635-006-0211, for each purchase of food fish or shellfish by a licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner from a commercial fisherman or commercial bait fisherman, the dealer or canner shall prepare a Fish Receiving Ticket at time of landing. Fish receiving tickets are prenumbered in books of 50 tickets. Fish dealers shall be required to account for all fish receiving tickets received from the Department. Fish receiving tickets shall be issued in numerical sequence. The fish receiving ticket shall include the following:

(a) Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;

(b) Date of landing;

(c) Fisherman's name from whom purchase is made. If not landed from a vessel, then fisherman's commercial license number shall be added. If received from a Columbia River treaty Indian, his/her tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;

(d) Boat name, boat license number, and federal document or State Marine Board number from which catch made;

(e) Fishing gear used by the fisherman;

(f) For salmon, zone or area of primary catch;

(g) Species of food fish or shellfish received;

(h) Pounds of each species received;

(A) Pounds may be determined using any one of the following methods:

(i) Actual round weights based on certified scale measurements;

(ii) Actual round weights measured using a hopper scale;

(iii) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

(i) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;

(j) Price paid per pound for each species received;

(k) Signature of the individual preparing the fish receiving ticket;

(l) Signature of the fisherman making the landing;

(m) Species name, pounds and value of fish retained by fisherman for personal use.

(2) Except as provided in OAR 635-006-0212 and 0213, the original of each fish receiving ticket covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Department of Fish and Wildlife, Post Office Box 59, Portland, Oregon 97207.

(3) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one fish ticket and to deviate from the time in which tickets are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.119, 506.129, 508.530 & 508.535

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

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0135, Renumbered from 635-036-0580; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-91; FWC 53-1992, f. 7-17-92,

cert. ef. 7-20-92; FWC 16-1995(Temp), f. & cert. ef. 2-16-95; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0211

### Fish Receiving Ticket — Net Caught Groundfish

For net-caught groundfish, at time of landing the following information may be recorded on a separate document in lieu of a Fish Receiving Ticket provided this original document (dock ticket) is attached to the completed dealer copy of the fish ticket subsequently submitted to ODFW:

(1) Date of landing.

(2) Boat name and federal document or State Marine Board number from which catch was made.

(3) Pounds of fish by species:

(a) Pounds may be determined using any one of the following methods:

(A) Actual round weights based on certified scale measurements;

(B) Actual round weights measured using a hopper scale;

(C) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(b) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

(4) Signature of fisherman delivering the catch.

Stat. Auth.: ORS 506.119, ORS 506.129, ORS 508.530, ORS 508.535

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

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0212

### Fish Receiving Ticket — Salmon

For all salmon, the following requirements apply in addition to those listed in OAR 635-006-0210:

(1) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Department of Fish and Wildlife, P.O. Box 59, Portland, Oregon 97207.

(2) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

Stat. Auth.: ORS 506.119, ORS 506.129, ORS 508.530, ORS 508.535

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

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03

## 635-006-0213

### Fish Receiving Ticket — Limited Fish Seller Permit

(1) For food fish or shellfish sold under a Limited Fish Seller Permit, the Limited Fish Seller shall complete daily entries of fish sold on a fish receiving ticket. Fish receiving tickets are prenumbered in books of 50 tickets. Limited Fish Sellers shall account for all fish receiving tickets received from the Department. Fish receiving tickets shall be issued in numerical sequence. The fish receiving ticket shall include, for each day's sales:

(a) Limited Fish Seller's name and license number;

(b) Date of sales;

(c) Boat name and federal document or State Marine Board number from which catch made;

(d) Fishing gear used;

(e) Species of fish or shellfish sold;

(f) Quantity in pounds;

(g) Price received per pound;

(h) Signature of the individual preparing the fish ticket;

(i) Name of wholesale fish dealer to whom other food fish or shellfish were sold from the same fishing trip.

(j) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

(2) The original of each fish receiving ticket covering fish and shellfish sold per trip shall be forwarded within ten working days following the landing to the Department of Fish and Wildlife, PO Box 59, Portland, Oregon 97207.

Stat. Auth.: ORS 506.119, ORS 506.129, ORS 508.530, ORS 508.535

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

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03

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**Adm. Order No.:** DFW 64-2003

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**Certified to be Effective:** 7-17-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 635-056-0075

# ADMINISTRATIVE RULES

**Subject:** Amend rules to clarify existing grass carp rules and allow exceptions to certain stocking limitations.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-056-0075**

## Controlled Fish Species

(1) Grass carp (*Ctenopharyngodon idella*): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking.

(2)(a) The following restrictions and standards will govern the issuance of grass carp permits:

(A) Stocking will occur only in water bodies which are:

(i) Completely within private land; or

(ii) On land owned or controlled by irrigation districts or drainage districts.

(B) Stocking will occur only in the following types of water bodies:

(i) Lakes, ponds, or reservoirs less than 10 acres; or

(ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling or otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12-19 inches total length and screen openings 2 inches or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

(H) Grass carp imported into Oregon shall be:

(i) Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

(ii) At least 12 inches long;

(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(b) In addition to documentation relating to the restrictions above, each permit application shall include:

(A) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(B) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(C) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(D) Description of emergency procedures for responding to fish escapes from approved sites;

(E) Description of how fish will be removed and disposed of at the end of the proposed project.

(c) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(d) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(e) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(f) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(g) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit holder. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(h) The Commission may grant an exception to OAR 635-056-0075(2)(a)(B) or (2)(a)(F). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(A) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(B) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

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

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

Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03

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**Rules Adopted:** 635-007-0542, 635-007-0543, 635-007-0544,

635-007-0545, 635-007-0547, 635-007-0548

**Rules Amended:** 635-007-0501

**Rules Repealed:** 635-007-0540, 635-007-0541

**Subject:** Adopt rules to implement Fish Hatchery Management Policy.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-007-0501**

**Definitions**

As used in this Division and Division 40:

## ADMINISTRATIVE RULES

- (1) "Anadromous" means fish which migrate from saltwater to freshwater for spawning.
- (2) "Aquaria species" means those fish commonly sold in the pet store trade for use in home aquaria. "Aquaria" are any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.
- (3) "Aquatic habitat" means the waters which support fish or other organisms which live in water and which includes the adjacent land area and vegetation (riparian habitat) that provides shade, food, and/or protection for those organisms.
- (4) "Area" means a stream, a lake, a group of streams or lakes, or a portion of the ocean managed for or with a common stock of fish, or for protection of a stock or stocks of fish.
- (5) "Biological requirements" refers to those environmental conditions such as water quality, water quantity, and available food that are necessary for fish to grow and/or reproduce.
- (6) "Brood stock" means a group of fish, generally from the same population, that are held and eventually artificially spawned to provide a source of fertilized eggs for hatchery programs.
- (7) "Brood year" means the year in which more than fifty percent of the adults in a population of fish spawn.
- (8) "Commission" means the Oregon Fish and Wildlife Commission.
- (9) "Compensation" means activities that replace fish, or their habitat lost through development or other activities.
- (10) "Conservation" means managing for sustainability of native fish so that present and future generations may enjoy their ecological, economic, recreational, and aesthetic benefits.
- (11) "Cooperative Salmon Hatchery Project" means a fish propagation enhancement project authorized under OAR 635-009-0400 through 635-009-0455.
- (12) "Department" means the Oregon Department of Fish and Wildlife.
- (13) "Depressed" means below established goal such as a fish production or escapement goal shown in a management plan or below the level of production or escapement that the Commission determines to be an optimal level.
- (14) "Disease" means problems caused by infectious agents, such as parasites or pests, and by other conditions that impair the performance of the body or one of its parts.
- (15) "Enhancement" means management activities including rehabilitation and supplementation that increase fish production beyond the existing levels.
- (16) "Fish" means all game fish as defined by ORS 496.009 and food fish as defined by ORS 506.036, which live or could live in the waters of this state.
- (17) "Fish Hatchery" means a facility at which adult broodstock are held, or where eggs are collected and incubated, or where eggs are hatched, or where fish are reared.
- (18) "Fry" means fish which have recently hatched and have not fed.
- (19) "Foreign" means fish which originate through human intervention from a different population.
- (20) "Gene conservation group" means a genetically distinct cluster of one or more populations within a taxonomic species that resulted because gene flow between the cluster and other populations of the same species has been zero or very low over sufficient geological time.
- (21) "Genetic engineering" means the introduction of genetic material into an organism's genotype through molecular genetics techniques.
- (22) "Genetic Resources" means the kind and frequency of genes found within a population or collection of populations.
- (23) "Genotype" means the kinds of and the combination of genes possessed by an individual.
- (24) "Goal" means a statement of intent which leads to policy, rules, and operation plans for implementation of a Department Program.
- (25) "Hatchery produced fish" means a fish incubated or reared under artificial conditions for at least a portion of its life.
- (26) "Hatchery production system" means the fish, facilities and operations associated with collecting, spawning, incubating, rearing, distributing and releasing hatchery produced fish.
- (27) "Hatchery Program" means a program in which a specified hatchery population is planted in a specified geographical location.
- (28) "Hold fish" means to capture and/or remove live fish in or from the waters of this state and/or maintain live fish in captivity but does not include fish held live for less than one day for examination and release without transfer from the waters where caught or collected.
- (29) "Indigenous" means descended from a population that is believed to have been present in the same geographical area prior to the year 1800 or that resulted from a natural colonization from another indigenous population.
- (30) "Management Plan" means:
  - (a) A plan adopted by the Fish and Wildlife Commission which provides the basic framework (goals, policies and objectives) for managing a resource, geographic area, watershed (waterbody) or species; and
  - (b) Which may include specific information or alternatives relative to how the goals and policies may be achieved.
- (31) "Marine species" means those fish found in the ocean or the saline or brackish water of estuaries or bays along the coast, but not generally found in freshwater streams.
- (32) "Mitigation" means to lessen the impact of activities or events that cause fish or habitat loss.
- (33) "Native fish" means indigenous to Oregon, not introduced. This includes both naturally produced and hatchery produced fish.
- (34) "Naturally produced" means fish that reproduce and complete their full life cycle in natural habitats.
- (35) "Naturally Spawned" means fish produced in the natural environment as the result of natural reproduction.
- (36) "Natural production system" means the fish and environment associated with completing the life-cycles of naturally produced fish populations.
- (37) "Nongame Fish" means any fish other than those specifically defined as game fish in ORS 496.009.
- (38) "Objective" means a specific statement of planned results to be achieved by a predetermined date. Attainment of objectives represents measurable progress toward attainment of the broader goal.
- (39) "Operating Principle" means a mandatory direction or approach to carrying out a Department program.
- (40) "Operation plan" means an action plan developed by the Department that generally addresses how the objectives in a management plan for harvest or production of a species shall be attained.
- (41) "Optimum" means the desired fish production level as stated in management plans or set by specific Commission action.
- (42) "Phenotype" means any characteristic of an organism that is determined by the organism's genes, genotype and the environment.
- (43) "Policy" means mandatory direction or constraints that provide the framework for Department programs.
- (44) "Population" means a group of fish originating and reproducing in a particular area at a particular time which do not interbreed to any substantial degree with any other group reproducing in a different area or in the same area at a different time.
- (45) "Population fragmentation" means the process by which natural or human-caused events cause a single, large breeding population to be broken up into two or more smaller new breeding populations.
- (46) "Presmolt" means a juvenile anadromous fish which has fed and reared but is not yet a smolt.
- (47) "Production" means the number or pounds of fish raised in a hatchery or resulting from natural spawning and rearing in freshwater, estuarine, or ocean habitats; also used in reference to harvest.
- (48) "Propagation of fish" means the spawning, incubating, and/or rearing of fish by a human for sale, release or other uses.
- (49) "Random mortality" means fish mortality that generally does not affect the genotypic or phenotypic traits of fish populations.
- (50) "Rehabilitation" means short-term management actions which may include fish stocking, habitat improvement, harvest management, or other work, that restore fish populations depressed by natural or man-made events.
- (51) "Rehabilitation fish" means a fish from a hatchery program that has wild-type phenotypes and is used for one life cycle in a program to rebuild a depressed population of wild fish.
- (52) "Risk" means the extent to which, a management practice may reduce population productivity or cause an undesirable change in genetic characteristics of a population.
- (53) "Sensitive" means those fishes that have been designated for special consideration pursuant to OAR 635-100-0040.
- (54) "Selective mortality" means fish mortality that generally affects the genotypic and phenotypic traits of fish populations.
- (55) "Serious depletion" means a significant likelihood that the species management unit will become threatened or endangered under either the state or federal Endangered Species Act.



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(56) "Significant or substantial" means a condition of sufficient magnitude such that it is likely to influence continued natural production at optimum levels.

(57) "Smolt" means a juvenile salmon or trout that is capable of initiating a seaward migration and is capable of living in the sea.

(58) "Species" means any group or population that interbreeds and is substantially reproductively isolated.

(59) "Species hybridization" means the crossing of two different taxonomic species.

(60) "Species management unit" means a collection of populations from a common geographic region that share similar genetic and ecological characteristics.

(61) "STEP" means Salmon Trout Enhancement Program.

(62) "Stock" means an aggregation for management purposes of fish populations which typically share common characteristics such as life histories, migration patterns, or habitats.

(63) "Stray" means a hatchery fish that spawns naturally in a location different from the location intended when the fish was stocked.

(64) "Supplementation" means continued planting of fish to maintain or increase fish abundance in areas where natural production is insufficient to meet management objectives.

(65) "Sustainable" means persistence over time, that is to say the ability of a population or a species management unit to maintain temporal, spatial, genetic, and ecological coherence while withstanding demographic, environmental, and genetic variation and catastrophic events from natural and human induced causes.

(66) "Taxonomic species" means a group of fish that have been assigned a scientific name in the form of genus and species by the American Fisheries Society Committee on Common and Scientific Names of Fishes.

(67) "Transgenic fish" means fish that have genes or groups of genes that have been transferred from another organism through the process of genetic engineering.

(68) "Wild fish" means any naturally spawned fish in the taxonomic classes, Agnatha, Chondrichthyes, and Osteichthyes, belonging to an indigenous population.

(69) "Wild Fish Management" means all of the constraints, operating principles, and direction embodied in both the Natural Production Rules and the Wild Fish Management Rules.

(70) "Wild-type phenotype" means the kind of phenotype possessed by individuals in a wild population.

Stat. Auth.: ORS 496.012, ORS 496.138  
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455  
Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 6-1990, f. & cert. ef. 1-29-90; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; FWC 37-1992, f. 5-29-92, cert. ef. 6-1-92; FWC 15-1997, f. & cert. ef. 3-10-97; DFW 131-2002, f. & cert. ef. 11-22-02; DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0542

### Purpose of the Hatchery Management Policy

(1) The purpose of the Hatchery Management Policy is to describe the hatchery tool and its range of applications. The Hatchery Management Policy also provides general fish culture and facility guidelines and measures to maintain genetic resources of native fish populations spawned or reared in captivity. This policy applies to all Department hatchery operations and programs including Salmon and Trout Enhancement Program (STEP) fish propagation projects (OAR 635-009-0090 through 635-009-0240) and Cooperative Salmon Hatchery Programs (OAR 635-009-0400 through 635-009-0455).

(2) This policy describes best management practices that are intended to help ensure the conservation of both naturally produced native fish and hatchery produced fish in Oregon through the responsible use of hatcheries. The conservation of hatchery produced fish is important to maintain opportunities for fisheries and aid conservation of naturally produced native fish.

(3) The Hatchery Management Policy complements and supports the Native Fish Conservation Policy OAR 635-007-0502 through 635-007-0506 and will be implemented through conservation plans developed for individual species management units, hatchery program management plans, or other formal agreements with management partners. The Hatchery Management Policy provides a foundation for the management and reform of hatcheries in Oregon, whereas the Native Fish Conservation Policy establishes the process for defining the specific use of the hatchery tool in specific watersheds.

Stat. Auth.: ORS 496.012, ORS 496.138  
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455  
Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0543

### Hatchery Management Policy Goals

(1) Foster and sustain opportunities for sport, commercial and tribal fishers consistent with the conservation of naturally produced native fish.

(2) Contribute toward the sustainability of naturally produced native fish populations through the responsible use of hatcheries and hatchery-produced fish.

(3) Maintain genetic resources of native fish populations spawned or reared in captivity.

(4) Minimize adverse ecological impacts to watersheds caused by hatchery facilities and operations.

Stat. Auth.: ORS 496.012, ORS 496.138  
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455  
Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0544

### Operating Principles for Hatchery Management

(1) Hatchery management and reform will generally proceed from the following hatchery premise: The ideal hatchery removes as many random mortality effects as possible without having any other influence on the natural life or experience of native fish and their habitats. The hatchery premise has five main components that managers shall strive to incorporate into hatchery programs:

(a) Removing random mortality occurring in the natural environment;  
(b) Simulating selective mortality operating in the natural environment;

(c) Minimizing artificial selection;  
(d) Providing fish rearing and training experiences to reduce unnatural behaviors; and

(e) Minimizing ecological impacts associated with hatchery operations (e.g., competition and predation associated with release location and number, pathogen transfer and amplification, pollutants, passage barriers, overharvest of weak stocks in mixed stock fisheries).

(2) Success moving toward the premise in subsection (1) will be largely dependent on funding, research, program type, and facility or operating flexibility.

(3) Hatchery program management plans shall be developed and implemented in consultation and cooperation with management partners and the public, and in coordination with native fish conservation policy plans at local and regional scales.

(4) Hatchery programs shall be managed to provide optimum fishery and conservation benefits, based on the best available scientific information. Most programs will contribute toward fish management objectives primarily by raising fish for harvest while minimizing the impact on, or benefiting, fish that spawn naturally.

(5) Hatchery facilities shall be operated to maximize fish quality and minimize adverse impacts to watersheds, consistent with fish management objectives, applicable permits and agreements.

(6) Monitoring and evaluation shall be adequate to measure progress toward fish management and hatchery program objectives, contain risks within acceptable limits, and provide feedback for adaptive management.

Stat. Auth.: ORS 496.012, ORS 496.138  
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455  
Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0545

### Hatchery Program Management Plans

(1) The Department shall develop hatchery program management plans for all hatchery programs. Clear management objectives that describe the role and expectations for hatchery programs relative to species conservation, watershed health and fisheries shall be the foundation for all hatchery program management plans. A hatchery program management plan may be a Hatchery and Genetic Management Plan, a Lower Snake River Compensation Plan annual operating plan, an aspect of a conservation plan developed under the Native Fish Conservation Policy (OAR 635-007-0502 through -0506) or similar document which describes the program's objectives, fish culture operations, facilities operations, and monitoring and evaluation, as more fully detailed in subsections (2) through (24) of this rule.

#### Planning and Coordination of Hatchery Programs

(2) When developing hatchery program management plans, the Department shall use the most up to date and reliable scientific information and seek the input and involvement of appropriate tribal, state and federal management partners, university programs and the public.

(3) The Native Fish Conservation Policy (OAR 635-007-0502 through -0506) provides the primary process for planning and coordinating hatchery programs, but these programs shall also be coordinated with obli-

## ADMINISTRATIVE RULES

gations arising in other forums (e.g., U.S. v. Oregon, Lower Snake River Compensation Plan, Pacific Salmon Treaty) to avoid inconsistency and duplication.

(4) Coordination objectives include:

(a) Efficient use of resources (including sharing of facilities, staff, equipment and supplies);

(b) Improved communication among managing entities to share information and experience, jointly resolve issues, and promote common objectives pursued at local and regional scales.

(5) Hatchery program management plans shall be submitted to and approved (or modified) by the Fish Division. The Fish Division may waive the requirement to include specific elements of a hatchery program management plan upon a determination that the requirement would provide no appreciable benefit to hatchery management or native fish conservation.

(6) The Department shall continue to operate a hatchery program according to existing statutes, administrative rules, Commission directives, and binding agreements until that program's plan is approved.

### Hatchery Program Objectives and Types

(7) Hatchery program objectives and types shall be based on fish management objectives established via conservation plans (OAR 635-007-0505) or other binding agreements. Until conservation plans or other agreements are in place, hatchery program objectives and types will be based on existing statutes, rules, Commission directives and current management direction.

(8) Hatchery program management plans shall include measurable criteria relating to the following general objectives:

(a) Conservation and/or fishery benefits;

(b) A net survival advantage (egg to adult) over naturally produced fish;

(c) Minimal adverse interactions (e.g., competition, predation, genetic introgression, and disease amplification) of hatchery programs with naturally produced native fish populations;

(d) Minimal adverse effects (e.g., water quality and quantity, solid and chemical wastes and fish passage) of hatchery facility operations on watershed health and native fish populations; and

(e) Sustainability of hatchery programs over time.

(9) Department hatchery programs will generally be distinguished as harvest or conservation hatchery programs. A single hatchery may have both harvest and conservation hatchery programs. If harvest and conservation programs are not distinguished, the Department shall clarify harvest and conservation objectives and their relative priorities.

(10) Harvest hatchery programs operate to enhance or maintain fisheries without impairing naturally reproducing populations. Operations shall integrate hatchery and natural production systems (e.g., locally-derived hatchery broodstocks, rearing containers simulating natural characteristics) if necessary for conservation, within funding and facility constraints and consistent with fishery management objectives. Harvest hatchery programs shall also separate (e.g., temporally, spatially, visually) hatchery produced and naturally produced native fish in fisheries and on spawning grounds as necessary for conservation. The hatchery program management plan may be designated as one of the following harvest hatchery program types:

(a) Harvest augmentation, which is used to increase fishing and harvest opportunities where there is no mitigation program in place;

(b) Mitigation, which is used pursuant to an agreement to provide fishing and harvest opportunities lost as a result of habitat deterioration, destruction or migration blockage.

(11) Conservation hatchery programs operate to maintain or increase the number of naturally produced native fish without reducing the productivity (e.g., survival) of naturally produced fish populations. Conservation hatchery programs shall integrate hatchery and natural production systems to provide a survival advantage with minimal impact on genetic, behavioral and ecological characteristics of targeted populations. Implementation shall proceed with caution and include monitoring and evaluation to gauge success in meeting goals and control risks. Long-term conservation success shall be tied to remediating causes of the decline that resulted in the need for hatchery intervention. Once goals are met then the hatchery program will be discontinued. The hatchery program management plan may be designated as one of the following conservation hatchery program types:

(a) Supplementation, which routes a portion of an imperiled wild population through a hatchery for part of its life cycle to gain a temporary survival boost, or brings in suitable hatchery produced fish or naturally produced native fish from outside the target river basin to supplement the imperiled local population;

(b) Restoration, which outplants suitable non-local hatchery produced or naturally produced native fish to establish a population in habitat currently vacant for that native species using the best available broodstock;

(c) Captive brood, which takes a portion or all of an imperiled wild population into a protective hatchery environment for the entire life cycle to maximize survival and the number of progeny produced;

(d) Captive rearing, which takes a portion of an imperiled wild population into a protective hatchery environment for only that part of its life cycle that cannot be sustained in the wild;

(e) Egg banking, which temporarily removes a naturally produced native fish population from habitats that cannot sustain it and relocates the population to another natural or artificial area that can support the population;

(f) Cryopreservation, which freezes sperm from naturally produced native fish for later use in conservation hatchery programs;

(g) Experimental, which investigates and resolves uncertainties relating to the responsible use of hatcheries as a management tool for fish conservation and use.

### Fish Culture Operations

(12) Fish culture operations shall comply with fish health requirements of OAR 635-007-0549.

(13) Broodstock selection and collection. Hatchery program management plans shall identify the broodstock best able to meet the objectives of the type of program in which the broodstock will be used.

(a) For harvest hatchery programs, broodstock shall be used that best meet fishery objectives, consistent with conservation objectives to ensure risk to naturally produced native fish and their watersheds is within acceptable and clearly defined limits.

(A) For some harvest hatchery programs, fishery and conservation objectives will be best met using existing hatchery broodstocks and managing for minimal spatial or temporal overlap of hatchery produced and naturally produced native fish in spawning areas.

(B) For other harvest hatchery programs, fishery and conservation objectives will be best met using broodstocks derived from, or transitioning to, naturally produced native fish from the local watershed. This approach shall not be used if available data indicates the donor wild population will be impaired, or if conservation objectives are better met with existing hatchery broodstocks, or if hatchery programs are located in areas with too few naturally produced native fish to supply the hatchery broodstock;

(b) For conservation hatchery programs, broodstock shall be derived from the wild population targeted for hatchery intervention, or from nearby wild or hatchery populations with desired characteristics if the targeted wild population is extirpated or too depressed to provide brood fish;

(c) Broodstock maintenance shall be consistent with the fishery and conservation objectives established for the hatchery program.

(A) Hatchery program management plans shall identify effective population size targets and other strategies to reduce risk of inbreeding depression, genetic drift and domestication for broodstocks developed under subsection (a)(A).

(B) Hatchery program management plans shall identify target and allowable proportions of hatchery produced and naturally produced native fish incorporated into broodstocks developed under subsections (a)(B) and (b), consistent with conservation plan objectives.

(d) Broodstock collected shall represent the genetic variability of the donor stock by taking an unbiased representative sample with respect to run timing, size, gender, age and other traits important for long-term fitness of the population. The Fish Division may approve a deviation from this subsection if necessary to shift run timing and other characteristics of long-term hatchery broodstocks to better coincide with characteristics of wild populations in the watershed or to meet fish management goals. Hatchery program management plans shall explain the reason for any deviations;

(e) Facilities and methods used to collect broodstock shall minimize stress and maximize survival of fish to spawning, consistent with management objectives.

(14) Disposition of adult hatchery produced fish returning to hatchery facilities. Adult hatchery produced fish returning to collection facilities shall be used to meet program objectives and, if available, provide other ecological, societal and program benefits, consistent with objectives for watershed health and native fish conservation.

(a) Hatchery programs will be managed to meet, but not exceed, program objectives for returning adult fish. Environmental variation and other factors outside of management control may result in significantly less or more fish than planned.

(b) Adult hatchery produced fish returning to hatchery facilities shall be allocated among the categories of uses described in order of preference in subsections (c) and (d). The Department need not satisfy all potential uses within a category before providing fish to uses in lower categories. The Fish Division may approve additional uses or deviations from the stat-

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ed order of preference to satisfy agreements with management partners, respond to unique situations or respond to unforeseen circumstances.

(c) Order of preference for disposition of adult hatchery produced fish returning to or collected at harvest hatchery program facilities:

- (A) Meet broodstock needs for the program;
- (B) Release live, spawned fish back into the wild if specified in management plans for species able to spawn more than once;
- (C) Provide fish for tribal ceremonial and subsistence use;
- (D) Provide additional fishing opportunities consistent with management plans (e.g., Fishery Management and Evaluation Plans);
- (E) Allow hatchery produced fish to spawn naturally at locations and in numbers identified in existing fish management plans or conservation plans developed through the process outlined in the Native Fish Conservation Policy (OAR 635-007-0505);

(F) Place carcasses in natural spawning and rearing areas to enhance nutrient recycling, consistent with Department of Environmental Quality requirements, management plans and pathology constraints identified in OAR 635-007-0549;

(G) Provide for experimental, scientific or educational uses identified in conservation plans, management plans or other Department agreements;

(H) Sell eggs and carcasses from selected facilities to provide revenues to support hatchery programs and facilities;

(I) Provide fish to charitable food share programs benefiting needy Oregonians;

(J) Provide fish for animal feed to animal rehabilitation shelters, zoos, or other such operations;

(K) Dispose of fish in a landfill or at a rendering plant.

(d) Order of preference for disposition of adult hatchery produced fish returning to or collected at conservation hatchery program facilities:

(A) Meet natural spawning objectives of the specific hatchery program as identified in conservation plans;

(B) Meet hatchery broodstock needs for the specified conservation hatchery program management plan;

(C) Release live, spawned fish back into the wild if specified in conservation plans for species able to spawn more than once;

(D) Place carcasses in natural spawning and rearing areas to enhance nutrient recycling, consistent with Department of Environmental Quality requirements, management plans and pathology constraints identified in OAR 635-007-0549;

(E) Provide fish for tribal ceremonial and subsistence use;

(F) Provide additional fishing opportunities consistent with fishery management plans (e.g., Fishery Management and Evaluation Plans).

(G) Provide for experimental, scientific or educational uses identified in conservation plans, management plans or other Department agreements;

(H) Sell eggs and carcasses to provide revenues to support hatchery programs and facilities;

(I) Provide fish to charitable food share programs benefiting needy Oregonians;

(J) Provide fish for animal feed to animal rehabilitation shelters, zoos, or other such operations;

(K) Dispose of fish in a landfill or at a rendering plant.

(e) Department staff shall use standard, professionally accepted practices (such as sharp blow to head, electrical current or anesthetic overdose) to kill fish at hatchery facilities.

(15) Spawning protocols.

(a) Hatchery program management plans shall include a description of the abundance, size, age structure, gender ratios, fecundity, fertility, and spawning pairings of the broodstock.

(b) A 1:1 male-to-female spawning ratio (single pair mating, unpooled gametes) is preferred, although for harvest hatchery programs with large spawning populations (greater than 300 females) a 1:3 spawning ratio is acceptable.

(c) For critically small populations, a matrix spawning strategy shall be used to enhance effective population size and reduce variability of survival among family units.

(d) Conservation hatchery programs may use natural spawning within natural or engineered spawning channels in an attempt to mimic natural mate selection, gender ratio, age structure, spawn timing and preferred spawning area characteristics of wild populations.

(16) Incubation protocols.

(a) Incubation methods shall be selected to best meet program objectives, consistent with facility and funding constraints. These methods may include single bucket incubation (for isolation of a single female's eggs), multiple vertical incubators, in-stream hatchboxes, or other methods suited to the available facilities. The Integrated Hatcheries Operations Team

Policies and Procedures (IHOT 1995) provide acceptable, but not exclusive, guidance on water flows and egg-to-fry capacities for incubation systems. The hatchery program management plan shall include a description of and explanation for the incubation system identified in the plan.

(b) The Department shall continue providing eggs for educational classroom incubators and in-stream incubators (e.g., hatch boxes) for selected stocks in selected watersheds associated with the Salmon and Trout Enhancement Program (STEP). All STEP incubator programs shall be consistent with existing management plans or new conservation plans and hatchery program management plans.

(17) Rearing protocols.

(a) Hatchery program management plans shall describe rearing facilities and methods selected for the program and specific rearing standards used to gauge success meeting program objectives.

(b) Rearing capacity of hatchery programs shall be based on the number of fish that can be produced without adversely affecting fish growth and survivability necessary to meet program objectives.

(c) Water replacement time and velocity shall be managed to provide adequate levels of dissolved oxygen and the reduction of metabolic waste products that are harmful to fish.

(d) Experimental rearing techniques may be investigated at some hatcheries, particularly for conservation hatchery programs, to simulate natural rearing characteristics and fish behavior traits while ensuring adequate fish health, survival and production numbers to meet program objectives.

(e) Fish food and feeding shall be managed to meet production objectives (e.g., fish number, size, growth rate, health and condition), minimize waste and maintain water quality.

(f) The Department shall purchase the best fish feed products available for the best price while considering service delivery, maintenance of competition and innovation among fish feed vendors, and state preferences for recycled products. Qualifying feed manufacturers must monitor the accumulation of toxins in the fish feed they provide, and comply with standards specified by the Department.

(g) The Department shall have standardized procedures for conducting feed trials comparing feed types and coordinate results among fish hatchery managers and STEP facility managers. The Department shall maintain a centralized database of fish feed purchases and fish feed trial results.

(h) Hatchery programs may include an experimental feeding regime designed to simulate natural diets and feeding behavior (such as sub-surface feeding techniques) to align growth, physiology and maturity with natural schedules.

(18) Fish marking.

(a) Hatchery produced fish shall be marked as required to facilitate mixed stock fisheries, research, distinction of hatchery produced and naturally produced native fish throughout their life cycle as necessary for conservation, and evaluation of program objectives.

(b) The Department shall use precise fish marking methods consistent with industry standards and management needs. Mark quality (e.g., fin excision, tag placement, tag retention) shall be monitored during the marking process and prior to fish releases.

(19) Fish transfers and releases.

(a) Hatchery program management plans shall specify targets for the number, size, quality, timing, location and release strategy of fish released, based on fish management objectives established for that program (e.g., native fish conservation plans, brood source objectives, production agreements, harvest management plans, mitigation agreements).

(b) Hatchery program management plans shall include protocols to minimize stress and direct or delayed mortality associated with collecting, handling, loading, transporting and releasing fish.

(c) The Fish Division may approve emergency contingency release plans in the event of unforeseen catastrophic events at a facility.

(d) Transfer and release of any life stage of fish shall meet fish health requirements of OAR 635-007-0549.

(20) Predator control at hatchery facilities.

(a) Hatchery operations shall include strategies to reduce excessive loss of fish to predation and limit opportunities for predators to introduce pathogens to the rearing environment, within funding, facility and permit constraints.

(b) Some hatchery programs, particularly conservation hatchery programs, may experiment with using natural predators to help avoid domestication, reduce deleterious traits and train hatchery produced fish to improve post-release survival and reduce behavioral differences between hatchery produced and naturally produced native fish.

**Hatchery Facilities Operations:**

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(21) Hatchery facility operations shall comply with fish health requirements of OAR 635-007-0549.

(22) Hatchery program management plans shall describe hatchery facilities and operations to optimize fish culture operations, comply with fish health requirements described in OAR 635-007-0549, and comply with legal obligations concerning water rights, water use reporting, chemical use and reporting, fish passage and water quality standards.

(23) Reliable hatchery alarm and security systems shall be required as necessary to minimize risk of egg and fish mortalities caused by loss of water supplies or risk of vandalism and poaching. All hatchery incubation systems, rearing containers and adult fish facilities at Department hatcheries shall have alarm systems. Fish Division may grant exceptions for STEP hatch-box facilities or other temporary or remote facilities.

(24) Hatchery water intakes and outfalls shall be screened to minimize the risk of unintended fish entering or escaping from the facility. Outfalls of fish rearing containers shall be double screened if used for fish from outside the basin that could jeopardize endemic stocks if escapes occurred.

(25) The Department shall identify hatchery facility maintenance, modifications and upgrades necessary to comply with program objectives and other legal requirements.

(26) Hatcheries shall provide informational signs and literature, guided tours as allowed by staffing constraints, and other programs to educate the public about fish and wildlife stewardship.

(27) Additional provisions specific to hatchery trout programs.

(a) The Department shall continue hatchery production of nonanadromous rainbow trout for consumptive recreational fisheries as an important and popular fish management tool.

(b) The Department shall reduce potential impacts to wild trout, char and steelhead in streams and maximize returns to the creel such as by rearing and releasing trout for target fisheries in standing water bodies (i.e., lakes, ponds, and reservoirs) and marking trout for targeted fisheries.

(c) All trout the Department purchases for harvest augmentation from private sources must be genetically triploid, sterile rainbow trout.

#### Monitoring and Evaluation

(28) The purpose of hatchery monitoring and evaluation programs shall be to gauge success meeting hatchery program and fish management objectives, improve understanding of the reasons for success or failure, contain risks within acceptable limits, and provide feedback to modify operations through time (adaptive management). Clear management objectives that describe the role and expectations for hatcheries relative to species conservation, watershed health and fisheries shall be the foundation for all hatchery monitoring and evaluation programs.

(29) Each hatchery program need not have its own individual monitoring and evaluation program if monitoring and evaluation on a landscape perspective provides adequate information to manage potential risks. The greater the uncertainty of the risks or results of a hatchery program, the greater the specificity of the monitoring and evaluation program must be. Each hatchery program management plan shall describe how the plan's operations and objectives will be monitored and evaluated.

(30) Monitoring and evaluation programs shall use generally accepted scientific procedures and gather multi-generational information to evaluate hatchery programs relative to measurable criteria developed through OAR 635-007-0545.

(31) Monitoring hatchery produced fish and their performance may include, but is not limited to:

(a) Broodstock selection including but not limited to source, number, size, fecundity, life history, timing as percent of entire run, disease history, and disease treatment;

(b) Pre-release performance (e.g., survival, growth, disease) by life stage;

(c) Post-release survival to the adult life stage, catch distribution, fishery contributions, straying, and characteristics of adult fish (e.g., age structure, gender ratio, size, health).

(d) Production advantage provided by the hatchery relative to natural production;

(e) Water quality, flow and other physical conditions in the hatchery through the production cycle;

(f) Impacts of operation of the hatchery facilities on the adjacent habitats;

(g) Success of the hatchery program in meeting harvest and/or conservation program objectives.

(h) Cost-benefit analysis of hatchery performance.

(32) Monitoring and evaluation to assess impacts of the hatchery program on naturally produced native fish may include, but is not limited to:

(a) Impacts of broodstock selection on wild populations;

(b) Ecological interactions of hatchery produced and naturally produced native fish resulting in changes to phenotypic, genotypic, behavioral and survival characteristics;

(c) Timing, location and relative number of hatchery produced fish spawning naturally;

(d) Success of maintaining long-term fitness of wild populations;

(e) Reproductive success and fitness of hatchery produced fish in the natural environment; and

(f) Success maintaining or enhancing natural genetic variation and life history characteristics within and among wild populations.

(33) Results and evaluation of hatchery monitoring programs shall be compiled at intervals adequate to track success, contain risks and provide feedback for adaptive management. Monitoring results shall be made available to management partners and the public.

(34) Hatchery monitoring and evaluation programs shall complement and coordinate with specific research addressing key uncertainties about hatchery operations, uses and consequences. Research priorities shall focus on developing hatchery strategies that minimize the risk or maximize the benefit of hatchery actions to naturally produced native fish populations.

Stat. Auth.: ORS 496.012, ORS496.138

Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455

Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0547

### Fish Hatchery Record Keeping

(1) Hatchery managers shall provide the following records for their operations:

(a) All Adult Transaction (AAT) records for all adults handled at the facility.

(b) Hatchery Mark Recovery Sampling forms to record adult fish sampled for coded-wire tags;

(c) Egg and Fry Records (EFR) for all eggs and fry handled at each facility;

(d) Monthly Poned Fish Reports (MPR) for all fish being reared at each facility;

(e) Fish Loss Report/Investigation when 1,000 or more juvenile fish or 10 or more adult fish are accidentally lost in a single incident;

(f) Predator Mortality Report to document any fish predators that may die at the hatchery facility;

(g) Fish Liberation Reports (FLR) for all juvenile fish released or transported into or out of all Department fish hatchery facilities;

(h) Coded-Wire Tag Release Reports for all juvenile fish released with coded-wire tags;

(i) Chemical use, waste discharge monitoring, purchasing, budgets, hazardous materials, safety, vehicles, equipment, maintenance and alarm logs.

(2) Hatchery records will be stored in retrievable databases.

(3) The Fish Division may add to or waive the requirements of subsection (1) as necessary to avoid paperwork yet assure proper documentation of hatchery programs.

(4) Fish health documentation shall be maintained by the fish health section.

(5) Each hatchery manager will write a monthly report describing program-specific hatchery activities, either in the form of a hatchery monthly progress report or in the district monthly report for STEP activities.

(6) The Department will produce annual reports, from the data collected with the above records and reports, summarizing all the information regarding adult fish transactions, fish eggs transactions and fish releases.

(7) The Department shall make hatchery operating costs information available on a fiscal year or biennium basis.

Stat. Auth.: ORS 496.012, ORS496.138

Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455

Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

## 635-007-0548

### Training of Fish Hatchery Personnel

(1) Fish Division, regional managers, or hatchery managers shall develop training programs for staff to assure awareness of and compliance with hatchery program management plans, to keep staff abreast of new scientific and technological developments and to encourage and support staff career development.

(2) Each hatchery shall establish a training schedule for its staff and maintain training records.

Stat. Auth.: ORS 496.012, ORS496.138

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455  
Hist.: DFW 65-2003, f. & cert. ef. 7-17-03

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**Adm. Order No.:** DFW 66-2003(Temp)

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 8-1-03 thru 10-31-03

**Notice Publication Date:**

**Rules Amended:** 635-018-0090

**Subject:** Amend rules to allow the harvest of fall chinook in the Deschutes River.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-018-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Central Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Deschutes River from the mouth at the I-84 bridge upstream to Sherars Falls is open to angling for trout, steelhead, and adipose fin-clipped chinook salmon from April 15, 2003 to July 31, 2003.

(a) Catch limits and restrictions applying to trout and steelhead remain unchanged from those listed in the 2003 Oregon Sport Fishing Regulations for Area 1 of the Deschutes River or as amended by other temporary or permanent administrative rule(s);

(b) The bag limit is two adult adipose fin-clipped salmon per day, and five adipose fin-clipped jack salmon per day. All nonadipose fin-clipped chinook salmon must be released unharmed;

(c) It is *unlawful* to angle for steelhead or trout between Sherars Falls and the upper railroad trestle (three miles) after taking a daily bag limit of adult chinook salmon.

(3) The Deschutes River from the mouth at the I-84 bridge upstream to Sherars Falls is open to angling for chinook salmon from August 1, 2003 to October 31, 2003.

(a) The bag limit is two adult chinook salmon per day, and five jack salmon per day;

(b) Catch limits and restrictions applying to trout and steelhead remain unchanged from those listed in the 2003 Oregon Sport Fishing Regulations for Area 1 of the Deschutes River.

Stat. Auth.: ORS 496.138 & ORS 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03

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**Adm. Order No.:** DFW 67-2003(Temp)

**Filed with Sec. of State:** 7-18-2003

**Certified to be Effective:** 7-21-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-041-0063, 635-041-0073

**Subject:** Amend rules to delay the opening of the Treaty Indian sturgeon setline fishery until July 28, 2003; adopt a Treaty Indian commercial gill net fishery for summer chinook salmon from 6 a.m. July 21, 2003 through 6 p.m. July 23, 2003; and adopt a Treaty Indian

platform and hook-and-line commercial fishery from 6 a.m. July 21, 2003 through 6 p.m. July 26, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-041-0063

### Sturgeon Setline Fishery

(1) Sturgeon may be taken by setline for commercial purposes from:

(a) From 12 Noon January 1 through 12 Noon January 31;

(b) From 6 a.m. June 9, 2003 through 6 p.m. July 12, 2003, and from 6 a.m. July 28, 2003 through 6 p.m. August 23, 2003 between Bonneville Dam and The Dalles Dam and between John Day Dam and McNary Dam.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000, f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03

## 635-041-0073

### Summer Salmon Season

(1) Salmon, steelhead, walleye, carp, shad, and sturgeon 4 feet and 5 feet in length may be taken for commercial purposes from mainstem Columbia River waters open to subsistence fishing (see OAR 635-041-0015) beginning 6 a.m. July 3, 2003 through 6 p.m. July 16, 2003, and 6 a.m. July 21, 2003 through 6 p.m. July 26, 2003, however sturgeon may not be taken for commercial purposes beginning 6 p.m. July 12, 2003. Sturgeon between 4 and 5 feet in length may be retained for subsistence purposes.

(a) Gear is restricted to subsistence fishing gear including dipnets, hoopnets, setbag nets, and hook-and-line with bait and lures allowed;

(b) Fish taken using subsistence gear from these open subsistence areas may be sold to licensed fish dealers and directly to members of the general public during this open commercial period;

(c) Subsistence areas in Big White Salmon River and Klickitat River are open to commercial fishing as enacted by the State of Washington.

(2) Chinook salmon, steelhead, walleye, shad and carp may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m. July 14, 2003 through 6 p.m. July 16, 2003, and 6 a.m. July 21, 2003 through 6 p.m. July 23, 2003;

(a) gear is restricted to gill nets with a minimum mesh size of 7-1/2 inches;

(b) Sockeye may not be sold, but sockeye may be kept for subsistence use;

(c) Sturgeon may not be sold, but sturgeon between 4 and 5 feet in length may be kept for subsistence use.

# ADMINISTRATIVE RULES

(d) Closed areas are set forth under OAR 635-041-0045;

(e) Fish caught in the Klickitat River and Big White Salmon River during open fishing periods that overlap with the Columbia River commercial season dates may be sold.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: DFW 56-2003(Temp), f. 7-2-03, cert. ef. 7-3-03 thru 7-16-03; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03

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**Adm. Order No.:** DFW 69-2003(Temp)

**Filed with Sec. of State:** 7-21-2003

**Certified to be Effective:** 7-25-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-013-0004

**Subject:** Amend rules to allow salmon angling North of Cape Falcon to the Oregon/Washington border seven days per week effective July 25, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-013-0004

### Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the 2003 Oregon Sport Fishing Regulations contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supercede the published federal regulations and the **2003 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: No modifications to this category of regulations in the **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations**.

(5) In the waters of the Pacific Ocean, each angler aboard a vessel may continue to use angling gear until the daily limit of fish for all legally licensed and juvenile anglers aboard has been achieved. However no individual angler may exceed any personal daily bag limit.

(6) From North of Cape Falcon to the Oregon/Washington border, salmon angling is allowed seven days per week effective July 25, 2003.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 497.121 & ORS 506.119

Stats. Implemented: ORS 496.004, ORS 496.009, ORS 496.162 & ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp) f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03

**Adm. Order No.:** DFW 70-2003(Temp)

**Filed with Sec. of State:** 7-23-2003

**Certified to be Effective:** 7-23-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-017-0090

**Subject:** Amends rules to establish an additional tribal lamprey at Willamette Falls.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 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](http://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 supercede 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 cultural 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.

(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.

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.

# ADMINISTRATIVE RULES

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

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**Adm. Order No.:** DFW 71-2003(Temp)

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-25-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-017-0090

**Subject:** Amends rules to close the Pacific lamprey fishery at Willamette Falls effective July 25, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 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](http://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 cultural 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.

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

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**Adm. Order No.:** DFW 72-2003(Temp)

**Filed with Sec. of State:** 7-25-2003

**Certified to be Effective:** 7-28-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-023-0090

**Subject:** Amend rules to close the Columbia River between John Day and McNary dams to the retention of sturgeon effective July 28, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-023-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Columbia River is closed to angling for salmon, steelhead, and shad from the I-5 Bridge upstream to Bonneville Dam effective April 6, 2003 through May 15, 2003. The Columbia River from the mouth at Buoy 10 upstream to the the I-5 Bridge is closed to angling for salmon, steelhead, and shad on Sundays, Mondays, and Tuesdays, effective April 6, 2003 through May 15, 2003. Effective May 4, 2003, the Columbia River from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines is open four days per week (Wednesday through Saturday) and closed three days per week (Sunday through Tuesday) with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained; all nonadipose fin-clipped chinook salmon and steelhead must be released immediately unharmed;

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(b) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per printed regulation pamphlet.

(3) The Columbia River is closed to the retention of sturgeon from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam from March 24, 2003 through June 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) The Columbia River from the Tongue Point/Rocky Point line upstream to the Oregon/Washington border upstream of McNary Dam is open from June 16, 2003 to July 31, 2003 to the retention of adipose fin-clipped adult summer chinook salmon.

(5) The Columbia River is closed to the retention of sturgeon between The Dalles Dam and John Day Dam effective June 21, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(6) The Columbia River is closed to the retention of sturgeon from the mouth upstream to the Wauna powerlines (River Mile 40) from June 28, 2003 through September 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(7) The Columbia River is closed to the retention of sturgeon from between Bonneville Dam and The Dalles Dam effective July 7, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) The Columbia River is closed to the retention of sturgeon between John Day Dam and McNary Dam effective July 28, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-27, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64-2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003,

f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72-2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03

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**Adm. Order No.:** DFW 73-2003(Temp)

**Filed with Sec. of State:** 7-30-2003

**Certified to be Effective:** 7-30-03 thru 1-26-04

**Notice Publication Date:**

**Rules Amended:** 635-047-0010

**Subject:** Amend rules regarding private hunting preserves.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-047-0010

### Requirements for Licenses

(1) Each hunting preserve shall contain not more than the following acreages in one continuous tract of land, owned or leased by the permittee:

(a) 640 acres if the preserve is located in the area west of the summit of the Cascade Mountains; or

(b) 1,280 acres if the preserve is located in the area east of the summit of the Cascade Mountains.

(2) An applicant for a hunting preserve license shall submit a statement from the appropriate local planning authorities concerning the preserve's compliance with the local comprehensive land use plan and other applicable land use laws.

(3) A person who owns a private hunting preserve that was licensed under ORS 497.248 on or before July 30, 2003 and that has not been submitted to the appropriate local governing body or its designee for land use approval may continue to operate the hunting preserve without local land use approval. The hunting preserve may include one sport clay station that existed on July 30, 2003, is used during the hunting season only for shooting practice in conjunction with hunting and is subordinate to the use of the land as a hunting preserve.

(4) The exterior boundaries of each hunting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of 1,320 feet, or less. Signs shall be as prescribed by the department.

(a) The boundaries of a licensed hunting preserve shall be posted with legible signs that meet the following minimum specifications. All signs marking the perimeter of the hunting preserve boundary shall be maintained in legible condition and visible at all times.

(b) Size — Not less than 10" x 10".

(c) Lettering — "Private Hunting Preserve" in not less than 1-1/2" block letters at the top half of the sign, and including the following descriptive information in not less than 3/8" block letters:

"This sign marks the boundary of a \_\_\_\_\_ acre property that has been licensed by the Oregon Department of Fish and Wildlife under the provisions of ORS 497 to permit the hunting of privately owned game birds."

(5) There shall be at least one-half mile distance between licensed hunting preserves.

(6) No license will be granted for any hunting preserve, any portion of which is less than one-half mile distant from any state or federal park, wilderness area, refuge, or wildlife area operated by the state or federal government.

(7) Licensee shall not attempt to prevent public hunting on lands adjacent to a hunting preserve.

(8) The applicant shall have the facilities to propagate or hold not less than 500 of each of the game bird species to be released for shooting on the area.

(9) The department shall issue licenses only to hunting preserves available for use by the general public.

(a) Application for a hunting preserve license shall be made upon a form provided by the department. Each application shall include proof of ownership or lease and a map of the preserve and shall state the township, range and section(s) on which the preserve is located.

(b) Fees charged for shooting and other services rendered shall be stated by the applicant provided that the fees shall be the same for all persons.

(10) The license shall authorize the licensee to shoot, or permit to be shot, only certain legally propagated upland game birds that the department has determined may be hunted upon the property for which the license is issued. Other species of wildlife upon such property and marked birds outside its boundaries shall be subject to all protection provided by State wildlife laws and regulations.



# ADMINISTRATIVE RULES

(11) In the event that a permittee chooses to cease hunting preserve activities during the term of a hunting preserve license, the permittee shall so notify the department in writing.

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 & 248  
Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0010, Renumbered from 635-007-0010;  
FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002,  
f. & cert. ef. 1-17-02; DFW 73-2003(Temp), f. & cert. ef. 7-30-03 thru 1-26-04

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**Adm. Order No.:** DFW 74-2003(Temp)

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-3-03 thru 8-7-03

**Notice Publication Date:**

**Rules Amended:** 635-008-0151, 635-011-0101

**Subject:** Amend rules to cease requirement for Oregon 2003 angling licenses and harvest tags and for parking permits for the Sauvie Island Wildlife Area from 9:00 p.m. on Sunday August 3, 2003 to 4:00 a.m. on Thursday August 7, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-008-0151

### Procedures for Issuance and Enforcement of Parking Permits for Sauvie Island Wildlife Area

The Oregon Department of Fish and Wildlife hereby adopts the following procedures relating to issuance and enforcement of parking permits for certain vehicles in Sauvie Island Wildlife Area parking areas:

(1) A parking permit is required at all times for all parking areas. Parking is permitted only in designated parking areas.

(2) Parking areas are designated by the following signs:

(a) "Entering Sauvie Island Wildlife Area — Parking Permits Required Beyond This Point";

(b) "Parking allowed only in designated areas — Sauvie Island Wildlife Area Parking Permit Required".

(3) There are two separate permits of different colors: an annual permit and a daily permit.

(4) The fee for parking permits is \$2.00 for permits issued on a daily basis or \$9.50 for permits issued on an annual basis beginning each January 1.

(5) Permits are issued by selected local agents to a party upon payment and may be transferred from vehicle to vehicle.

(6) The permits must be visible from outside the vehicle and be displayed in the front or rear window of the vehicle.

(7) No parking permits will be required for those vehicles which are owned or operated by government agencies.

(8)(a) A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under OAR 635-008-0146 through 635-008-0151 commits an offense punishable as provided in ORS 496.992;

(b) Except as otherwise provided in subsection (8)(a) of this section, a person who is the owner of an unattended motor-propelled vehicle parked in violation of restrictions established and posted under OAR 635-008-0146 through 635-008-0151 is guilty of a violation punishable as described in ORS 161.635 without regard to culpable mental state;

(c) The procedure for a police officer to follow upon finding a non government vehicle parked in designated parking area without a permit shall consist of the issuance of a notice which shall be either delivered to the defendant or placed in a conspicuous place upon the vehicle in the violation.

(9) Notwithstanding subsections (1) through (8) of this rule, the Sauvie Island Parking Permit requirement will be suspended between 9:00 p.m. August 3, 2003 and 4:00 a.m. August 7, 2003.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 497.071  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 497.071  
Hist.: FWC 12-1990, f. & cert. ef. 2-2-90; FWC 8-1993, f. & cert. ef. 2-8-93; DFW 30-2000,  
f. & cert. ef. 6-14-00; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 74-2003(Temp), f. 8-1-03, cert. ef. 8-3-03 thru 8-7-03

## 635-011-0101

### 2002 Sport Fishing Regulations Pamphlet Amendment

(1) Notwithstanding OAR 635-011-0100, 016-0080 the 2003 Sport Fishing Regulations pamphlet posted on the Oregon Department of Fish and Wildlife web page shall be the officially incorporated version referenced in the rules.

(2) Notwithstanding the 2003 Oregon Sport Fishing Regulations, from 9:00 p.m. on Sunday, August 3 through 4:00 a.m. on Thursday, August 7 anglers shall not be required to possess any recreational angling licenses

or harvest tags while angling in state waters. Anglers need not record their catch on a harvest tag.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 506.129  
Hist.: DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 74-2003(Temp), f. 8-1-03, cert. ef. 8-3-03 thru 8-7-03

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**Adm. Order No.:** DFW 75-2003(Temp)

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-1-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0031, 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180, 635-042-0190

**Subject:** Amend rules to establish commercial fishing seasons in Select Fishing Areas of the lower Columbia River and the mainstem Columbia River, consistent with Columbia River Compact action of July 30, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-042-0031

### Early Fall Salmon Season

Salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River:

(1) From the lower boundary of Area 2S at light "50" upstream to Beacon Rock as described in OAR 635-042-0001(6). The open fishing period is from 8 p.m. August 24, 1997 to 6 a.m. August 25, 1997.

(2) Gear is restricted to gill nets with 9-inch minimum mesh size.

(3) 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; and 7 p.m. August 11, 2003 to 7 a.m. August 12, 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.

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. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 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. 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. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 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. 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. 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

## 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,

# ADMINISTRATIVE RULES

2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is unlawful to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 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.

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

## 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 p.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

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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.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030  
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 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 leadline 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 leadline 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 leadline.

(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.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 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 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; 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.

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(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.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03

## 635-042-0190

### Steamboat Slough

Salmon and sturgeon may be taken for commercial purposes as follows:

(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 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 with no weight limit on the leadline. 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.

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

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**Adm. Order No.:** DFW 76-2003

**Filed with Sec. of State:** 8-13-2003

**Certified to be Effective:** 8-13-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 635-045-0000, 635-051-0000, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000

**Subject:** Amend rules regarding the harvest of game birds, including 2003-04 season dates and bag limits.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-045-0000

### Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2003-2004 Oregon Game Bird Regulations", and "2003 Oregon Big Game Regulations", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03

## 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.

[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

## 635-052-0000

### Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2003-2004 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03

## 635-053-0000

### Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2003-2004 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; 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 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; 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

## 635-054-0000

### Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, common snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled "2003-2004 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 82-1988, 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

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9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp) f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 99-2001(Temp), f. & cert. ef. 10-12-01 thru 4-10-02; 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

## 635-060-0000

### Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled "2003-2004 Oregon Game Bird Regulations," and "2003 Oregon Big Game Regulations," are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 118, f. & ef. 6-3-77; FWC 25-1978, f. & ef. 5-26-78; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 16-1985, f. & ef. 4-11-85; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03

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**Adm. Order No.:** DFW 77-2003(Temp)

**Filed with Sec. of State:** 8-13-2003

**Certified to be Effective:** 8-13-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-041-0075, 635-042-0031

**Subject:** Amend rules to establish non-Indian commercial fishing seasons in the mainstream Columbia River. Amend rules to allow the sales of chinook, coho, steelhead, walleye, carp and shad in the Treaty Indian subsistence fisheries, Zone 6, Columbia River. Amendments consistent with Columbia River Compact action of August 12, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-041-0075

### Fall Salmon Season

Salmon, steelhead, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River waters open to subsistence fishing (see OAR 635-041-0015) beginning 6:00 a.m. August 14, 2003 continuing until further notice.

(1) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

(2) Gear is restricted to subsistence fishing gear including dip nets, hoop nets, setbag nets, and hook-and-line with bait and lures allowed.

(3) Fish taken using subsistence gear from these open subsistence areas may be sold to licensed fish dealers, and buyers, and directly to members of the general public during this open commercial period.

(4) Effective 6:00 a.m. August 14, 2003 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.

Stat. Auth.: ORS 496.118 & ORS 506.119  
Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030  
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-

1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-7-90; 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. 9-17-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; FWC 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-6-96; 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. 9-24-98 thru 9-25-98; DFW 81-1998(Temp), f. & cert. ef. 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-21-99, 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. 9-12-00 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

## 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 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.

Stat. Auth.: ORS 496.118 & ORS 506.119  
Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030  
Hist.: FWC 63-1987, f. & 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. 8-28-89, 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. 8-24-00; 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-

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02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002, f. 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

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

**Adm. Order No.:** DFW 78-2003(Temp)

**Filed with Sec. of State:** 8-14-2003

**Certified to be Effective:** 8-20-03 thru 12-31-03

**Notice Publication Date:**

**Rules Amended:** 635-013-0004

**Subject:** Amend rules to close the area from Cape Falcon south to Humbug Mountain to the retention of coho salmon effective 11:59 p.m. August 19, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

### 635-013-0004

#### Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supercede the published federal regulations and the **2003 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: No modifications to this category of regulations in the **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations**.

(5) In the waters of the Pacific Ocean, each angler aboard a vessel may continue to use angling gear until the daily limit of fish for all legally licensed and juvenile anglers aboard has been achieved. However no individual angler may exceed any personal daily bag limit.

(6) From North of Cape Falcon to the Oregon/Washington border, salmon angling is allowed seven days per week effective July 25, 2003.

(7) Cape Falcon south to Humbug Mountain is closed to the retention of coho salmon effective 11:59 p.m. August 19, 2003.

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

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 497.121 & ORS 506.119

Stats. Implemented: ORS 496.004, ORS 496.009, ORS 496.162 & ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp) f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03

**Adm. Order No.:** CWP 26-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 6-1-03

**Rules Adopted:** 413-070-0980, 413-070-0981

**Rules Amended:** 413-070-0900, 413-070-0905, 413-070-0910, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0950, 413-070-0955, 413-070-0960, 413-070-0965, 413-070-0970

**Rules Repealed:** 413-070-0975

**Subject:** Guardianship Assistance payments were affected by state budget reductions made in February 2003. Temporary rules were filed at that time to implement these reductions. Those rules will expire and need to be replaced by permanent rules. These revisions also clarify that tribal children may be considered for participation in guardianship assistance.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

### 413-070-0900

#### Purpose

(1) The State of Oregon, Department of Human Services (the Department) received federal approval in July, 1999 from the Department of Health and Human Services (HHS), Administration for Children and Families, to operate a three year Guardianship Assistance demonstration project pursuant to Section 1130 of the Social Security Act (the Act); Titles IV-E and IV-B of the Act; and Public Law 103-432. HHS reserves the right to withdraw Oregon's right, at any time, to operate this project. Tribal participation is described below in OAR 413-070-0917. Under the IV-E waiver demonstration project, relatives and foster parents, who are providing care for certain children meeting specific eligibility criteria and in the custody of the Department may have an opportunity to assume a complete parenting role by becoming the child's legal guardian. The Guardianship Assistance program, modeled after the Federal Adoption Assistance Program creates another permanency option for children. Many caretakers making a permanent commitment to children in their care will benefit from the financial and medical assistance offered under the demonstration project.

(2) The purpose of these rules is to set forth criteria used to determine subsidized guardianship as a permanency planning option for children in substitute care. Adoption is usually the preferred permanent plan when children cannot successfully be reunited with their parents, but this choice is not viable for all. The Department is expanding the choices for children and families to include the establishment of legal custody and guardianship for children for whom adoption does not best serve the permanency needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

### 413-070-0905

#### Definitions

(1) "Guardianship Agreement" means a written agreement between DHS and the prospective guardians, signed prior to the establishment of guardianship, to provide guardianship assistance.

(2) "Guardianship Assistance" means financial and/or medical benefits to guardian families for costs associated with the needs of the child under their guardianship. Benefits may be in the form of cash and/or Medicaid coverage and/or nonrecurring legal costs in establishing the guardianship and/or Title XIX Personal Care payments.

(3) "Qualified Vendor Attorneys" are qualified attorneys, including Legal Aid Program attorneys who have signed a legal fees agreement with the Department to accept the Department's currently established standard payment, plus reimbursement of any personal costs incurred for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing non-contested guardianships for children in the Department's care and custody, or to process adoptions.

(4) "Waiver" means the waiver of certain provisions and program regulations of Title IV-E of the Social Security Act for a demonstration project

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approved under specific terms and conditions by the U.S. Department of Health and Human Services, Administration for Children and Families.

(5) "Legal Custody and Guardianship" means that an adult, other than a legal parent of the child, has been made legally responsible for a minor child and the local Department's commitment order has been rescinded.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0910

### Values

(1) The protection and safety of a child are always the first priorities. Services are child centered and family focused.

(2) The Department supports permanency for children and recognizes that sometimes neither family reunification nor termination of parental rights and adoption best serve the permanency needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0915

### Eligibility

(1) Under the Title IV-E Waiver federal terms and conditions and state legislative approval, the Department shall operate a guardianship demonstration project providing guardianship assistance to eligible children. Children in foster care for whom the Department is making a IV-E foster care maintenance payment (including children in tribal custody) may participate in the project. Children in foster care are ineligible to participate in the project when responsibility for their substitute care placement or Title XIX maintenance payment rests with the mental health or developmental disability system.

(2) Under the Guardianship Assistance Waiver demonstration project, the Department will place a minimum of twenty children in guardianship each year. The children and their caretakers must meet the State established criteria to participate in the demonstration. The Department will comply with the general provisions over the full term of the Waiver demonstration project as stated in Oregon's approved amended Waiver demonstration project terms and conditions.

(3) There is no limit to the number of eligible children who may participate in the Guardianship Assistance Demonstration Project. However, the project is time-limited and federal funding is scheduled to end in September, 2003. Children found eligible for and receiving Guardianship Assistance prior to September, 2003 will continue to receive monthly general fund payments at the project's conclusion. Funding will continue until they reach age 18 or otherwise become ineligible as defined by policy. Continuous program funding from the State's general fund coffers for children enrolled in the project prior to September 2003 was sought and approved by the 1999 and 2001 Oregon legislative sessions.

(4) The Department will offer this new option only when other permanency goals, including return to the parent(s) or adoption are determined not to be in the child's best interest. The Department will represent the guardianship option to families as one which will normalize and stabilize family life, empower care givers in assuming the complete parenting role and minimize the level of state intrusion into their lives. For example, because the children will no longer be committed to the custody of the Department, the care givers will no longer be required to get permission from the Department local office to take the child out-of-state for any reason, the placement will no longer be subject to Citizen Review Board substitute care reviews, and care givers will no longer be expected to participate in such reviews.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0917

### Eligibility for Tribal Participation

All Title IV-E eligible children in the legal care and custody of a tribe having a title IV-E agreement with the Department may be considered for participation in the Title IV-E Guardianship Assistance Demonstration Project. The following policy exceptions apply to Tribal children:

(1) Tribal children of any age and in the legal care and custody of the tribe in a related or unrelated certified foster home may be considered for participation in the Guardianship Demonstration Project.

(2) Foster homes certified by the tribe and meeting tribal standards for licensing foster home are equivalent to licensing or approval by the State. A potential guardian family will have a strong commitment to the child, be a safe and suitable placement, and meet tribal standards for ongoing care. The tribe will make a separate visit to the home to conduct a specialized guardianship assessment of the Department's design, to document the appropriateness of the family to participate in the subsidized Guardianship Demonstration Project.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0920

### Policy

The Department or Participating tribe may support a legal guardianship provided the following assurances are met:

(1) The child has been in the Department or Participating tribe's legal custody for more than twelve months. The Department may waive this requirement in certain situations, when a written justification referencing OAR 413-110-0330 in determining permanent plans for children is prepared by the Department local office or tribe and reviewed and approved by DHS local Branch Permanency/ Adoption Committee or tribal committee and the Department local Child Welfare Program Manager or tribal manager. Final approval to waive this requirements must be obtained from the Permanency and Adoption Manager or his/her designee.

(2) The child is in foster care and receiving a Title IV-E foster care payment.

(a) The child's eligibility for IV-E foster care maintenance payments will be reviewed and eligibility confirmed from the first of the month prior to the month in which the prospective guardians sign the application for guardianship assistance through the date the application was signed.

(b) Children temporarily ineligible for Title IV-E due to lump sum benefits are considered to be eligible for assisted guardianship once the lump sum is expended;

(c) Children for whom Title IV-E payments are being made with an SSI application pending may also be considered for assisted guardianship;

(d) Children eligible for Title IV-E foster care payments, but receiving SSI may also be considered for assisted guardianship when SSI is terminated.

(3) The child has a stable and positive relationship with a prospective guardian and has lived for at least six months in the home of the prospective guardian. The Department Committee may waive the six month placement requirement for sibling groups when at least one sibling meets all other subsidized guardianship criteria.

(4) The prospective guardian is an approved certified relative or provider or approved certified foster parent and meets the certification documentation eligibility requirements for Title IV-E as defined in OAR 413-100-0040.

(5) The child may be a minor of any age if the prospective guardian is a relative. The Department will waive the age requirement for sibling groups placed with a non-relative when at least one sibling is at least 12 years of age and meets all other subsidized guardianship criteria and for children meeting the criteria outlined in OAR 413-110-0240 and referenced in 7(a) and (b) of this rule. The age requirement is also waived for children of any age in the legal care and custody of the Confederated Tribes of the Warm Springs Reservation, Confederated Tribes of Grande Ronde, Confederated Tribes of Siletz Indians, or the Coquille Indian Tribe; these tribes have a Title IV-E Intergovernmental Agreement with the Department.

(6) The child cannot return home. Reunification with his or her parent(s) is not possible.

(7) The Department has determined through Branch Committee or Council Review as outlined in OAR 413-110-0300 through 0360 (DHS CAF Policy I-F.2 Determining the Appropriateness of Adoption as Permanency Plan), and OAR 413-110-0200 through 0252 (DHS CAF Policy I-F.3.2.1, Termination of Parental Rights), that it is unwarranted to pursue adoption for reasons that may include, but are not limited to:

(a) A child aged 12 years or over will not consent to be adopted and another permanency plan has been identified; or

(b) The parent and child have a significant bond, but the parent is unable to care for the child because of disability, and another permanent plan has been identified.

(8) The Department and the prospective guardian agree that the child and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

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(a) A Department committee has formally assessed the placement with a finding that continuation of the placement is in the child's best interests in that the placement supports the safety, permanency and well-being of the child;

(b) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager; or

(A) The child has needs, but they do not require continued agency funding (e.g. therapy is paid through insurance); or

(B) The child has needs which can be met through the guardian's utilization of community resources and the guardian has agreed to access or continue to maintain those services.

(9) The parents legally recognized and identified per policy I-A.4.3 as having a parental relationship with the child have provided written consent to the establishment of guardianship or the Department can show good cause for proceeding without parental consent for reasons not limited to the parent's incarceration, incapacity, or abandonment of the child, or parental rights having been relinquished or terminated.

(10) The court agrees to termination of the order for Department or tribal care, custody and supervision when ordering guardianship.

(11) The juvenile court agrees to set aside or modify an order of permanent commitment to the Department thereby relieving the Department of their responsibility for the child, including cases in which a birth parent has voluntarily relinquished custody, so that guardianship may be granted to another individual.

(12) The child has legal resident status, or is an immigrant or citizen of the US, under the care of a relative caretaker who is residing in this county legally.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0925

### Guardian Family Requirements

In order for the Department to approve a potential guardian family for Guardianship Assistance, the family must meet the following requirements:

(1) Be a certified foster home care giver, providing care to children being considered for participation in the demonstration project. The family will have a strong commitment to the child, be a safe and suitable placement, and meet agency standards for ongoing care of the child as determined by family study or specialized guardianship assessment.

(2) Be a foster parent or relative care giver who has demonstrated a commitment and ability to provide a safe, permanent home for the child for at least the past six months as verified through a guardianship assessment.

(3) Require no significant ongoing case work services at the time of the establishment of guardianship and demonstrate an ability to safeguard the welfare of the child, including protection from all persons and situations which brought the child into care.

(4) Have a means of financial support and connections to community resources.

(5) Agree to cooperate with the Division of Child Support and the Department Children, Adult and Family Services (CAF) program and policy in performing tasks deemed necessary for support enforcement services including:

(a) Agreeing to submit an application for child support services, as defined in OAR 413-070-0905(6), in connection with each of the child's parents;

(b) Upon acquiring any right(s) to receive child support, agreeing to assign to CAF the right(s) to receive:

(A) Current support payments;

(B) Any support payments that may have accrued before or after the child was placed with the guardian; and

(C) Any support payments that may be imposed in a future order.

(c) Agreeing to cooperate with the DCS and CAF and perform tasks that CAF deems necessary for any support enforcement services or proceeding(s) as defined in OAR 413-070-0905(6)(a)-(e).

(d) Understanding that the timing of support proceedings with respect of the child's mother and father may be different and agree to cooperate with both.

(e) Agreeing that the basic Guardianship Assistance monthly payment shall be contingent upon such cooperation.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0930

### Guardianship Assistance Payments and Medical Coverage

(1) The Guardianship Assistance rate shall be no more than the child's most recent monthly basic foster care rate and Title XIX personal care rate minus any regular monthly benefit other than child support payments made on behalf of the child. (A special rate payment shall not be included in the Guardianship Assistance rate.) Children residing outside the State of Oregon shall receive a payment based on the out-of-state basic foster care rate.

(a) The Department shall consider all other sources of income other than child support payments available to the child when determining the monthly assistance rate;

(b) The guardian shall become payee for, as necessary, any benefits other than child support payments for the child such as social security benefits. Exceptions may be made in situations where benefits fluctuate from month to month.

(c) The Department shall pay the difference between any benefit other than child support payments that the child receives and the most recent foster care and personal care payment. For example, if the child receives Social Security benefits, the amount of the benefit shall be transferred to the guardian and the monthly income from these resources deducted from the total standard basic rate and personal care rate when determining the amount of assistance;

(d) The Guardianship Assistance monthly payment shall be contingent upon the guardian's performance of the duty, to cooperate with DCS and in doing what DCS and CAF deems necessary with respect to child support enforcement services defined in OAR 413-070-925(5).

(2) The child's eligibility for Title XIX personal care payments and services may continue so long as the child resides in the State of Oregon. However, the amount of the personal care rate may be reduced if the Department determines through an analysis of the child's needs that the personal care service hours previously required have decreased.

(3) The Department shall authorize no monthly special care rate, other than the Personal Care payment, or any special one-time payment from either State general fund or Federal sources.

(4) Children participating in this Waiver demonstration, to the extent they are otherwise eligible, shall be provided a full range of services under the Medicaid program which includes health care services and mental health care services. Children moving out-of-state are entitled to continue to receive Medicaid services from the State of Oregon.

(5) The effective date of services shall be the first date all parties have signed the Guardianship Assistance Agreement, or the date of the court order, whichever is later. It is expected that court orders will not be obtained prior to the case being approved by central office for Guardianship Assistance.

(6) If a child receiving guardianship assistance benefits is placed in substitute care, guardianship assistance benefits may be adjusted, continued, or suspended. If the family is involved in the child's treatment, and the plan is for the child to return home, the family may ask to have the guardianship assistance benefits suspended, continued, or adjusted to reflect current expenses. When the child returns to the care of the guardians, guardianship assistance rates will be reviewed.

(5) CAF Guardianship Assistance payments to legal guardians, who were agency certified foster parents for the child prior to becoming court designated guardians, shall be inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment and other legal process under the laws of this state.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0935

### The Agreement

(1) In order for Guardianship Assistance to take place, there must be a written Guardianship Assistance Agreement between the Department and the guardian for the financial support of the child in question. The agreement shall, in part:

(a) Include the consent of the guardian;

(b) List the monthly benefit the Department is offering;

(c) Include the guardian's consent to and acceptance of the monthly cash benefit the Department is offering;

(d) Include the guardian's understanding that the benefit may not be greater than the basic foster care rate and personal care payment paid were the child is in foster care; No retroactive basic rate payment increases may



# ADMINISTRATIVE RULES

be authorized. Increases in assistance payments are effective the first day of the month in which the request is made.

(e) Include the guardian's understanding that the benefit may be adjusted on an annual basis upon mutual agreement between the agency and the guardian.

(f) Include the guardian's understanding that the guardian shall submit an application for child support enforcement services, as defined in OAR 413-070-0905(6), from each of the child's parents.

(g) Include the guardian's understanding that the guardian upon acquiring the right to receive child support, shall assign to CAF the right to receive.

(A) Current support payments;

(B) Any support payments that may have accrued before or after the child was placed with the guardian; and

(C) Any support payments that may be imposed in a future order.

(h) Include the guardian's understanding that the guardian shall cooperate with DCS and CAF by performing tasks that CAF or DCS deems necessary to the support enforcement services described above in OAR 413-070-0905(6).

(i) Include the guardian's understanding that the basic Guardianship Assistance monthly payment shall be contingent upon the cooperation described in subsection (1)(g).

(2) The agreement shall also provide that children for whom the Department is making a financial or benefit type of payment shall remain eligible for medical assistance under Title XIX of the Act.

(3) The Department shall maintain the written agreement between the Department and the guardian according to Department criteria in place at the time of the court's establishment of guardianship.

(4) The Department shall review each guardianship agreement annually.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0937

### Court Orders

(1) At the Guardianship Hearing the Case worker will request the court order guardianship. The caretaker is ineligible for foster care payments once guardianship is effective and Department care and custody terminated.

(2) Guardianship Assistance may be approved regardless of whether the Order of guardianship is permanent or temporary or ordered by the juvenile court or probate court.

(3) Guardianship Assistance will not be approved if the court establishes guardianship and orders the Department continued supervision of the child or guardians.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0940

### Title IV-E Guardianship Assistance Eligibility

(1) The Department administers the Guardianship Assistance program in order to provide continued financial support for selected children placed with financially needy appointed guardians.

(2) The guardianship appointment, monthly subsidy, and services shall continue without court involvement unless the child meets one of the following conditions. The Department shall cease or suspend, as appropriate, Guardianship Assistance payments on the day one of the following conditions occurs:

(a) The child reaches age 18 or emancipation, whichever comes first;

(b) Child custody or guardianship is awarded to another individual;

(c) The child dies;

(d) The child marries;

(e) The guardian dies or terminates guardianship;

(f) The child is adopted;

(g) The child is placed in substitute care; or

(3) The department may cease or suspend, as appropriate guardianship assistance payment when:

(a) The child is incarcerated for more than 30 days;

(b) The child is out of the home for more than a 30 day period or is no longer living in the home;

(c) It is demonstrated that the guardians are no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian;

(d) The annual report is not filed with the Department within 30 days of the anniversary date of the court's appointment of the guardians.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0945

### Annual Reviews

(1) Eligibility reviews for Guardianship Assistance shall be conducted on an annual basis.

(a) The guardian shall file a written report annually. The guardian shall file the report with the court within 30 days after each anniversary of the court appointment of guardianship;

(b) Guardians shall annually submit to the Department Central Office Adoption Unit a copy of the guardianship report required by the court within 30 days after each anniversary date of the court's appointment of the guardian(s);

(c) The Department shall hold the Guardianship Assistance check if the guardian does not submit to the Department the court report within 30 days after each anniversary date of the court's appointment of the guardian(s).

(2) The Department local office Personal Care Registered Nurse shall assess Children receiving Personal Care Services Guardianship Assistance Payments annually. Personal Care assessments shall not be conducted on more than an annual basis except under extreme circumstances. Upon receiving a request from the Central Office Adoption Assistance Unit, the RN providing local Personal Care Services shall complete and submit an assessment of the child's current personal care needs to the Central Office Adoption Unit.

(3) The basic Guardianship Assistance rate shall not automatically increase. Guardians may request an increase in the child's subsidy up to the current rate of pay for the child's age, or up to the current rate of pay given cost of living increases or other legislatively approved increases for the basic foster care rate. Retroactive basic rate increases will not be authorized beyond the first of the month in which the request is made.

(4) The Guardianship Assistance basic rate may increase when the guardian payee does not receive the child benefits in the amount calculated and deducted as an offset to the basic Guardianship Assistance monthly payment.

(5) A review of the child's continuing Title IV-E eligibility status is not required for 12 months after the guardianship assistance application is signed, and during this time period it is not necessary to confirm ongoing parental deprivation in the home from which the child was removed as long as the child remains otherwise eligible to receive Guardianship Assistance. Ideally, the assistance application should be signed no earlier than 60 days prior to the anticipated hearing date on which the court will order guardianship.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B & PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0950

### Eligibility Retention

(1) The Department must review continued eligibility for Title IV-E foster care based on parental deprivation and the child's financial circumstances when children return to substitute care from a disrupted guardianship placement. The guardian's income is not considering during this review, nor is the guardian obligated to pay child support upon the child's return to substitute care. Title IV-E may be re-established based on the child's original removal from the parental or relative home if deprivation continues to exist; the child meets personal financial eligibility criteria; and all court related findings related to an initial removal are met.

(2) Children returning to Guardianship Assistance from foster care shall resume their original Title IV-E eligibility for Guardianship Assistance without regard to parental deprivation at the time of child's return to the guardian's care or the child's eligibility status while in foster care.

(3) Children moving from Guardianship Assistance to adoption shall remain eligible for Title IV-E adoption assistance.

(4) The Department shall not re-establish dependency on any child placed into guardianship under this demonstration project unless the Department determines there is cause for removal from the guardian's home due to abuse or neglect or unless DHS the Department would other-

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wise re-establish dependency for reasons unrelated to the expiration of the Waiver or the termination of this demonstration, such as a change in the care giver's circumstances which leaves the care giver unable to care for the child(ren).

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B, PL 103-432  
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0955

### Guardian Responsibilities for Agency Notification

The guardian shall notify the Department central office adoption/guardianship staff when:

- (1) A change in circumstances indicates that there is no longer a need for Guardianship Assistance.
- (2) The guardian has a change of address; or
- (3) The guardian is planning to move out-of-state.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B, PL 103-432  
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0960

### Vendor Attorney and Legal Payments

(1) To legally establish guardianship, the Department shall provide payment to the vendor attorney or reimbursement of the prospective guardian's personal attorney costs according to the requirements of OAR 413-090-0500 through 413-090-0550, Payments for Providing Direct Client Legal Services (DHS CAF Policy I-E.5.5). Payments for providing direct client legal services per these administrative rules, shall be made from the local foster care prevention budget and may include:

(a) Payments for attorney services at the Department's currently established payment rate;

(b) Payment or reimbursement for mandatory filing and other various court fees incurred in filing papers to pursue the court case.

(2) The local Department office may authorize payment, for reimbursement of or payment for the cost of newspaper publications notices of the agency's intent to establish guardianship for absent parents.

(3) The local Department office shall not authorize payment for contested case legal services.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B, PL 103-432  
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0965

### Selection Criteria

(1) The Department shall impose no means test with respect to prospective guardians for the selection of children to be approved for Guardianship Assistance nor for the selection of families.

(2) In no case shall participation in the demonstration be mandatory for families.

(3) Members of sibling groups shall be placed together unless there is an explicit local the Department office decision made that it is not in the best interest of the child or children involved to be placed together when establishing placements under the demonstration.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B, PL 103-432  
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0970

### Guardianship Social Services and Supports

(1) The Department shall provide caretakers a range of services prior to the establishment of the guardianship. The Department shall provide an orientation to the family to assure that all family members understand the benefits and responsibilities of all participants in the guardianship demonstration project. The discussion shall also include biological and/or legal parents when possible, and particularly when the intra- and inter-familial tensions between the birth parent and care givers affect the child's and family's well-being.

(2) Guardians shall have the same access to local Department services after the guardianship has been established as do adoptive parents, including access to the Oregon Post Adoption Resource Center and crisis intervention services.

(3) Upon establishment of guardianship, the caseworker shall have an exit conference with the guardian family and the child and ensure the guardian family has phone numbers to call for services, if needed. The caseworker shall advise the guardian family to call Intake Screening to request services in the county in which they reside. The case worker will clarify that requesting services does not place guardianship in jeopardy. In the closing casework narrative, the caseworker shall document that s/he has informed the family of their rights and responsibilities and access to post-guardianship services.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B, PL 103-432  
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0980

### Budgetary Reductions of Guardianship Assistance

(1) In the event that legislative or executive branch actions impacting the Department's budget or expenditure authority makes it necessary for the Department to implement budget reduction to the Guardianship Assistance Program, the Department shall notify all recipients of Guardianship Assistance of the following:

- (a) The reason for the reduction;
- (b) The percentage or amount that the Guardianship Assistance will be reduced; and
- (c) The effective date of the reduced Guardianship Assistance payment.

(2) Reductions to Guardianship Assistance payments pursuant to this rule shall be applied uniformly to all recipients of Guardianship Assistance.

(3) Reductions to Guardianship Assistance payments pursuant to this rule shall not be subject to negotiation between the Department and the guardian family.

(4) Reduction to Guardianship Assistance payments pursuant to this rule are not subject to a contested case hearing.

(5) Reductions to Guardianship Assistance pursuant to this rule shall not constitute a change in circumstances warranting a change in the recipient's Guardianship Assistance benefits.

(6) It is the intent of Department to restore as much as possible any Guardianship Assistance which has been reduced by operations of this rule. If additional funding becomes available to Department to restore, in whole or in part, the reductions to Guardianship Assistance payments required by this rule, the Department shall notify all recipients of Guardianship Assistance the percentage of or amount of the increase and the effective date of the increase. Any payment increase under this rule shall be applied uniformly to all recipients of Guardianship Assistance.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B & PL 103-432  
Hist.: CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03

## 413-070-0981

### Reductions Effective February 1, 2003

Effective February 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on January 31, 2003, are reduced as follows:

(1) A 7.5% reduction to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

- (a) Child's Age — 0-5 — 6-12 — 13-18;
- (b) Base rate — \$350 — \$364 — \$449.

(2) The Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the child, is reduced by 10% to \$4.15 per hour.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV-E, Title IV-B & PL 103-432  
Hist.: CWP 20-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; CWP 26-2003, f. & cert. ef. 7-31-03

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**Adm. Order No.:** CWP 27-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 413-090-0010

**Subject:** Maintenance and treatment payments have been revised to reflect the budget reductions that become effective February 2003. Temporary rules were filed at that time. They are now replaced by

# ADMINISTRATIVE RULES

this permanent rule revision. The maintenance and treatment payments were reduced by 7.5% in February 2003.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-090-0010

### Payments — General Guidelines

#### (1) Family Foster Care

(a) Payment by the Department to foster parents for a child's room, food, clothing, incidentals and cash allowance (known as the regular foster care rate) will be made on a monthly basis, or prorated for portions of a month, after the period during which care has been provided. It will include the day the child enters the home, but exclude the day the child leaves the home. Costs of special care or service in accordance with a written Department service plan may also be provided if essential for the child's well being and if specifically authorized by the Department. See the OAR 413-090-0100 through 0210 Special Rate Policy (CAF Policy I-E.5.1.2);

(b) Regular foster care rates are based upon the age of the child and the type of program services they are receiving; Family Foster Care, Family Shelter Care, Family Group Home. The rate structure is established by the Department subject to the availability of funds and are uniformly applied throughout the state. The current monthly reimbursed rates effective February 1, 2003;

#### (A) Monthly Family Foster Care Rates:

(i) Child's Age — 0-5 — 6-12 — 13-18

(ii) Room/Board/Other — \$ 300 — \$ 298 — \$354

(iii) Clothing Replacement — \$ 42 — \$ 47 — \$68

(iv) Personal Allowance — \$ 8 — \$ 19 — \$27

(v) **Total — \$ 350 — \$364 — \$449**

(B) **Family Shelter Care — \$18.71**

(C) **Foster Family Group Home — \$1,100.**

(c) Payments to foster parents certified by the agency shall be inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment and other legal process under the laws of this state.

(2) **Residential Treatment.** Payment by the Department to purchase of care providers will be made as stipulated in signed contracts.

#### (3) Payments Prohibited:

(a) Payment will not be made for two simultaneous 24 hour out-of-home care services, such as foster care, relative care, family group homes, or residential treatment at the same time;

(b) Neither payment nor utilization credit will be given for duplicate simultaneous contracted treatment services, such as day treatment and residential treatment;

(c) Payment by the Department will not be authorized for the care of children in a home or facility supported by public funds and maintained only as a secure facility under the jurisdiction of a juvenile court;

(d) Any exceptions to these rules must be approved in writing by the director, or if for a Target Planning Child, by the CAF Target Planning and Consultation Committee. Exceptions will be considered only when federal funds will not be claimed.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.470

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 27-2003, f. & cert. ef. 7-31-03

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**Adm. Order No.:** CWP 28-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 413-090-0160

**Subject:** This permanent rule outlines the reimbursable costs by the Department of Human Services related to special rates and personal care for children served by the child welfare program. These rates were reduced by 10% on February 1, 2003 to implement budget reductions determined by the Oregon Legislature. The rules were adopted as temporary rules to implement the budget reduction. This revised rule has been adopted permanently to continue the rates beyond the rule expiration date of July 30, 2003.

These rule revisions identify the established rates for regular foster care services. The rates are based upon the age of the child and established by the Department subject to the availability of funds and are uniformly applied throughout the state. These rules also address the hourly rate for supervision, transportation and other allowable

costs associated with the Special Rate and Personal Care plans established for children.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-090-0160

### Costs Reimbursable by the Department

(1) The agency will reimburse costs by the foster parent(s) for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas: Costs which are reimbursable to the state under Title IV-E eligible federal guidelines, (CF 172A, Part A); costs paid with state general funds and TANF(CF 172A, Part B); Title XIX eligible federal guidelines, (CF 172A, Part C).

(2) Supervision costs above standard maintenance costs may be paid according to a combination of Title IV-E and TANF or Title XIX allowable costs.

(3) Supervision costs above standard maintenance costs include one or more of the following:

(a) Supervision Eligible for Title IV-E Funding (Part A - 172NPC). Supervision eligible for Title IV-E funding is only for behaviors or direct care needs that are beyond the normal requirements for a child of a similar age and the child does not have a documented diagnosis;

(b) Supervision Eligible for Title XIX (Part C - 172A). Supervision eligible for Title XIX is for behaviors or direct care needs that are beyond the normal requirements for a child of a similar age and the child has a documented diagnosis and an RN assessment and Care Plan has been completed;

(c) Relief Care is only for a child whose documented behavioral supervision needs exceed the normal requirements for a child of a similar age and additional supervision is necessary to the maintenance of the child in the home.

(4) The narrative for any supervision costs must:

(a) Document the behaviors and direct care and supervision needs the child has that are beyond the normal requirements for a child of a similar age;

(b) Describe the necessary interventions and services the foster parent(s) must provide for each special need, including expected outcome which, if not achieved, would require that the child would need placement in a higher level of care program;

(c) Describe the foster parents' skill and experience which enable them to provide appropriate care for the child's special needs and behaviors.

(5) Reimbursement rate structure effective February 1, 2003; A rate structure was established to provide rate parity for similar type activities and equitable rates for similar types of special needs of children. An exception to policy may be granted through documentation and approval (OAR 413-090-0200).

(a) Hourly Rate for Supervision — \$4.15

(b) Transportation Cost - Per Mile — \$ .36

(c) Laundry - Per Additional Load — \$1.00

(d) Relief Care - Hourly Rate — \$4.15

(e) Program Educational Expenses — Direct Cost Incurred -(Prior Approved)

(f) Diet Cost — Direct Cost Incurred - (Prior Approved)

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 28-2003, f. & cert. ef. 7-31-03

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**Adm. Order No.:** CWP 29-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 8-1-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 413-200-0371

**Subject:** A small revision is being made to the Safety Standards for Foster Care, Relative Care and Adoptive Families to provide that Alternative Caregivers may also be approved if they are a Department of Human Services Day Care Provider, Foster Care or Relative Care provider. The specific revisions are as follows:

413-200-0371(6) When a child in the Department custody is cared for by a child care provider or child care center the provider and/or center must be certified as required by the State Child Care Division

# ADMINISTRATIVE RULES

(ORS 657A.280), or be approved as a Department Day Care Provider, Foster Care or Relative Care provider.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-200-0371

### Alternate Caregivers

(1) The approved Foster Parent/Relative Caregiver is responsible for determining and selecting safe and responsible temporary alternative caregivers. The Foster Parent/Relative Caregiver must take into consideration the child's age, special needs, attachment, individual behaviors, and the length of time that the child will be with the alternate caregiver.

(2) When the Foster Parent/Relative Caregiver arranges for informal care of the child(ren) in the Department custody for less than 24 hours, including an overnight arrangement, the Foster Parent/Relative Caregiver will assure that the responsible person will be capable of assuming child care responsibilities, and must be present at all times. The Foster Parent/Relative Caregiver still maintains back-up responsibility for the child. Examples of informal arrangements include but are not limited to: short term babysitting and sleep-overs with friends.

(3) When the Foster Parent/Relative Caregiver arranges for the child(ren) in the Department custody to participate in organized overnight activities provided by schools, churches, civic organizations, scouts, or similar groups the Foster Parent/Relative Caregiver will;

(a) Request the sponsoring organizations to have policies to assure adult leaders are safe and responsible people.

(b) Notify the Department if the overnight activity is longer than 48 hours.

(4) When the Foster Parent/Relative Caregiver arranges for relief care services, the relief care provider must;

(a) Be at least 18 years of age,

(b) Have an approved Oregon criminal history check and;

(c) Background check (IIS).

(5) When the Foster Parent/Relative Caregiver will be separated from the child for 48 hours or longer, the Foster Parent/Relative Caregiver must notify the Department and the alternate caregiver must;

(a) Be at least 18 years of age,

(b) Have an approved Oregon criminal history check and;

(c) Department background check (IIS).

(6) When a child in the Department custody is cared for by a child care provider or child care center the provider and/or center must be certified as required by the State Child Care Division (ORS 657A.280), or be approved as a Department Day Care provider, Foster Care or Relative Care provider.

(7) Families with children with an adoption assistance agreement or permanent foster care agreement may develop an alternate caregiver plan with the Department caseworker, so that notification does not have to take place each time an alternative caregiver is involved.

(8) When notifying the Department about alternate caregivers or overnight arrangements the notice must include: dates, name, address, and qualifications of alternate caregiver, and telephone number where the caregiver and alternate caregiver can be reached.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - ORS 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03

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

**Adm. Order No.:** OMAP 49-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 8-1-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 410-121-0040, 410-121-0140, 410-121-0150

**Subject:** The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. 410-121-0040 is amended to require prior authorization of gabapentin. Effective June 1, 2003, OMAP filed a Temporary Certificate for Rule 410-121-0140, to change the implementation date for section (9)(a), definition of Estimated Acquisition Cost (EAC) changing, "Eighty-six" to "eighty-five percent of Average Wholesale Price (AWP) of

the drug. This is to permanently amend rule 410-12-0140. 410-121-0150 is amended to require primary billing of Medicare prior to billing OMAP for drug prescriptions.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization for the following drugs and products:

(a) Isotretinoin (Accutane) and Retinoic Acid (Retin A);

(b) Growth hormone;

(c) Oral Nutritional supplements;

(d) Antihistamines (selected);

(e) Nasal inhalers (selected);

(f) Antifungals (selected);

(g) Weight reduction drugs;

(h) Excessive daily doses;

(i) Excessive drug therapy duration;

(j) Coal tar preparations;

(k) Topical antibiotics;

(l) Topical antivirals (selected);

(m) Topical testosterone;

(n) Dronabinol (marinol);

(o) Drugs with cosmetic indications;

(A) Emollients;

(B) Dermatologicals;

(C) Hair growth products;

(p) Proton Pump Inhibitors (PPI);

(A) Non-Practitioner's Managed Prescription Drug Plan (PMPDP) PPI category listed drug on the initial prescription;

(B) PMPDP PPI category listed drugs after eight weeks of acute anti-ulcer therapy.

(q) Gabapentin (Neurontin).

(2) Over-the-counter medications not mentioned above are limited to two prescriptions per therapeutic class per month.

(3) Psychotropic prescriptions for children under 6, cannot be processed when a default 999999 provider number has been entered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03

## 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

# ADMINISTRATIVE RULES

be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required; or

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner; or

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-five percent of Average Wholesale Price (AWP) of the drug;

(b) Eighty-nine percent of Average Wholesale Price (AWP) of the drug for True Unit Dose or Modified Unit Dose pharmacy providers.

(c) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(d) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

(i) Each nursing facility or community based living facility patient's medication be delivered a minimum of five days weekly, or delivery of medical carts every other day with daily (seven-days-a-week) service available;

(ii) Only the actual number of drug units used by the client during the billing period can be billed to OMAP;

(iii) Resumption of the same medication after a "stop order" or discontinuance ("DC") order constitutes a new prescription;

(iv) The closing date for the monthly billing period shall remain the same for all clients;

(v) Small quantity prescriptions are allowed only when the closing date for the monthly billing period is interrupted, e.g., hospitalization, new patient admit, etc.

(B) Modified Unit Dose. A Modified Unit Dose Delivery System requires that:

(i) A pharmacy must deliver each nursing facility or community based living facility client's medication in a sealed single-or multi-dose packages;

(ii) A pharmacy must dispense the greater of the quantity prescribed or a 30-day supply, except when short-term therapy is specified by the prescriber;

(iii) Only the actual number of drug units used by the client during the monthly billing period or during the prescribed medication period can be billed to OMAP;

(iv) The provider must credit OMAP for all unused medications as established by the State Board of Pharmacy;

(v) OMAP will be billed for the date of dispensing within the timely filing limit;

(vi) Manufacturer's Unit Dose packaging of drugs is not reimbursable.

(b) 30-Day Card:

(A) A 30-day blister pack, bingo or punch card containing multiple sealed single doses of medication. The pharmacy must have a system for dispensing and recovery of unused doses that has been approved by the State Board of Pharmacy;

(B) A 30-day card system which does not meet the requirements of the State Board of Pharmacy for recovery of unused doses, or for other reasons does not qualify for payment is not considered a True or Modified Unit Dose Delivery System.

(c) True and Modified Unit Dose providers must:

(A) Supply OMAP with a list of the facilities it will serve under this system;

(B) Sign an agreement to abide by the requirements of the program;

(C) Keep a separate, detailed Medication Administration (MAR) of all medications dispensed for each facility client served.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03); OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03; 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

## 410-121-0150

### Billing Requirements

(1) When billing OMAP for pharmaceuticals, the provider must not bill in excess of the usual and customary charge to the general public.

(2) The National Drug Code (NDC), as it appears on the package from which the prescribed medications are dispensed, must be indicated.

(3) Actual metric decimal quantity dispensed, must be billed.

(4) The provider must accurately furnish all information required on the 5.1 Universal Claims Form if submitting paper claim.

(5) The prescribing physician's Medicaid Provider ID Number is required on all claims. Use of the appropriate identification number is mandatory. Claims will deny for a missing or invalid Prescriber ID number. Exceptions to this include but are not limited to:

(a) Out-of-state providers;

(b) Mental Health providers working at county clinics which have no individual provider number;

(c) Inactive medicaid providers contracted by managed care plans prescribing class seven (7) or eleven (11) drugs.

(6) When clients have private insurance, providers are required to bill the private insurance as primary and OMAP as secondary.

(7) When clients have Medicare prescription drug coverage, providers are required to bill Medicare as primary and OMAP as secondary.

(8) Billing for Death With Dignity services:

# ADMINISTRATIVE RULES

(a) All Death With Dignity services must be billed directly to OMAP, even if the client is in a managed care plan;

(b) Prescriptions must be billed on an 5.1 Universal Claims Form paper claim form using an NDC number ;

(c) Claims for Death With Dignity services cannot be billed through Point-of-Sale;

(d) Claims for Death With Dignity services must be submitted to OMAP at PO Box 992, Salem, Oregon 97308-0992.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

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**Subject:** OMAP revised Rules 410-141-0000, 410-141-0120, 410-141-0160, 410-141-0200, 410-141-0260, 410-141-0261, 410-141-0262, 410-141-0263, 410-141-0264, 410-141-0265 and 410-141-0300 to be in compliance with the finalized Balanced Budget Act (BBA) Code of Federal Register (CFR) changes which are effective August 1, 2003.

**Rules Coordinator:** Darlene Nelson — (503) 945-6927

## 410-141-0000

### Definitions

(1) Action — in the case of a PHP:

(a) The denial or limited authorization of a requested covered service, including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by OMAP;

(e) The failure of a PHP to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For an OMAP Member in a single FCHP or MHO Service Area, the denial of a request to obtain covered services outside of the FCHP or MHO's Participating Provider panel pursuant to OAR 410-141-0160 and 410-141-0220.

(2) Administrative Hearing — A DHS hearing related to an Action, including a denial, reduction, or termination of benefits which is held when requested by the OHP Client or OMAP Member. A hearing may also be held when requested by an OHP Client or OMAP Member who believes a claim for services was not acted upon with reasonable promptness or believes the payor took an action erroneously.

(3) Advance Directive — A form that allows a person to have another person make health care decisions when he/she cannot make the decision and tells a doctor that the person does not want any life sustaining help if he/she is near death.

(4) Aged — Individuals who meet eligibility criteria established by DHS Seniors and People with Disabilities for receipt of medical assistance because of age.

(5) Americans with Disabilities Act (ADA) — Federal law promoting the civil rights of persons with disabilities. The ADA requires that reasonable accommodations be made in employment, service delivery, and facility accessibility.

(6) Alternative Care Settings — Sites or groups of practitioners which provide care to OMAP Members under contract with the PHP. Alternative Care Settings include but are not limited to urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, outpatient surgicenters.

(7) Ancillary Services — Those medical services under the Oregon Health Plan not identified in the definition of a Condition/Treatment Pair

under the OHP Benefit Package, but Medically Appropriate to support a service covered under the OHP benefit package. A list of ancillary services and limitations is identified in OAR 410-141-0520, Prioritized List of Health Services, or specified in the Ancillary Services Criteria Guide.

(8) Appeal — A request for review of an "Action" as defined in this section.

(9) Automated Information System (AIS) — A computer system that provides information on the current eligibility status for clients under the Medical Assistance Program.

(10) Blind — Individuals who meet eligibility criteria established by DHS Seniors and People with Disabilities for receipt of medical assistance because of a condition or disease that causes or has caused blindness.

(11) Capitated Services — Those services that a PHP or Primary Care Manager agrees to provide for a Capitation Payment under an OMAP Oregon Health Plan contract or agreement.

(12) Capitation Payment:

(a) Monthly prepayment to a PHP for the provision of all Capitated Services needed by OHP Clients who are enrolled with the PHP;

(b) Monthly prepayment to a Primary Care Manager to provide Primary Care Management Services for an OHP Client who is enrolled with the PCM. Payment is made on a per OHP Client, per month basis.

(13) Centers for Medicare and Medicaid Services (CMS). The federal agency under the Department of Health and Human Services, responsible for approving the waiver request to operate the Oregon Health Plan Medicaid Demonstration Project.

(14) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(15) Chemical Dependency Organization (CDO) — a Prepaid Health Plan that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as Capitated Services under the Oregon Health Plan. All chemical dependency services covered under the Oregon Health Plan are covered as Capitated Services by the CDO.

(16) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(17) 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).

(18) Children Receiving CAF (SOSCF) or OYA Services — Individuals who are receiving medical assistance under ORS 414.025(2)(f), (i), (j), (k) and (o), 418.034, and 418.187 to 418.970. These individuals are generally children in the care and/or custody of Children, Adults and Families Services, Department of Human Services or Oregon Youth Authority who are in placement outside of their homes.

(19) Clinical Record — The Clinical Record includes the medical, dental, or mental health records of an OHP Client or OMAP Member. These records include the PCP's record, the inpatient and outpatient hospital records and the ENCC, Complaint and Disenrollment for cause records which may reside in the PHP's administrative offices.

(20) Comfort Care — The provision of medical services or items that give comfort and/or pain relief to an individual who has a Terminal Illness. Comfort care includes the combination of medical and related services designed to make it possible for an individual with Terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness. Comfort Care includes but is not limited to care provided through a hospice program (see Hospice Guide), pain medication, and palliative services including those services directed toward ameliorating symptoms of pain or loss of bodily function or to prevent additional pain or disability. Comfort Care includes nutrition, hydration and medication for disabled infants with life-threatening conditions that are not covered under Condition/Treatment Pairs. These guarantees are provided pursuant to 45 CFR, Chapter XIII, 1340.15. Where applicable Comfort Care is provided consistent with Section 4751 OBRA 1990 — Patient Self-Determination Act and ORS 127 relating to health care decisions as amended by the Sixty-Seventh Oregon Legislative Assembly, 1993. Comfort Care

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does not include diagnostic or curative care for the primary illness or care focused on active treatment of the primary illness and intended to prolong life.

(21) Community Mental Health Program (CMHP) — The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the DHS Office of Mental Health and Addiction Services.

(22) Comorbid Condition — A medical condition/diagnosis (i.e., illness, disease and/or disability) coexisting with one or more other current and existing conditions/diagnoses in the same patient. See OAR 410-141-0480(7).

(23) Complaint — An OMAP Member's, a PCM Member's, or an OMAP Member's Representative's clear expression of dissatisfaction with the Prepaid Health Plan or the Primary Care Manager which addresses issues that are part of the Prepaid Health Plan or Primary Care Manager contractual responsibility. The expression shall be considered a Grievance and may be in whatever form of communication or language that is used by the OMAP Member or the OMAP Member's Representative but must state the reason for the dissatisfaction.

(24) Community Standard — Typical expectations for access to the health care delivery system in the OMAP Member's or PCM Member's community of residence. Except where the Community Standard is less than sufficient to ensure quality of care, OMAP requires that the health care delivery system available to OMAP Members in Prepaid Health Plans and to PCM Members with Primary Care Managers take into consideration the Community Standard and be adequate to meet the needs of OMAP and PCM Members.

(25) Condition/Treatment Pair — Diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9 CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or the DHS Office of Mental Health and Addiction Services Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Services Commission, constitute the line items in the Prioritized List of Health Services. Condition/Treatment Pairs may contain many diagnoses and treatments. The Condition/Treatment Pairs are listed in OAR 410-141-0520, Prioritized List of Health Services.

(26) Continuing Treatment Benefit — A benefit for OHP Clients who meet criteria for having services covered that were either in a course of treatment or were scheduled for treatment on the day immediately prior to the date of conversion to the OHP Benefit Package of covered services and that treatment is not covered under the OHP Benefit Package of covered services.

(27) Co-payment — The portion of a covered service that an OMAP Member must pay to a provider or a facility. This is usually a fixed amount that is paid at the time one or more services are rendered.

(28) Contract — The contract between the State of Oregon, acting by and through its Department of Human Services, Office of Medical Assistance Programs (OMAP) and a Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), or a Chemical Dependency Organization (CDO), or between the Office of Mental Health and Addiction Services (OMHAS) and a Mental Health Organization (MHO) for the provision of covered services to eligible OMAP Members for a Capitation Payment. Also referred to as a Service Agreement.

(29) Dentally Appropriate — Services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the Oregon Health Plan Member or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to an OMAP Member.

(28) Dental Care Organization (DCO) — A Prepaid Health Plan that provides and coordinates capitated dental services. All dental services covered under the Oregon Health Plan are covered as Capitated Services by the DCO; no dental services are paid by OMAP on a fee-for-service basis for Oregon Health Plan Clients enrolled with a DCO provider.

(29) Dental Case Management Services — Services provided to ensure that eligible OMAP Members obtain dental services including a

comprehensive, ongoing assessment of the dental and medical needs related to dental care of the Member plus the development and implementation of a plan to ensure that eligible OMAP Members obtain Capitated Services.

(30) Dental Emergency Services — Dental services may include but are not limited to severe tooth pain, unusual swelling of the face or gums, and an avulsed tooth.

(31) Dental Practitioner — A practitioner who provides dental services to OMAP Members under an agreement with a DCO, or is a Fee-For-Service Health Care Practitioner. Dental practitioners are licensed and/or certified by the state in which they practice, as applicable, to provide services within a defined scope of practice.

(32) Department of Human Services (DHS) — The Department comprised of seven divisions and three major program offices: Administrative Services; Community Human Services; Continuous System Improvement; Finance and Policy Analysis; Children, Adults and Families; Health Services and Seniors and People with Disabilities; and within Health Services, the programs include the Office of Medical Assistance Programs and Mental Health and Addiction Services, as well as the Office of Vocational Rehabilitation Services within Community Human Services.

(33) Diagnostic Services — Those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(34) Disabled — Individuals who meet eligibility criteria established by the DHS Seniors and People with Disabilities for receipt of Medical Assistance because of a disability.

(35) Disenrollment — The act of discharging an Oregon Health Plan Client from a Prepaid Health Plan's or Primary Care Manager's responsibility. After the effective date of Disenrollment an Oregon Health Plan Client is no longer required to obtain Capitated Services from the Prepaid Health Plan or Primary Care Manager, nor be referred by the Prepaid Health Plan for Medical Case Managed Services or by the Primary Care Manager for PCM Case Managed Services.

(36) Dual Eligible — OHP Clients who are receiving both Medicaid and Medicare benefits.

(37) Emergency 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 or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. If an emergency medical condition is found to exist, emergency medical services necessary to stabilize the condition must be provided. This includes all treatment that may be necessary to assure, within reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(38) Enrollment — Oregon Health Plan Clients, subject to OAR 410-141-0060 — Oregon Health Plan Managed Care Enrollment Requirements, become OMAP Members of a Prepaid Health Plan or PCM Members of a Primary Care Manager that contracts with OMAP to provide Capitated Services. An OHP Client's Enrollment with a PHP indicates that the OMAP Member must obtain or be referred by the PHP for all Capitated Services and referred by the PHP for all Medical Case Managed Services subsequent to the effective date of Enrollment. An Oregon Health Plan Client's Enrollment with a Primary Care Manager indicates that the PCM Member must obtain or be referred by the Primary Care Manager for preventive and primary care and referred by the Primary Care Manager for all PCM Case Managed Services subsequent to the effective date of Enrollment.

(39) Enrollment Area — Client enrollment is based on the client's residential address and zip code. The address is automatically assigned a county code or Federal Information Processing Standard (FIPS) code by the system, which indicates to the DHS worker which Plan(s) are in the area.

(40) Enrollment Year — A twelve month period beginning the first day of the month of Enrollment of the Oregon Health Plan Client in a PHP and, for any subsequent year(s) of continuous Enrollment, beginning that same day in each such year(s). The Enrollment Year of Oregon Health Plan Clients who re-enroll within a calendar month of Disenrollment shall be counted as if there were no break in Enrollment.

(41) End Stage Renal Disease (ESRD) — End stage renal disease is defined as that stage of kidney impairment that appears irreversible and requires a regular course of dialysis or kidney transplantation to maintain life. In general, 5% or less of normal kidney function remains. If the person

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is 36 or more months post-transplant, the individual is no longer considered to have ESRD.

(42) Exceptional Needs Care Coordination (ENCC) — A specialized case management service provided by Fully Capitated Health Plans to OMAP Members who are Aged, Blind or Disabled, consistent with OAR 410-141-0405, Oregon Health Plan Prepaid Health Plan Exceptional Needs Care Coordination (ENCC). ENCC includes:

(a) Early identification of those Aged, Blind or Disabled OMAP Members that have disabilities or complex medical needs;

(b) Assistance to ensure timely access to providers and Capitated Services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of Capitated Services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(43) Family Health Insurance Assistance Program (FHIAP) — A program in which the State subsidizes premiums in the commercial market for uninsured individuals and families with income below 185% of the FPL. FHIAP is funded with federal and states funds through either Title XIX, XXI or both.

(44) Family Planning Services — Services for clients of childbearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(45) Fee-for-Service Health Care Providers — Health care providers who bill for each service provided and are paid by OMAP for services as described in OMAP provider guides. Certain services are covered but are not provided by Prepaid Health Plans or by Primary Care Managers. The client may seek such services from an appropriate Fee-For-Service provider. Primary Care Managers provide primary care services on a fee-for-service basis and might also refer PCM Members to specialists and other providers for fee-for-service care. In some parts of the state, the State may not enter into contracts with any managed care providers. OHP Clients in these areas will receive all services from Fee-For-Service providers.

(46) FPL — Federal Poverty Level.

(47) Free-Standing Mental Health Organization (MHO) — The single MHO in each county that provides only mental health services and is not affiliated with a Fully Capitated Health Plan for that service area. In most cases this “carve-out” MHO is a county Community Mental Health Program or a consortium of Community Mental Health Programs, but may be a private behavioral health care company.

(48) Fully Capitated Health Plan (FCHP) — Prepaid Health Plans that contract with OMAP to provide capitated services under the Oregon Health Plan. The distinguishing characteristic of FCHPs is the coverage of hospital inpatient services.

(49) Grievance — An expression of dissatisfaction about any matter other than an Action. The term is also used to refer to the overall system that includes Grievances and Appeals handled at the PHP level and access to the state fair hearing process. (Possible subjects for Grievances include, but are not limited to, the quality of care or services provided and aspects of interpersonal relationships such as rudeness of a Provider or employee, or failure to respect the OMAP Member’s rights.)

(50) Health Care Professionals — Persons with current and appropriate licensure, certification, or accreditation in a medical, mental health or dental profession, which include but are not limited to: Medical Doctors (including Psychiatrists), Dentists, Osteopathic Physicians, Psychologists, Registered Nurses, Nurse Practitioners, Licensed Practical Nurses, Certified Medical Assistants, Licensed Physicians Assistants, Qualified Mental Health Professionals (QMHPs), and Qualified Mental Health Associates (QMHAAs), Dental Hygienists, Denturists, and Certified Dental Assistants. These professionals may conduct health, mental health or dental assessments of OMAP members and provide Screening Services to OHP Clients within their scope of practice, licensure or certification.

(51) Health Insurance Portability and Accountability Act (HIPAA) of 1996 — HIPAA is a federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(52) Health Management Unit (HMU) — The OMAP unit responsible for adjustments to enrollments, retroactive disenrollment and enrollment of newborns.

(53) Health Plan New/Noncategorical Client (HPN) — A person who is 19 years of age or older, is not pregnant, is not receiving Medicaid

through another program and who must meet eligibility requirements in OAR 461-136-1100(2), in addition to all other OHP eligibility requirements to become an Oregon Health Plan Client.

(54) Health Services Commission — An eleven member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be served.

(55) Hospice Services — A public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified for Medicare and/or accredited by the Oregon Hospice Association, is listed in the Hospice Program Registry, and has a valid provider agreement.

(56) Hospital Hold — A hospital hold is a process that allows a hospital to assist an individual who is admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the Oregon Health Plan due to inpatient hospitalization. OHP clients shall be exempted from mandatory enrollment with an FCHP, if clients become eligible through a hospital hold process and are placed in the Adults/Couples category.

(57) Line Items — Condition/Treatment Pairs or categories of services included at specific lines in the Prioritized List of Services developed by the Health Services Commission for the Oregon Health Plan Medicaid Demonstration Project.

(58) Local and Regional Allied Agencies — Local and Regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; local offices of DHS agencies (CAFS, SPD); Commission on Children and Families; OYA; Department of Corrections; Housing Authorities; local health departments, including WIC Programs; local schools; special education programs; law enforcement agencies; adult and juvenile criminal justices; developmental disability services; chemical dependency providers; residential providers; state hospitals, and other PHPs.

(59) Medicaid — A federal and state funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, and administered in Oregon by the Department of Human Services.

(60) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon’s Medical Assistance Program includes Medicaid services including the OHP Medicaid Demonstration, and the Children’s Health Insurance Program (CHIP). The Medical Assistance Program is administered by identified Divisions and the Office of Medical Assistance Programs (OMAP), of the Department of Human Services. Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs.

(61) Medical Care Identification — The preferred term for what is commonly called the “medical card”. It is a letter-sized document issued monthly to Medical Assistance Program clients to verify their eligibility for services and enrollment in PHPs.

(62) Medical Case Management Services — Medical Case Management Services are services provided to ensure that OMAP Members obtain health care services necessary to maintain physical and emotional development and health. Medical Case Management Services include a comprehensive, ongoing assessment of medical and/or dental needs plus the development and implementation of a plan to obtain needed medical or dental services that are Capitated Services or non-capitated services, and follow-up, as appropriate, to assess the impact of care.

(63) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan Client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of Medical services or medical supplies that can be safely provided to an OMAP Member or PCM Member in the PHP’s or Primary Care Manager’s judgment.

(64) Medicare — The federal health insurance program for the aged and disabled administered by the Health Care Financing Administration under Title XVIII of the Social Security Act.

(65) Medicare HMO — A capitated health plan that meets specific referral guidelines and contracts with CMS to provide Medicare benefits to Medicare enrollees.



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(66) Mental Health Assessment — The determination of an OMAP Member's need for mental health services. A Qualified Mental Health Professional collects and evaluates data pertinent to a Member's mental status, psychosocial history and current problems through interview, observation and testing.

(67) Mental Health Case Management — Services provided to OMAP Members who require assistance to ensure access to benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the OMAP Member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring OMAP Members to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services. ENCC Services are separate and distinct from Mental Health Case Management.

(68) Mental Health Organization (MHO) — A Prepaid Health Plan under contract with the Office of Mental Health and Addiction Services that provides mental health services as capitated services under the Oregon Health Plan. MHOs can be Fully Capitated Health Plans, community mental health programs or private behavioral organizations or combinations thereof.

(69) Non-Capitated Services — Those OHP-covered services which are paid for on a fee-for-service basis and for which a capitation payment has not been made to a PHP.

(70) Non-covered services — Services or items for which the Medical Assistance Program is not responsible for payment. Services may be covered under the Oregon Medical Assistance Program, but not covered under the Oregon Health Plan. Non-covered services for the Oregon Health Plan are identified in:

(a) OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients;

(b) Exclusions and limitations described in OAR 410-120-1200; and

(c) The individual provider guides.

(71) Non-Participating Provider — A provider who does not have a contractual relationship with the Prepaid Health Plan, i.e. is not on their panel of providers.

(72) Office of Medical Assistance Programs (OMAP) — The Office of the Department of Human Services responsible for coordinating Medical Assistance Programs, including the OHP Medicaid Demonstration, in Oregon and the Children's Health Insurance Program (CHIP). OMAP writes and administers the state Medicaid rules for medical services, contracts with providers, maintains records of client eligibility and processes and pays OMAP providers.

(73) Office of Mental Health and Addiction Services (OMHAS) — The Department of Human Services agency responsible for the administration of the state's policy and programs for mental health, chemical dependency prevention, intervention, and treatment services.

(74) OMAP Member — An Oregon Health Plan Client enrolled with a Prepaid Health Plan.

(75) Ombudsman Services — Services provided by DHS to Aged, Blind and Disabled Oregon Health Plan Clients by DHS Ombudsman Staff who may serve as the Oregon Health Plan Client's advocate whenever the Oregon Health Plan Client, Representative, a physician or other medical personnel, or other personal advocate serving the Oregon Health Plan Client, is reasonably concerned about access to, quality of or limitations on the care being provided by a health care provider under the Oregon Health Plan. Ombudsman Services include response to individual complaints about access to care, quality of care or limits to care; and response to complaints about Oregon Health Plan systems.

(76) Oregon Health Plan (OHP) — The Medicaid demonstration project which expands Medicaid eligibility to eligible Oregon Health Plan Clients. The Oregon Health Plan relies substantially upon prioritization of health services and managed care to achieve the public policy objectives of access, cost containment, efficacy, and cost effectiveness in the allocation of health resources.

(77) Oregon Health Plan (OHP) Plus Benefit Package — A benefit package available to eligible Oregon Health Plan clients as described in OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-120-0520, Prioritized List of Health Services.

(78) Oregon Health Plan (OHP) Standard Benefit Package — A benefit package available to eligible Oregon Health Plan clients who are not otherwise eligible for Medicaid (including families, adults and couples) as described in OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-141-0520, Prioritized List of Health Services.

(79) Oregon Health Plan Client — An individual found eligible by DHS to receive services under the Oregon Health Plan. The individual is not yet enrolled with a PHP, but may or may not be enrolled with a Primary Care Manager. The OHP categories eligible to enroll in Prepaid Health Plans are defined as follows:

(a) Aid to Families with Dependent Children (AFDC) are categorical eligibles with income under current eligibility rules;

(b) Children's Health Insurance Program (CHIP) — children under one year of age who have income under 170% FPL and do not meet one of the other eligibility classifications;

(c) PLM (Poverty Level Medical) Adults under 100% Federal Poverty Level (FPL) are OHP recipients who are pregnant women with income under 100% of FPL;

(d) PLM Adults over 100% FPL are OHP recipients who are pregnant women with income between 100% and 170% of the FPL;

(e) PLM children under one year of age have family income under 133% FPL or were born to mothers who were eligible as PLM Adults at the time of the child's birth;

(f) PLM or CHIP children one through five years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(g) PLM or CHIP children six through eighteen years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(h) OHP Adults and Couples are OHP recipients aged 19 or over and not Medicare eligible, with income below 100% FPL who do not meet one of the other eligibility classifications, and do not have an unborn child or a child under age 19 in the household;

(i) OHP Families are OHP recipients, aged 19 or over and not Medicare eligible, with income below 100% of FPL who do not meet one of the other eligibility classifications, and have an unborn child or a child under the age of 19 in the household;

(j) GA (General Assistance) Recipients are OHP Clients who are eligible by virtue of their eligibility under the Oregon General Assistance program, ORS 411.710 et seq.;

(k) AB/AD (Assistance to Blind and Disabled) with Medicare Eligibles are OHP recipients with concurrent Medicare eligibility with income under current eligibility rules;

(l) AB/AD without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(m) OAA (Old Age Assistance) with Medicare Eligibles are OHP recipients with concurrent Medicare Part A or Medicare Parts A & B eligibility with income under current eligibility rules;

(n) OAA with Medicare Part B only are OAA eligibles with concurrent Medicare Part B only income under current eligibility rules;

(o) OAA without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(p) CAF Children are OHP recipients who are children with medical eligibility determined by Children, Adults and Families or the Oregon Youth Authority receiving OHP under ORS 414.025(2)(f), (I), (j), (k) and (o), 418.034 and 418.187 to 418.970. These individuals are generally in the care and/or custody of the Children, Adults and Families or the Oregon Youth Authority who are in placement outside of their homes.

(80) Oregon Youth Authority — The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(81) Participating Provider — An individual, facility, corporate entity, or other organization which supplies medical, dental, chemical dependency services, or mental health services or medical and dental items and that has agreed to provide those services or items to OMAP Members under an agreement or contract with a PHP and to bill in accordance with the signed agreement or contract with a PHP.

(82) PCM Case Managed Services — PCM Case Managed Services include the following: Preventive Services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics and Tribal Health Clinics, Community Mental Health Programs, Mental Health Organizations; inpatient hospital services; and outpatient hospital services except laboratory, X-ray, and maternity management services.

(83) PCM Member — An Oregon Health Plan Client enrolled with a Primary Care Manager.

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(84) PHP Coordinator — the DHS OMAP employee designated by OMAP as the liaison between OMAP and the PHP.

(85) Post Hospital Extended Care Benefit — A 20 day benefit for non-Medicare OMAP Members enrolled in a FCHP who meet Medicare criteria for a post-hospital skilled nursing placement.

(86) Post Stabilization Care Services — covered services, related to an emergency medical condition that are provided after an OMAP Member is stabilized in order to maintain the stabilized condition or to improve or resolve the OMAP Member's condition.

(87) 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.

(88) Prepaid Health Plan (PHP) — A managed health, dental, chemical dependency, or mental health care organization that contracts with OMAP and/or OMHAS on a case managed, prepaid, capitated basis under the Oregon Health Plan. Prepaid Health Plans may be Dental Care Organizations (DCOs), Fully Capitated Health Plans (FCHPs), Mental Health Organizations (MHOs), or Chemical Dependency Organizations (CDOs).

(89) Preventive Services — Those services as defined under Expanded Definition of Preventive Services for Oregon Health Plan clients in OAR 410-141-0480, The Oregon Health Plan Benefit Package of covered services, and OAR 410-141-0520, Prioritized List of Health Services.

(90) Primary Care Management Services — Primary Care Management Services are services provided to ensure PCM Members obtain health care services necessary to maintain physical and emotional development and health. Primary Care Management Services include a comprehensive, ongoing assessment of medical needs plus the development, and implementation of a plan to obtain needed medical services that are preventive or primary care services or PCM Case Managed Services and follow-up, as appropriate, to assess the impact of care.

(91) Primary Care Manager (PCM) — A physician (MD or DO), nurse practitioner, physician assistant; or naturopath with physician back-ups, who agrees to provide Primary Care Management Services as defined in rule to PCM Members. Primary Care Managers may also be hospital primary care clinics, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics or Tribal Health Clinics. The PCM provides Primary Care Management Services to PCM Members for a Capitation Payment. The PCM provides preventive and primary care services on a fee-for-service basis.

(92) Primary Care Dentist (PCD) — A Dental Practitioner who is responsible for supervising, coordinating initial and primary dental care within their scope of practice for OMAP Members. Primary Care Dentists initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of appropriate dental or medical care.

(93) Primary Care Provider (PCP) — A practitioner who has responsibility for supervising, coordinating initial and primary care within their scope of practice for OMAP Members, Primary care providers initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medically or dental appropriate care.

(94) Prioritized List of Health Services — The listing of condition and treatment pairs developed by the Health Services Commission for the purpose of implementing the Oregon Health Plan Demonstration Project. See OAR 410-141-0520, Prioritized List of Health Services, for the listing of condition and treatment pairs.

(95) Proof of Indian Heritage — Proof of Native American and/or Alaska Native descent as evidenced by written identification that shows status as an "Indian" in accordance with the Indian Health Care Improvement Act (P.L. 94-437, as amended). This written proof supports his/her eligibility for services under programs of the Indian Health Service — services provided by Indian Health Service facilities, tribal health clinics/programs or urban clinics. Written proof may be a tribal identification card, a certificate of degree of Indian blood, or a letter from the Indian Health Service verifying eligibility for health care through programs of the Indian Health Service.

(96) Provider — An individual, facility, institution, corporate entity, or other organization which supplies medical, dental or mental health services or medical and dental items.

(97) Quality Improvement — Quality improvement is the effort to improve the level of performance of a key process or processes in health services or health care. A quality improvement program measures the level of current performance of the processes, finds ways to improve the performance and implements new and better methods for the processes.

Quality Improvement (as used in these rules) includes the goals of quality assurance, quality control, quality planning and quality management in health care where "quality of care is the degree to which health services for individuals and populations increases the likelihood of desired health outcomes and are consistent with current professional knowledge."

(98) Representative — A person who can make Oregon Health Plan related decisions for Oregon Health Plan Clients who are not able to make such decisions themselves. A Representative may be, in the following order of priority, a person who is designated as the Oregon Health Plan Client's health care representative, a court-appointed guardian, a spouse, or other family member as designated by the Oregon Health Plan client, the Individual Service Plan Team (for developmentally disabled clients), a DHS case manager or other DHS designee.

(99) Rural — A geographic area 10 or more map miles from a population center of 30,000 people or less.

(100) Seniors and People with Disabilities (SPD) — The Office within DHS responsible for providing three types of services:

(a) Assistance with the cost of long-term care through the Medicaid Long Term Care Program and the Oregon Project Independence (OPI) Program;

(b) Cash assistance grants for persons with long-term disabilities through General Assistance and the Oregon Supplemental Income Program (OSIP); and

(c) Administration of the federal Older Americans Act.

(101) Service Area — The geographic area in which the PHP has identified in their Contract or Agreement with DHS to provide services under the Oregon Health Plan.

(102) Terminal Illness — An illness or injury in which death is imminent irrespective of treatment, where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death.

(103) Triage — Evaluations conducted to determine whether or not an emergency condition exists, and to direct the OMAP Member to the most appropriate setting for Medically Appropriate care.

(104) Urban — A geographic area less than 10 map miles from a population center of 30,000 people or more.

(105) Urgent Care Services — covered services required in order to prevent a serious deterioration of an OMAP Member's or PCM Member's health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered Urgent Services.

(106) Valid Claim — An invoice received by the PHP for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules; and

(c) A "valid claim" is synonymous with the federal definition of a "clean claim" as defined in 42 CFR 447.45(b).

(107) Valid Pre-Authorization — A request received by the PHP for approval of the provision of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

### 410-141-0120

#### Oregon Health Plan Prepaid Health Plan Provision of Health Care Services

CAFS: Children, Adults and Families Services

CMS: Centers for Medicare and Medicaid Services

DHS: Department of Human Services

FCHP: Fully Capitated Health Plans

MHO: Mental Health Organization

PCP: Primary Care Provider

PHP: Prepaid Health Plan

OHP: Oregon Health Plan

OMHAS: Office of Mental Health and Addiction Services

OMAP: Office of Medical Assistance Programs

(1) PHPs shall have written policies and procedures that ensure the provision of all Medically and Dentally Appropriate covered services, including Urgent Care Services and Emergency Services, Preventive

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Services and Ancillary Services, in those categories of services included in Contract or agreements with OMAP and/or OMHAS, respectively. PHPs shall communicate these policies and procedures to Providers, regularly monitor 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) PHPs shall ensure that all Participating Providers providing covered services to OMAP Members are credentialed upon initial contract with the PHP and recredentialed no less frequently than every three years thereafter. The credentialing and recredentialing process shall include review of any information in the National Practitioners Databank and a determination, based on the requirements of the discipline or profession, that Participating Providers have current licensure in the state in which they practice, appropriate certification, applicable hospital privileges and appropriate malpractice insurance. This process shall include a review and determination based on the activity and results of a professional quality improvement review. PHPs may elect to contract for or to delegate responsibility for this process. PHPs shall accept both the Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application, both of which were approved by the Advisory Committee on Physician Credentialing Information (ACPI) on November 14, 2000, thereby implementing ORS 442.807. PHPs shall retain responsibility for delegated activities, including oversight of processes:

(A) PHPs shall ensure that covered services are provided within the scope of license or certification of the Participating Provider or facility, and within the scope of the Participating Provider's contracted services and that Participating Providers are appropriately supervised according to their scope of practice;

(B) PHPs shall provide training for PHP staff and Participating Providers and their staff regarding the delivery of covered services, OHP Administrative Rules, and the PHP's administrative policies;

(C) PHPs shall maintain records documenting academic credentials, training received, licenses or certifications of staff and facilities used, and reports from the National Practitioner Data Bank;

(D) PHPs shall not refer OMAP Members to or use Providers who have been terminated from the Oregon Medical Assistance Program or excluded as Medicare/Medicaid Providers by CMS and/or by any lawful conviction by a Court for which the Provider could be excluded under 42 CFR 1001.101. PHPs shall not accept billings for services to OMAP Members provided after the date of such Provider's conviction or termination.

(b) FCHPs, DCOs and CDOs shall have written procedures that provide newly enrolled OMAP Members with information about which Participating Providers are currently not accepting new patients (except for staff models);

(c) FCHPs, DCOs and CDOs shall have written procedures that allow and encourage a choice of a PCP or clinic for physical health, and dental health services by each OMAP Member. These procedures shall enable an OMAP Member to choose a participating PCP or clinic (when a choice is available for PCPs or clinics) to provide services within the scope of practice to that OMAP Member;

(d) If the OMAP Member does not choose a PCP within 30 calendar days from the date of Enrollment, the FCHP must ensure the OMAP Member has an ongoing source of primary care appropriate to his or her needs by formally designating a Practitioner or entity. FCHPs that assign OMAP Members to PCPs or clinics shall document the unsuccessful efforts to elicit the OMAP Member's choice before assigning an OMAP Member to a PCP or clinic. FCHPs who assign PCPs before 30 calendar days after Enrollment, must notify the OMAP Member of the assignment and allow the OMAP Member 30 calendar days after assignment to change the assigned PCP or clinic.

(2) In order to make advantageous use of the system of public health services available through county health departments and other publicly supported programs and to ensure access to public health services through contract under ORS Chapter 414-153:

(a) Unless cause can be demonstrated to OMAP's satisfaction why such an agreement is not feasible, FCHPs shall execute agreements with publicly funded Providers for payment of point-of-contact services in the following categories:

- (A) Immunizations;
- (B) Sexually transmitted diseases; and
- (C) Other communicable diseases.

(b) OMAP Members may receive the following services from appropriate Non-Participating Medicaid Providers. If the following services are not referred by the FCHP in accordance with the FCHP's referral process

(except as provided for under 410-141-0420 Billing and Payment under the Oregon Health Plan), OMAP is responsible for payment of such services:

(A) Family planning services; and

(B) Human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention services.

(c) FCHPs are encouraged to execute agreements with publicly funded Providers for authorization of and payment for services in the following categories:

(A) Maternity case management;

(B) Well-child care;

(C) Prenatal care;

(D) School-based clinic services;

(E) Health services for children provided through schools and Head Start programs; and

(F) Screening services to provide early detection of health care problems among low income women and children, migrant workers and other special population groups.

(d) Recognizing the social value of partnerships between county health departments, other publicly supported programs, and health Providers, FCHPs are encouraged to involve publicly supported health care and service programs in the development and implementation of managed health care programs through inclusion on advisory and/or planning committees;

(e) FCHPs shall report to OMAP on their status in executing agreements with publicly funded Providers and on the involvement of publicly supported health care and service programs in the development and implementation of their program on an annual basis.

(3) FCHPs shall ensure a newly enrolled OMAP Member receives timely, adequate and appropriate health care services necessary to establish and maintain the health of the OMAP Member. An FCHP's liability covers the period between the OMAP Member's Enrollment and Disenrollment with the FCHP, unless the OMAP Member is hospitalized at the time of Disenrollment. In such an event, an FCHP is responsible for the inpatient hospital services until discharge or until the OMAP Member's PCP or designated Practitioner determines the care is no longer Medically Appropriate.

(4) The OMAP Member shall obtain all covered services, either directly or upon referral, from the PHP responsible for the service from the date of Enrollment through the date of Disenrollment.

(5) FCHPs with a Medicare HMO component and MHOs have significant and shared responsibility for Capitated Services, and shall coordinate benefits for shared OMAP Members to ensure that the OMAP Member receives all Medically Appropriate services covered under respective Capitation Payments. If the Dual Eligible OMAP Member is enrolled in a FCHP with a Medicare HMO component the following apply:

(a) Mental health services covered by Medicare shall be obtained from the FCHP or upon referral by the FCHP;

(b) Mental health services that are not covered by the FCHP that are covered by the MHO shall be obtained from the MHO or upon referral by the MHO.

(6) PHPs shall coordinate services for each OMAP Member who requires services from agencies providing health care services not covered under the Capitation Payment. The PCP shall arrange, coordinate, and monitor other medical and mental health, and/or dental care for that OMAP Member on an ongoing basis except as provided for in Section (6)(c) of this rule:

(a) PHPs shall establish and maintain working relationships with Local or Allied Agencies, Community Emergency Service Agencies, and local Providers;

(b) PHPs shall refer OMAP Members to the Offices of the Department of Human Services and Local and Regional Allied Agencies which may offer services not covered under the Capitation Payment;

(c) FCHPs shall not require OMAP Members to obtain the approval of a PCP in order to gain access to mental health and alcohol and drug assessment and evaluation services. OMAP Members may refer themselves to MHO services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065 & ORS 442.807

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 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 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

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## 410-141-0160

### Oregon Health Plan Prepaid Health Plan (PHP) Coordination and Continuity of Care

(1) PHPs shall have written policies, procedures, and monitoring systems that ensure the provision of Medical Case Management Services, delivery of primary care to and coordination of health care services for all OMAP Members:

(a) PHPs are to coordinate and manage Capitated Services and Non-Capitated Services, and ensure that referrals made by the PHP's Providers to other Providers for covered services are noted in the appropriate OMAP Member's Clinical Record;

(b) PHPs shall ensure OMAP Members receiving Exceptional Needs Care Coordination (ENCC) services for the Aged, Blind, Disabled, and special needs, as described in 410-141-0405, are noted in the appropriate OMAP Member's record. ENCC is a service available through Fully Capitated Health Plans (FCHPs) that is separate from and in addition to Medical Case Management Services;

(c) These procedures must ensure that each OMAP Member has an ongoing source of primary care appropriate to his or her needs and a Practitioner or entity formally designated as primarily responsible for coordinating the health care services furnished to the OMAP Member in accordance with OAR 410-141-0120;

(d) FCHPs shall communicate these policies and procedures to Providers, regularly monitor Providers' compliance with these policies and procedures and take any corrective action necessary to ensure Provider compliance. FCHPs shall document all monitoring and corrective action activities:

(A) PHPs shall develop and maintain a formal referral system consisting of a network of consultation and referral Providers, including applicable Alternative Care Settings, for all services covered by Contracts/agreements with OMAP and/or OMHAS. PHPs shall ensure that access to and quality of care provided in all referral settings is monitored. Referral services and services received in Alternative Care Settings shall be reflected in the OMAP Member's Clinical Record. PHPs shall establish and follow written procedures for Participating and Non-Participating Providers in the PHP's referral system. Procedures shall include the maintenance of records within the referral system sufficient to document the flow of referral requests, approvals and denials in the system;

(B) The OMAP Member shall obtain all covered services, either directly or upon referral, from the PHP or PCCM responsible for the service from the date of Enrollment through the date of Disenrollment, except when the OMAP Member is enrolled in a Medicare HMO or Medicare+Choice (M+C) FCHP:

(i) FCHPs with a Medicare HMO component or M+C and MHOs have significant and shared responsibility for prepaid services, and shall coordinate benefits for the OMAP Member to ensure that the OMAP Member receives all Medically Appropriate services covered under respective Capitation Payments;

(ii) If the OMAP Member is enrolled in a FCHP with a Medicare HMO component or M+C, then Medicare covered mental health services shall be obtained from the FCHP or upon referral by the FCHP. Mental health services that are not covered by the FCHP, but are covered by the MHO, shall be obtained from the MHO or upon referral by the MHO.

(C) PHPs shall have written procedures for referrals which ensure adequate prior notice of the referral to referral Providers and adequate documentation of the referral in the OMAP Member's Clinical Record;

(D) PHPs shall designate a staff member who is responsible for the arrangement, coordination and monitoring of the PHP's referral system;

(E) PHPs shall ensure that any staff member responsible for denying or reviewing denials of requests for referral is a Health Care Professional;

(F) PHPs shall have written procedures that ensure that relevant medical, mental health, and/or dental information is obtained from referral Providers, including telephone referrals. These procedures shall include:

(i) Review of information by the referring Provider;

(ii) Entry of information into the OMAP Member's Clinical Record;

(iii) Monitoring of referrals to ensure that information, including information pertaining to ongoing referral appointments, is obtained from the referral Providers, reviewed by the referring Practitioner, and entered into the Clinical Record.

(G) PHPs shall have written procedures to orient and train their staff, participating Practitioners and their staff, and the staff in Alternative Care Settings, and urgent and emergency care facilities in the appropriate use of the PHP's referral, alternative care, and urgent and emergency care systems. Procedures and education shall ensure use of appropriate settings of care;

(H) PHPs shall have written procedures which ensure that an appropriate staff person responds to calls from other Providers requesting approval to provide care to OMAP Members who have not been referred to them by the PHP. If the person responding to the call is not a Health Care Professional, the PHP shall have established written protocols that clearly describe when a Health Care Professional needs to respond to the call. These procedures and protocols shall be reviewed by the PHP for appropriateness. The procedures shall address notification of acceptance or denial and entry of information into the PCP's Clinical Record;

(I) FCHPs shall have written policies and procedures to ensure information on all emergency department visits is entered into the OMAP Member's appropriate PCP's Clinical Record. FCHPs shall communicate this policy and procedure to Providers, monitor Providers' compliance with this policy and procedure, and take corrective action necessary to ensure compliance;

(J) If an OMAP Member is hospitalized in an inpatient or outpatient setting for a covered service, PHPs shall ensure that:

(i) A notation is made in the OMAP Member's appropriate PCP's Clinical Record of the reason, date, and expected duration of the hospitalization;

(ii) Upon discharge, a notation is made in the OMAP Member's appropriate PCP's Clinical Record of the actual duration of the hospitalization and follow-up plans, including appointments for Provider visits; and

(iii) Pertinent reports from the hospitalization are entered in the OMAP Member's appropriate PCP's Clinical Record. Such reports shall include, as applicable, the reports of consulting Practitioners physical history, psycho-social history, list of medications and dosages, progress notes, and discharge summary.

(2) For OMAP Members living in residential facilities or homes providing ongoing care, PHPs shall work with the appropriate staff person identified by the facility to ensure that the OMAP Member has timely and appropriate access to covered services and to ensure coordination of care provided by the PHP and care provided by the facility or home. PHPs shall make provisions for a PCP or the facility's "house doctor or dentist" to provide care to OMAP Members who, due to physical, emotional, or medical limitations, cannot be seen in a PCP office.

(3) For OMAP Members living in residential facilities or homes providing ongoing care, FCHPs shall provide medications in a manner that is consistent with the appropriate medication dispensing system of the facility, which meets state dispensing laws. FCHPs shall provide emergency prescriptions on a 24-hour basis.

(4) For OMAP Members who are discharged to Post Hospital Extended Care, the FCHP shall notify the appropriate DHS office at the time of admission to the skilled nursing facility (SNF) and begin appropriate discharge planning. The FCHP is not responsible for the Post Hospital Extended Care Benefit unless the OMAP Member was a member of the FCHP during the hospitalization preceding the nursing facility placement. The FCHP shall notify the nursing facility and the OMAP Member no later than two full working days prior to discharge from Post Hospital Extended Care. For OMAP Members who are discharged to Medicare Skilled Care, the appropriate DHS office shall be notified at the time the FCHP learns of the admission. The FCHP shall initiate appropriate discharge planning at the time of the notification to the DHS office.

(5) PHPs shall coordinate the services the PHP furnishes to OMAP Members with the services the OMAP Member receives from any other PHP (FCHP, DCO, CDO, or MHO) in accordance with OAR 410-141-0120(6). PHPs shall ensure that in the process of coordinating care, each OMAP Member's privacy is protected in accordance with the privacy requirements of 45 CFR parts 160 and 164 subparts A and E to the extent that they are applicable.

(6) When an OMAP Member's care is being transferred from one PHP to another or for OHP Clients transferring from fee-for-service to a PHP, the PHP shall make every reasonable effort within the laws governing confidentiality to coordinate transfer of the OHP Client into the care of a PHP Participating Provider.

(7) PHPs shall make attempts to contact targeted OMAP population(s) by mail, telephone, in person or through the DHS agency within the first three months of Enrollment to assess medical, mental health or dental needs, appropriate to the PHP. The PHP shall, after reviewing the assessment, refer the OMAP Member to his/her PCP or other resources as indicated by the assessment. Targeted OMAP population(s) shall be determined by the PHP and approved by OMAP.

(8) MHOs shall establish working relationships with the Local Mental Health Authorities (LMHAs) and Community Mental Health Programs (CMHPs) operating in the Service Area for the purposes of maintaining a

# ADMINISTRATIVE RULES

comprehensive and coordinated mental health delivery system and to help ensure OMAP Member access to mental health services which are not provided under the Capitation Payment.

(9) MHOs shall ensure that OMAP Members receiving services from extended or long term psychiatric care programs (e.g., secure residential facilities, PASSAGES projects, state hospital) will receive follow-up services as Medically Appropriate to ensure discharge within five working days of receiving notification of discharge readiness.

(10) MHOs shall coordinate with Community Emergency Service Agencies (e.g., police, courts and juvenile justice, corrections, and the LMHAs and CMHPs) to promote an appropriate response to OMAP Members experiencing a mental health crisis.

(11) MHOs shall use a multi-disciplinary team service planning and case management approach for OMAP Members requiring services from more than one public agency. This approach shall help avoid service duplication and assure timely access to a range and intensity of service options that provide individualized, Medically Appropriate care in the least restrictive treatment setting (e.g., clinic, home, school, community).

(12) MHOs shall consult with, and provide technical assistance to, FCHPs to help assure that mental health conditions of OMAP Members are identified early so that intervention and prevention strategies can begin as soon as possible.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 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 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0200

### Oregon Health Plan Prepaid Health Plan Quality Improvement System

(1) QI Program:

(a) FCHPs, DCOs and CDOs shall maintain an effective process for monitoring, evaluating, and improving the access, quality and appropriateness of services provided to OMAP Members. This process shall include an internal Quality Improvement (QI) program based on written policies, evidenced-based practice guidelines, standards and procedures that are in accordance with relevant law and the community standards for dental care, and/or with accepted medical practice, whichever is applicable, and with accepted professional standards. The QI program shall include policies, standards, and written procedures that adequately address the needs of OMAP Members, including those who are Aged, Blind, Disabled; or children receiving CAF (SOSCF) or OYA services. FCHPs, DCOs and CDOs shall establish or adopt written criteria to monitor and evaluate the provision of adequate medical and/or dental care. The QI program must include QI projects that are designed to improve the access, quality and utilization of services;

(b) MHOs shall abide by the Quality Assurance Requirements as stated in the MHO Agreement.

(2) The positions of Medical or Dental Director and the QI Coordinator shall have the qualifications, responsibility, experience, authority, and accountability necessary to assure compliance with this rule. FCHPs, DCOs and CDOs shall designate a QI Coordinator who shall develop and coordinate systems to facilitate the work of the QI Committee. The Quality Improvement Coordinator is generally responsible for the operations of the QI program and must have the management authority to implement changes to the QI program as directed by the QI Committee. The QI Coordinator shall be qualified to assess the care of OMAP Members including those who are Aged, Blind, Disabled and children receiving CAF (SOSCF) or OYA services, or shall be able to retain consultation from individuals who are qualified.

(3) FCHPs, DCOs and CDOs shall establish a QI Committee that shall meet at least every two months; The Committee shall retain authority and accountability to the Board of Directors for the assurance of quality of care. Committee membership shall include, but is not limited to, the Medical or Dental Director, the QI Coordinator, and other health professionals who are representative of the scope of the services delivered. If any QI functions are delegated, the QI Committee shall maintain oversight and accountability for those delegated functions. The QI Committee shall:

(a) Record and produce dated minutes of Committee deliberations. Document recommendations regarding corrective actions to address issues identified through the QI Committee review process; and review of results, progress, and effectiveness of corrective actions recommended at previous meetings;

(b) Conduct and submit to OMAP an annual written evaluation of the QI Program and of OMAP Member care as measured against the written

procedures and protocols of OMAP Member care. The evaluation of the QI program and OMAP Member care is to include a description of completed and ongoing QI activities, OMAP Member education and an evaluation of the overall effectiveness of the QI program. This evaluation shall include:

(A) Prevention programs;

(B) Care of OMAP Members who are Aged, Blind, Disabled or children receiving CAF (SOSCF) or OYA services, and FCHP review of the Quality of Exceptional Needs Care Coordination program;

(C) Disease management programs;

(D) Adverse outcomes of OMAP Members and OMAP Members who are Aged, Blind, Disabled or children receiving CAF (SOSCF) or OYA services;

(E) Actions taken by the FCHPs, DCOs or CDOs to address health care concerns identified by OMAP Members or their Representatives and changes which impact quality or access to care. This may include: Clinical Record keeping; utilization review; referrals; comorbidities; prior authorizations; Emergency Services; out of FCHPs, DCOs or CDOs utilization; medication review; FCHPs, DCOs or CDOs initiated Disenrollments; encounter data management; and access to care and services.

(c) Conduct a quarterly review and analysis of all Complaints/Grievances or Appeals received including a focused review of any persistent and significant OMAP Member Complaints, Grievances or Appeals;

(d) Review written procedures, protocols and criteria for OMAP Member care no less than every two years, or more frequently as needed to maintain currency with clinical guidelines and administrative principles.

(4) FCHPs that are NCQA accredited or accredited by other OMAP recognized accreditation organizations shall be deemed for Section (3)(b) of this rule. FCHPs deemed by OMAP shall annually submit to OMAP an evaluation of the Exceptional Needs Care Coordination program; and an evaluation of OMAP Member care for OMAP Members who are Aged, Blind, Disabled or children receiving CAF (SOSCF) or OYA services. Copies of accreditation reports shall be submitted to OMAP within 60 days of issuance.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 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 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0260

### Oregon Health Plan Prepaid Health Plan Complaint or Grievance and Appeal Procedures

(1) The purpose of OAR 410-141-0260 through 410-141-0266 is to describe the requirements for the overall system that includes Complaints and Grievances and Appeals handled at the FCHP, DCO or CDO level and access to the OMAP Administrative Hearing process. These rules will apply to all PHPs except MHOs. MHOs shall abide by the Complaint/Grievance or Appeal requirements as stated in the MHO Agreement.

(2) FCHPs, DCOs, and CDOs shall have written policies and procedures for a Complaint or Grievance and Appeal process and access to the DHS Administrative Hearing process that ensure that they meet the requirements of sections OAR 410-141-0260 to 410-141-0266. An OMAP Member or an OMAP Member's Representative may file a Complaint/Grievance or an Appeal either orally or in writing.

(3) FCHPs, DCOs, and CDOs shall keep all information concerning an OMAP Member's Complaint/Grievance or Appeal confidential as specified in OAR 410-141-0261.

(4) FCHPs, DCOs, and CDOs must have a written procedure to handle Complaints/Grievances or Appeals from OMAP Members or their Representatives. At a minimum, the procedure must meet the requirements of OAR 410-141-0261.

(5) FCHPs, DCOs, and CDOs shall afford OMAP Members the full use of the Complaint/ Grievance or Appeal procedures, and shall cooperate if the OMAP Member decides to pursue a remedy through the Administrative Hearing process.

(6) Hearing requests made outside of the Complaint/Grievance or Appeal process or without previous use of the Complaint/Grievance or Appeal process shall be reviewed by the FCHP, DCO, or CDO through the FCHP's, DCO's, or CDO's Complaint/Grievance or Appeal process upon notification by OMAP as provided for in OAR 410-141-0264.

(7) Under no circumstances may a FCHP, DCO, or CDO discourage an OMAP Member or an OMAP Member's Representative use of the Administrative Hearing process. The FCHP, DCO, or CDO may, however, explain to the OMAP Member the potential benefits of using the Complaint/Grievance or Appeal procedure.

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(8) Neither implementation of an OMAP hearing decision nor an OMAP Member's request for a hearing may be a basis for a request by the FCHP, DCO, or CDO for Disenrollment of an OMAP Member.

(9) FCHPs, CDOs, and CDOs shall make available a supply of blank Complaint forms (OMAP 3001) in all FCHP, DCO, or CDO administrative offices and in those medical/dental offices where staff have been designated by the FCHP, DCO, or CDO to respond to Complaints/Grievances or Appeals.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0261

### Complaint and Grievance Procedures

(1) Written Complaint or Grievance Procedures. FCHPs, DCOs, and CDOs shall have written procedures to acknowledge the receipt, disposition and documentation of each Complaint or Grievance from OMAP Members. The FCHP, DCO, and CDO's written procedures for handling Complaints and Grievances, shall, at a minimum:

(a) Address how the FCHP, DCO, or CDO will accept, process and respond to each Complaint or Grievance from an OMAP Member or their Representative;

(b) Address the resolution of each Complaint or Grievance, which OMAP Members identify as needing resolution;

(c) Describe how the FCHP, DCO, or CDO informs OMAP Members, both orally and in writing, about the FCHP, DCO or CDO's Complaint or Grievance procedures;

(d) Designate the FCHP, DCO, or CDO staff member(s) or a designee who will be responsible for receiving, processing, directing, and responding to Complaints or Grievances;

(e) Ensure that OMAP Members who indicate dissatisfaction or concern are informed of their right to file a Complaint or Grievance and how to do so;

(f) Include a requirement for a log to be maintained by the FCHP, DCO, or CDO that is in compliance with OAR 410-141-0266.

(2) Information provided to the OMAP Member shall include at least:

(a) Written material describing the FCHP, DCO, or CDO's internal Complaint or, Grievance and Appeal process; and

(b) Assurance in all written, oral, and posted material of OMAP Member confidentiality in the Complaint or Grievance and Appeal process.

(3) The FCHP, DCO or CDO must provide OMAP Members with any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and a toll free phone number that have adequate TTY/TTD and interpreter capabilities;

(4) Confidentiality. The FCHP, DCO, or CDO shall assure OMAP Members that Complaints and Grievances are handled in confidence and shall safeguard the OMAP Member's right to confidentiality of information about the Complaint or Grievance as follows:

(a) FCHPs, DCOs, and CDOs shall, implement and monitor written policies and procedures that ensure that all information concerning an OMAP Member's Complaint or Grievance is kept confidential, except that OMAP, and the FCHP, DCO or CDO, has a right to use this information for purposes of resolving the internal Complaint or Grievance without a signed release from the OMAP Member;

(b) If an OMAP Member makes a Complaint or Grievance or files a hearing request, and wishes the Complaint or Grievance to be resolved, FCHPs, DCOs, and CDOs shall ask the OMAP Member to authorize a release of information regarding the Complaint or Grievance to individuals who are directly involved in the Complaint or Grievance:

(A) Before any information related to the Complaint or Grievance is disclosed, the FCHP, DCO, or CDO shall have a release of information documented in the Complaint or Grievance file;

(B) FCHPs, DCOs, and CDOs shall inform the OMAP Member if failure to complete an authorization for release of information regarding the Complaint or Grievance may make it impossible to resolve the Complaint or Grievance;

(C) The FCHP, DCO, or CDO's written procedures shall describe how Complaints or Grievances will be resolved and reviewed should the OMAP Member decline to provide an authorization for release of medical information;

(D) An OMAP Member's authorization to release information related to the Complaint or Grievance does not constitute authorization to disclose medical information unrelated to the Complaint or Grievance.

(5) Making a Complaint or Grievance. The FCHP, DCO, or CDO shall assure that an OMAP Member's expression of dissatisfaction, Complaint or Grievance that requires resolution is recognized by the FCHP, DCO, or CDO's staff as follows:

(a) The expression may be in whatever form of communication or language that is used by the OMAP Member or the OMAP Member's Representative:

(A) An OMAP Member may relate any incident or concern to a Practitioner or other staff person by indicating or expressing dissatisfaction or concern or by stating this is a Complaint or Grievance that needs resolution;

(B) If the OMAP Member indicates dissatisfaction or concern, the Practitioner or staff person shall advise the OMAP Member that a Complaint or Grievance may be made by using the FCHP, DCO, or CDO's Complaint or Grievance process;

(C) Complaints or Grievances may also be termed concerns, problems, or issues by the OMAP Member or the OMAP Member's Representative and may or may not be identified by the OMAP Member or the OMAP Member's Representative as needing resolution.

(b) A Complaint or Grievance requires resolution as follows:

(A) The OMAP Member or the OMAP Member's Representative identifies the expression of dissatisfaction as a Complaint or Grievance which must be addressed by the FCHP, DCO, or CDO;

(B) If the OMAP Member or OMAP Member's Representative's intent is unclear to the FCHP, DCO, or CDO or the FCHP, DCO, or CDO's designee, the FCHP, DCO, or CDO or the FCHP's, DCO's, or CDO's designee shall confirm that the expression of dissatisfaction is a Complaint or Grievance in need of resolution by asking the OMAP Member or the OMAP Member's Representative if the expression of dissatisfaction is something that needs resolution.

(6) Disposition of Complaints or Grievances. The FCHP, DCO, or CDO's procedures shall provide for the disposition of Complaints or Grievances as follows:

(a) Ensure that the Practitioner(s) or staff person(s) who make decisions on the Complaint or Grievance are persons who are not involved in any previous level of review or decision-making and who, if deciding any of the following, are health care professionals who have appropriate clinical expertise in treating the OMAP Member's condition or disease:

(A) A Complaint or Grievance regarding denial of expedited resolution of an Appeal; or

(B) A Complaint or Grievance that involves clinical issues.

(b) The Practitioner or staff person shall either resolve the Complaint or Grievance and communicate the Complaint or Grievance and its resolution to FCHP, DCO, or CDO; or direct the OMAP Member to the FCHP, DCO, or CDO's staff person designated for receiving Complaints or Grievances, as identified in the FCHP, DCO, or CDO's OMAP Member Handbook;

(c) If an OMAP Member makes a Complaint or Grievance to the FCHP, DCO, or CDO's staff person designated for receiving Complaints or Grievances, the staff person shall notify the OMAP Member that the OMAP Member has the right to make a Complaint or Grievance either orally or in writing;

(d) If the OMAP Member does not wish to attempt to resolve the Complaint or Grievance through the use of the FCHP, DCO, or CDO's internal Complaint or Grievance procedure, the staff person shall notify the OMAP Member that the OMAP Member has the right to seek resolution through an Appeal within the FCHP, DCO, or CDO or through a state process, such as the Administrative Hearing process or an OMAP Ombudsman;

(e) If the OMAP Member chooses to pursue the Complaint or Grievance orally or in writing through the FCHP, DCO, or CDO's Complaint or Grievance procedure, the FCHP, DCO, or CDO shall within 5 working days from the date of receipt of the Complaint or Grievance either:

(A) Make a decision on the Complaint or Grievance and notify the OMAP Member; or

(B) Notify the OMAP Member in writing that a delay in the FCHP, DCO, or CDO's decision of up to 30 calendar days from the date the Complaint or Grievance was received by the FCHP, DCO, or CDO is necessary to resolve the Complaint or Grievance. The FCHP, DCO, or CDO shall specify the reasons the additional time is necessary.

(7) Complaints or Grievances that are based on Actions. Complaints or Grievances concerning denial, reduction or termination of requested covered services or service coverage or any other Action, may be filed as an Appeal through the FCHP, DCO or CDO, or as a request of an

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Administrative Hearing, or both, at the request of the OMAP Member. There is no requirement that an OMAP Member must exhaust the FCHP, DCO or CDO's Complaint or Grievance or Appeal process before requesting an Administrative Hearing. If the OMAP Member initiates a Complaint or Grievance about an Action, the Complaint or Grievance shall be documented in writing by the FCHP, DCO, or CDO as described in section 7 (b) of this rule and handled as an Appeal as described in OAR 410-141-0262.

(8) Documentation. Consistent with the confidentiality requirements in subsection (4) of this rule, the FCHP, DCO, or CDO's staff person, who is designated to receive Complaints and Grievances, shall begin to obtain documentation of the facts concerning the Complaint or Grievance, upon receipt of the Complaint or Grievance, regardless of whether the OMAP Member seeks an Administrative Hearing and/or elects the internal Complaint, Grievance or Appeal process.

(9) Decisions. The FCHP, DCO, or CDO's decision about the disposition of a Complaint or Grievance shall be communicated to the OMAP Member orally or in writing within the time frames specified in (6)(e) of this rule:

(a) An oral decision about a Complaint or Grievance that did not involve an Action shall address each aspect of the OMAP Member's Complaint or Grievance and explain the reason for the FCHP, DCO, or CDO's decision. A written decision addressing the same information must be provided if the Complaint or Grievance that did not involve an Action was received in writing;

(b) A written decision must be made if the Complaint or Grievance involves a denial, reduction or termination of requested services or service coverage or other Action as defined in OAR 410-141-0000:

(A) The written decision on the Complaint or Grievance shall review each element of the OMAP Member's Complaint or Grievance and address each of those concerns specifically, including the reasons for the FCHP, DCO, or CDO's decision;

(B) For decisions involving an Action not resolved wholly in favor of the OMAP Member, the written decision shall include the right to request an Appeal consistent with OAR 410-141-0262 or a state Administrative Hearing, and how to do so, including a copy of both the Notice of Hearing Rights (OMAP 3030) and the AFS 443, Hearing Request, attached, and the right to request to receive benefits while the Appeal or hearing is pending, how to make the request, and that the OMAP Member may be held liable for the cost of those benefits if the final Appeal or hearing decision upholds the Action of the FCHP, DCO or CDO;

(C) A written decision, which involves denial, reduction or termination of requested service(s) or service coverage or other Action, must conform to the requirements for client notice in OAR 410-141-0263.

(10) Complaint Log. All Complaints made to the FCHP's, DCO's, or CDO's staff person designated to receive Complaints shall be entered into a log and addressed in the context of Quality Improvement activity (OAR 410-141-0200) as required in OAR 410-141-0266.

(11) All Complaints or Grievances that the OMAP Member chooses to resolve through another process, and that the FCHP, DCO, or CDO is notified of, shall be noted in the Complaint or Grievance log.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0262

### PHP's Appeal Procedures

(1) The FCHP, DCO, or CDO must have a system in place for OMAP Members that includes an Appeal process. For purposes of this rule, an Appeal means a request to the FCHP, DCO or CDO for review of an Action, as Action is defined in OAR 410-141-0000.

(2) An OMAP Member, or the OMAP Member's Representative may file an Appeal of an Action with the FCHP, DCO, or CDO. There is no requirement that an OMAP Member must exhaust the FCHP, DCO or CDO Appeal process before requesting an Administrative Hearing from OMAP.

(3) An Appeal must be filed with the FCHP, DCO or CDO not later than 30 calendar days from the date on the Notice of Action required under OAR 410-141-0263.

(4) The OMAP Member or OMAP Member's Representative may file an Appeal either orally or in writing, and unless he or she requests expedited resolution, must follow an oral filing with a written, signed Appeal.

(5) In handling Appeals, each FCHP, DCO or CDO must meet the following requirements:

(a) Give OMAP Members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to,

providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capacity;

(b) Acknowledge receipt of each Appeal.

(c) Ensure that the individuals who make decisions on Appeals are individuals:

(A) Who were not involved in any previous level of review or decision-making; and

(B) Who, if deciding any of the following, are health care professionals who have the appropriate clinical expertise in treating the OMAP Member's condition or disease:

(i) An Appeal of a denial that is based on lack of Medical Appropriateness; or

(ii) An Appeal that involves clinical issues.

(6) The process for Appeals must:

(a) Provide that oral inquiries seeking to Appeal an Action are treated as Appeals (to establish the earliest possible filing date for the Appeal) and must be confirmed in writing, unless the OMAP Member or OMAP Member's Representative requests expedited resolution;

(b) Provide the OMAP Member a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing. (The FCHP, DCO or CDO must inform the OMAP Member or the OMAP Member's Representative of the limited time available for this in the case of expedited resolution);

(c) Provide the OMAP Member and/or his or her Representative an opportunity, before and during the Appeals process, to examine the OMAP Member's file, including medical records, and any other documents and records considered during the Appeals process.

(d) Include as parties to the Appeal the OMAP Member and/or his or her Representative or the legal Representative of a deceased OMAP Member's estate;

(7) The FCHP, DCO or CDO must resolve each Appeal, and provide a client notice, as expeditiously as the OMAP Member's health condition requires, within the timeframes in this section;

(a) For standard resolution of Appeals, and a client notice to the OMAP Member and/or his or her Representative, the FCHP, DCO or CDO shall resolve the Appeal and provide a client notice not later than 45 days from the day the FCHP, DCO or CDO receives the Appeal. This timeframe may be extended pursuant to subsection (c) of this section;

(b) For expedited resolution of Appeals, and a client notice to the OMAP Member and/or his or her Representative, the FCHP, DCO or CDO shall resolve the Appeal and provide a client notice not later than 3 working days after the FCHP, DCO or CDO receives the Appeal. This timeframe may be extended pursuant to subsection (c) of this section;

(c) The FCHP, DCO or CDO may extend the timeframes from subsections (a) or (b) of this section by up to 14 calendar days if:

(A) The OMAP Member requests the extension; or

(B) The FCHP, DCO or CDO shows (to the satisfaction of OMAP, upon its request) that there is need for additional information and how the delay is in the OMAP Member's interest.

(d) If the FCHP, DCO or CDO extends the timeframes, it must, for any extension not requested by the OMAP Member, give the OMAP Member a written client notice of the reason for the delay.

(8) For all Appeals, the FCHP, DCO or CDO must provide written notice of disposition. For notice on an expedited resolution, the FCHP, DCO or CDO must also make reasonable efforts to provide oral notice.

(9) The written notice of Appeal resolution must include the following:

(a) The results of the resolution process and the date it was completed;

(b) For Appeals not resolved wholly in favor of the OMAP Member: (A) The right to request an OMAP Administrative Hearing, and how to do so;

(B) The right to request to receive benefits while the hearing is pending, and how to make the request; and

(C) That the OMAP Member may be held liable for the cost of those benefits if the hearing decision upholds the FCHP, DCO or CDO's Action.

(10) An OMAP Member may request an OMAP Administrative Hearing not later than 45 days from the date on the FCHP, DCO or CDO's Notice of Action, consistent with OAR 410-141-0264. The parties to the OMAP Administrative Hearing include the FCHP, DCO or CDO as well as the OMAP Member, and his or her OMAP Member Representative, or the Representative of the deceased OMAP Member's estate.

(11) Each FCHP, DCO or CDO shall establish and maintain an expedited review process for Appeals, consistent with OAR 410-141-0265.

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(12) Each FCHP, DCO or CDO shall maintain records of Appeals, enter them into a log, and address the Appeals in the context of Quality Improvement activity (OAR 410-141-0200) as required in OAR 410-141-0266.

(13) Continuation of benefits:

(A) As used in this section, "timely" filing means filing on or before the later of the following:

(A) Within 10 days of the FCHP, DCO or CDO mailing the Notice of Action;

(B) The intended effective date of the FCHP, DCO or CDO's proposed Action.

(b) The FCHP, DCO or CDO must continue the OMAP Member's benefits if:

(A) The OMAP Member or OMAP Member's Representative files the Appeal timely;

(B) The Appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;

(C) The services were ordered by an authorized Provider;

(D) The original period covered by the original authorization has not expired; and

(E) The OMAP Member requests extension of benefits.

(c) If, at the OMAP Member's request, the FCHP, DCO or CDO continues or reinstates the OMAP Member's benefits while the Appeal is pending, the benefits must be continued until one of the following occurs:

(A) The OMAP Member withdraws the Appeal;

(B) Ten days pass after the FCHP, DCO or CDO mails the client notice, providing the resolution of the Appeal against the OMAP Member, unless the OMAP Member within the 10-day timeframe, has requested an OMAP Administrative Hearing with continuation of benefits until the OMAP Administrative Hearing decision is reached;

(C) A final order is issued in an OMAP Administrative Hearing adverse to the OMAP Member;

(D) The time period or service limits of a previously authorized service have been met.

(14) If the final resolution of the Appeal is adverse to the OMAP Member, that is, upholds the FCHP's, DCO's or CDO's Action, the FCHP, DCO, or CDO may recover the cost of the services furnished to the OMAP Member while the Appeal is pending, to the extent that they were furnished solely because of the requirements of this section, and in accordance with the policy set forth in 42 CFR 431.230(b).

(15) If the FCHP, DCO or CDO, or an OMAP hearing decision reverses a decision to deny, limit, or delay services that were not furnished while the Appeal was pending, the FCHP, DCO or CDO must authorize or provide the disputed services promptly, and as expeditiously as the OMAP Member's health condition requires.

(16) If the FCHP, DCO or CDO, or the OMAP hearing decision reverses a decision to deny authorization of services, and the OMAP Member received the disputed services while the Appeal was pending, the FCHP, DCO or CDO or OMAP must pay for the services in accordance with OMAP policy and regulations.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0263

### Denial, Reduction or Termination of Services

(1) All Actions, including but not limited to denials or limiting authorizations of a requested covered service(s) including the type or level of service, reductions, discontinuation or termination of a previously authorized service, services or service coverage by the PHP shall be in writing and shall comply with section (4) of this rule.

(2) PHPs shall make available to all Participating Providers information concerning client notices as specified in this rule, internal Complaints or Grievances as specified in OAR 410-141-0261, Appeals as specified in OAR 410-141-0262, and hearings processes as specified in OAR 410-141-0264.

(3) When the PHP or Practitioner(s) acting on behalf of the PHP takes or intends to take an Action, (as defined in OAR 410-141-0000) the PHP or Practitioner(s) acting on behalf of the PHP shall mail a written client notice in accordance with section (4) of this rule to the OMAP Member within the timeframes specified in subsection (5) of this rule.

(4) The written client notice shall be an OMAP/OMHAS approved format and is to be used for all denials of a requested covered service(s), reductions, discontinuations or terminations of services and denials of claims payment or other Action. MHOs shall abide by the requirements

stated in the MHO Agreement. The client notice must meet the language and format requirements of 42 CFR 438.10(c) and (d) and shall inform the OMAP Member of the following:

(a) Relevant information shall include but is not limited to the following: date of client notice, FCHP, DCO or CDO name, PCP/PCD name, OMAP Member's name and ID number, date of request or service, service or item requested or provided, who requested or provided the item or service, and the effective date of the Action;

(b) The Action the FCHP, DCO or CDO or its Participating Provider has taken or intends to take;

(c) Reasons for an Action are to include but is not limited to the following:

Treatment is not covered;

(B) The item requires pre-authorization and it was not pre-authorized;

(C) The service is not Dentally or Medically Appropriate;

(D) The service or item is received in an emergency care setting and does not qualify as an Emergency Service;

(E) The person was not an OMAP Member at the time of the service or is not an OMAP Member at the time of a requested service;

(F) The Provider is not on the FCHP, DCO or CDO'S panel and prior approval was not obtained (if such prior authorization would be required under the Oregon Health Plan Rules); and

(G) A reference to the particular sections of the statutes and rules involved in each reason identified in the notice pursuant to subsection (b) of this section, in compliance with the notice requirements in ORS 183.415(2)(c).

(d) The OMAP Member's right to file an Appeal with the FCHP, DCO or CDO, and how to exercise that right as required in OAR 410-141-0262;

(e) The OMAP Member's right to request an Administrative Hearing with OMAP and how to exercise that right including attaching the "Notice of Hearing Rights" (OMAP 3030) and the AFS 443, Hearing Request;

(f) The circumstances under which expedited resolution is available and how to request it;

(g) The OMAP Member's right to have benefits continue pending resolution of an Appeal or hearing, and how to request that benefit(s) be continued, and the circumstances under which the OMAP Member may be required to pay the costs of these services;

(h) The telephone number to contact for additional information.

(5) Timing of Notice. The PHP or Practitioner(s) acting on behalf of the PHP must mail the notice within the following timeframes:

(a) For termination, suspension, or reduction of previously authorized OHP covered services, the following timeframes apply:

(A) The notice must be mailed at least 10 days before the date of Action, except as permitted under subsections (B) or (C) of this section;

(B) The PHP or Practitioner acting on behalf of the PHP may mail a notice not later than the date of Action if:

(i) The PHP or Practitioner receives a clear written statement signed by the OMAP Member that he or she no longer wishes services or gives information that requires termination or reduction of services and indicates that he or she understands that this must be the result of supplying the information;

(ii) The OMAP Member has been admitted to an institution where he or she is ineligible for covered services from the PHP;

(iii) The OMAP Member's whereabouts are unknown and the post office returns PHP or Practitioner's mail directed to him or her indicating no forwarding address;

(iv) The PHP establishes the fact that another State, territory, or commonwealth has accepted the OMAP Member for Medicaid services;

(v) A change in the level of medical or dental care is prescribed by the OMAP Member's PCP or PCD; or

(vi) The date of Action will occur in less than 10 days, in accordance with 42 CFR 483.12(a)(5)(ii) related to discharges or transfers and long-term care facilities.

(C) The PHP may shorten the period of advance notice to 5 days before the date of the Action if the PHP has facts indicating that an Action should be taken because of probable fraud by the OMAP Member; and these facts have been verified, if possible, through secondary sources.

(b) For denial of payment, at the time of any Action affecting the claim;

(c) For standard services authorizations that deny or limit services the PHP must provide notice as expeditiously as the OMAP Member's health condition requires and within 14 calendar days following receipt of the request for service:

(A) The PHP may have a possible extension of up to 14 additional calendar days if the OMAP Member or the Provider requests the extension; or



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the PHP justifies (to OMAP upon request) a need for additional information and how the extension is in the OMAP Member's interest;

(B) If the PHP extends the timeframe, in accordance with this subsection, it must give the OMAP Member written notice of the reason for the decision to extend the timeframe and inform the OMAP Member of their right to file a Grievance if he or she disagrees with that decision; and issue and carry out its determination as expeditiously as the OMAP Member's health condition requires and no later than the date the extension expires;

(d) For service authorization decisions not reached within the timeframes specified in subsection (d) of this section, (which constitutes a denial and is thus an adverse Action), on the date that the timeframes expire;

(e) For expedited service authorizations, within the timeframes specified in OAR 410-141-0265.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0264

### Administrative Hearings

(1) Individuals who are or were OMAP Members at the time an Action is taken are entitled to an Administrative Hearing by OMAP regarding the Action by an FCHP, DCO, or CDO to deny requested services, payment of a claim, or to terminate, discontinue or reduce a course of treatment or any other Action. OMAP Members are also entitled to an Administrative Hearing for issues related to their eligibility for OHP benefits, or issues related to Enrollment in FCHPs, DCOs, or CDOs. Client Administrative Hearings are governed by OAR 410-121-1860 and this rule.

(2) A written hearing request must be received by the Hearings Unit at OMAP not later than the 45th day following the date of the Notice of Action or the date of the written decision regarding an Appeal, whichever is later.

(3) If the Action involves a Notice of Action or decision concerning an Appeal that involved continuation or reinstatement of services, the following requirements shall apply:

(a) The PHP shall continue the benefit if:

(A) The OMAP Member or OMAP Member's Representative requested the Administrative Hearing before the effective date of the intended Action or within 10 calendar days after the notice of Action or written Appeal decision was mailed or given to the OMAP Member or OMAP Member's Representative;

(B) The hearing request involves the termination, suspension, or reduction of a previously authorized course of treatment;

(C) The services were ordered by an authorized Provider;

(D) The original period covered by the original authorization has not expired; and

(E) The OMAP Member requests extension of benefits.

(b) The PHP must reinstate services if:

(A) The PHP takes an Action without providing the required client notice that complies with subsection (4) of this rule, and the OMAP Member requests a hearing;

(B) The PHP does not provide the client notice in the time required under section (5) of this rule, and the OMAP Member requests a hearing within 10 days of the mailing of the client notice of Action; or

(C) The post office returns mail directed to the OMAP Member, but the OMAP Member's whereabouts subsequently become known during the time the OMAP Member is eligible for services.

(c) If, at the OMAP Member's request, the PHP continues or reinstates the OMAP Member's benefits while the Administrative Hearing is pending, the benefits must be continued until one of the following occurs:

(A) The OMAP Member withdraws the request for Administrative Hearing;

(B) Ten days pass after the FCHP, DCO or CDO mails the notice, providing the resolution of the Appeal against the OMAP Member, unless the OMAP Member within the 10-day timeframe, has requested an OMAP Administrative Hearing with continuation of benefits until the OMAP Administrative Hearing decision is reached;

(C) A final order is issued in an OMAP Administrative Hearing adverse to the OMAP Member;

(D) The time period or service limits of a previously authorized service have been met.

(4) The OMAP Representative shall review the Administrative Hearing Requests, documentation related to the Hearing issue, and computer records to determine whether the claimant or the person for whom the

request is being made is or was an OMAP Member at the time the Action was taken, whether the hearing request was timely (requested within 45 calendar days of the Notice of Action, or the decision about an Appeal), and whether continuation of benefits or services has been requested.

(5) FCHPs, DCOs, and CDOs shall immediately transmit to OMAP any hearing request submitted on behalf of an OMAP Member.

(6) If the OMAP Member files a request for an Administrative Hearing with OMAP, OMAP shall immediately notify the FCHP, DCO, or CDO.

(7) FCHPs, DCOs, and CDOs shall review the Hearing Request, which has not been previously received or reviewed as an Appeal, using the FCHP's, DCO's, or CDO's Appeal process as follows:

(a) The Appeal shall be reviewed immediately and shall be resolved, if possible, within 30 days of receipt of the request for hearing in OMAP;

(b) The FCHP, DCO, or CDO's decision shall be in writing and shall be provided to OMAP, and to the OMAP Member;

(c) If the Appeal is not resolved within 30 days, or the OMAP Member does not accept resolution proposed by the FCHP, DCO, or CDO on the hearing request, the FCHP, DCO, or CDO shall provide the OMAP Hearings Representative with all pertinent material and documentation within 30 days from the date of the transmittal of the request for hearing from OMAP. Appeals are defined in OAR 410-141-0000, Definitions;

(d) If the OMAP Member chooses to use the FCHP's, DCO's, or CDO's Appeal procedure as well as the Administrative Hearing process, the FCHP, DCO, or CDO shall ensure that the Appeal procedure is completed within 30 days of receipt of the Appeal, and the records sent to the OMAP Hearings Unit by the 30th day;

(e) OMAP Members may request a delay in the Administrative Hearing in writing. This delay shall not relieve the FCHP, DCO, or CDO of resolving the Appeal that was referred to them by the Hearings Representative within 30 days.

(8) When an Administrative Hearing is requested by an OMAP Member, the FCHP, DCO, or CDO shall cooperate in the hearing process and shall make available, as determined necessary by OMAP, all persons with relevant information, including the Practitioner or staff person who attempted resolution of the Appeal. The FCHP, DCO, or CDO shall also provide all pertinent files and medical or dental records, as well as the results of the review by the FCHP, DCO, or CDO of the hearing request and any attempts at resolution by the FCHP, DCO, or CDO.

(9) The hearing request (AFS 443) shall be referred to the Central Hearings Panel and a hearing officer shall be requested by OMAP:

(a) The parties to the Administrative Hearing shall include the PHP, as well as the OMAP Member and his or her Representative or the Representative of a deceased OMAP Member's estate;

(b) A final order must be issued or the case otherwise resolved by OMAP not later than 90 days following OMAP's receipt of the request for hearing. Delay due to a postponement or continuance granted at the OMAP Member or OMAP Member Representative's request or with the consent of the OMAP Member or the OMAP Member's Representative shall not be counted in computing the time limit. The final order is the final decision of OMAP.

(10) If the final resolution of the Administrative Hearing is adverse to the OMAP Member, that is, upholds the FCHP's, DCO's or CDO's Action, the FCHP, DCO, or CDO may recover the cost of the services furnished to the OMAP Member while the Administrative Hearing is pending, to the extent that they were furnished solely because of the requirements of this section, and in accordance with the policy set forth in 42 CFR 438.420.

(11) The PHP must promptly correct the Action taken up to the limit of the original request or authorization, retroactive to the date the Action was taken, if the hearing decision is favorable to the OMAP Member, or OMAP and/or the PHP decides in the OMAP Member's favor before the hearing even if the OMAP Member has lost eligibility after the date the Action was taken:

(a) If the FCHP, DCO or CDO, or an OMAP hearing decision reverses a decision to deny, limit, or delay services that were not furnished while the Administrative Hearing was pending, the FCHP, DCO or CDO must authorize or provide the disputed services promptly, and as expeditiously as the OMAP Member's health condition requires;

(b) If the FCHP, DCO or CDO, or the OMAP hearing decision reverses a decision to deny authorization of services, and the OMAP Member received the disputed services while the Administrative Hearing was pending, the FCHP, DCO or CDO must pay for the services in accordance with OMAP policy and regulations in effect when the request for services was made by the OMAP Member.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

# ADMINISTRATIVE RULES

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0265

### Request for Expedited Hearing

(1) Each FCHP, DCO or CDO shall establish and maintain an expedited review process for Appeals, when the FCHP, DCO or CDO determines (for a request from the OMAP Member) or the Provider indicates (in making the request on an OMAP Member's behalf or supporting the OMAP Member's request) that taking the time for a standard resolution could seriously jeopardize the OMAP Member's life or health or ability to attain, maintain or regain maximum function.

(2) The FCHP, DCO or CDO must ensure that punitive action is not taken against a Provider who requests an expedited resolution or supports an OMAP Member's Appeal.

(3) If the FCHP, DCO or CDO denies a request for expedited resolution on Appeal, it must:

(a) Transfer the Appeal to the time frame for standard resolution in accordance with OAR 410-141-0262;

(b) Make reasonable efforts to give the OMAP Member prompt oral notice of the denial, an follow-up within two (2) calendar days with a written notice.

(4) An OMAP Member who believes that taking the time for a standard resolution could seriously jeopardize the OMAP Member's life or health or ability to attain, maintain or regain maximum function may request an expedited Administrative Hearing. FCHPs, DCOs, or CDOs shall inform OMAP Members of the OMAP Members' rights to request an expedited Administrative Hearing and provide OMAP Members with a copy of both the AFS Form 443 and Notice of Hearing Rights (OMAP 3030).

(5) Expedited hearings are requested using AFS Form 443.

(6) The FCHP, DCO, or CDO shall submit relevant documentation to OMAP's Medical Director within, as nearly as possible, 2 working days for a decision as to the necessity of an expedited Administrative Hearing. OMAP's Medical Director shall decide within, as nearly as possible, 2 working days from date of request, if that OMAP Member is entitled to an expedited OMAP hearing. If the OMAP Medical Director denies a request for expedited Administrative Hearing, OMAP must:

(a) Handle the request for Administrative Hearing in accordance with OAR 410-141-0264; and

(b) Make reasonable efforts to give the OMAP Member prompt oral notice of the denial, and follow-up within two (2) calendar days with a written notice.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

## 410-141-0300

### Oregon Health Plan Prepaid Health Plan Member Education

DHS: Department of Human Services

ENCC: Exceptional Needs Care Coordination

FCHP: FullyCapitated Health Plans

PCD: Primary Care Dentist

PCP: Primary Care Provider

PHP: Prepaid Health Plan

OHP: Oregon Health Plan

OMHAS: Office of Mental Health and Addiction Services

OMAP: Office of Medical Assistance Programs

(1) PHPs shall have an ongoing process of OMAP Member education and information sharing that includes orientation to the PHP, a PHP OMAP Member handbook and health education. OMAP Member education shall include:

(a) The availability of ENCC through FCHPs for OMAP Members with special health care needs, who are Aged, Blind or Disabled; and

(b) The appropriate use of the delivery system, including a proactive and effective education of OMAP Members on how to access Emergency Services and Urgent Care Services appropriately.

(2) PHPs shall offer PHP orientation to new OMAP Members by mail, phone, or in person within 30 days of Enrollment unless no address can be obtained, a telephone number is not provided by OMAP, and a DHS agency is unable to assist in delivering the information to the OMAP Member.

(3) PHP OMAP Member handbook materials:

(a) The PHP OMAP Member handbook shall be made available for new OMAP Members, as described in OAR 410-141-0280, Oregon Health Plan PHP Informational Requirements, and shall be distributed within 14

calendar days of the OMAP Member's effective date of coverage with PHP;

(b) At a minimum the information in the PHP OMAP Member handbook shall contain the following elements:

(A) Location(s), office hours and availability of physical access for OMAP Members with disabilities to PHP and PHP's PCPs, PCDs offices;

(B) Telephone number(s) (including TTY) for OMAP Members to call for more information and telephone numbers relating to information listed below;

(C) OMAP Member's choice and use of PCPs, PCDs and policies on changing PCPs, PCDs;

(D) Use of the PHP's appointment system;

(E) Use of the PHP's referral system, including procedures for obtaining benefits, including authorization requirements;

(F) How OMAP Members are to access Urgent Care Services and advice;

(G) How and when OMAP Members are to use Emergency Services including information on Post-Stabilization Care Services, related to an emergency medical condition that are provided after an OMAP Member is stabilized in order to maintain the stabilized condition, or, under the circumstances to improve or resolve the OMAP Member's condition;

(H) Information on the PHP's Complaint process and information on fair hearing procedures;

(I) How OMAP Members are to access interpreter services including sign interpreters;

(J) Information on the OMAP Member's rights and responsibilities;

(K) Information on the OMAP Member's possible responsibility for charges including Medicare deductibles and coinsurances (if they go outside of PHP for non-emergent care), co-payments, and charges for non-covered services;

(L) The transitional procedures for new OMAP Members to obtain prescriptions, supplies and other necessary items and/or services in the first month of Enrollment with the PHP if they are unable to meet with a PCP, PCD, other prescribing Practitioner or obtain new orders during that period;

(M) What services can be self referred to both Participating and Non-Participating Providers (FCHP's and MHO's only);

(N) Information on Advance Directives (FCHPs and MHOs only);

(O) How to request information on the PHP's Physician Incentives;

(P) The OMAP Members right to request and obtain copies of their Clinical Records (and that they may be charged a reasonable copying fee) and request that the record be amended or corrected;

(Q) How OMAP Members are to obtain emergent and non-emergent ambulance services (FCHP only) and other medical transportation to appointments, as appropriate;

(R) Explanation of the amount, scope and duration of covered and Non-covered Services in sufficient detail to ensure that OMAP Members understand the benefits to which they are entitled;

(S) How OMAP Members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs (FCHP's only);

(T) PHP's Confidentiality Policy;

(U) Name, locations, telephone numbers of, and non-English languages offered by current Participating Providers, including information on PHP's PCPs/PCDs that are not accepting new OMAP Members (not MHOs) including at a minimum, information on PCPs, specialists and hospitals in the OMAP Member's Service Area;

(V) The extent to which; and how, OMAP Members may obtain benefits, including family planning services, from out of network Providers;

(W) Any restrictions on the OMAP Member's freedom of choice among network Providers;

(X) Policies on referrals for specialty care and for other benefits not furnished by the OMAP Member's PCP;

(Y) How and where OMAP Members are to access any benefits that are available under OHP but are not covered under the PHPs' Contract, including any cost sharing, and how transportation is provided.

(c) If the PHP OMAP Member handbook is returned with a new address, the PHP shall mail the PHP OMAP Member handbook or use the telephone number provided by DHS to reach the OMAP Member. If the PHP is unable to reach the OMAP Member by either mail or telephone, the PHP shall retain the PHP OMAP Member handbook and have it available upon request for the OMAP Member;

(d) PHPs shall, at a minimum, annually and upon request provide the PHP OMAP Member handbook[s] to OMAP Members, OMAP Member's Representative and to clinical offices for distribution to OMAP Members;

# ADMINISTRATIVE RULES

(e) The PHP OMAP Member handbook shall be reviewed by PHP for accuracy at least yearly and updated with new or corrected information as needed to reflect the PHP's internal changes and regulatory changes. If changes impact the OMAP Members' ability to use services or benefits, the updated materials shall be distributed to all OMAP Members;

(f) The 'DHS Client Handbook for the OHP' is in addition to the PHP OMAP Member handbook and cannot be used to substitute for the PHP OMAP Member handbook.

(4) PHPs shall have written procedures and criteria for health education of OMAP Members. Health education shall include: information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. Health education may be provided by PHP's Practitioner(s) or other individual(s) or program(s) approved by the PHP. PHPs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from nondominant cultures: PHPs shall ensure development and maintenance of an individualized health educational plan for OMAP Members who have been identified by their Practitioner as requiring specific educational intervention. DHS may assist in developing materials that address specifically identified health education problems to the population in need.

(5) PHPs shall provide an identification card to OMAP Members, unless waived by OMAP and/or OMHAS, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. Such identification cards shall confer no rights to services or other benefits under the Oregon Health Plan and are solely for the convenience of the PHP's, OMAP Members and Providers.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03

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**Adm. Order No.:** OMAP 51-2003

**Filed with Sec. of State:** 8-5-2003

**Certified to be Effective:** 8-5-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 410-121-0300

**Subject:** The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0300 is being amended to update the CMS Federal Upper Limits for Drug Payments listing. This filing is to update Transmittal #37, with Title XIX State Agency Letter Number 03-03, changes to be effective May 11, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS). The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients.

**Rules Coordinator:** Darlene Nelson—(503) 945-6873

## 410-121-0300

### CMS Federal Upper Limits for Drug Payments

(1) The CMS Federal Upper Limits for Drug Payments listing of multiple source drugs meets the criteria set forth in 42 CFR 447.332 and 1927(e) of the Act as amended by OBRA 1993. The development of the current Federal Upper Limit (FUL) listing has been accomplished by computer. Payments for multiple source drugs must not exceed, in the aggregate, payment levels determined by applying to each drug entity a reasonable dispensing fee (established by the State and specified in the State Plan), plus an amount based on the limit per unit which CMS has determined to be equal to a 150 percent applied to the lowest price listed (in package sizes of 100 units, unless otherwise noted) in any of the published compendia of cost information of drugs. The FUL drug listing is published in the State Medicaid Manual, Part 6, Payment for Services, Addendum A. The most current Transmittals and subsequent changes are posted to the CMS website at <http://www.cms.hhs.gov/medicaid/drugs/drug10.asp>. The FUL price listing will be updated approximately every six months.

(2) The most current CMS Federal Upper Limits for Drug Payments Listing, includes changes to Transmittal #37, Title XIX State Agency Letter Number 03-03, with changes to be effective May 11, 2003, and is available

for downloading on OMAP's Website, (<http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/>). To request a hard copy, call OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-16-330; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 45-1990, f. & cert. ef. 12-28-90; HR 10-1991, f. & cert. ef. 2-19-91; HR 37-1991, f. & cert. ef. 9-16-91; HR 13-1992, f. & cert. ef. 6-1-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 35-1992(Temp), f. & cert. ef. 12-1-92; HR 1-1993(Temp), f. & cert. ef. 1-25-93; HR 3-1993, f. & cert. ef. 2-22-93; HR 5-1993(Temp), f. 3-10-93, cert. ef. 3-22-93; HR 8-1993(Temp), f. & cert. ef. 4-1-93; HR 11-1993, f. 4-22-93, cert. ef. 4-26-93; HR 15-1993(Temp), f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 25-1993(Temp), f. & cert. ef. 10-1-93; HR 14-1994, f. & cert. ef. 3-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 43-1998(Temp), f. & cert. ef. 11-20-98 thru 5-1-99; OMAP 5-1999, f. & cert. ef. 2-26-99; OMAP 42-2000(Temp), f. & cert. ef. 12-15-00 thru 5-1-01; OMAP 1-2001(Temp), f. & cert. ef. 2-1-01 thru 6-1-01; OMAP 2-2001(Temp), f. 2-14-01, cert. ef. 2-15-01 thru 7-1-01; OMAP 18-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 23-2001(Temp), f. & cert. ef. 4-16-01 thru 8-1-01; OMAP 26-2001(Temp), f. & cert. ef. 6-6-01 thru 1-2-02; OMAP 51-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-15-01; OMAP 58-2001, f. 11-30-01, cert. ef. 12-1-01; OMAP 67-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 3-2002(Temp), f. & cert. ef. 2-15-02 thru 6-15-02; OMAP 5-2002(Temp), f. & cert. ef. 3-5-02 thru 6-15-02; OMAP 19-2002(Temp), f. & cert. ef. 4-22-02 thru 9-15-02; OMAP 29-2002(Temp), f. 7-15-02, cert. ef. 8-1-02 thru 1-1-03; OMAP 71-2002(Temp), f. & cert. ef. 12-1-02 thru 5-15-03; OMAP 10-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 11-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 8-15-03; OMAP 41-2003, f. & cert. ef. 5-29-03; OMAP 51-2003, f. & cert. ef. 8-5-03

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**Adm. Order No.:** OMAP 52-2003

**Filed with Sec. of State:** 8-5-2003

**Certified to be Effective:** 8-5-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 410-121-0320

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

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0320

### Oregon Maximum Allowable Cost (OMAC)

(1) The Oregon maximum allowable cost, or the maximum amount that the Office of Medical Assistance Programs (OMAP) will reimburse for prescribed drugs, is determined by OMAP's claims processing company, First Health Services. First Health Services determines the maximum allowable cost on selected multiple-source drug designation when a bioequivalent drug product is available from at least two wholesalers serving the State of Oregon.

(2) First Health Services generates and maintains all official OMAC lists and provides a copy of each list to OMAP. OMAC lists are generated monthly and each list indicates the amount, per product, that OMAP will reimburse to providers for products provided to OMAP clients during that particular month. For example: The OMAC list, January 1, 2003, includes the amounts OMAP will reimburse for products provided during the month of January 2003; the list, February 1, 2003, covers the month of February 2003, etc. OMAP includes in rule by reference the OMAC lists for February 1, 2002, March 1, 2002, April 1, 2002, July 1, 2002, August 1, 2002, September 1, 2002, October 1, 2002, November 1, 2002, December 1, 2002, January 1, 2003, February 1, 2003, March 1, 2003, April 1, 2003, May 1, 2003, June 1, 2003, July 1, 2003, August 1, 2003, September 1, 2003, October 1, 2003, November 1, 2003, and December 1, 2003.

(3) Current OMAC lists are available for review and/or downloading on OMAP's website: [http://www.dhs.state.or.us/healthplan/data\\_pubs/guides/pharmacy/](http://www.dhs.state.or.us/healthplan/data_pubs/guides/pharmacy/). Future lists, referenced in this rule, will be available and posted to OMAP's website upon receipt from First Health Services.

(4) The OMAC list does not apply if a prescriber certifies that a single-source (brand) drug is medically necessary.

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-29-89, cert. ef. 10-1-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-016-0340; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 61-2001(Temp), f. 12-13-01, cert.

# ADMINISTRATIVE RULES

ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 6-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 17-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 28-2002(Temp), f. 6-28-02, cert. ef. 7-1-02 thru 12-1-02; OMAP 35-2002(Temp), f. & cert. ef. 8-14-02 thru 1-1-03; OMAP 38-2002(Temp), f. & cert. ef. 8-30-02 thru 1-15-03; OMAP 40-2002(Temp), f. & cert. ef. 10-1-02 thru 2-15-03; OMAP 68-2002(Temp), f. & cert. ef. 11-15-02 thru 4-1-03; OMAP 7-2003, f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 52-2003, f. & cert. ef. 8-5-03

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**Adm. Order No.:** OMAP 53-2003

**Filed with Sec. of State:** 8-13-2003

**Certified to be Effective:** 9-1-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 410-133-0040, 410-133-0080, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0200, 410-133-0220, 410-133-0280, 410-133-0300, 410-133-0320

**Subject:** The School-Based Health Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP revised Rules 410-133-0040, 410-133-0080, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0200, 410-133-0220, 410-133-0280, 410-133-0300, 410-133-0320 to be in compliance with HIPAA national code conversion, and program compliance related to federal audit findings.

**Rules Coordinator:** Darlene Nelson — (503) 945-6927

## 410-133-0040

### Definitions

(1) Adapted Vehicle — Vehicle specifically designed and/or modified to transport passengers with disabilities.

(2) Adequate Recordkeeping — In addition to General Rules OAR 410-120-0000, Definitions and 410-120-1360, Requirements for Financial, Clinical, and Other Records, documentation in the student medical file and on the IEP/IFSP showing the medically appropriate health services provided to the student detailed in OMAP rules (See OAR 410-133-0320).

(3) Assessment — A process in obtaining information to determine if a student qualifies for OMAP covered medical services.

(4) Augmentative Communication Services — Services provided by Augmentative Communication Specialists or a Speech Pathologist with training and expertise in the use of alternative communication systems.

(5) Automated Information System (AIS) — See General Rules (OAR 410-120-0000 Definitions).

(6) Benefit Package — See General Rules (OAR 410-120-0000 Definitions).

(7) Billing Time Limit — Refers to the rules concerning the period of time allowed to bill a services to OMAP under “Timely Submission of Claims” (See OAR 410-120-0340).

(8) Center for Medicare and Medicaid Services (CMS) — Formerly Health Care Financing Administration (HCFA), the federal regulatory agency for Medicaid programs.

(9) CMS-1500 (formerly HCFA-1500) — The standard federal billing form used to bill medical services.

(10) Certification — See “licensure.”

(11) Conference — A scheduled meeting, regarding a student with special needs, between several interested parties. A conference should be one of the following:

(a) A meeting to determine a child’s early intervention or special education eligibility;

(b) A meeting to plan a child’s appropriate educational program or early intervention plan under the IDEA;

(c) An Individual Education Plan/Individual Family Service Plan (IEP/IFSP) team meeting to discuss the child’s progress;

(d) A meeting with other health care professionals to discuss the child’s health related issues.

(12) Consultation — Services that are provided by medically-qualified providers under the scope of their licensure, to other professionals or family members. These services or expertise are related to specific goals and objectives in a student’s IEP/IFSP or similar plan.

(13) Coordinated care as a Related Service — Services directly related to health services specified in the IEP/IFSP, performed by medically qualified staff, and allowed under 410-133-0080, Coverage to manage integration of those health services in the school setting.

(14) Current Procedural Terminology (CPT) — See General Rules (OAR 410-120-0000 Definitions).

(15) Delegation of Nursing Task — A selected nursing task that is assigned to an unlicensed person and monitored by a licensed Registered

Nurse. Delegation and supervision of task must comply with Oregon Administrative Rules, Board of Nursing, Division 47.

(16) Department — Refers to the Oregon Department of Education(ODE).

(17) Direct Services — Face-to-face interventions between the medically qualified service provider and a Medicaid eligible client.

(18) Early Childhood Special Education — Specially designed instruction to meet the unique needs of a preschool child (three years of age until the age of eligibility for kindergarten, or five years of age) with a disability.

(19) Early Intervention — A state-operated program designed to address the unique needs of preschool children (ages zero to three) with a disability.

(20) Educational Entity — (Within the context of the School-Based Health Services rules), a local school, school district, Education Service District, Regional Program, state-operated school, or a private school receiving State General Funds through the Oregon Department of Education (ODE).

(21) Education Service District (ESD) — An education entity established to offer a resource pool of cost-effective, education-related, physical-and mental health-related, state-mandated services to multiple local school districts within a geographic area described in ORS 334.

(22) Eligible for Special Education — A child who meets the eligibility criteria for early intervention, early childhood special education or special education as defined in ORS 343 and OAR, chapter 581, division 15.

(23) Evaluation — Assessment procedures to determine a child’s specific needs under IDEA and in accordance with OAR 581-015-0071, and which must be completed by medically qualified staff practicing under the scope of their licensure.

(24) Health Care Aide/Delegated Health Care Aide — A non-licensed person assigned by a Registered Nurse to perform selected tasks of nursing care identified in the Nursing Care/Health Management Plan as part of the IEP/IFSP.

(25) Healthcare Common Procedure Coding System (HCPCS) — See General Rules (OAR 410-120-0000 Definitions).

(26) Health Management Plan — A written description of a student’s health issues, desired treatment outcomes, and prescribed nursing interventions to address the health needs of a child in the educational setting. The plan must be a part of and attached to the IEP/IFSP.

(27) Health Services — Medical (physical and/or mental health) evaluation, testing and/or treatment required to achieve the goals set forth in a child’s IEP or IFSP, or similar plan. A health service is provided to enable the child to benefit from a special education program (age 3-21) or an early intervention program (age 0-2).

(28) ID Number — A number issued by the Department of Human Services (DHS) agency used to identify Oregon Health Plan clients. This number may also be referred to as Recipient Identification Number; Prime Number; Client Medical ID Number or Medical Assistance Program ID Number.

(29) Individuals with Disabilities Education Act (IDEA) — Formerly called the Education of the Handicapped Act, the program authorizes federal matching funds to states for the School-Based Health Services and School-Based Administrative Claiming programs.

(30) Individualized Education Plan (IEP) — A written action plan designed to meet the individual needs of a child’s disabilities, impaired function and educational goals. The plan is developed in accordance with requirements and definitions in OAR chapter 581, division 15. The IEP addresses disabilities that will continue and cannot be resolved by short-term therapies.

(31) Individualized Family Service Plan (IFSP) — A written plan of early childhood special education, related services, and early intervention services. The plan is developed to meet the needs of a child with disabilities in accordance with requirements and definitions in OAR chapter 581, division 15.

(32) Individualized Education Plan/Individualized Family Service Plan (IEP/IFSP) Team — Teachers, Specialists, and Parents responsible for determining eligibility, for developing, reviewing and revising an IEP/IFSP or similar plan in compliance with OAR chapter 581, Division 15.

(33) Intervention Activity — A term sometimes used in the education setting to indicate a medical service or treatment.

(34) Licensure — The process of state agencies assuring those licensed are qualified to perform specific duties and scope of services within a legal standard recognized by that agency.

(35) Local Education Agency — See Educational Entity.

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(36) Medical Provider — An individual licensed by the State to provide health services within their governing body's definitions and respective scope of practice. Medical provider and practitioner are interchangeable terms.

(37) Medical Services — The care and treatment provided by a licensed medical provider to prevent, diagnose, treat, correct or address a medical problem, whether physical, mental or emotional. For the purposes of these rules, this term shall be synonymous with health and/or health-related services listed on an IEP, IFSP or similar plan, as defined in OAR chapter 581, division 15.

(38) Medical Transportation — Transportation in an adapted vehicle to and/or from a covered service.

(39) Medically Appropriate — (For the purposes of the SBHS program), Services that are required for prevention, diagnosis, or treatment of a health condition that encompasses physical and/or mental conditions which:

(a) Meet the treatment standard of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(b) The most cost-effective of the alternative levels of medical services which can be safely provided to an OMAP member; and

(c) Not solely for the convenience of an Oregon Health Plan client or a provider of the service.

(40) Medically Qualified Staff — Staff employed by and/or through contract with a School Entity in compliance with State law defining and governing the scope of practice, and OAR 410-133-0120.

(41) Medication Management — Services specific to mental health related medication management as specified in the IEP/IFSP and performed by medically qualified staff within their respective scope of practice.

(42) Nursing Services — Services provided by a registered professional nurse, a licensed practical nurse or delegated health care aide, within the scope of practice as defined by State law. Nursing services include preparation of treatment plans, consultation and coordination of service activities as well as direct patient care and supervision.

(43) Observation — Surveillance or visual monitoring performed by a medical provider to better understand the child's medical needs and progress in their natural environment.

(44) OMAP Rate — The amount OMAP will reimburse for a service.

(45) Orientation and Mobility Training — Evaluation and training provided by a certified or equivalently trained Orientation and Mobility Specialist to correct or alleviate mobility difficulties created by a loss or lack of vision. This service is not covered under the SBHS program.

(46) Prime Number — See definition of ID Number.

(47) Provider Agreement or Intergovernmental Agreement (IGA) — A contract between OMAP and an enrolled Educational entity which commits both parties to the provisions of the OMAP General Rules and related program rules.

(48) Qualified Provider/School Medical Provider (SM) — (Within the context of the School-Based Health Services rules), this term means a provider who is certified by the Department of Education and OMAP as qualified to perform IEP/IFSP school-based services as an educational entity.

(49) Recipient — See Client in the General Rules. This term is synonymous with "student" or "child" in the School-Based Health Services rules.

(50) Regional Program — Services provided on a multi-county basis, under contract from the Department of Education to eligible children (birth to 21) visually impaired, hearing impaired, deaf-blind, autistic, and/or severely orthopedically impaired.

(51) Rehabilitative Services — For purposes of the SBHS program, any medical, psychological or remedial service recommended by a physician or other licensed practitioner within the scope of practice under State law, for reduction, correction, stabilization or functioning improvement of physical or mental disability of a client (See 410-133-0060).

(52) Related Services — Supportive services which assist a child with disabilities to benefit from early intervention or special education services. "Related services" are not all covered for payment by OMAP. See Rules 410-133-0080, Coverage and 410-133-0200, Not Covered Services.

(53) School-Based Health Services (SBHS)-- A medical service provided in the school setting, meeting the requirements of state (ODE and OMAP) and federal (IDEA, Social Security Act and CMS) law and guidelines.

(54) School Medical Provider — A provider type (SM) established by OMAP to designate the provider of School-Based Health Services.

(55) Screening:

(a) A limited examination to determine a child's need for diagnostic medical evaluation. A screening is usually provided to a child, group, class, or school population, and is not diagnostic. For the SBHS program, pre-diagnostic screening as defined herein is not billable;

(b) Screening services as defined by CMS for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) are not provided in the school setting, and must contain the following five elements to be Medicaid billable:

(A) Comprehensive health and developmental history, including assessment of both physical and mental health development;

(B) Comprehensive unclothed physical examination;

(C) Appropriate immunizations according to the Advisory Committee on Immunization Practice (ACIP) schedule;

(D) Laboratory tests, including blood lead level assessment; and

(E) Health education, including anticipatory guidance;

(c) Screening procedure codes (CPT; HCPCS) are subject to General Rules and OMAP respective Provider Rules and limitations, and may be billable except as described in (a) and (b) of this definition.

(56) Similar Plan; Individual School Health Management Plan or Nursing Plan that describes the nature, frequency and duration of the services and assistance to meet the needs of a child with a disability, or who are medically at risk.

(57) Special Education Services — Specially designed instruction to meet the unique needs of a child with a disability, including regular classroom instruction, instruction in physical education, home instruction, and instruction in hospitals, institutions, special schools, and other settings.

(58) State Education Agency (SEA) — The Oregon Department of Education which provides oversight to public education entities for ensuring compliance with Federal and Oregon state laws relating to the provision of services required by the Individuals with Disabilities Education Act (IDEA).

(59) State-Operated Schools — The Oregon School for the Blind or the Oregon School for the Deaf.

(60) Student Health/Medical/Nursing Records — Records that document, for Medical Assistance Program purposes, the child's diagnosis or the results of tests, screens or treatments; treatment plan; the IEP or IFSP; and the record of treatments given to the child.

(61) Teachers' Standards and Practices Commission (TSPC) — The Commission which governs licensing of teachers, personnel service specialists, and administrators as set forth in OAR 584-001-0000 through 584-090-0060.

(62) Testing — See "Assessment".

(63) Third Party Billing — The process of sending a bill to a public or private insurance company for a medical or health service given to someone who is insured.

(64) Transportation as a Related Service — Transportation to OMAP eligible services, and described in the IEP/IFSP as outlined in OAR 410-133-0080 Coverage.

(65) Treatment Plan — A child specific plan as defined by the IEP/IFSP or health management/nursing care plan.

(66) Unit — A service measurement of time for billing and reimbursement efficiency. One (1) unit equals 15 minutes unless otherwise stated.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 29-1993, f. & cert. ef. 10-1-93; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0080

### Coverage

The Office of Medical Assistance Programs will reimburse for the following services:

(1) Health services required by a child's physical and/or mental conditions as described in Individual Education Plan (IEP or IFSP) or similar individualized plan.

(a) Health Service, Individual or Group, includes reimbursement for corrective treatments and related activities as described in a student's individual plan and the documentation of written records for those treatments.

(A) The payment rate for Health Services includes the case management and supervision functions and necessary supplies for these services;

(B) These services must be provided by personnel who meet the standards of licensing or certification for the service being provided as described in OAR 410-133-0120 and the respective provider's governing definitions, scope of practice, and licensure or certification.

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(b) Nursing Services must be provided by a Registered Nurse (RN), Licensed Practical Nurse (LPN), or Nurse Practitioner (NP) within the scope of their licensure. Services are those described in OAR chapter 851, the Oregon Nurse Practice Act including:

(A) Development, assessment and/or coordination of the treatment plan; or

(B) Direct nursing care services; or

(C) Training and oversight of any health care aides performing delegated nursing services; or

(D) Other services within the scope of nursing care;

(E) Nursing services under this program are not intended to reimburse nursing activities of a Private Duty RN or LPN that is otherwise billing OMAP for those services.

(2) Evaluation and testing services necessary to determine a child's medical needs.

(a) Testing and evaluation services are procedures used to determine a health related need, diagnosis, or eligibility;

(b) Services must be provided by medically qualified providers who meet the standards of licensing or certification for the service being provided as described in OAR 410-133-0120 and the respective provider's governing definitions, scope of practice, and licensure or certification;

(c) Reimbursable time may include:

(A) Student-practitioner interactive services;

(B) Student observation by qualified staff;

(C) Preparation of the written evaluation/testing reports.

(3) Transportation to medical services as documented in the child's IEP/IFSP and defined in these rules.

(a) Ongoing transportation as a related service is billable only for the days medical services are provided. For transportation as a related service to be reimbursable the transportation must be identified in the child's IEP/IFSP and the medical service must also be listed in the IEP/IFSP;

(b) OMAP may only reimburse for transportation services to and from school for a child when the child receives a medical service other than transportation in the school on that day when either of the following situations exist:

(A) Child requires specialized transportation in a vehicle adapted to serve the needs of the disabled child and medical transportation is listed as a service in the child's IEP/IFSP; or

(B) Child has a medical need for transportation that is noted in the IEP/IFSP, but resides in an area that does not have regular school bus transportation such as those areas in proximity to a school.

(c) If a child is able to ride on a regular school bus, but requires the assistance of an aide to ride the bus, the transportation cost is not reimbursable. However, the aide can be paid when required on a regular, non-adapted transport;

(d) Transportation is not reimbursable by OMAP when provided by the parent or relative of the child;

(e) Transportation to an evaluation service is covered as long as:

(A) The evaluation is to determine or to redetermine IDEA eligibility;

(B) The evaluation is a Title XIX service;

(C) The provider meets licensing standards necessary to be an eligible OMAP provider.

(4) Delegated Health Care Aide service is reimbursed for health care services delegated to a health care aide under the Standards for Delegation and Assignment of Nursing Care Task as outlined in OAR 851-047-0000.

(5) Transportation Attendant service is reimbursable to accompany students/children who cannot be transported safely without an additional attendant for behavioral or physical reasons.

(6) Contracted Consult Service reimburses schools for furnishing consultations to IEP/IFSP students for the purpose of evaluation and/or testing from licensed medical professional other than provider staff.

(a) This service may be on a contracted basis for a number of students;

(b) Allowable services must be furnished through a personal service contract between the School Medical Provider and the licensed practitioner;

(c) This service would only be billable to OMAP when the licensed practitioner did not bill OMAP directly under other programs for the same services.

(7) Coordinated care as related services must be performed by medically qualified staff as described in OAR 410-133-0120, and directly related to health services required by a child's physical and/or mental conditions as described in Individual Education Plan (IEP or IFSP) or similar individualized plan to be billable, and must be one of the following to be billable.

(a) The medical portion only of the initial IEP/IFSP and annual reviews of IEP/IFSP, limited to two times per school year;

(b) The medical-related home monitoring assessment by medically qualified staff, limited to one time per school year;

(c) The medical portion only of team conferences involving medically qualified staff with teachers, staff and/or parents to facilitate integration of health services as specified in IEP/IFSP into student's school setting;

(d) The coordination by medically qualified staff of health services specified in the IEP/IFSP with other health professionals outside the school setting including but not limited to the student's treating physician.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0100

### Provider Requirements

The School Medical provider is responsible to:

(1) Provide services required in the child's individual plan for special education under OAR chapter 581, division 15;

(2) Provide services through staff who are medically qualified to perform the service;

(3) Provide appropriate medical supervision for delegated tasks;

(4) Document service in writing as required in OAR 410-133-0320;

(5) Maintain adequate records in the student file;

(6) Make the records required by these rules and specifically OAR 410-133-0320 available for a period of seven years;

(7) Establish a schedule of fees;

(8) Provide access for on-site review of students' records and provisions of service;

(9) Document any changes in the IEP/IFSP related to treatment;

(10) Assure that services billed reflect health services and do not reimburse education services;

(11) Comply with all applicable provisions of the OMAP General Rules.

Stat. Auth.: ORS 184

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0120

### Medically Qualified Staff

The School Medical provider shall furnish reimbursable services through the following qualified staff who provide services within the scope of their licensure:

(1) Physical or occupational therapy treatments shall be provided by licensed physical therapists, licensed occupational therapists, licensed physical therapy assistants or certified occupational therapy assistants within the scope of their licensure. Physical or occupational therapy evaluations and treatment plan development can only be provided by licensed physical therapists or licensed occupational therapists. Special education teachers are not recognized as medically qualified staff for these services.

(2) Medical evaluations, assessments or testing are services that are provided by licensed physicians and osteopaths.

(3) Nursing evaluations and treatment for disabled children shall be provided by licensed Registered Nurses, Licensed Practical Nurses or licensed Nurse Practitioners within the scope of their licensure. Delegated nursing tasks shall be provided by trained health care aides.

(4) Psychological/mental health evaluations, testing, psychological services and/or treatments shall be provided by individuals who meet the relevant requirements of their respective professional state licensure and/or the Teachers' Standards and Practices Commission, and practice within their respective scope. Individuals who meet those requirements include: Basic School Psychologist (584-044-0014), Standard School Psychologist (584-044-0023), Standard Counselor (584-044-0023), Child Development Specialist with Master's Degree (581-023-0050), Qualified Mental Health Professional, licensed physician, licensed psychologist, licensed psychiatrist, licensed clinical social worker, Masters of Social Work, and licensed Counselor.

(5) Speech therapy treatments and speech therapy evaluations shall be provided by speech pathologists who are either licensed by the Board of Speech Examiners in Speech Pathology and Audiology or hold the American Speech and Hearing Association (ASHA) Certificate of Clinical Competence (CCC) or a graduate speech pathologist being supervised in the Clinical Fellowship Year (CFY). A covered speech-language pathology service performed by a certified speech-language pathology assistant performing within his/her scope of practice and under the supervision of a

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licensed speech-language pathologist is reimbursable under the supervising licensed speech-language pathologist.

(6) Audiological evaluations/screenings and services shall be provided by licensed audiologists or licensed audiometrists within the scope of State law.

(7) Vision services shall be provided by licensed ophthalmologists or optometrists for services within the scope of their licensure.

(8) Delegated Health Care Services shall be provided by medically trained health care aides specifically trained and supervised by a registered nurse or nurse practitioner, within the scope of their licensure.

(9) Delegated transportation attendants are specifically trained for health and safety issues.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 49-1991(Temp), f. & cert. ef. 10-24-91; HR 3-1992, f. & cert. ef. 1-2-92; HR 29-1993, f. & cert. ef. 10-1-93; HR 19-1994, f. & cert. ef. 4-1-94; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0140

### Enrollment Provisions

(1) Providers of School Medical Health Services will be certified to OMAP by the Oregon Department of Education as qualified public educational entities to be enrolled as School Medical (SM) providers.

(2) The provider enrollment process will consist of:

(a) Certifying letters of approval from the Oregon Department of Education;

(b) Enrollment with the Office of Medical Assistance Programs.

(3) An approved enrollment application is a contracting agreement that binds the provider to comply with OMAP General Rules and OMAP SBHS rules.

Stat. Auth.: ORS 184

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0200

### Not Covered Services

(1) Education-based costs normally incurred to operate a school and provide an education are not covered for payment by the Office of Medical Assistance Programs (OMAP).

(2) Medical care not documented on the child's individualized plan is not covered for payment by OMAP, under the School-Based Health Services program.

(3) Coordinated care services (410-133-0000, Definitions and 410-133-0080, Coverage) do not include the following:

(a) reviewing records;

(b) meeting preparation;

(c) health services preparation including materials preparation;

(d) report writing and correspondence, other than service log documentation.

(4) Medication management not specific to mental health related services listed in the IEP/IFSP.

(5) Also not covered:

(a) Activities related to researching student names, determine Medical Assistance Program eligibility status, administrative activities such as data entry of billing claim forms, and travel time by service providers;

(b) Family therapy where the focus of treatment is the family;

(c) Routine health nursing services provided to all students by school nurses; nursing intervention for acute medical issues in the school setting, e.g. students who become ill or are injured, or short duration acute services not listed on the IEP;

(d) Educational workshops, training classes, and parent training workshops.

(e) Transportation services to and from school;

(f) Vocational services;

(g) Screening services;

(h) Evaluation services performed by a provider without licensure to make a diagnosis within the scope of practice;

(i) Service provided to non-Medicaid student, group, class, or school free of charge.

(j) Recreational services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0220

### Billing and Payment — For Services Provided on or After September 1, 1991

(1) The School Medical Provider must bill OMAP at a rate no greater than the rate established by the provider for billing the service to any other resource. Payment by OMAP will not exceed OMAP established rates.

(2) Services must be billed on a CMS-1500 or by electronic media claims (EMC) submission using only those procedure codes specified for the School-Based Health Services program.

(3) OMAP will accept a claim up to 12 months from the date of service. See General Rules OAR 410-120-1300, Timely Submission of Claims.

Stat. Auth.: ORS 184.750 & ORS 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0280

### Rebilling — For Services Provided on or After September 1, 1991

In order to correct a claim that does not include all services given during the same time period, the provider must request an adjustment. The paid claim must be corrected on the Individual Adjustment Request Form (OMAP 1036) to allow revision of the original claim. Rebilling additional units of service on a CMS-1500 for the same timeframe would be denied as duplicate services.

Stat. Auth.: ORS 184.750 & ORS 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0300

### Procedure Codes

(1) The provider must use the procedure code from the School-Based Health Services table which best describes the specific service or item provided. Refer to 410-133-0080 Coverage for service requirements and limitations.

(2) Unit values equal 15 minutes of service unless otherwise stated. These time units must be documented in the child's records under the services billed. Account for each unit of service under one code only.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 29-1993, f. & cert. ef. 10-1-93; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 1-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

## 410-133-0320

### Recordkeeping Requirements

(1) Providers will retain information to document the level of service provided to the child as billed to OMAP for seven years. (See General Rules OAR 410-120-1360). OMAP recognizes that much of this required documentation may already be collected on the IEP. It is not the intent to require that this information be re-created on another record. These requirements will be met if the information is included in the IEP and supporting documentation.

(2) The student health record will include:

(a) A copy of the child's IEP or IFSP or similar special education plan as well as any addendum to the plan;

(b) A notation of the diagnosis and/or condition being treated or evaluated;

(c) Results of analysis of any mental health/medical analysis, testing, evaluations, and/or assessments for which reimbursement is requested;

(d) Documentation of the place or setting, duration, and extent of each service or intervention activity given, by the date of service, signed and initialed by provider (electronic records can be printed);

(e) The record of who performed the service and their credentials or position;

(f) The medical recommendation to support the service;

(g) Periodic evaluation of therapeutic value and progress of student to whom a medical service is being provided;

(h) Record of medical need for transportation to a medical service, specific date transported, and number of door to door miles; and

(i) Maintain date specific attendance records for students for dates of service billed.

Stat. Auth.: ORS 409.010

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 22-1995, f. & cert. ef. 12-1-95; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03

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**Adm. Order No.:** OMAP 54-2003(Temp)

**Filed with Sec. of State:** 8-15-2003

# ADMINISTRATIVE RULES

**Certified to be Effective:** 8-15-03 thru 1-15-04

**Notice Publication Date:**

**Rules Amended:** 410-121-0300

**Subject:** Subject Matter: The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0300 is being amended to update the CMS Federal Upper Limits for Drug Payments listing. This filing is to update Transmittal #37, with Title XIX State Agency Letter Number 03-04, changes to be effective August 24, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS).

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0300

### CMS Federal Upper Limits for Drug Payments

(1) The CMS Federal Upper Limits for Drug Payments listing of multiple source drugs meets the criteria set forth in 42 CFR 447.332 and 1927(e) of the Act as amended by OBRA 1993. The development of the current Federal Upper Limit (FUL) listing has been accomplished by computer. Payments for multiple source drugs must not exceed, in the aggregate, payment levels determined by applying to each drug entity a reasonable dispensing fee (established by the State and specified in the State Plan), plus an amount based on the limit per unit which CMS has determined to be equal to a 150 percent applied to the lowest price listed (in package sizes of 100 units, unless otherwise noted) in any of the published compendia of cost information of drugs. The FUL drug listing is published in the State Medicaid Manual, Part 6, Payment for Services, Addendum A. The most current Transmittals and subsequent changes are posted to the CMS website at [http://www.cms.hhs.gov/medicaid/drugs/drug\\_10.asp](http://www.cms.hhs.gov/medicaid/drugs/drug_10.asp). The FUL price listing will be updated approximately every six months.

(2) The most current CMS Federal Upper Limits for Drug Payments Listing, includes changes to Transmittal #37, Title XIX State Agency Letter Number 03-04, with changes to be effective August 24, 2003, and is available for downloading on OMAP's Website, (<http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/>). To request a hard copy, call OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-16-330; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 45-1990, f. & cert. ef. 12-28-90; HR 10-1991, f. & cert. ef. 2-19-91; HR 37-1991, f. & cert. ef. 9-16-91; HR 13-1992, f. & cert. ef. 6-1-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 35-1992(Temp), f. & cert. ef. 12-1-92; HR 1-1993(Temp), f. & cert. ef. 1-25-93; HR 3-1993, f. & cert. ef. 2-22-93; HR 5-1993(Temp), f. 3-10-93, cert. ef. 3-22-93; HR 8-1993(Temp), f. & cert. ef. 4-1-93; HR 11-1993, f. 4-22-93, cert. ef. 4-26-93; HR 15-1993(Temp), f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 25-1993(Temp), f. & cert. ef. 10-1-93; HR 14-1994, f. & cert. ef. 3-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 43-1998(Temp), f. & cert. ef. 11-20-98 thru 5-1-99; OMAP 5-1999, f. & cert. ef. 2-26-99; OMAP 42-2000(Temp), f. & cert. ef. 12-15-00 thru 5-1-01; OMAP 1-2001(Temp), f. & cert. ef. 2-1-01 thru 6-1-01; OMAP 2-2001(Temp), f. 2-14-01, cert. ef. 2-15-01 thru 7-1-01; OMAP 18-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 23-2001(Temp), f. & cert. ef. 4-16-01 thru 8-1-01; OMAP 26-2001(Temp), f. & cert. ef. 6-6-01 thru 1-2-02; OMAP 51-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-15-01; OMAP 58-2001, f. 11-30-01, cert. ef. 12-1-01; OMAP 67-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 3-2002(Temp), f. & cert. ef. 2-15-02 thru 6-15-02; OMAP 5-2002(Temp), f. & cert. ef. 3-5-02 thru 6-15-02; OMAP 19-2002(Temp), f. & cert. ef. 4-22-02 thru 9-15-02; OMAP 29-2002(Temp), f. 7-15-02, cert. ef. 8-1-02 thru 1-1-03; OMAP 71-2002(Temp), f. & cert. ef. 12-1-02 thru 5-15-03; OMAP 10-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 11-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 8-15-03; OMAP 41-2003, f. & cert. ef. 5-29-03; OMAP 51-2003, f. & cert. ef. 8-5-03; OMAP 54-2003(Temp), f. & cert. ef. 8-15-03 thru 1-15-03

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

**Adm. Order No.:** MHD 7-2003

**Filed with Sec. of State:** 8-15-2003

**Certified to be Effective:** 9-1-03

**Notice Publication Date:** 7-1-03

**Rules Adopted:** 309-036-0100, 309-036-0105, 309-036-0110, 309-036-0115, 309-036-0120, 309-036-0125

**Subject:** These rules prescribe standards for the administration of the Community Mental Health Housing Fund established by ORS 426.506. The rules provide definitions and specify the administrative structure and procedures relating to the Community Mental

Health Housing Fund. The rules provide regulations for managing income and expenses to the Fund and to the Community Housing Trust Account created within the Fund. The rules define the process to be used for allocating and distributing funds for institutional and community housing purposes. The rules create a Community Mental Health Housing Fund Advisory Committee as an advisory body with responsibility for reviewing and recommending actions relating to the administration of the Community Mental Health Housing Fund.

**Rules Coordinator:** Robert Miller—(503) 945-6185

## 309-036-0100

### Statement of Purpose

Statement of Purpose. These rules prescribe standards for the administration of the Community Mental Health Housing Fund. The Community Mental Health Housing Fund, supported in part by the Community Housing Trust Account, shall be administered by the Department of Human Services, through its Office of Mental Health and Addiction Services.

Stat. Auth.: ORS 430.640

Stats. Implemented: ORS 426.502 - 426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

## 309-036-0105

### Definitions

As used in these rules:

(1) "Community housing" means real property, improvements and related equipment that are used or could be used to house persons with a serious mental illness in community-based settings consistent with ORS 426.502(2). It does not include hospitals, nursing homes, correctional facilities and other institutional housing except as provided in subsection (5) of this rule.

(2) "Construct" means to build, install, assemble, expand, alter, convert, repair, replace or relocate. It can also mean to install equipment and necessary infrastructure to prepare a site.

(3) "Department" means the Department of Human Services.

(4) "Equipment" means furnishings, fixtures or appliances that are used or could be used to provide community housing.

(5) "Institutional housing" means a state psychiatric hospital in Oregon, such as Eastern Oregon Psychiatric Center or Oregon State Hospital.

(6) "Person with serious mental illness" means an individual who is:

(a) Diagnosed by a qualified mental health professional as suffering from a chronic mental disorder as defined by ORS 426.495(2)(b) which includes, but is not limited to, conditions such as schizophrenia, serious affective and paranoid disorders, and other disorders which manifest symptoms that are not solely a result of mental retardation or other developmental disabilities, epilepsy, drug abuse, or alcoholism; which continue for more than one year, or on the basis of a specific diagnosis, are likely to continue for more than one year; and

(b) Is impaired to an extent which substantially limits the person's consistent functioning in one or more of the following areas:

(A) Home environment: independently attending to shelter needs, personal hygiene, nutritional needs and home maintenance;

(B) Community negotiation: independently and appropriately utilizing community resources for shopping, recreation and other needs;

(C) Social relations: establishing and maintaining supportive relationships;

(D) Vocational: maintaining employment sufficient to meet personal living expenses or engaging in other age appropriate activities.

Stat. Auth.: ORS 430.640

Stats. Implemented: ORS 426.502 - 426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

## 309-036-0110

### Community Mental Health Housing Fund, Community Mental Health Housing Trust Account, Income and Expenditures

(1) Community Mental Health Housing Fund. The Community Mental Health Housing Fund shall be maintained in the State Treasury. All earnings on investments of moneys in the Community Mental Health Housing Fund, including earnings in the Community Housing Trust Account, shall accrue to the Fund. All moneys in the Fund shall be continuously appropriated to the Department of Human Services to carry out the provisions of ORS 426.504 through its Office of Mental Health and Addiction Services for the purpose of providing housing for persons with serious mental illness.



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(a) Income to the Community Mental Health Housing Fund shall consist of (A) the proceeds, less costs to the state, received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; (B) moneys appropriated to the Fund by the Legislative Assembly; (C) proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department and used as community housing; (D) money reallocated from other areas of the Department's budget; (E) interest and earnings credited to the fund; and (F) gifts of money or other property from any source, to be used for the purposes of developing housing for persons with serious mental illness. Except as provided by ORS 426.406(3)(a), income to the fund may be restricted to deposit in the Community Housing Trust Account or may be available for expenditure.

(b) Gifts and other deposits may be designated by the contributor to be used for community housing purposes or institutional housing purposes. Such deposits may also be restricted to the Community Housing Trust Account or may be non-restricted and available for expenditure from the Fund. Any gifts restricted by a contributor shall not be available for re-allocation except as may be specified by the contributor.

(2) Community Housing Trust Account. The Community Housing Trust Account exists within the Community Mental Health Housing Fund and shall consist of (a) at least 95% of the proceeds received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; and (b) any other funds deposited into the account for the restricted purpose of staying in the Fund for perpetuity.

(3) Amounts Available for Expenditure. Amounts available from the Fund for expenditure shall consist of (a) up to five percent of the sale proceeds received by the Department of Human Services for credit to the account from the Oregon Department of Administrative Services from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; and (b) all other deposited, unrestricted funds or account earnings unless a specific deposit is designated by its maker to be placed in the restricted portion of the Community Housing Trust Account.

(4) Expenditure of Community Housing Trust Account Interest Earnings. Interest earned on moneys in the Community Housing Trust Account may be expended in the following manner: Seventy percent of interest earned on deposits in the Community Housing Trust Account shall be expended for community housing purposes in accordance with 309-036-0115. Thirty percent of interest earned on deposits in the Community Housing Trust Account shall be expended for institutional housing purposes in accordance with 309-036-0120.

(5) Limitations on Expenditure. Interest earned on deposits in the account shall not be used to support operating expenses of the Department.

Stat. Auth.: ORS 430.640

Stats. Implemented: ORS 426.502 - 426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

## 309-036-0115

### Community Housing

(1) As used in this rule, the term "community housing" does not include institutional housing.

(2) Eligible Uses for Community Housing. The community housing to be assisted with funds from the Community Mental Health Housing Fund shall include a variety of types of housing integrated into residential neighborhoods of local communities throughout Oregon. The Office of Mental Health and Addiction Services may establish priorities for the types of housing to be assisted based on an analysis of housing needs of persons with serious mental illness. The community housing types to be considered for funding include, but are not limited to, apartments, residential facilities and other residences for persons with serious mental illness. Housing for persons with serious mental illness may include improvements and related equipment to enable a provider to offer services on site. Where services are not offered on site, the community housing provider must demonstrate that access to services is available elsewhere in the community.

(a) New and Existing Community Housing. Funds from the Community Mental Health Housing Fund may be used to develop new community housing or to preserve or renovate existing community housing for persons with serious mental illness. To this end, funding may be used toward acquisition, maintenance, repair, furnishings and equipment.

(b) Occupancy of Community Housing. The community housing to be assisted with funds from the Community Mental Health Housing Fund must be made available for occupancy by persons with serious mental illness. Consistent with the designated housing model, additional individuals, such as resident managers, care providers, family members and roommates, may also reside in the housing to the extent allowed under ORS 426.502(2).

(c) Exclusions. Funds from the Community Mental Health Housing Fund cannot be used to support ongoing operation of the community housing.

(3) Allocation of Funds for Community Housing Purposes. The Department's Assistant Director for Health Services shall annually identify the amount of funds available in the Community Mental Health Housing Fund for community housing purposes.

(a) Allocation Plan. The Department's Assistant Director for Health Services or designated representative shall establish, with advice and input from the Community Mental Health Housing Fund Advisory Committee, a plan for allocating funds. This allocation plan shall designate amounts available for new development and renovation awards, geographic distribution goals and any desired housing types or resident population priorities.

(b) Distribution Plan. As funds become available, it shall be the intent of the Department to distribute funds in a fair and equitable manner with respect to geographic and service population considerations. To this end, regional distribution goals will be established by the Department with input from the Mental Health Housing Fund Advisory Committee. These goals will be established based upon the general population distribution in Oregon, OMHAS data on the number of persons with serious mental illness served in each region of the state and other factors relating to housing needs. The distribution plan goals will be published in the application materials. If after considering all applications for a region, the resulting awards do not award all funds in accordance with these goals, then remaining funds may be re-allocated to other regions.

(4) Application Process and Award of Funds. OMHAS shall implement an application and award process consistent with the following guidelines.

(a) Notification: OMHAS shall announce the availability of funding from the Community Mental Health Housing Fund and provide instructions for applying for such funding. The announcement of funding shall include a description of the fund, the allocation plan, eligible community housing, application rating criteria, and application materials.

(b) Application. An application for funding shall contain all information required by the department, including, but not limited to, (A) a description of the proposed community housing project (including, but not limited to, type of unit(s), number of residents who will be persons with serious mental illness, proposed rents, site location, the services to be available to residents and project amenities); (B) documentation of the applicant's experience with developing and operating housing; (C) a statement identifying the length of time the unit(s) will be dedicated for use by persons with serious mental illness; (D) an estimate of the operating revenues and expenses; (E) the development plan, including a development budget with sources of funding identified; and (F) documentation describing how the proposed community housing is consistent with allocation plan priorities. Applicants will have a minimum of 60 days to complete and return applications.

(c) Determination. Completed applications shall be submitted to the Administrator of the Office of Mental Health and Addiction Services. Applications shall be reviewed and rated by a review panel established by the OMHAS Administrator that will include at least three members of the Community Mental Health Housing Fund Advisory Committee. The review panel shall make recommendations for funding decisions to the OMHAS Administrator who will make final funding decisions. Applicants will receive written notice of funding decisions.

(d) Right to Appeal. Applicants who do not agree with funding decisions are encouraged to discuss their complaint with Office of Mental Health and Addiction Services staff. If the issue is not resolved, applicants may submit a request for formal review of the decision to the Department's Assistant Director for Health Services. The Assistant Director shall appoint a review committee whose members shall review the application materials and request for appeal and make a recommendation in 30 days. The Assistant Director shall make a decision based upon this recommendation within 15 days. The decision of the Assistant Director shall be final. (5) Disbursement of Funds. OMHAS will develop procedures for the disbursement of funds consistent with prudent accounting practices and Department financial procedures.

(6) Security of Investment. All funds disbursed in amounts greater than \$5,000 for the purpose of community housing shall be secured by a trust deed or other instrument to secure and insure continuing use of the property, improvements and related equipment in accordance with the purposes of the award.

(7) Non-discrimination. Recipients of funding for community housing shall ensure that all eligible persons with serious mental illness shall be considered for residency without regard to race, color, sex or sexual orientation (except as may be limited by room arrangement), religion, creed,

# ADMINISTRATIVE RULES

national origin, age (except under 18), familial status, marital status, source of income, or disability in addition to the mental or emotional disorder.

Stat. Auth.: ORS 430.640  
Stats. Implemented: ORS 426.502 - 426.508  
Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

## 309-036-0120

### Institutional Housing

(1) Eligible Uses for Institutional housing. The institutional housing to be assisted with 30% of interest earnings from the Community Housing Trust Account and any other funds restricted to institutional housing purposes shall mean state psychiatric hospital facilities including buildings, grounds, leased facilities, infrastructure and ancillary facilities. The institutional housing to be assisted must be for occupancy by persons with serious mental illness.

(2) Allocation of Funds for Institutional Housing Purposes. The Department's Assistant Director for Health Services or designee will annually identify the amount of funds available in the Community Mental Health Housing Fund for institutional housing purposes.

(a) Allocation Plan. The superintendents of the state psychiatric hospital facilities shall submit prioritized requests for funding of institutional housing improvements to the Assistant Director for Health Services or designee. The Assistant Director for Health Services or designee shall create an allocation plan based on a consolidated prioritized list of requests.

(b) Distribution of Funds for Institutional Housing Purposes. As funds become available, they will be distributed to state psychiatric hospital facilities for improvements in accordance with the allocation plan.

(3) Oversight. The Community Mental Health Housing Fund Advisory Committee shall review the allocation plan and distribution of funds for institutional housing purposes.

Stat. Auth.: ORS 430.640  
Stats. Implemented: ORS 426.502 - 426.508  
Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

## 309-036-0125

### Community Mental Health Housing Fund Advisory Committee

(1) Membership and Term. The Community Mental Health Housing Fund Advisory Committee (CMHHFAC) shall be comprised of not less than seven (7) members who shall be appointed by the Department's Assistant Director for Health Services or designee. Each member shall be appointed for a term of four years, and may be re-appointed for one additional four-year term. For initial appointments, approximately half of the members shall be appointed for initial two-year terms.

(2) Committee Composition. CMHHFAC members shall consist of at least one OMHAS employee who shall be responsible for convening the committee. OMHAS shall provide clerical support to the committee. Additional members shall include at least one state psychiatric hospital representative, one consumer advocate, one family advocate, one representative from the Housing and Community Services Department, one community mental health service provider, and one nonprofit housing provider.

(3) Meeting Schedule. The CMHHFAC shall meet not less than two times per year.

(4) Responsibilities. The CMHHFAC shall be responsible for (a) recommending an allocation plan for funding awards from the Community Mental Health Housing Fund; (b) recommending maximum award amounts; (c) reviewing and evaluating the award decisions for community housing awards and making recommendations regarding the award process; (d) making policy recommendations for the operation of the fund; and (e) such other advisory actions as might be assigned by the Department's Assistant Director for Health Services.

Stat. Auth.: ORS 430.640  
Stats. Implemented: ORS 426.502 - 426.508  
Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

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

**Adm. Order No.:** PH 10-2003(Temp)

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03 thru 1-15-04

**Notice Publication Date:**

**Rules Amended:** 333-560-0010

**Rules Suspended:** 333-635-0000, 333-635-0010, 333-635-0020, 333-635-0030

**Subject:** OAR 333-560-0010 would be amended to allow for a limited number of freestanding hospice facilities to receive a Certificate

of Need under the abbreviated review process. OAR 333-635-0000, OAR 333-635-0010, OAR 333-635-0020 and OAR 333-635-0030 constitute Division 635, Demonstration of Need for Hospice Beds. These rules would be suspended. The aforementioned rule changes were previously filed with the Administrative Rule Unit as a permanent administrative rule filing but a copy of the filing was not received by Legislative Counsel within 10 days after filing and, consequently, the validity of the affected rules maybe in question.

**Rules Coordinator:** Jana Fussell—(503) 731-4000

## 333-560-0010

### Abbreviated Certificate of Need Review for Specific Projects

The following types of projects are eligible for abbreviated review:

(1) The establishment of new health services or new facilities which, based on documentation submitted by the applicant and found acceptable by the division, will predominantly or exclusively service medically indigent patients:

(a) Such documentation should include any admissions policies or needs tests to be used by the applicant in determining the appropriateness of admissions. Documentation should also include information on projected revenues for the facility or service, including the sources of such revenues;

(b) If the facility or service, in the future, wishes to provide services to persons who are not medically indigent, either because of a change of ownership or for other reasons, the applicant must submit a new letter of intent detailing the proposed changes in the population to be served. The division may consider such a change to constitute the establishment of a new health service subject to review, if it concludes that the patients to be served will no longer be predominantly medically indigent, and if it concludes that there will be a substantial impact on the cost of patient care;

(c) For the purposes of this section, persons will be considered to be medically indigent if they are uninsured by either public or private insurers or payers for the types of services being proposed and if their household or family income is equal to or less than 200 percent of the poverty income established in federal regulations. Except for projects involving long-term care facilities or services, persons will also be considered to be medically indigent if they are eligible for Medicaid services.

(2) Partnerships or joint ventures between hospitals/health systems and existing non-hospital-based, long-term care facilities neither of which is owned or controlled by the same entity, when all of the following criteria are met:

(a) The project does not result in a net increase in licensed long-term care beds in the service area. In this context "service area" has the same meaning as it is given in OAR 333-610-0030(1);

(b) The partnership or joint venture is for a minimum of two years and is terminable only for cause. As used in this rule, the term "partnership" is intended to be defined broadly, so that it covers collaboration beyond just a legal partnership, including but not limited to a jointly owned corporation or a limited liability corporation. Notwithstanding OAR 333-550-0010(3)(a), if the beds operated under the partnership or joint venture are proposed to be sold or otherwise transferred, the transfer shall be subject to the full review process detailed in Division 570 of this chapter and to the application and review criteria established in Division 580, or if applicable, an expedited review under this chapter. If as part of the partnership or joint venture, conversion of existing space within a hospital building occurred, expedited review cannot later be sought under OAR 333-560-0110. If the beds operated under the partnership or joint venture are to be relocated back to the non-hospital-based, long-term care facility the bed relocation is eligible for an abbreviated review;

(c) The hospital/health system and the long-term care facility can demonstrate to the satisfaction of the division that projected per diem inpatient routine service costs in the partnership or joint venture setting (calculated in conformance with Medicare cost report parameters) will not exceed 125% of the per diem routine service cost limitation computed by the fiscal intermediary for freestanding skilled nursing facilities in its urban or rural location during the first two years of operation. The routine cost limitation may be adjusted, as appropriate, to allow for reasonable inflation as measured by the DRI (HCFA) McGraw Hill Nursing Facility Market Basket Index;

(d) The applicant shall submit a completed copy of Forms CN-3 and CN-11. The applicant shall also submit a summary for the first two years of operation of projected revenue, expenses, operating income, non-operating revenue and net income with and without the project;

(e) Projects approved under OAR 333-560-0010(2) are subject to the full review process detailed in division 570 of this chapter and to the appli-

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cation and review criteria established in division 580, or, if applicable, and expedited review under this chapter, if the cost limitation required under subsection (2)(c) of this rule is not maintained for the first two years of operation.

(3) A project involving the relicensing of long-term care beds by a facility participating in a Senior and Disabled Services Division approved Nursing Home Vision 2000 Project ("Vision 2000 Project"), if all of the following conditions are met:

(a) The number of long-term care beds to be added by the facility does not exceed the number of long-term care beds delicensed by the facility because of participation in the Vision 2000 project; and

(b) Relicensure of beds to be added will occur within five years of the date that the first beds or beds were delicensed at the facility because of participation in the Vision 2000 Project; and

(c) Notwithstanding OAR 333-565-0000(4), an application fee of \$1,500 is paid;

(d) The following applies to Senior and Disabled Services Division approved Vision 2000 Projects:

(A) Notwithstanding any contrary provision in OAR chapter 333, during the five-year period referred to in subsection (3)(b) of this rule, the delicensed beds will be counted as existing long-term care beds for determining the need for additional long-term care beds in the geographical service area under Division 610 of this chapter. The delicensed beds will not be considered existing long-term care beds for the purpose of OAR 333-560-0110 and 333-560-0120;

(B) Notwithstanding paragraph (3)(d)(A) of this rule, if a Vision 2000 Project participating facility notifies the division in writing of its intention not to seek relicensure of some or all the beds within the five-year period, these beds will not be counted as existing long-term care beds for determining the need for additional long-term care beds in the geographical service area under Division 610 of this chapter, and the facility will be foreclosed from seeking the addition of these beds under section (3) of this rule;

(C) The sale of a Vision 2000 Project participating facility does not affect the ability of the facility to seek the addition of beds under section (3) of this rule as long as the other requirements of the rule are met.

(4) Development of a Freestanding Hospice Facility, as that term is used in OAR 333-500-0010(1)(a), if all the following conditions are met:

(a) The number of Freestanding Hospice Facilities that can be approved under this section is limited to a total of three. Facilities approved under this section will be required to report the information specified in subsection 4(f) of this rule to the Certificate of Need Program which will allow it to monitor the effect of these facilities and to develop appropriate rules by which to judge the need for any future facilities;

(b) Projects will be considered for abbreviated review in the order in which a completed letter of intent is received for the project. The provisions of OAR 333-560-0030 shall not apply;

(c) The licensed bed capacity of the facility, including residential beds as well as the inpatient beds provided for in this section, shall not exceed twenty beds;

(d) The applicant shall submit a completed copy of Forms CN-1 and CN-3;

(e) The applicant shall submit a population-based needs assessment for the proposed facility. The needs assessment shall include, but not be limited to, the following elements:

(A) A discussion of why this facility is needed in the geographic area served by the applicant. This discussion shall take into account the actual and projected death rates by age and sex; an estimate of how many of those individuals would have been eligible for hospice services and the historical utilization of hospice services; an estimate of how many of those individuals would have benefited from inpatient hospice care and the historical utilization of inpatient care for hospice patients; the applicant's market share of hospice services and any anticipated changes in that market share; the effect of the proposed facility on the utilization of inpatient care in all settings both by the patients served by the applicant and by other hospice providers in the geographic area (if any); projected population growth by age and sex for the area; and household composition, particularly the number of people living alone by age and sex. The discussion shall also include information about the availability of inpatient care in the geographic area, an explanation of why it is preferable for patients to receive care in the proposed facility as opposed to other possible settings and an explanation of how the availability of the proposed facility will impact the continuum of care available in geographic area; and

(B) A projected income statement for the first five years of operation of the facility accompanied by a narrative explaining the assumptions underlying the projections. Information concerning payer source, number

of admissions, numbers of deaths and discharges, and length of stay shall be provided. If the facility is to provide residential care beds, such information shall also be provided for those beds. The income statement shall follow the format used by Form CN-5.

(f) The applicant agrees to provide the following information to the Certificate of Need program on an annual basis for a period of five years after the facility begins operation:

(A) An income statement accompanied by a narrative discussion of the information provided. Information concerning payer source, number of admissions, numbers of deaths and discharges, and length of stay shall be provided. If the facility provides residential care beds, such information shall also be provided for those beds. The income statement shall follow the format used by Form CN-5;

(B) A statement with supporting data discussing the impact on the age adjusted rates of nursing home and hospital deaths in the geographic area served by the applicant; the impact on the rate of hospice admissions to nursing homes and hospitals in the area; and the impact on the rate of deaths of hospice patients in nursing homes and hospitals; and

(C) A statement discussing data collected from a satisfaction survey tool which measures whether families and other persons closely associated with the patient were satisfied with the different aspects of their loved one's end-of-life care and the environment provided by the facility.

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

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

Stat. Auth.: ORS 431.120(6) & ORS 442.315

Stats. Implemented: ORS 431.120(6) & ORS 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; HD 14-1994(Temp), f. & cert. ef. 4-28-94; HD 9-1995(Temp), f. & cert. ef. 11-14-95; HD 3-1997, f. & cert. ef. 2-3-97; OHD 5-1998, f. & cert. ef. 6-16-98; OHD 11-1998, f. & cert. ef. 10-22-98; OHD 10-2002, f. 7-3-02 cert. ef. 7-5-02; PH 10-2003(Temp), f. & cert. ef. 7-31-03 thru 1-15-04

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**Adm. Order No.:** PH 11-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 333-011-0047

**Rules Repealed:** 333-011-0047(T)

**Subject:** The amended rule will allow state child support enforcement agencies from other states to obtain copies of voluntary acknowledgment of paternity forms from the State Registrar of the Center for Health Statistics without first obtaining a court order.

**Rules Coordinator:** Jana Fussell—(503) 731-4320

## 333-011-0047

### New Certificate of Birth Following Adoption, Legitimation, Paternity Determination, and Paternity Acknowledgement

(1) Legitimation. If the natural parents marry after the birth of a child, a new certificate of birth shall be prepared by the State Registrar for a child born in this State upon receipt of a sworn acknowledgement of paternity signed by the natural parents of said child together with a certified copy of the parents' marriage record. However, if another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.

(2) Determination of Paternity. A new certificate of birth shall be prepared by the State Registrar for a child born in this state upon receipt of a certified copy of a court determination of paternity. If the surname of the child is not decreed by the court, the request for the new certificate shall specify the surname to be placed on the certificate.

(3) Acknowledgement of Paternity. A new certificate of birth shall be prepared by the State Registrar for a child born out of wedlock in this State upon receipt of a sworn acknowledgement of paternity signed by both parents and a written request by both parents that the child's surname be changed on the certificate. However, if another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.

(4) New Certificate. The new certificate of birth prepared after adoption, legitimation, determination of paternity, or acknowledgement of paternity shall be on the form in use at the time of its preparation and shall include the following items and such other information necessary to complete the certification:

(a) The name of the child;

(b) The date and place of birth as transcribed from the original certificate;

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(c) The names and personal particulars of the adoptive parents or the natural parents whichever is appropriate;

(d) The name of the attendant, printed or typed;

(e) The birth number assigned to the original birth certificate;

(f) The original filing date;

(g) The information necessary to locate the existing certificate and to complete the new certificate shall be submitted to the State Registrar on forms prescribed or approved by the State Registrar.

(5) Existing Certificate to be Placed in a Special File. After preparation of the new certificate, the existing certificate and the evidence upon which the new certificate was based are to be placed in a special file. Except as provided in subsection (5)(a) of this rule, such file shall not be subject to inspection except upon order of a court of competent jurisdiction or by the State Registrar for purposes of properly administering the vital statistics program. A court order is not required before the release of a Voluntary Acknowledgment of Paternity form to any government agency responsible for the administration of child support enforcement programs created under Title IV-D of the Social Security Act.

Stat. Auth.: ORS 432

Stats. Implemented: ORS 432.230, 432.287 & 432.289

Hist.: HD 24-1981, f. & ef. 11-17-81; PH 2-2003(Temp), f. & cert. ef. 2-20-03 thru 8-19-03;

PH 11-2003, f. & cert. ef. 7-31-03

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**Subject:** The proposed changes to the Public Water System listed above primarily include the adoption of regulations revising the finished water turbidity standards and treatment techniques for water systems serving a population of less than 10,000 and using conventional or direct filtration treatment. Also included in these revisions are changes/additions to well/spring construction, Consumer Confidence Report health effects language for arsenic, design/operation requirements for UV light disinfection and membrane filtration, compliance requirements for sanitary surveys and Comprehensive Performance Evaluations and housekeeping changes and clarifications to previous rule adoptions for lead and copper, radionuclides, variances and permits, and emergency response plans.

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## 333-061-0030

### Maximum Contaminant Levels and Action Levels

(1) Maximum contaminant levels (MCLs) for inorganic chemicals are applicable to all public water systems and are listed in Table 1. The action levels for lead and copper are applicable to Community and Non-Transient Non-Community public water systems and are also listed in Table 1: [Table not included. See ED. NOTE.]

(a) Compliance with the maximum contaminant levels for inorganic contaminants is calculated pursuant to OAR 333-061-0036(2)(k).

(b) Violations of secondary contaminant levels for fluoride (2.0 mg/l) require a special public notice. Refer to OAR 333-061-0042(7).

(c) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(e)(A) through (E) is greater than 0.015 mg/L (i.e., if the “90th percentile” lead level is greater than 0.015 mg/L). The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(e)(A) through (E) is greater than 1.3 mg/L (i.e., if the “90th percentile” copper level is greater than 1.3 mg/L).

(A) The 90th percentile lead and copper levels shall be computed as follows: The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken. The number of samples taken during the monitoring period shall be multiplied by 0.9. The contaminant

concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

(B) For water systems serving fewer than 100 people that collect 5 samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

(2) Maximum contaminant levels for organic chemicals:

(a) The maximum contaminant levels for synthetic organic chemicals are shown in Table 2 and apply to all Community and Non-Transient Non-Community water systems: **Table 2:** [Table not included. See ED. NOTE.]

(A) Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(a)(G).

(b) The maximum contaminant level for Total Trihalomethanes (TTHM) consists of a calculation of the running annual average of quarterly analyses of the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform).

(A) The MCL for TTHM is 0.1 mg/l and applies to Community water systems which serve a population of 10,000 or more individuals using surface water or groundwater under the influence of surface water until December 31, 2001 or groundwater until December 31, 2003 and to which a disinfectant (other than UV light) is added in any part of the drinking water treatment process.

(B) Compliance with the MCL shall be calculated pursuant to OAR 333-061-0036(3)(b)(B).

(C) The MCL for TTHM and HAA5 compounds applies to all Community and Non-transient Non-community water systems which serve a population of at least 10,000 people using surface water or groundwater under the influence of surface water to which a disinfectant other than UV light is added to the water supply at any point in the drinking water treatment process beginning January 1, 2002, and Community and Non-transient Non-community water systems serving less than 10,000 people using surface water or groundwater under the influence of surface water and all groundwater systems to which a disinfectant other than UV light is added to the water supply at any point in the drinking water treatment process beginning January 1, 2004. The MCLs for these compounds are specified in **Table 3** as follows: [Table not included. See ED. NOTE.]

(D) Water systems required to conduct a disinfection profile by paragraph 2 (b)(C) of this rule serving less than 10,000 people must monitor the following parameters to determine the total log inactivation once per week on the same calendar day over twelve consecutive months:

(i) The temperature of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow;

(ii) The pH of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow for systems using chlorine;

(iii) The disinfectant contact time(s) (“T”) during peak hourly flow; and The residual disinfectant concentration(s) (“C”) of the water before or at the first customer and prior to each additional point of disinfection during peak hourly flow. Water systems with only one point of disinfection application must determine one inactivation ration ( $CT_{calc}/CT_{99.9}$ ) before or at the first customer during peak hourly flow or must determine successive ( $CT_{calc}/CT_{99.9}$ ) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow (where the total inactivation ratio equals the sum of the ( $CT_{calc}/CT_{99.9}$ ) values for each sequence. Water systems using more than one point of disinfection application before the first customer must determine the ( $CT_{calc}/CT_{99.9}$ ) value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow conditions. Once the total inactivation ratio is calculated, multiply the value by 3 to determine the log inactivation of *Giardia lamblia*. Additional guidance is contained in the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual.

(E) Any system that installs GAC or membrane filtration technology to comply with this rule may request to the Department for an extension of up to 24 months past the compliance dates stated in this rule up to December 31, 2003. In granting the extension, the Department must set a compliance schedule and may specify interim compliance measures for the water system. Failure by the water system to meet the schedule or the interim compliance measures constitutes a violation.

(c) The maximum contaminant level for volatile organic chemicals are indicated in **Table 4** and apply to all Community and Non-Transient Non-Community water systems: **Table 4:** [Table not included. See ED. NOTE.]

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(A) Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(c)(K).

(d) When the Department has reason to believe that a water supply has been contaminated by a toxic organic chemical, it will determine whether a public health hazard exists and whether control measures must be carried out;

(e) The Department may establish maximum contaminant levels for additional organic chemicals as deemed necessary when there is reason to suspect that the use of those chemicals will impair water quality to an extent that poses an unreasonable risk to the health of the water users;

(f) Persons who apply pesticides on watersheds above surface water intakes of public water systems shall comply with federal and state pesticide application requirements. (Safe Drinking Water Act (EPA), Clean Water Act (EPA), Federal Insecticide, Fungicide and Rodenticide Act (EPA), ORS 536.220 to 536.360 (Water Resources), ORS 468.700 to 468.990 (DEQ), ORS 527.610 to 527.990 (DOF), ORS 634.016 to 634.992 (Department of Agriculture)). Any person who has reasonable cause to believe that his or her actions have led to organic chemical contamination of a public water system shall report that fact immediately to the water supplier.

(3) Maximum contaminant levels for turbidity are applicable to all public water systems using surface water sources or groundwater sources under the direct influence of surface water in whole or in part. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(4).

(a) Beginning January 1, 1992, the maximum contaminant levels for turbidity for systems which do not provide filtration treatment are as follows:

(A) The turbidity level cannot exceed 5 NTU in representative samples of the source water immediately prior to the first or only point of disinfectant application unless:

(i) The Department determines that any such event was caused by circumstances that were unusual and unpredictable; and

(ii) As a result of any such event, there have not been more than two events in the past 12 months the system served water to the public, or more than five events in the past 120 months the system served water to the public, in which the turbidity level exceeded 5 NTU. An "event" is a series of consecutive days during which at least one turbidity measurement each day exceeds 5 NTU. Turbidity measurements must be collected as required by OAR 333-061-0036(4)(a)(B).

(b) Beginning June 29, 1993 or 18 months after failure to meet the requirements of OAR 333-061-0032(1) through (3) whichever is later, the maximum contaminant levels for turbidity in drinking water measured at representative entry point(s) to the distribution system for systems which provide filtration treatment are as follows:

(A) Conventional filtration treatment or direct filtration treatment.

(i) For all systems using conventional or direct filtration treatment serving less than 10,000 people until December 31, 2004, the turbidity level of representative samples of filtered water must be less than or equal to 0.5 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(4)(b), except that if the Department determines that the system is capable of achieving at least 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts at some turbidity level higher than 0.5 NTU in at least 95 percent of the measurements taken each month, the Department may substitute this higher turbidity limit for that system. However, in no case may the Department approve a turbidity limit that allows more than 1 NTU in more than 5 percent of the samples taken each month.

(ii) For all systems using conventional or direct filtration treatment serving less than 10,000 people until December 31, 2004, the turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(4)(b).

(iii) For systems using conventional filtration or direct filtration treatment serving at least 10,000 people and beginning January 1, 2005 for those systems serving less than 10,000 people, the turbidity level of representative samples of a system's filtered water must be less than or equal to 0.3 NTU in at least 95% of the measurements taken each month, measured as specified in OAR 333-061-0036 (4).

(iv) For systems using conventional filtration or direct filtration treatment serving at least 10,000 people and beginning January 1, 2005 for those systems serving less than 10,000 people, the turbidity level of representative samples of a system's filtered water must at no time exceed 1 NTU measured as specified in OAR 333-061-0036(4).

(B) Slow sand filtration.

(i) For systems using slow sand filtration, the turbidity level of representative samples of filtered water must be less than or equal to 1 NTU in

at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(4)(b)(A), except that if the Department determines there is no significant interference with disinfection at a higher turbidity level, the Department may substitute this higher turbidity limit for that system.

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(4)(b).

(C) Diatomaceous earth filtration.

(i) For systems using diatomaceous earth filtration, the turbidity level of representative samples of filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(4)(b).

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(4)(b).

(D) Other filtration technologies. Systems using filtration technologies other than those listed in paragraphs (3)(b)(A) through (C) of this rule must meet the maximum contaminant level for turbidity of 1 NTU in at least 95% of the measurements taken each month and at no time exceed 5 NTU, as specified in OAR 333-061-0036(4)(b)(A). The Department may substitute a lower turbidity value(s) if it is determined that the above limit(s) cannot achieve the required level of treatment. The water system must demonstrate to the Department that the alternative filtration technology in combination with disinfection treatment as specified in OAR 333-061-0032 and monitored as specified by OAR 333-061-0036 consistently achieves 99.9% removal and/or inactivation of *Giardia lamblia* cysts and 99.99% removal and/or inactivation of viruses, and for all of those systems serving at least 10,000 people and beginning January 1, 2005 for all of those systems serving less than 10,000 people, 99% removal of *Cryptosporidium* oocysts. If the Department determines that there is no significant interference with disinfection at a higher turbidity level that does not exceed 5 NTU, and the water system is within the operational guidelines of the filtration technology, then the Department may substitute this higher turbidity limit. For water systems operating at a higher turbidity level that does not exceed 5 NTU, increased microbiological monitoring shall be required as determined by the Department.

(4) Maximum microbiological contaminant levels for all public water systems are as follows:

(a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(A) For a system which collects 40 or more samples per month, total coliform-positive samples shall not exceed 5.0 percent of the samples collected during a month.

(B) For a system which collects fewer than 40 samples per month total coliform-positive samples shall not exceed more than one sample collected during a month.

(b) Any fecal coliform-positive repeat sample or *E. coli*-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or *E. coli*-positive routine sample shall be a violation of the total coliform MCL. Public notification for this potential acute health risk is prescribed in OAR 333-061-0042(2)(a)(A).

(c) All public water systems must determine compliance with the MCL for total coliforms in subsections (4)(a) and (b) of this rule on a monthly basis.

(d) A water system may demonstrate to the Department that a violation of the total coliform MCL is due to a persistent growth of total coliforms in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. The system making the demonstration may use the health effects language of OAR 333-061-0097(4)(d) in the required public notice in addition to the mandatory language of OAR 333-061-0097(4)(a). This demonstration, made by the system in writing and submitted to the Department for review and approval, shall show to the satisfaction of the Department that the system meets the following conditions:

(A) No occurrence of *E. coli* in distribution system samples;

(B) No occurrence of coliforms at the entry point to the distribution system;

(C) The system meets treatment requirements of section 333-061-0032 as applicable;

(D) The system meets the turbidity MCL, if surface water sources are used;

(E) The system maintains a detectable disinfectant residual in the distribution system;

(F) The system has no history of waterborne disease outbreaks;

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(G) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department, and

(H) The system fully complies with cross connection control program requirements.

(5) Maximum contaminant levels for radionuclides are applicable only to Community water systems and are indicated in **Table 5**: [Table not included. See ED. NOTE.]

(a) The average annual concentration of beta particle and photon radioactivity from man-made sources shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem per year according to the criteria listed in the National Bureau of Standards Handbook 69 as amended August, 1963. If two or more radionuclides are present, the sum total of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

(A) The average annual concentration of tritium assumed to produce a total body dose of 4 mrem/year is 20,000 pCi/L;

(B) The average annual concentration of strontium-90 assumed to produce a bone marrow dose of 4 mrem/year is 8 pCi/L.

(b) Compliance with the MCLs shall be calculated pursuant to OAR 333-061-0036(6)(c).

(c) The effective date for the above MCLs is December 8, 2003.

(6) Contaminant levels for secondary contaminants are applicable to all public water systems. These are indicated in Table 6. (Also note OAR 333-061-0036(7)). **Table 6**: [Table not included. See ED. NOTE.]

(a) Violations of secondary contaminant levels for fluoride require a special public notice. Refer to OAR 333-061-0042(7).

(b) Violations of maximum contaminant levels for fluoride (4.0 mg/l) require public notification as specified in OAR 333-061-0042(2)(b)(A).

(7) Acrylamide and Epichlorohydrin.

(a) Each public water system must certify annually to the state in writing, using third party certification approved by the state or manufacturer's certification, that when acrylamide and epichlorohydrin are used in drinking water systems, the combination, or product, of dose and monomer level does not exceed the levels specified as follows:

(A) Acrylamide: 0.05% dosed at 1 ppm or equivalent.

(B) Epichlorohydrin: 0.01% dosed at 20 ppm or equivalent.

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

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

Stat. Auth.: ORS 431

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0210; HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0032

### Treatment Requirements and Performance Standards for Surface Water, Groundwater Under Direct Influence of Surface Water, and Groundwater

(1) General requirements:

(a) The requirements of this rule apply to all public water systems supplied by a surface water source or a groundwater source under the direct influence of surface water beginning January 1, 1992 or 18 months following determination by the Department of the source to be under the direct influence of surface water, whichever is later, for systems which do not provide filtration treatment, and June 29, 1993 or when filtration is installed, whichever is later, for systems which do provide filtration treatment. Systems which do not provide filtration treatment and fail to meet the requirements of sections (2) and (3) of this rule must install filtration and meet the requirements of sections (4) and (5) of this rule within 18 months of the failure. However, any water system serving at least 10,000 people using surface water without filtration treatment or groundwater source under the direct influence of surface water without filtration treatment and cannot meet the requirements of this rule to remain unfiltered must install filtration treatment as specified by these rules and meet the disinfection requirements in Section (5) of this rule by December 31, 2001. These regulations establish criteria under which filtration is required and treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements. The treatment tech-

nique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(A) At least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer, and

(B) At least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(C) For any public water system serving at least 10,000 people using surface water or ground water under the direct influence of surface water and beginning January 1, 2005 for any public water system serving less than 10,000 people using surface water or ground water under the direct influence of surface water;

(i) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer for filtered systems, or Cryptosporidium control under the watershed control plan for unfiltered systems.

(ii) Compliance with any applicable disinfection profiling and benchmark requirements as directed by the Department.

(b) A public water system using a surface water source or a ground water source under the direct influence of surface water is considered to be in compliance with the requirements of this rule if:

(A) The system meets the requirements for avoiding filtration in section (2) of this rule and the disinfection requirements in section (3) of this rule, and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e) or,

(B) The system meets the filtration requirements in section (4) of this rule and the disinfection requirements in section (5) of this rule and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e).

(c) Water system sources that have been determined to be under the direct influence of surface water according to section (7) of this rule, have 18 months to meet the requirements of this rule. During that time, the system must meet the following Interim Standards:

(A) The turbidity of water entering the distribution system must never exceed 5 NTU. Turbidity measurements must be taken a minimum of once per day. If continuous turbidimeters are in place, measurements should be taken every four hours.

(B) Disinfection must be sufficient to reliably achieve at least 1.0 log inactivation of Giardia lamblia cysts prior to the first user. Daily disinfection "CT" values must be calculated and recorded daily, including pH and temperature measurements, and disinfection residuals at the first customer.

(C) Reports must be submitted to the Department monthly as prescribed in 333-061-0040.

(D) If these interim standards are not met, the owner or operator of the water system must notify customers of the failure as required in OAR 333-061-0042(2)(b)(A).

(d) In addition to complying with the requirements of this rule, systems serving at least 10,000 people must also comply with additional requirements specified in OAR 333-061-0030, 0036, and 0040 regarding disinfection by-products.

(2) Requirements for systems without filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water must meet all of the conditions of this section.

(b) Source water quality conditions.

(A) The fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml in representative samples of the source water immediately prior to the first or only point of disinfectant application in at least 90 percent of the measurements made for the 6 previous months that the system served water to the public on an ongoing basis. If a system measures both fecal and total coliform, the fecal coliform criterion, but not the total coliform criterion, in this paragraph must be met. All samples must be collected as prescribed in OAR 333-061-0036(4)(a)(A).

(B) The turbidity level cannot exceed the maximum contaminant level prescribed in OAR 333-061-0030(3)(a)(A).

(c) Site-specific conditions. The public water supply must:

(A) Meet the disinfection requirements as prescribed in section (3) of this rule at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless the system fails to meet the requirements during 2 of the 12 previous months that the system served

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water to the public, and the Department determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

(B) Maintain a comprehensive watershed control program which minimizes the potential for contamination by *Giardia lamblia* cysts, *Cryptosporidium* oocysts, and viruses in the source water. For groundwater systems under the direct influence of surface water, and at the discretion of the Department, a certified drinking water protection plan (OAR 340-040-0160 to 340-040-00180) that addresses both the groundwater- and surface water components of the drinking water supply may be substituted for a watershed control program. Groundwater systems relying on a drinking water protection plan would still be subject to the requirements of subsection (C) of this rule. The watershed control program shall be developed according to guidelines in OAR 333-061-0075. The public water system must demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water. The system must submit an annual report to the Department identifying any special concerns about the watershed, the procedures used to resolve the concern, current activities affecting water quality, and projections of future adverse impacts or activities and the means to address them. At a minimum, the watershed control program must:

(i) Characterize the watershed hydrology and land ownership;  
(ii) Identify watershed characteristics and activities which have or may have an adverse effect on source water quality, and  
(iii) Monitor the occurrence of activities which may have an adverse effect on source water quality.

(C) Be subject to an annual on-site inspection of the watershed control program and the disinfection treatment process by the Department. The on-site inspection must indicate to the Department's satisfaction that the watershed control program and disinfection treatment process are adequately designed and maintained including the adequacy limiting the potential contamination by *Cryptosporidium* oocysts. The inspection must include:

(i) A review of the effectiveness of the watershed control program;  
(ii) A review of the physical condition of the source intake and how well it is protected;  
(iii) A review of the system's equipment maintenance program to ensure there is low probability for failure of the disinfection process;  
(iv) An inspection of the disinfection equipment for physical deterioration;  
(v) A review of operating procedures;  
(vi) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and  
(vii) Identification of any improvements which are needed in the equipment, system maintenance and operation, or data collection.

(D) Shall not have been identified by the Department as a source of waterborne disease outbreak under the system's current configuration. If such an outbreak occurs, the system must sufficiently modify the treatment process, as determined by the Department, to prevent any future such occurrence.

(E) Comply with the maximum contaminant level (MCL) for total coliform bacteria in OAR 333-061-0030(4) at least 11 months of the 12 previous months that the system served water to the public on an ongoing basis, unless the Department determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

(F) Comply with the requirements for trihalomethanes as prescribed in OAR 333-061-0030(2)(b) and 333-061-0036(3)(b) until December 31, 2001. After December 31, 2001, the system must comply with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide as specified in OAR 333-061-0036(3)(b).

(d) A public water system which fails to meet any of the criteria in section (2) of this rule is in violation of a treatment technique requirement. The Department can require filtration to be installed where it determines necessary.

(3) Disinfection requirements for systems without filtration. Each public water system that does not provide filtration treatment must provide disinfection treatment as follows:

(a) The disinfection treatment must be sufficient to ensure at least 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4-log) inactivation of viruses, every day the system serves water to the public, except any one day each month. Each day a system serves water to the public, the public water system must calculate the CT value(s) from the system's treatment parameters, using the procedure specified in OAR 333-061-0036(4)(a)(C) and determine whether this value(s) is sufficient to

achieve the specified inactivation rates for *Giardia lamblia* cysts and viruses. If a system uses a disinfectant other than chlorine, the system must demonstrate to the Department through the use of an approved protocol for on-site disinfection demonstration studies or other information satisfactory to the Department that the system is achieving the required inactivation rates on a daily basis instead of meeting the "CT" values in this rule.

(b) The disinfection system must have either:

(A) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system, or

(B) Automatic shut-off of delivery of water to the distribution system whenever there is less than 0.2 mg/l of residual disinfectant concentration in the water. If the Department determines that automatic shut-off would cause unreasonable risk to health or interfere with fire protection, the system must comply with paragraph (3)(b)(A) of this rule.

(c) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(4)(a)(E), cannot be less than 0.2 mg/l for more than 4 hours.

(d) Disinfectant residuals in the distribution system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(4)(a)(F), cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(4) Requirements for systems that provide filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water, and does not meet all of the criteria in sections (1), (2), and (3) of this rule for avoiding filtration, violates a treatment technique and must provide treatment consisting of both disinfection, as specified in section (5) of this rule, and filtration treatment which complies with the requirements of either subsection (4)(b), (c), (d), or (e) of this rule by June 29, 1993 or within 18 months of the failure to meet the criteria in section (2) of this rule for avoiding filtration, whichever is later. Failure to install a required treatment by the prescribed dates is a violation of the treatment technique requirements.

(b) Conventional filtration treatment or direct filtration.

(A) Until December 31, 2004, systems serving less than 10,000 people using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(A)(i) and (ii).

(B) Systems serving at least 10,000 people using conventional filtration treatment or direct filtration treatment and beginning January 1, 2005 for systems serving less than 10,000 people using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements as specified in OAR 333-0061-0030 (3)(b)(A)(iii) and (iv). Prior to this date, those systems serving less than 10,000 people shall meet the turbidity requirements as specified in OAR 333-061-0030(3)(b)(A)(i) and (ii).

(c) Slow sand filtration. Systems using slow sand filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(B).

(d) Diatomaceous earth filtration. Systems using diatomaceous earth filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(C).

(e) Other filtration technologies. Systems using other filtration technologies shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(D).

(5) Disinfection requirements for systems with filtration:

(a) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation and/or removal of *Giardia lamblia* cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department.

(b) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(4)(b)(B), cannot be less than 0.2 mg/l for more than 4 hours.

(c) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(4)(b)(C) cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(6) Disinfection requirements for systems using ground water:

(a) Systems using ground water sources shall provide continuous disinfection as prescribed in OAR 333-061-0050(5) under the following conditions:

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(A) Then there are consistent violations of the total coliform rule attributed to source water quality;

(B) When a potential health hazard exists as determined by the Department.

(b) When continuous disinfection is required, in addition to the requirements prescribed in OAR 333-061-0050(5)(c)(A) through (C), the facilities shall be designed so that:

(A) The disinfection treatment must be sufficient to ensure that the system achieve at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after 3 hours contact time under all flow conditions before first water use.

(7) Determination of groundwater under the direct influence of surface water (GWUDI).

(a) All Public Water Systems using groundwater as a source of drinking water must evaluate their source(s) for the potential of direct influence of surface water if the source(s) is within 500 feet of perennial or intermittent surface water, or greater distances if water quality trends or geologic conditions indicate additional risk, as determined by the Department; and

(A) Have a confirmed or suspected history of coliform bacteria in the source; or

(B) The source has been determined by the Department to be unconfined or the source construction has been determined by the Department to be inadequate with respect to providing protection from surface- or near surface water gaining access to the groundwater source(s);

(C) Sources may be re-evaluated if geologic conditions or water quality trends change over time, as determined by the Department.

(b) Public water systems that are required to evaluate their source(s) for direct influence of surface water must determine if their source(s) is in hydraulic connection with surface water by completing one of the following procedures within a time frame specified by the Department:

(A) Hydrogeologic assessment, including, but not limited to, the following:

(i) Well characteristics: well depth, screened or perforated interval, casing seal placement;

(ii) Aquifer characteristics: thickness of the vadose zone, hydraulic conductivity of the vadose zone and the aquifer, presence of low permeability zones in the vadose zone, degree of connection between the aquifer and surface water;

(iii) Hydraulic gradient: gradient between the aquifer and surface water source during pumping conditions, variation of static water level and surface water level with time;

(iv) Groundwater flow: flow of water from the surface water source to the groundwater source during pumping conditions, estimated time-of-travel for groundwater from the surface water source to the well(s), spring(s), etc.;

(v) The hydrogeologic assessment must be completed by an Oregon registered geologist or other licensed professional with demonstrated experience and competence in hydrogeology in accordance with ORS 672.505 through 672.705.

(B) Water Quality Assessment, including, but not limited to:

(i) Weekly measurements for a period of 12 months, unless otherwise determined by the Department, of precipitation in the source area;

(ii) Weekly measurements for a period of 12 months, unless otherwise determined by the Department, of temperature and either specific conductance or pH of water from the groundwater source(s) and surface water source(s). Other parameters may be substituted with Department approval;

(iii) Measurements of the groundwater source(s) must be conducted on samples collected from the source as opposed to within the distribution system. If the source is a well, it should be pumped for a minimum of 15 minutes, or until the temperature has stabilized, before the measurements are taken;

(iv) To the extent practical, samples of the surface water source(s) should be collected within 0.5 miles of the point nearest to the groundwater source, and at the same place and same time for each sampling event;

(v) Monitoring equipment must be able to provide data as follows: temperature to the nearest degree centigrade, temperature-compensated

specific conductance to the nearest micro-siemens per centimeter and pH to the nearest 0.1 pH unit. Instruments shall be tested for accuracy at least monthly;

(vi) At least quarterly, the water system shall evaluate the precision of their analysis procedure by collecting, during one sampling event, a minimum of six separate and consecutive samples, recording the parameters separately;

(vii) At the end of 12 months, or earlier at the Department's discretion, water systems must submit the water quality data as either a paper copy or as an electronic ASCII file (space delimited). The table must include the source sampled, the date and time of sampling, and the parameter values. The water system must also submit the map showing the location of the surface water sampling point (subsection (7)(b)(B)(iv) of this rule) and the determination of the analytical precision (subsection (7)(b)(B)(vi) of this rule).

(C) Emergency groundwater sources that meet the criteria of subsection (a) can either be pumped continuously and evaluated as prescribed in subsection (b) of this section, or the evaluation can be waived if the a public notice as prescribed in 333-061-0042(2)(a)(H) is issued each time the source is used. The notice must explain that the source has been identified as potentially under the direct influence of surface water, but has not been fully evaluated, and therefore may not be treated sufficiently to inactivate pathogens such as *Giardia lamblia*.

(c) The water quality data submitted by the water system will be analyzed by the Department. The Department will determine if the water system's groundwater source(s) is (are) in hydraulic connection with surface water. Water system sources that are determined as not in hydraulic connection with surface water will be classified as groundwater by the Department. Water system sources will be considered groundwater unless:

(A) The hydrogeologic assessment performed under subsection (7)(b)(A) of this rule indicates that the water system source(s) is(are) in hydraulic connection with surface water;

(B) The statistical analysis of the water quality data performed by the Department indicates:

(i) At least one of the measured parameters exhibits a variation that exceeds either the analytical precision determined under subsection (7)(b)(B)(vi) of this rule, or 10 percent of the mean of the parameter values, which ever is greatest; and

(ii) At least one median monthly value of that parameter is statistically different from the others at a 90% confidence level; and

(iii) A correlation coefficient of at least 0.5 exists for that parameter between the surface water source(s) and the groundwater source that is significant at the 90% confidence level.

(d) Water systems that have been determined to be in hydraulic connection and whose source construction has been determined to be inadequate under subsection (7)(a)(B) of this rule may choose to reconstruct their source according to construction standards as dictated by OAR 333-061-0050. A post-reconstruction water quality assessment (subsection (7)(b)(B) of this rule) must be completed for this source to re-evaluate whether the source is in hydraulic connection with surface water.

(e) Water system sources that have been determined to be in hydraulic connection with surface water must conduct a minimum of two Microscopic Particulate Analyses (MPAs) according to the "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)." One sample is to be taken during a period of high runoff or streamflow, and the other during a period of high demand, with lag time taken into account as determined by the Department.

(f) Scoring of MPAs shall be partially modified from the "Consensus Method" according to **Table 8**. Scoring for giardia, coccidia, rotifers, and plant debris remains unchanged.

(g) Determinations of water system source classification based on MPAs are made as follows:

(A) If all MPAs have a risk score of less than 10, the water system source is classified as groundwater;

(B) If any MPA risk score is greater than 19, or two or more are greater than 14, the water system source is classified as under the direct influence of surface water;

(C) If at least one MPA risk score is between 10 and 19 or both are between 10 and 15, an additional set of two MPAs must be taken. Determinations are made as follows:

(i) If four or all MPA risk scores are less than 15, the water system source is classified as groundwater;



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(ii) If two or more MPA risk scores are greater than 14, or one or more is greater than 19, the water system source is classified as under the direct influence of surface water;

(iii) Two additional MPAs must be taken if only one of four MPA risk scores is greater than 14. Scores will be evaluated according to (g)(C) of this section, or by further evaluation by the Department.

(h) If an infiltration gallery, Ranney well, or dug well has been determined to be classified as groundwater under this rule, the turbidity of the source must be monitored and recorded daily and kept by the water system operator. If the turbidity exceeds 5 NTU or if the surface water body changes course such that risk to the groundwater source is increased, an MPA must be taken at that time. Re-evaluation may be required by the Department.

(i) The Department can determine a groundwater source to be under the direct influence of surface water if the criteria in (7)(a) are true and there are significant or relatively rapid shifts in groundwater characteristics, such as turbidity, which closely correlate to changes in weather or surface water conditions.

(j) If geologic conditions, water quality trends, or other indicators change, the Department can require re-evaluation, as detailed in this section, of a source despite any data previously collected or any determination previously made. **Table 8:** [Table not included. See ED. NOTE.]

(8) Requirements for groundwater sources under the direct influence of surface water with a natural filtration credit:

(a) Groundwater sources under the direct influence of surface water are granted the option to evaluate the natural filtration credit only if all MPA risk scores are less than 20. Credit shall be established by a site-specific study that would include an assessment of the ability of the local hydrogeologic setting to provide adequate log reduction in the number of particles in the Giardia size range between the surface water and the groundwater source, using protocol established or approved by the Department;

(b) In order to be used to meet treatment requirements, natural filtration must be proven to achieve at least 2.0-log removal for Giardia. 2.0 log removal credit is the maximum given for natural filtration;

(c) Disinfection requirements must be met according to section (5) of this rule. Monitoring must be completed according to OAR 333-061-0036(4)(b).

(9) Disinfection Byproduct Control Requirements:

(a) This rule establishes criteria under which community water systems and Non-transient, Non-community water systems which add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet MCLs and MRDLs in OAR 333-061-0030 and 0031, respectively. This rule also establishes the treatment technique requirements for disinfection byproduct precursors. This rule establishes criteria under which transient NCWSs that use chlorine dioxide as a disinfectant or oxidant must modify their practices to meet the MRDL for chlorine dioxide as specified in OAR 333-061-0031.

(b) Compliance dates.

(A) Community and Non-transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water must comply with the treatment technique requirements of this rule as well as monitoring and maximum contaminants requirements for disinfection byproduct control as specified in OAR 333-061-0030 and 0036, respectively beginning January 1, 2002. Those systems serving fewer than 10,000 people using surface water or groundwater under the direct influence of surface water and those systems using only groundwater not under the direct influence of surface water must comply with the rules identified in this paragraph beginning January 1, 2004.

(B) Transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2002. Those systems serving fewer than 10,000 persons using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant and systems using only groundwater not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2004.

(c) Water systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as,

but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross connection events.

(d) Treatment technique for control of disinfection byproduct precursors. Public water systems serving at least 10,000 people using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percent removal levels specified in subsection (e) of this section unless the system meets at least one of the alternative compliance criteria listed in paragraph (d)(A) or (d)(B) of this section.

(A) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Water systems may use the alternative compliance criteria in paragraphs (d)(A)(i) through (vi) of this section in lieu of complying with the performance criteria specified in subsection (e) of this section. Systems must still comply with monitoring requirements specified in OAR 333-061-0036(3)(b)(I).

(i) The system's source water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(iii) The system's source water TOC is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity is greater than 60 mg/L (as CaCO<sub>3</sub> calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in this rule to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems must submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the Department for approval not later than the effective date for compliance in this rule. These technologies must be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of National Primary Drinking Water Regulations.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(B) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (e)(B) of this section may use the alternative compliance criteria in paragraphs (d)(B)(i) and (ii) of this section in lieu of complying with paragraph (e) of this section. Systems must still comply with monitoring requirements in specified in OAR 333-061-0036(3)(b)(I).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO<sub>3</sub>), measured monthly and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO<sub>3</sub>), measured monthly and calculated quarterly as an annual running average.

(e) Enhanced coagulation and enhanced softening performance requirements.

(A) Systems must achieve the percent reduction of TOC specified in paragraph (e)(B) of this section between the source water and the combined filter effluent, unless the Department approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (e)(C) of this rule.

(B) Required Step 1 TOC reductions, specified in Table 9, are based upon specified source water parameters. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC: **Table 9:** [Table not included. See ED. NOTE.]

(C) Water systems that cannot achieve the Step 1 TOC removals required by paragraph (e)(B) of this rule due to water quality parameters or operational constraints must apply to the Department, within three months of failure to achieve the TOC removals required by paragraph (e)(B) of this

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rule, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the water system. If the Department approves the alternative minimum TOC removal (Step 2) requirements, the Department may make those requirements retroactive for the purposes of determining compliance. Until the Department approves the alternate minimum TOC removal (Step 2) requirements, the water system must meet the Step 1 TOC removals contained in paragraph (e)(B) of this rule.

(D) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Department by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under paragraph (e)(C) of this rule must include, as a minimum, results of bench-scale or pilot-scale testing conducted under paragraph (e)(D)(i) of this rule. The submitted bench-scale or pilot-scale testing must be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in paragraphs (e)(D)(i) through (v) of this section such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/L. The percent removal of TOC at this point on the *\_TOC removal versus coagulant dose\_* curve is then defined as the minimum TOC removal required for the system. Once approved by the Department, this minimum requirement supersedes the minimum TOC removal required by the Table 9 in paragraph (e)(B) of this section. This requirement will be effective until such time as the Department approves a new value based on the results of a new bench-scale and pilot-scale test. Failure to achieve Department-set alternative minimum TOC removal levels is a violation.

(ii) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH as specified in **Table 10**: [Table not included. See ED. NOTE.]

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary, consistent with these rules to achieve the minimum TOC percent removal approved under paragraph (e)(C) of this section.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The water system may then apply to the Department for a waiver of enhanced coagulation requirements.

(f) Compliance calculations.

(A) Water systems other than those identified in paragraphs (d)(A) or (d)(B) of this section must comply with requirements contained in paragraph (e)(B) or (e)(C) of this section. Systems must calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to:  $\{1 - (\text{treated water TOC}/\text{source water TOC})\} \times 100$

(ii) Determine the required monthly TOC percent removal (from either Table 9 in paragraph (e)(B) of this section or from paragraph (e)(C) of this section).

(iii) Divide the value in paragraph (f)(A)(i) of this section by the value in paragraph (f)(A)(ii) of this section.

(iv) Add together the results of paragraph (f)(A)(iii) of this section for the last 12 months and divide by 12.

(v) If the value calculated in paragraph (f)(A)(iv) of this section is less than 1.00, the water system is not in compliance with the TOC percent removal requirements.

(B) Water systems may use the provisions in paragraphs (f)(B)(i) through (v) of this section in lieu of the calculations in paragraph (f)(A)(i) through (v) of this section to determine compliance with TOC percent removal requirements.

(i) In any month that the water system's treated or source water TOC level is less than 2.0 mg/L, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (f)(A)(iii) of this section) when calculating compliance under the provisions of paragraph (f)(A) of this section.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO<sub>3</sub>), the water system may assign

a monthly value of 1.0 (in lieu of the value calculated in paragraph (f)(A)(iii) of this section) when calculating compliance under the provisions of paragraph (f)(A) of this section.

(iii) In any month that the water system's source water SUVA, prior to any treatment is less than or equal to 2.0 L/mg-m, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (f)(A)(iii) of this section) when calculating compliance under the provisions of paragraph (f)(A) of this section.

(iv) In any month that the water system's finished water SUVA is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (f)(A)(iii) of this section) when calculating compliance under the provisions of paragraph (f)(A) of this section.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO<sub>3</sub>), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (f)(A)(iii) of this section) when calculating compliance under the provisions of paragraph (f)(A) of this section.

(C) Water systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (d)(A) or (B) of this section.

(g) Treatment technique requirements for DBP precursors. Treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems are recognized by the Department for water systems using surface water or groundwater under the direct influence of surface water using conventional treatment as enhanced coagulation or enhanced softening.

(10) Requirements for Water Treatment Plant Recycled Water

(a) Any water system using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must meet the requirements of paragraphs (b) and (c) of this rule and OAR 333-061-0040(2)(i).

(b) A water system must notify the Department in writing by December 8, 2003 if that water system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the formation specified in paragraphs (b)(A) and (B) of this rule.

(A) A water treatment plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the water treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed water treatment plant flow experienced in the previous year (gpm), the design flow for the water treatment plant (gpm), and the operating capacity of the water treatment plant (gpm) that has been determined by the Department where the Department has made such determinations.

(c) Any water system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional filtration treatment plant or direct filtration treatment plant as defined by these rules or at an alternate location approved by the Department by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

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

Stat. Auth.: ORS 431 & ORS 448

Stats. Implemented: ORS 431.110, ORS 431.150, ORS 448.175 & ORS 448.273

Hist.: HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0036

### Sampling and Analytical Requirements

(1) General:

(a) Analyses must be conducted by EPA Methods in accordance with the analytical requirements set forth in 40 CFR 141. Samples analyzed for the purposes of this rule shall be collected after the water has been allowed to flow from the sample tap for a sufficient length of time to assure that the collected sample is representative of water in the distribution system except for samples collected to determine corrosion by-products:

(b) Alternate Analytical Methods:

(A) With the written permission of the Department, an alternate analytical method may be employed;

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(B) The use of the alternate analytical method shall not decrease the frequency of sampling required by these rules.

(c) Approved laboratories:

(A) For the purpose of determining compliance with the maximum contaminant levels and the sampling requirements of these rules, sampling results may be considered only if they have been analyzed by a laboratory certified by the Department, except that measurements for turbidity, disinfectant residual, temperature, alkalinity, calcium, conductivity, chlorite, bromide, TOC, SUVA, dissolved organic carbon (DOC), UV254, orthophosphate, silica and pH may be performed on site using approved methods by individuals trained in sampling and testing techniques. Daily chlorite samples measured at the entrance to the distribution system must be performed by a party approved by the Department.

(B) Nothing in these rules shall be construed to preclude the Department or any of its duly authorized representatives from taking samples and from using the results of such samples to determine compliance with applicable requirements of these rules.

(d) Monitoring of purchasing water systems:

(A) When a public water system obtains its water, in whole or in part, from another public water system, the monitoring requirements imposed by these rules on the purchasing water system may be modified by the Department to the extent that the system supplying the water is in compliance with its source monitoring requirements. When a public water system supplies water to one or more other public water systems, the Department may modify monitoring requirements imposed by this rule to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(B) Any modified monitoring shall be conducted pursuant to a schedule specified by the Department and concurred in by the Administrator of the US Environmental Protection Agency.

(e) Water suppliers shall monitor each water source individually for contaminants listed in OAR 333-061-0030 (Maximum Contaminant Levels), except for coliform bacteria, TTHMs and corrosion by-products, at the entry point to the distribution system except as described below. Any such modified monitoring shall be conducted pursuant to a schedule prescribed by the Department.

(A) If the system draws water from more than one source and sources are combined before distribution, the system may be allowed to sample at an entry point to the distribution system during normal operating conditions, where justified, taking into account operational considerations, geologic and hydrologic conditions, and other factors.

(B) If a system draws water from multiple ground water sources which are not combined before distribution, the system may be allowed to sample at a representative source or sources, where justified, taking into account geologic and hydrogeologic conditions, land uses, well construction, and other factors.

(f) Compliance with MCLs shall be based on each sampling point as described in this section. If any point is determined to be out of compliance, the system shall be deemed out of compliance. If an entirely separated portion of a water system is out of compliance, then only that portion of the system shall be deemed out of compliance.

(g) The Department may require additional sampling and analysis for the contaminants included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary to determine whether an unreasonable risk to health exists. The Department may also require sampling and analysis for additional contaminants not included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary for public health protection;

(h) Water suppliers and their appointed representatives shall collect water samples from representative locations in the water system as prescribed in this rule and shall employ proper sampling procedures and techniques. Samples submitted to laboratories for analysis shall be clearly identified and shall include the name of the water system, public water system identification number, sampling date, and time, sample location identifying the sample tap, the name of the person collecting the sample and be labeled as follows:

(A) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(B) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level as prescribed in OAR 333-061-0030. Repeat samples are also used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(C) Special: These are samples collected to supplement routine monitoring samples and are not required to be reported to the Department. Samples of this type are not considered representative of the water system and are outside the scope of normal quality assurance and control procedures and/or the established compliance monitoring program. Special samples include, but are not limited to, samples taken for special studies, user complaints, post construction/repair disinfection, sources not in service and raw water prior to treatment, except as required by this rule.

(2) Inorganic chemicals:

(a) Antimony, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium.

(A) Sampling of water systems for regulated Inorganic Chemicals shall be conducted as follows:

(i) Community and Non-Transient Non-Community Water systems using surface water sources or groundwater sources under the direct influence of surface water solely or a combination of surface and ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Surface water systems shall collect samples annually at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(l) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Community and Non-Transient Non-Community Water systems using ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system representative of each source after any application of treatment. Ground water systems shall collect samples once every three years at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(l) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(iii) All new Transient Non-community or State Regulated water systems or existing Transient Non-Community, or State Regulated water systems with new sources developed after January 1, 1993 shall collect one sample beginning in the first compliance period starting January 1, 1993. Samples are to be collected at the entry points to the distribution system representative of each source after any application of treatment. Transient Non-community, or State Regulated water systems existing prior to January 1, 1993 are not required to collect an additional inorganic analysis provided that a least one inorganic analysis per sampling point was collected before January 1, 1993.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(v) For systems having fewer than 150 service connections the initial compliance period for monitoring for antimony, beryllium, cyanide, nickel and thallium is January 1, 1996 through December 31, 1998.

(B) The Department may allow compositing of samples from a maximum of 5 sampling points, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples is to be done in the laboratory. Composite samples must be analyzed within 14 days of collection. If the concentration in the composite sample is equal to or greater than one-fifth of the MCL of any inorganic chemical listed in section (2) of this rule, then a follow-up sample must be taken for the contaminants which exceeded one-fifth of the MCL within 14 days at each sampling point included in the composite. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the Department within 14 days of collection. If the population served by the water system is >3,300 persons, then compositing can only be allowed within the system. In systems serving ≤3,300 persons, compositing is allowed among multiple systems provided the 5 sample limit is maintained.

(C) Water systems may apply to the Department for a waiver from the monitoring frequencies specified in paragraph (2)(a)(A) of this rule on the condition that the system shall take a minimum of one sample while the waiver is effective and the effective period for the waiver shall not exceed one nine-year compliance cycle.

(i) The Department may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring (at least one

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sample shall have been taken since January 1, 1990), and all analytical results are less than the maximum contaminant levels prescribed in OAR 333-061-0030 for inorganic chemicals. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(ii) Waivers granted by the Department shall be in writing and shall set forth the basis for the determination. The Department shall review and revise, where appropriate, its determination of the appropriate monitoring frequency when the system submits new monitoring data or where other data relevant to the system's appropriate monitoring frequency become available. In determining the appropriate reduced monitoring frequency, the Department shall consider the reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(D) Systems which exceed the maximum contaminant levels as calculated in subsection (2)(k) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. The Department may decrease the quarterly monitoring requirement to the frequencies prescribed in paragraph (2)(a)(A) of this rule when it is determined that the system is reliably and consistently below the maximum contaminant level. Before such a decrease is permitted a groundwater system must collect at least two quarterly samples and a surface water system must collect a minimum of four quarterly samples.

(b) Arsenic

(A) Samples of water which is delivered to users shall be analyzed for Arsenic as follows:

(i) Community and Non-Transient Non-Community water systems, surface water sources, shall monitor once per year for each source;

(ii) Community and Non-Transient Non-Community water systems, ground water sources, shall monitor once every three years for each source;

(iii) Transient Non-Community and State Regulated water systems shall monitor once from each source.

(B) If the results of an analysis prescribed in paragraph (2)(b)(A) of this rule indicate that the level of Arsenic exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Department within 48 hours and shall initiate within one month, additional analyses on three check samples collected from the same point which exceeded the maximum contaminant level for Arsenic.

(C) When the average of 4 analyses made pursuant to paragraph (2)(b)(B) of this rule, rounded to the same number of significant figures as the Arsenic MCL, exceeds the maximum contaminant for Arsenic, the water supplier shall follow the reporting and public notification procedures prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A). Monitoring after public notification shall continue as prescribed by the Department until the maximum contaminant level has not been exceeded in two consecutive samples, or until a variance, permit or enforcement action becomes effective.

(c) Sulfate

(A) Samples of water which is delivered to users shall be analyzed for sulfate as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect one sample at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(l) of this rule. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(B) Each Community and Non-Transient Non-Community water system may apply to the Department for a waiver from the requirements of paragraph (2)(c)(A) of this rule. The Department may grant a waiver if previous analytical results indicate contamination would not occur, provided this data was collected after January 1, 1990.

(C) The Department may require confirmation samples for positive or negative results.

(D) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from

a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population  $\leq$  3,300, the Department may allow compositing among different systems.

(d) Asbestos

(A) Community and Non-Transient Non-Community water systems regardless of source, shall sample for Asbestos at least once during the initial three-year compliance period of each nine-year compliance cycle starting January 1, 1993 according to the schedule under subsection (2)(l) of this rule unless a water system applies for a waiver and the waiver is granted by the Department.

(B) As reviewed by the Department, if the water system is determined not to be vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, a waiver may be granted. If granted, the water system will not be required to monitor while the waiver remains in effect. A waiver remains in effect until the completion of the three-year compliance period.

(C) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by the asbestos-cement pipe under conditions where asbestos contamination is most likely to occur. Systems exceeding the action levels for lead or copper shall monitor for asbestos once every three years.

(D) A system vulnerable to asbestos contamination due solely to source water shall monitor for asbestos once every nine years. Systems exceeding the action levels for lead or copper shall monitor for asbestos once every three years.

(E) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(F) A System which exceeds the maximum contaminant levels for asbestos as prescribed in subsection (2)(k) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. If the Department determines that the system is reliably and consistently below the maximum contaminant level based on a minimum of two quarterly samples for groundwater systems or a minimum of four quarterly samples for surface water systems or combined surface water/groundwater systems, the system may return to the sampling frequency prescribed in paragraph (2)(d)(A) of this rule.

(G) If monitoring data collected after January 1, 1990 are generally consistent with subsection (2)(d) of this rule, then the Health Department may allow the system to use these data to satisfy monitoring requirements for the three-year compliance period beginning January 1, 1993.

(e) Lead and Copper

(A) Community and Non-Transient, Non-Community water systems shall monitor for lead and copper in tap water as follows: Sample site location:

(i) Each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this paragraph, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph (C) of this subsection. All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) In addition to any information that may have been gathered under the special corrosivity monitoring requirements, the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites:

(I) All plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system;

(II) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a Community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes. When multiple-family residences comprise at least 20 percent of the structures served by a water

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system, the system may include these types of structures in its sampling pool.

(iv) Any Community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(v) Any Community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the system.

(vi) The sampling sites selected for a Non-Transient Non-Community water system ("tier 1 sampling sites") shall consist of buildings that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(vii) A Non-Transient Non-Community water system with insufficient tier 1 sites that meet the targeting criteria in paragraph (A)(vi) of this subsection shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed, the system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the Department under OAR 333-061-0040(1)(f)(A)(i) why a review of the information listed in paragraph (A)(ii) of this subsection was inadequate to locate a sufficient number of tier 1 sites. Any Community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

(B) Monitoring requirements for lead and copper in tap water. Sample collection methods:

(i) All tap samples for lead and copper collected in accordance with this paragraph shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acid fixation of first draw samples may be done up to 14 days after the sample is collected. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(C) Monitoring requirements for lead and copper in tap water. Number of samples: Water systems shall collect at least one sample during each monitoring period specified in paragraph (D) of this subsection from the number of sites listed in the first column below ("standard monitoring"). A system conducting reduced monitoring under paragraph (D)(iv) of this subsection shall collect at least one sample from the number of sites specified in the second column below during each monitoring period specified in paragraph (D)(iv) of this subsection. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. The Department may specify sampling locations when a system is conducting reduced monitoring.

System Size — # of sites — # of sites (# People Served)(Standard Monitoring) — (ReducedMonitoring)
>100,000 — 100 — 50
10,001-100,000 — 60 — 30
3,301 to 10,000 — 40 — 20
501 to 3,300 — 20 — 10

101 to 500 — 10 — 5  
≤100 — 5 — 5

(D) Monitoring requirements for lead and copper in tap water. Timing of monitoring:

(i) Initial tap monitoring requirements:

(I) All large systems shall monitor during two consecutive six-month periods.

(II) All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements specified in OAR 333-061-0034(2), in which case the system shall continue monitoring in accordance with paragraph (D)(ii) of this subsection, or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with paragraph (D)(iv) of this subsection.

(ii) Monitoring after installation of corrosion control and source water treatment.

(I) Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(2)(a)(E).

(II) Any small or medium-size system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(b)(E) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(2)(b)(F).

(III) Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(4)(a)(D).

(iii) Monitoring after the Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for water quality control parameters under OAR 333-061-0034(3)(l), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Department specifies the optimal values.

(iv) Reduced monitoring

(I) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (C) of this subsection, and reduce the frequency of sampling to once per year.

(II) Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during each of two consecutive six-month monitoring periods may request that the Department allow the system to reduce the frequency of monitoring to once per year and to reduce the number of lead and copper samples in accordance with paragraph (C) of this subsection. The Department shall review the information submitted by the water system and shall make its decision in writing, setting forth the basis for its determination. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(III) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during three consecutive years of monitoring may request that the Department allow the system to reduce the frequency of monitoring from annually to once every three years. The Department shall review the information submitted by the water system and shall make its decision in writing, setting forth the basis for its determination. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(IV) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in paragraph (A) of this subsection. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. The Department may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of

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lead are most likely to occur. For a Non-transient Non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Department shall designate a period that represents a time of normal operation for the system. Community and Non-transient Non-community systems monitoring annually or triennially that have been collecting samples during the months of June through December and that receive Department approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months or 45 months, respectively, after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially as required in this subsection.

(V) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with paragraph (D)(iii) of this subsection and collect the number of samples specified for standard lead and copper monitoring in paragraph (C) of this subsection and shall also conduct water quality parameter monitoring in accordance with paragraphs (F)(iii), (iv) or (v) of this subsection, as appropriate, during the period in which the lead or copper action level was exceeded. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the requirement of subparagraph (iv)(I) of this paragraph and/or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria prescribed in subparagraphs (iv)(III) or (iv)(VI) of this paragraph. Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the Department for more than nine days in any six-month period specified in paragraph (F)(v) of this subsection shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (D)(iii) of this subsection, collect the number of samples specified for standard monitoring, and shall resume monitoring for water quality parameters within the distribution system in accordance with paragraph (F)(v) of this subsection. Such a system may, with written Department approval, resume reduced annual monitoring for lead and copper at the tap after it has completed two subsequent six-month rounds of tap lead and copper monitoring that meet the criteria specified in subparagraph (iv)(II) of this paragraph. Such a system, with written Department approval, may resume reduced triennial monitoring for lead and copper at the tap if it meets the criteria specified in subparagraphs (iv)(III) and (VI) of this paragraph. Such a system may reduce the number and frequency of water quality parameter distribution tap samples required in accordance with paragraph (F)(vi)(I) and (II) of this subsection. Such a system may not resume triennial monitoring for water quality parameters distribution tap samples until it demonstrates that it has re-qualified for triennial monitoring.

(VI) Any water system that demonstrates for two consecutive 6-month monitoring periods that the 90th percentile lead level is less than or equal to 0.005 mg/l and the 90th percentile copper level is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with paragraph (C) of this subsection and reduce the frequency of sampling to once every three calendar years.

(VII) Any water system subject to a reduced monitoring frequency that either adds a new source of water or changes any water treatment shall inform the Department in writing. The Department may require the system to resume standard monitoring or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(E) Monitoring requirements for lead and copper in tap water. Additional monitoring by systems: The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Department in making any determinations (i.e., calculating the 90th percentile lead or copper level) under this paragraph. The Department may invalidate lead and copper tap water samples as follows:

(i) The Department may invalidate a lead or copper tap sample if at least one of the following conditions is met. The decision and the rationale for the decision must be documented in writing by the Department. A sample invalidated by the Department does not count toward determining lead or copper 90th percentile levels or toward meeting the minimum monitoring requirements:

(I) The laboratory establishes that improper sample analysis caused erroneous results; or

(II) a site that did not meet the site selection criteria; or

(III) The sample container was damaged in transit; or

(IV) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Department and all supporting documentation for samples the system believes should be invalidated.

(iii) The Department may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Department invalidates the sample. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(F) Monitoring requirements for water quality parameters. All large water systems and all medium and small water systems that exceed the lead or copper action levels shall monitor water quality parameters in addition to lead and copper as follows:

(i) General Requirements. Sample collection methods:

(I) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this section is not required to be conducted at taps targeted for lead and copper sampling, however, established coliform sampling sites may be used to satisfy these requirements.

(II) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(ii) General requirements. Number of samples:

(I) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under paragraphs (F)(iii) through (vi) of this subsection from the following number of sites.

System Size	# People served — # of Sites For Water Quality Parameters
100,000 — 25	
10,001-100,000 — 10	
3,301 to 10,000 — 3	
501 to 3,300 — 2	
101 to 500 — 1	
≤100 — 1	

(II) Except as provided in subparagraph (iv)(III) of this paragraph, systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in paragraph (F)(ii) of this subsection. During each monitoring period specified in paragraphs (F)(iv) through (vi) of this subsection, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(iii) Initial Sampling. All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in paragraph (D)(i) of this subsection. All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in paragraph (D)(i) of this subsection during which the system exceeds the lead or copper action level:

(I) At taps: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium, conductivity, and water temperature.

(II) At each entry point to the distribution system: all of the applicable parameters listed in paragraph (F)(iii)(I) above.

(iv) Monitoring after installation of corrosion control. Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in paragraph (D)(ii)(I) of this subsection. Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in paragraph (D)(ii)(II) of this subsection in which the system exceeds the lead or copper action level.

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(I) At taps, two samples for: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium (when calcium carbonate stabilization is used as part of corrosion control).

(II) Except as provided in subparagraph (iv)(III) of this paragraph, at each entry point to the distribution system, at least one sample, no less frequently than every two weeks (bi-weekly) for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(III) Any ground water system can limit entry point sampling to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and no treatment. Prior to the start of any monitoring, the system shall provide to the Department written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(v) Monitoring after Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under OAR 333-061-0034(3)(l), all large systems shall measure the applicable water quality parameters in accordance with paragraph (F)(iv) of this subsection and determine compliance every six months with the first six-month period to begin on the date the Department specifies optimal water quality parameter values. Any small or medium-size system shall conduct such monitoring during each monitoring period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to paragraph (D)(iv) of this subsection at the time of the action level exceedance, the end of the applicable six-month period under this paragraph shall coincide with the end of the applicable monitoring period under paragraph (D)(iv) of this subsection. Compliance with Department-designated optimal water quality parameter values shall be determined as specified under OAR 333-061-0034(3)(m).

(vi) Reduced monitoring:

(I) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (D) of this subsection shall continue monitoring at the entry point(s) to the distribution system as specified in paragraph (F)(iv)(II) of this subsection. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

System Size	# People served — Reduced # of Sites for Water Quality Parameters
100,000 — 10	
10,001-100,000 — 7	
3,301 to 10,000 — 3	
501 to 3,300 — 2	
101 to 500 — 1	
≤100 — 1	

(II) Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under OAR 333-061-0034(3)(l) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (F)(vi)(I) of this subsection from every six months to annually. Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under OAR 333-061-0034(3)(l) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years.

(III) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/l, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l, and that it also has maintained the range of values for water qual-

ity parameters reflecting optimal corrosion control treatment specified by the Department.

(IV) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(V) Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Department under OAR 333-061-0034(3)(l) for more than nine days in any six-month period shall resume distribution system tap water sampling in accordance with the number and frequency requirements in paragraph (F)(v) of this subsection. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria specified in paragraph (F)(v) of this subsection and/or may resume triennial monitoring at the reduced number of sites after it demonstrates through subsequent annual rounds that it meets the criteria of subparagraphs (vi)(I) and (II) of this paragraph.

(vii) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Department in making any determinations.

(G) Monitoring requirements for lead and copper in source water. Sample location, collection methods, and number of samples:

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with paragraphs (A) through (E) of this subsection shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(I) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

(II) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source, after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant; Surface water systems include systems with a combination of surface and ground sources;

(III) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods when water is representative of all sources being used.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under OAR 333-061-0034(4)(b)(D) the Department may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a Department-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Department-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. For lead any value above the detection limit but below the Practical Quantitation Level (PQL) (0.005 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.0025 mg/l). For copper any value above the detection limit but below the PQL (0.050 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.025 mg/l).

(H) Monitoring requirements for lead and copper in source water. Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system within six months after the exceedance.

(i) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in OAR 333-061-0034(4)(a)(D).

(ii) Monitoring frequency after Department specifies maximum permissible source water levels or determines that source water treatment is not needed.

(I) A system shall monitor at the frequency specified below in cases where the Department specifies maximum permissible source water levels

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under OAR 333-061-0034(4)(b)(D) or determines that the system is not required to install source water treatment under OAR 333-061-0034(4)(b)(B). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable Department determination is made. Such systems shall collect samples once during each subsequent compliance period. A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin on the date on which the applicable Department determination is made.

(II) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under paragraph (H)(ii)(I) of this subsection.

(iii) Reduced monitoring frequency:

(I) A water system using only groundwater which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) during at least three consecutive compliance periods under paragraph (H)(ii)(I) of this subsection or for which the Department has determined that source water treatment is not needed and the system demonstrates during at least three consecutive compliance periods under paragraph (H)(ii)(I) of this subsection that the concentration of lead in source water was  $\leq 0.005$  mg/l and the concentration of copper in source water was  $\leq 0.65$  mg/l may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle.

(II) A water system using surface water (or a combination of surface and ground waters) which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) for at least three consecutive years or for which the Department has determined that source water treatment is not needed and the system demonstrates that during at least three consecutive years the concentration of lead in source water was  $\leq 0.005$  mg/l and the concentration of copper in source water was  $\leq 0.65$  mg/l may reduce the monitoring frequency in paragraph (H)(ii)(I) of this subsection to once during each nine-year compliance cycle.

(III) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(a)(E).

(f) Nitrate

(A) Community and Non-Transient Non-Community water systems using surface water sources or groundwater sources under the direct influence of surface water shall monitor for Nitrate quarterly beginning January 1, 1993. The Department may allow a surface water system to reduce the sampling frequency to annually provided that all analytical results from four consecutive quarters are less than 50% of the MCL. A surface water system shall return to quarterly monitoring if any one sample is  $\geq 50\%$  of the MCL.

(B) Community and Non-Transient Non-Community water systems using groundwater sources shall monitor for Nitrate annually beginning January 1, 1993. The Department shall require quarterly monitoring for a least one year following any one sample in which the concentration is  $< 50\%$  of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(C) Transient Non-Community and State Regulated water systems shall monitor for Nitrate annually beginning January 1, 1993.

(D) After the initial round of quarterly sampling is completed, each Community and Non-Transient Non-Community water system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(g) Nitrite

(A) Community, Non-Transient Non-Community, and Transient Non-Community water systems shall collect one sample at each sampling point for Nitrite during the compliance period beginning January 1, 1993. The Department shall require quarterly monitoring for at least one year following any one sample in which the concentration is  $\geq 50\%$  of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(B) After the initial sample, systems where analytical results for Nitrite are  $< 50\%$  of the MCL, shall monitor once during each subsequent compliance period unless otherwise directed by the Department. Transient

Non-Community and State Regulated water systems shall monitor at the discretion of the Department.

(C) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(h) Sodium

(A) Samples of water which is delivered to users shall be analyzed for Sodium as follows:

(i) Community and Non-Transient Non-Community water systems, surface water sources, once per year for each source;

(ii) Community and Non-Transient Non-Community water systems, ground water sources, once every three years for each source.

(B) The water supplier shall report to the Department the results of the analyses for Sodium as prescribed in rule 333-061-0040. The Department shall notify local health officials of the test results.

(i) Confirmation Samples

(A) Where the results of sampling for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the Department may require one additional sample to be taken as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(B) Where the results of sampling for nitrate or nitrite exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the system is required to collect one additional sample within 24 hours of notification of the results of the initial sample at the same sampling point. Systems unable to comply with the 24-hr sampling requirement must initiate consultation with the Department as soon as practical, but no later than 24 hours after the system learns of the violation and must immediately notify their users as prescribed in OAR 333-061-0042(2)(a)(B), and collect one additional sample within two weeks of notification of the results of the initial sample.

(C) If a confirmation sample required by the Department is taken for any contaminant then the results of the initial and confirmation sample shall be averaged. The resultant average shall be used to determine the system's compliance as prescribed in subsection (2)(k) of this rule.

(j) The Department may require more frequent monitoring than specified in subsections (2)(a) through (h) of this rule or may require confirmation samples for positive and negative results. Systems may apply to the Department to conduct more frequent monitoring than is required in this section.

(k) Compliance with the inorganic MCLs as listed in Table 1 shall be determined based on the analytical result(s) obtained at each sampling point as follows:

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average at any sampling point. If the average at any sampling point rounded to the same number of significant figures as the MCL for the substance in question is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample with results below the detection limit specified for the approved EPA analytical method shall be calculated at zero for the purpose of determining the annual average.

(B) For systems which are monitoring annually, or less frequently, the system is out of compliance with the MCLs for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium if the level of the contaminant at any sampling point is greater than the MCL.

(C) Compliance with MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (2)(i)(B) of this rule and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If the results of an analysis as prescribed in this rule indicate the level of any contaminant exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Department within 48 hours as prescribed in OAR 333-061-0040 and initiate the public notice procedures as prescribed by OAR 333-061-0042.

(I) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Begin — Complete  
Population — initial monitoring — initial monitoring by  
300 or more — January 1, 1993 — December 31, 1993



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100 - 299 — January 1, 1994 — December 31, 1994  
less than 100 — January 1, 1995 — December 31, 1995

## (3) Organic chemicals:

(a) Alachlor, Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Dibromochloropropane, Dinoseb, Dioxin(2,3,7,8-TCDD), Diquat, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Endothall, Endrin, Ethylene dibromide, Glyphosate, Heptachlor, Heptachlor epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane(BHC-g), Methoxychlor, Oxamyl(Vydate), Picloram, Polychlorinated biphenyls, Pentachlorophenol, Simazine, Toxaphene, 2,4-D and 2,4,5-TP Silvex.

(A) Samples of water which is delivered to users shall be analyzed for regulated synthetic organic chemicals (SOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples at each sampling point beginning with the initial compliance period starting January 1, 1993. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield or within an existing drinking water protection area may be eligible for a reduction in initial monitoring from four consecutive quarterly samples to one sample if no detections occur and if, based on the system's source assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(ii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(iii) If the initial analysis does not detect any contaminant listed in subsection (3)(a) of this rule, then monitoring at each sampling point may be reduced to:

(I) Two consecutive quarterly samples in one year during each repeat compliance period for systems serving more than 3300 population; or

(II) One sample in each repeat compliance period for systems serving ≤ 3300 population; or

(III) Once every 6 years for all SOCs, if the system has a state certified Drinking Water Protection Plan or for those SOCs determined to be "used" and for which that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(IV) Once every 9 years for those SOCs in an analytical method group determined to be "not used" in the delineated drinking water protection area, or for those SOCs determined to be "used" if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" according to the Department's Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(iv) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) Each Community and Non-Transient Non-Community water system may apply to the Department for a waiver from the requirements of paragraph (3)(a)(A) of this rule. Each water system can receive specific guidance in obtaining a waiver from the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Organics monitoring each compliance period.

(i) The water system shall use the drinking water protection area as delineated during the Source Water Assessment according to procedures described in the Use and Susceptibility Waiver Guidance Document.

(ii) The Use Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall take into consideration but is not limited to the use, storage, distribution, transport and disposal of the contaminant within the delineated recharge or watershed area.

(iii) The Susceptibility Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall address only those contaminants that remain after the use waiver process has been completed. The Susceptibility Waiver criteria shall take into consideration but is not limited to the history of bacteria and/or nitrate contamination, well construction,

agricultural management practices, infiltration potential, and contaminant mobility and persistence.

(iv) Water systems which qualify for use and susceptibility waivers shall follow the monitoring requirements as directed in the Use and Susceptibility Waiver Guidance Document.

(v) The Use and Susceptibility Waiver Guidance Document is made a part of this rule and shall take into consideration the Wellhead Protection Program and shall be updated with new methods and procedures as they become available.

(C) If a water system detects in any sample a contaminant listed in subsection (3)(a) of this rule equal to or greater than the minimum detection limit listed in **Table II**, then the water system shall monitor quarterly at each sampling point where a detection occurred.

**Table II**

Contaminant —	Detection Limit (mg/l)
Alachlor	— 0.0002
Atrazine	— 0.0001
Benzo(a)pyrene	— 0.00002
Carbofuran	— 0.0009
Chlordane	— 0.0002
Dalapon	— 0.001
Di(2-ethylhexyl)adipate	— 0.0006
Di(2-ethylhexyl)phthalate	— 0.0006
Dibromochloropropane (DBCP)	— 0.00002
Dinoseb	— 0.0002
Dioxin(2,3,7,8-TCDD)	— 0.000000005
Diquat	— 0.0004
Endothall	— 0.009
Endrin	— 0.00001
Ethylene Dibromide (EDB)	— 0.00001
Glyphosate	— 0.006
Heptachlor	— 0.00004
Heptachlor Epoxide	— 0.00002
Hexachlorobenzene	— 0.0001
Hexachlorocyclopentadiene	— 0.0001
Lindane(BHC-g)	— 0.00002
Methoxychlor	— 0.0001
Oxamyl(Vydate)	— 0.002
Picloram	— 0.0001
Polychlorinated Biphenyls (PCBs) (as Decachlorobiphenyl)	— 0.0001
Pentachlorophenol	— 0.00004
Simazine	— 0.00007
Toxaphene	— 0.001
2,4-D	— 0.0001
2,4,5-TP (Silvex)	— 0.0002

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(a)(C) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(a)(B) of this rule.

(iii) If any monitoring required in paragraph (3)(a)(A) of this rule results in the detection of one or more of certain related contaminants(Aldicarb, Aldicarb sulfone, Aldicarb sulfoxide and Heptachlor, Heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

(D) If the results of an analysis prescribed in paragraph (3)(a)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system must monitor quarterly. After a minimum of four quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(a)(G) of this rule, then the system may monitor annually.

(E) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result (unless the previous sample has been invalidated by the Department) and the average used to determine compliance.

(F) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample detects one or more contaminants listed in subsection (3)(a) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates are analyzed and the results reported to the Department within 14 days of collection. For systems with

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a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population  $\leq$  3,300, the Department may allow compositing among different systems, provided the 5-sample limit is maintained.

(G) For systems which collect more than one sample a year, compliance is determined by a running annual average of all samples taken at each sampling point. When the annual average of any sampling point exceeds the MCL for any contaminant listed in OAR 333-061-0030(2)(a) the system is out of compliance and shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A). If the initial sample or subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. For systems which collect one sample or less a year, the system is out of compliance if the level of a contaminant at any sampling point exceeds the MCL. The system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A). Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(H) If monitoring data collected after January 1, 1990 are consistent with the requirements of subsection (3)(a) of this rule, the Department may allow systems to use that data to satisfy the monitoring requirements for the initial compliance periods beginning January 1, 1993 and January 1, 1996.

(I) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

begin: — complete:  
Population — initial monitoring — initial monitoring by  
300 or more — January 1, 1993 — December 31, 1993  
100 - 299 — January 1, 1994 — December 31, 1994  
less than 100 — January 1, 1995 — December 31, 1995

(J) For systems having fewer than 150 service connections the initial compliance period for monitoring for benzo(a)pyrene, dalapon, di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate, dinoseb, diquat, endothall, endrin, glyphosate, hexachlorobenzene, hexachlorocyclopentadiene, oxamyl, picloram, simazine and dioxin(2,3,7,8-TCDD) is January 1, 1996 through December 31, 1998.

(b) Disinfection Byproducts:

(A) Community water systems which serve a population of 10,000 or more individuals and to which a disinfectant (oxidant) has been added in any part of the drinking water treatment process shall analyze for total trihalomethanes. The minimum number of samples required to be taken by the system shall be based on the number of water sources used by the system except that multiple wells drawing raw water from a single aquifer may, with Department approval, be considered one water source for determining the minimum number of samples. All samples taken within an established frequency shall be collected within a 24-hour period.

(i) For all Community water systems utilizing surface water sources in whole or in part, and for all Community water systems utilizing only ground water sources that have not been determined by the Department to qualify for the monitoring requirements of paragraph (3)(b)(A)(iv) of this rule, analyses for total trihalomethanes shall be performed at quarterly intervals on at least four water samples for each water source used by the system (a total of 16 samples per source per year). At least 25 percent of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining 75 percent shall be taken at representative locations in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed. The results of all analyses obtained each quarter shall be reported to the Department as described in OAR 333-061-0040. Results of analyses on all samples collected shall be used by the Department in the computation of the average trihalomethane level, unless the analytical results are invalidated for technical reasons.

(ii) Upon the written request of a Community water system, the monitoring frequency required by paragraph (3)(b)(A)(i) of this rule may be reduced by the Department to a minimum of one sample analyzed for TTHMs per quarter for each source taken at a point in the distribution system reflecting the maximum residence time of the water in the system, upon a written determination by the Department that the data from at least one year of monitoring in accordance with paragraph (3)(b)(A)(i) of this rule and local conditions demonstrate that total trihalomethane concentrations will be consistently below the maximum contaminant level.

(iii) If at any time during which the reduced monitoring frequency prescribed under this subsection applies, the results from any analysis exceed 0.10 mg/l of TTHMs and such results are confirmed by at least one check sample taken promptly after such results are received, or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with

the requirements of paragraph (3)(b)(A)(i) of this rule, and such monitoring shall continue for at least one year before the frequency may be reduced again. At the option of the Department, a system's monitoring frequency shall be increased above the minimum in those cases where it is necessary to detect variations of TTHM levels within the distribution system.

(iv) Upon written request to the Department, a Community water system utilizing only ground water sources may seek to have the monitoring frequency reduced to a minimum of one sample for maximum TTHM potential per year for each source used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the system. The system shall submit to the Department the results of at least one sample analyzed for maximum TTHM potential for each source used by the system taken at a point in distribution system reflecting the maximum residence time of the water in the system. The system's monitoring frequency may only be reduced upon a written determination by the Department that, based upon the data submitted by the system, the system has a maximum TTHM potential of less than 0.10 mg/l and that, based upon an assessment of the local conditions of the system, the system is not likely to approach or exceed the maximum contaminant level for TTHMs. The results of all analyses shall be reported to the Department within 30 days of the system's receipt of such results. All samples collected shall be used for determining whether the system must comply with the monitoring requirements of paragraph (3)(b)(A) of this rule, unless the analytical results are invalidated for technical reasons.

(v) A system granted reduced sampling frequencies under paragraph (3)(b)(A)(iv) of this rule shall immediately resume monitoring in accordance with paragraph (3)(b)(A)(i) of this rule whenever an analysis, confirmed by check samples equals or exceeds 0.10 mg/l of TTHM potential. Such monitoring shall continue for at least one year before the frequency may be reduced again. In the event of any significant change to the system's raw water or treatment program, the system shall immediately analyze an additional sample for maximum TTHM potential taken at a point in the distribution system reflecting maximum residence time of the water in the system for the purpose of determining whether the system must comply with the monitoring requirements of paragraph (3)(b)(A)(i) of this rule. At the option of the Department, monitoring frequencies may be increased above the minimum in those cases where this is necessary to detect variation of TTHM levels within the distribution system.

(B) Compliance with the Maximum Contaminant Level for TTHM levels as specified by OAR 333-061-0030(2)(b)(A) shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in paragraph (3)(b)(A)(i) or (ii) of this rule. When the average of samples covering any running 12 month period exceeds the Maximum Contaminant Level, the water supplier shall report to the Department as prescribed in OAR 333-061-0040 and notify the public pursuant to OAR 333-061-0042(2)(b)(A). Monitoring after public notification shall be at a frequency designated by the Department and shall continue until a monitoring schedule as a condition to a variance, permit or enforcement action shall become effective.

(C) Before a community water system makes any significant modifications to its existing treatment process for the purposes of achieving compliance with the Maximum Contaminant Level for TTHM levels as specified by OAR 333-061-0030(2)(b)(A), the water system must obtain approval from the Department of a detailed plan of the proposed modifications and those safeguards that will be implemented to ensure that the bacteriological quality of the drinking water served the water system will not be adversely affected by such modification. Each system shall comply with the provisions set forth in the detailed plan. At minimum, the detailed plan shall include the following requirements for the water system:

(i) Evaluate the water system for sanitary defects and evaluate the source water for biological quality;

(ii) Evaluate the existing treatment practices and consider improvements that will minimize disinfectant demand and optimize finished water quality throughout the distribution system;

(iii) Provide baseline water quality survey data for the distribution system which should include the monitoring results for coliform and fecal coliform bacteria, fecal streptococci, standard plate counts at 35 oC and 20oC, phosphate, ammonia nitrogen and total organic carbon, and (where source waters are heavily contaminated with sewage effluent) virus studies.

(iv) Conduct additional monitoring to assure continued maintenance of optimal biological quality in finished water, for example, when chloramine are being introduced as disinfectants or when pre-chlorination is being discontinued. Additional monitoring is required by the Department for chlorate, chlorite, and chlorine dioxide when chlorine dioxide is used.

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Standard plate count analyses will also be required by the Department as appropriate before and after the modification.

(v) Consider inclusion in the plan of provisions to maintain an active disinfectant residual throughout the distribution system at all times during and after the modification.

(D) The requirements in paragraphs (3)(b)(A) through (C) of this rule apply to community water systems using surface water or groundwater under the direct influence of surface water which serve at least 10,000 until December 31, 2001. The requirements in paragraphs (3)(b)(A) through (C) of this rule apply to community water systems which use only ground water not under the direct influence of surface water that add a disinfectant (oxidant) in any part of the treatment process and serve at least 10,000 people until December 31, 2003. After December 31, 2003, paragraphs (3)(b)(A) through (C) of this rule are no longer applicable.

(E) General sampling and analytical requirements regarding disinfection byproducts for Community water systems and Non-transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water are specified in paragraphs (3)(b)(E) through (R) of this rule and are applicable beginning January 1, 2002. Paragraphs (3)(b)(E) through (R) of this rule are applicable to Community water systems and Non-transient Non-community water systems serving less than 10,000 people using surface water or groundwater under the direct influence of surface water or any system using only groundwater not under the direct influence of surface water that add a disinfectant (oxidant) in any part of the treatment process beginning January 1, 2004.

(i) Water systems must take all samples during normal operating conditions.

(ii) Water systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with approval from the Department in accordance with criteria developed for Consumer Confidence Reports (OAR 333-061-0043).

(iii) Failure to monitor in accordance with the monitoring plan as specified in paragraph (3)(b)(K) of this rule is a monitoring violation.

(iv) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(v) Systems may use only data collected under the provisions of this rule or 40 CFR Parts 141.140 through 141.144 (Subpart M - Information Collection Rule for Public Water Systems) to qualify for reduced monitoring.

(F) Monitoring requirements for disinfection byproducts.

(i) Routine monitoring for TTHMs and HAA5. Systems must monitor at the frequency as specified in the **Table 12**: [Table not included. See ED. NOTE.]

(ii) Systems may reduce monitoring, except as otherwise provided, as specified in **Table 13** as follows: [Table not included. See ED. NOTE.]

(iii) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (3)(b)(F)(i) of this rule in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. For systems using only groundwater not under the direct influence of surface water and serving less than 10,000 persons, if either the TTHMs annual average is greater than 0.080 mg/L or the HAAs annual average is greater than 0.060 mg/L, the water system must go to increased monitoring as specified in paragraph (3)(b)(F)(i) of this rule in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5, respectively.

(iv) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring, the TTHM annual average is less than or equal to 0.060 mg/L and the HAA5 annual average is less than or equal to 0.045 mg/L.

(v) The Department may return a system to routine monitoring at its discretion.

(G) Chlorite. Community and Non-transient Non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(i) Routine monitoring.

(I) Daily monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (b)(G)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(II) Monthly monitoring. Systems must take a three-sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (b)(G)(ii) of this section to meet the requirement for monitoring in this paragraph.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring.

(I) Chlorite monitoring at the entrance to the distribution system required by paragraph (b)(G)(i)(I) of this section may not be reduced.

(II) Chlorite monitoring in the distribution system required by paragraph (b)(G)(i)(II) of this section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under paragraph (b)(G)(i)(II) of this section has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (b)(G)(ii) of this section. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under paragraph (b)(G)(i)(II) of this section exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (b)(G)(ii) of this section, at which time the system must revert to routine monitoring.

(iv) Bromate.

(I) Routine monitoring. Community and Non-transient Non-community water systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(II) Reduced monitoring. Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for one year. The system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements. If the running annual average source water bromide concentration is greater than or equal to 0.05 mg/L, the system must resume routine monitoring required by paragraph (G)(iv)(I) of this subsection.

(H) Monitoring requirements for disinfectant residuals.

(i) Chlorine and chloramines.

(I) Routine monitoring. Community and Non-transient Non-community water systems that use chlorine or chloramines must measure the residual disinfectant level at the same points in the distribution system and at the same time when total coliforms are sampled, as specified in OAR 333-061-0036(5). Water systems using surface water or groundwater under the direct influence of surface water may use the results of residual disinfectant concentration sampling conducted as required by OAR 333-061-0036(4)(a)(F) for unfiltered systems or OAR 333-061-0036(4)(b)(C) for systems which filter, in lieu of taking separate samples. Compliance with this rule is achieved when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. Operators may increase residual disinfectant levels of chlorine or chloramine (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health in order to address specific microbiological contaminant problems resulting from events in the source water or in the distribution system.

(II) Reduced monitoring from paragraph (H)(i)(I) of this subsection is not allowed.

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(ii) Chlorine dioxide.

(I) Routine monitoring. Community, Non-transient Non-community, and Transient Non-community water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system must take samples in the distribution system the following day at the locations required by paragraph (H)(ii)(II) of this subsection, in addition to the sample required at the entrance to the distribution system. Compliance with this rule is achieved when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL.

(II) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(III) Chlorine dioxide monitoring may not be reduced from paragraph (H)(ii)(II) of this subsection.

(I) Monitoring requirements for disinfection byproduct precursors (DBPP).

(i) Routine monitoring. Water systems using surface water or groundwater under the direct influence of surface water which use conventional filtration treatment must monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor under paragraph (I)(i) of this subsection must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems must monitor for alkalinity in the source water prior to any treatment. Systems must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(ii) Reduced monitoring. Water systems using surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The water system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC greater than or equal to 2.0 mg/L.

(J) Bromide. Water systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(K) Monitoring plans. Each water system required to monitor under this paragraph must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Department and the general public no later than 30 days following the applicable compliance dates as specified in OAR 333-061-0032(9)(b). All water systems using surface water or groundwater under the direct influence of surface water serving more than 3300 people must submit a copy of the monitoring plan to the Department no later than the date of the first report required by OAR 333-061-0040(1). The Department may also require the plan to be submitted by any other system. After review, the Department may require changes in any plan elements. The plan must include at least the following elements.

(i) Specific locations and schedules for collecting samples for all parameters included in subsection (3)(b) of this rule;

(ii) How the water system will calculate compliance with MCLs, MRDLs, and treatment techniques;

(iii) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the sampling plan must reflect the entire distribution system.

(L) General compliance requirements.

(i) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(ii) All samples taken and analyzed under the provisions of subsection (3)(b) of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(iii) If, during the first year of monitoring as required by subsection (3)(b) of this rule, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(M) Compliance requirements for TTHMs and HAA5.

(i) For systems monitoring quarterly, compliance with MCLs as required by OAR 333-061-0030(2)(b) must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as required by paragraph (3)(b)(F) of this rule.

(ii) For water systems monitoring less frequently than quarterly, compliance must be based on an average of samples taken that year as required by paragraph (3)(b)(F)(i) of this rule. If the average of these samples exceeds the MCL, the water system must increase monitoring to once per quarter per treatment plant and the system is not considered in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Water systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(iii) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(iv) If a water system fails to complete four consecutive quarters' monitoring, compliance with the MCL for the last four-quarter compliance period must be based on an average of the available data.

(N) Compliance requirements for Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as required by paragraph (3)(b)(G)(iv) of this rule. If the average of samples covering any consecutive four-quarter period exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. If a water system fails to complete 12 consecutive months monitoring, compliance with the MCL for the last four-quarter compliance period must be based on an average of the available data.

(O) Compliance requirements for Chlorite. Compliance must be based on an arithmetic average of each three-sample set taken in the distribution system as required by paragraph (3)(b)(G)(i)(II) of this rule and paragraph (3)(b)(G)(ii) of this rule. If the arithmetic average of any three sample set exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(P) Compliance requirements for chlorine and chloramines.

(i) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system as required by paragraph (3)(b)(H)(i) of this rule. If the average covering any consecutive four-quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(ii) In cases where water systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must

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be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted as required by OAR 333-061-0040(1) must clearly indicate which residual disinfectant was analyzed for each sample.

(Q) Compliance requirement for Chlorine dioxide.

(i) Acute violations. Compliance must be based on consecutive daily samples collected by the water system as required by paragraph (3)(b)(H)(ii) of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the water system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for acute violations as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040.

(ii) Non-acute violations. Compliance must be based on consecutive daily samples collected by the system as required by paragraph (3)(b)(H)(ii) of this rule. If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the water system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for non-acute health risks specified by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for non-acute violations specified by OAR 333-061-0042(2)(b)(A) in addition to reporting to the Department as required by OAR 333-061-0040.

(R) Compliance requirements for Disinfection byproduct precursors (DBPP). Compliance must be determined as specified by OAR 333-061-0032(9)(f). Water systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any water system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements as specified in OAR 333-061-0032(9)(e)(B) and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by OAR 333-061-0032(9)(e)(C) and is in violation. Water systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet step 1 TOC removals, if the value calculated under OAR 333-061-0032(9)(f)(A)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department pursuant to OAR 333-061-0040.

(c) Volatile Organic Chemicals: Benzene, Carbon tetrachloride, Cis-1,2-Dichloroethylene, Dichloromethane, Ethylbenzene, Monochlorobenzene, O-Dichlorobenzene, P-Dichlorobenzene, Styrene, Tetrachloroethylene(PCE), Toluene, Trans-1,2-Dichloroethylene, Trichloroethylene(TCE), Vinyl chloride, Xylenes(total), 1,1-Dichloroethylene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, 1,2-Dichloroethane, 1,2-Dichloropropane, and 1,2,4-Trichlorobenzene.

(A) Samples of water which is delivered to users shall be analyzed for regulated volatile organic chemicals (VOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples from each sampling point during each compliance period beginning in the initial compliance period starting January 1, 1993. The water system shall take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing well-field or within an existing drinking water protection area may be eligible

for a reduction in initial monitoring from four consecutive quarterly samples to one sample if no detections occur and if, based on the system's Source Water Assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(ii) If warranted, the Department may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure.

(iii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(iv) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) For the purpose of subsection (3)(c) of this rule, a detectable level for VOCs is 0.0005 mg/l.

(C) If the initial analyses do not detect any contaminant listed in subsection (3)(c) of this rule, then monitoring for all of the VOCs may be reduced to:

(i) Annual per entry point for surface and ground water systems;

(ii) Once every three years per entry point for ground water systems after a minimum of three years of annual monitoring and no history of detections;

(iii) Once every 6 years if the system has a state certified Drinking Water Protection Plan or if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of moderate susceptibility to the VOCs according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(iv) Once every 9 years if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" to the VOCs according to the Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(D) Each Community and Non-Transient Non-Community water system which does not detect any contaminant listed in subsection (3)(c) of this rule after the initial monitoring period may apply to the Department for a waiver from the requirements prescribed in paragraphs (3)(c)(A) and (C) of this rule according to procedures described in paragraph (3)(a)(B) of this rule and the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Volatile Organic Chemicals monitoring every two compliance periods (6 years).

(E) As a condition of a waiver groundwater systems must take one sample at each sampling point during the time the waiver is in effect and update its vulnerability assessment addressing those factors listed in paragraph (3)(a)(B)(ii) and (iii) of this rule. The Department must confirm that a system is not vulnerable within three years of the original determination or the waiver is invalidated and the system is required to sample annually as specified in paragraph (3)(c)(C) of this rule.

(F) Surface water systems which do not detect any contaminant listed in subsection (3)(c) of this rule after completing the initial monitoring and have been determined to be not vulnerable to VOC contamination by the Department shall monitor at the discretion of the Department. The Department shall reevaluate the vulnerability of such systems during each compliance period.

(G) If a water system detects any contaminant listed in subsection (3)(c) of this rule (except vinyl chloride) in any sample greater than the minimum detection limit of 0.0005 mg/l, then the water system shall monitor quarterly at each sampling point where a detection occurred.

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(c)(G) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(c)(D) of this rule.

(iii) Groundwater systems which have detected one or more of the

(iv) Following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-

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dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the Department may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride at the discretion of the Department.

(H) If the results of an analysis prescribed in paragraph (3)(c)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system shall monitor quarterly. After a minimum of four consecutive quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(c)(K) of this rule, then the system may monitor annually during the quarter which previously yielded the highest analytical result.

(I) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result and the average used to determine compliance.

(J) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample is  $\geq 0.0005$  mg/l for any contaminant listed in subsection (3)(c) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates have not been held for longer than 14 days. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population  $\leq 3,300$ , the Department may allow compositing among different systems provided the 5-sample limit is maintained.

(K) For systems which collect more than one sample a year, compliance is determined by a running annual average of all samples taken at each sampling point. When the annual average of any sampling point exceeds the MCL for any contaminant listed in OAR 333-061-0030(2)(c) the system is out of compliance and shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A). If the initial sample or subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. For systems which collect one sample or less a year, the system is out of compliance if the level of a contaminant at any sampling point exceeds the MCL. The system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A).

(L) If monitoring data collected after January 1, 1988 are consistent with the requirements of subsection (3)(c) of this rule, the Department may allow systems to use that data (i.e. a single sample rather than four quarterly samples) to satisfy the monitoring requirements prescribed in paragraph (3)(c)(A) of this rule for the initial compliance period. Systems which use grandparented samples and did not detect any contaminant listed in subsection (3)(c) of this rule shall begin monitoring annually in accordance with paragraph (3)(c)(C) of this rule beginning with the initial compliance period.

(M) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin — Complete
initial monitoring — initial monitoring
300 or more — January 1, 1993 — December 31, 1993
100 - 299 — January 1, 1994 — December 31, 1994
less than 100 — January 1, 1995 — December 31, 1995

(N) For systems having fewer than 150 service connections, the initial compliance period for monitoring for dichloromethane, 1,2,4-trichlorobenzene, and 1,1,2-trichloroethane is January 1, 1996 through December 31, 1998.

#### (4) Surface Water Treatment.

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does not provide filtration treatment must monitor water quality as specified in this subsection beginning January 1, 1991 for systems using a surface water source and January 1, 1991 or 6 months after the Department has identified a source as being under the direct influence of surface water for groundwater sources, whichever is later.

(A) Fecal coliform or total coliform density measurements as required by OAR 333-061-0032(2)(b)(A) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The system must sample for fecal or total coliforms at the minimum frequency shown in **Table 14** each week the system serves water to the public. These samples must be collected on separate days.

**Table 14**

Population Served — Samples Per Week

500 or less — 1
501 to 3,300 — 2
3,301 to 10,000 — 3
10,001 to 25,000 — 4
More than 25,000 — 5

Also one fecal or total coliform density measurement must be made every day the system serves water to the public when the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly coliform sampling requirement) unless the Department determines that the system, for logistical reasons outside of its control, cannot have the sample analyzed within 30 hours of collection.

(B) Turbidity measurements as required by OAR 333-061-0032(2)(b)(B) must be performed on representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Systems using continuous turbidity monitoring must report the turbidity data to the Department in the same manner that grab sample results are reported. The Department will furnish report forms upon request.

(C) The total inactivation ratio for each day that the system is in operation must be determined based on the  $CT_{99.9}$  values in Tables 15 through 22. The parameters necessary to determine the total inactivation ratio must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Department, through the use of protocol approved by the Department for on-site disinfection challenge studies or other information satisfactory to the Department, that  $CT_{99.9}$  values other than those specified in the Tables 21 and 22 or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(3)(a).

**Table 15** through **Table 22**: [Table not included. See ED. NOTE.]

(D) The total inactivation ratio must be calculated as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio based on either of the following two methods:

(I) One inactivation ratio ( $CT_{calc}/CT_{99.9}$ ) is determined before or at the first customer during peak hourly flow and if the  $CT_{calc}/CT_{99.9}$  is greater than or equal to 1.0, the 99.9 percent *Giardia lamblia* inactivation requirement has been achieved; or

(II) Successive  $CT_{calc}/CT_{99.9}$  values representing sequential inactivation ratios, are determined between the point of disinfection application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio:

Step 1: Determine  $CT_{calc}/CT_{99.9}$  for each sequence

Step 2: Add the  $CT_{calc}/CT_{99.9}$  values together

Step 3: If  $\Sigma (CT_{calc}/CT_{99.9})$  is greater than or equal to 1.0, the 99.9 percent *Giardia lamblia* inactivation requirement has been achieved.

(ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The  $CT_{calc}/CT_{99.9}$  value of each sequence and  $\Sigma CT_{calc}/CT_{99.9}$  must be calculated using the methods in sub-sub paragraph (a)(A)(i)(II) of this rule to determine if the system is in compliance with OAR 333-61-0032(3)(a).

(E) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day. If there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of

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continuous monitoring, but for no more than 5 working days following the failure of the equipment, and systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in **Table 23**:

**Table 23**

**Population — Samples per day**

500 or Less — 1
501 to 1,000 — 2
1,001 to 2,500 — 3
2,501 to 3,300 — 4

The day's samples cannot be taken at the same time. The sampling intervals are subject to Department review and approval. If at any time the residual disinfectant concentration falls below 0.2 mg/l in a system using grab sampling in lieu of continuous monitoring, the system must take a grab sample every 4 hours until the residual disinfectant concentration is  $\geq 0.2$  mg/l.

(F) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in section (5) of this rule, except that the Department may allow a public water system which uses both a surface water source or a groundwater source under the direct influence of surface water, and a groundwater source, to take disinfectant residual samples at points other than the total coliform sampling points if the Department determines that such points are more representative of treated (disinfected) water quality within the distribution system.

(b) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does provide filtration treatment must monitor water quality as specified in this subsection beginning June 29, 1993 or when filtration treatment is installed, whichever date is later.

(A) Turbidity measurements as required by section 333-061-0032(4) must be performed on representative samples of the system's filtered water every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Calibration of all turbidimeters must be performed according to manufacturer's specifications, but no less frequently than quarterly. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the Department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. Systems using lime softening may acidify representative samples prior to analysis using a method approved by the Department.

(B) Monitoring for the residual disinfectant concentration entering the distribution system shall be performed as prescribed in paragraph (4)(a)(E) of this rule.

(C) Monitoring for the residual disinfectant concentration in the distribution system shall be performed as prescribed in paragraph (4)(a)(F) of this rule.

(c) In addition to subsection (b) of this section, water systems serving at least 10,000 people or serving less than 10,000 people beginning January 1, 2005 using surface water or groundwater under the direct influence of surface water where treatment includes conventional filtration treatment or direct filtration treatment must conduct continuous turbidity monitoring for each individual filter and must calibrate turbidimeters using the procedure specified by the manufacturer. Individual filter monitoring results must be recorded every 15 minutes. If there is a failure in the continuous turbidity monitoring equipment, the water system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-line. The water system serving at least 10,000 people has a maximum of five working days after failure to repair the equipment or the water system is in violation. The water system serving less than 10,000 people has a maximum of 14 days to resume continuous monitoring before a violation is incurred. If the water system's conventional or direct filtration treatment plant consists of two or fewer filters, continuous monitoring of the combined filter effluent turbidity may be substituted for continuous monitoring of individual filter effluent turbidity. The recording and calibration requirements that apply to individual filters also apply when continuous monitoring of the combined filter effluent turbidity is substituted for the continuous monitoring of individual filter effluent turbidity.

(d) The results of test data collected to meet the requirements prescribed in OAR 333-061-0036 shall be reported as prescribed in OAR 333-061-0040;

(5) Microbiological contaminants:

(a) Routine sampling for pathogens is not required but may be required by the Department when specific evidence indicates the possible presence of such organisms.

(b) Samples shall be collected and analyzed for the purpose of determining compliance with the maximum contaminant levels for coliform bacteria as follows:

(A) Samples shall be collected from points which are representative of conditions, including impacts of multiple sources, within the distribution system at regular time intervals throughout the reporting period;

(B) The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 ml.

(C) For all Community water systems utilizing surface and/or ground water, all Non-Transient Non-Community and Transient Non-Community water systems utilizing surface water sources, and all Non-Transient Non-Community and Transient Non-Community water systems utilizing groundwater sources serving more than 1000 persons per day, the analyses shall be made at regular time intervals and at a frequency no less than set forth in **Table 24**. [Table not included. See ED. NOTE.]

(D) Non-Transient Non-Community and Transient Non-Community water systems using groundwater under the direct influence of surface water must monitor at a frequency no less than set forth in Table 24. Monitoring must begin at this frequency no later than 6 months after the Department has determined that the groundwater source is under the direct influence of surface water.

(E) For Transient and Non-Transient Non-Community water systems utilizing ground water sources and serving 1000 persons or fewer per day and all State Regulated water systems, the analyses shall be made in each calendar quarter during which water is provided to the public.

(F) Public water systems must collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sampling site plan. These plans must be approved by the Department.

(G) Any public water system that uses surface water or groundwater under the direct influence of surface water and does not provide filtration treatment as defined by these rules must collect at least one sample at the first customer for each day the turbidity level of the source water measured as prescribed in OAR 333-061-0036(4)(a)(B) exceeds 1 NTU. This sample must be analyzed for the presence of total coliforms. When one or more turbidity measurements in any day exceed 1 NTU, the system must collect this coliform sample within 24 hours of the first exceedance or as early as possible the next business day, unless the Department determines that the system cannot have the sample analyzed within 30 hour of collection due to logistical reasons outside the system's control. Sample results from this coliform monitoring must be included in determining compliance with the microbiological MCL prescribed in OAR 333-061-0030(4).

(c) When a routine sample is total coliform-positive, a set of repeat samples must be collected within 24 hours of being notified of the positive results by the certified laboratory.

(A) Systems which collect more than 1 routine sample/month must collect at least 3 repeat samples for each total coliform-positive routine sample found.

(B) Systems which collect 1 routine sample/month or less must collect at least four repeat samples for each total coliform-positive sample found.

(d) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If the original sampling site is at or near the end of the distribution system, the Department may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. All repeat samples must be collected on the same day.

(e) Systems with a single service connection may be allowed by the Department to collect the required set of repeat samples over a four-day period.

(f) The Department may extend the 24-hour limit in subsection (5)(c) of this rule on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control.

(g) Results of all routine and repeat samples not invalidated by the Department must be included in determining compliance with the MCL for total coliforms required in OAR 333-061-0030(4).

(h) If one or more repeat samples in the set is total-coliform positive, the public water system must collect an additional set of repeat samples in the manner specified in subsections (5)(c),(d) and (e) of this rule. The additional samples must be collected within 24 hours of being notified of the positive result, unless the Department extends the limit as provided in subsection (5)(f) of this rule. The system must repeat this process until either

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total coliforms are not detected in one complete set of repeat samples or The Department determines that the MCL for total coliforms in OAR 333-061-0030(4) has been exceeded. After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of a routine sample.

(i) If a system collecting fewer than five routine samples/month has one or more total coliform-positive samples and the Department does not invalidate the sample(s) under subsection (5)(k) of this rule, the system must collect at least five routine samples during the next month the system provides water to the public. The Department may waive this requirement if:

(A) The Department performs a site visit before the end of the next month the system provides water to the public and determines that additional monitoring and/or corrective action is not needed, or

(B) The Department determines why the sample was total coliform-positive and establishes that the system has corrected the problem before the end of the next month the system serves water to the public. The Department must document in writing this decision, have it approved and signed by the supervisor of the official who recommends such a decision, and make this document available to the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the system has taken and/or will take to correct this problem. The Department cannot waive this requirement solely on the grounds that all repeat samples are total-coliform negative. Under this paragraph, a system must still take at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with the MCL for total coliforms required in OAR 333-061-0030(4) unless the Department determines that the system has corrected the contamination problem before the system took the set of repeat samples required in subsection (5)(c)(d) and (e) of this rule, and all repeat samples were total coliform negative.

(j) When the maximum microbiological contaminant level for total coliform is exceeded or when the maximum contaminant level for fecal coliform or fecal total coliform is exceeded the water supplier shall report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042(2)(b)(A) for total coliform and 333-061-0042(2)(a)(A) for fecal coliform/E.Coli. If the water system has failed to comply with a coliform monitoring requirement, including the sanitary survey requirement, the system must report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042;

(k) The Department may invalidate a total coliform-positive samples if:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result, or

(B) The Department determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem on the basis of the results of repeat samples collected as required by subsection (5)(c),(d) and (e) of this rule. The Department cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. (The Department cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water system has only one service connection), or

(C) The Department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by paragraphs (c) through (h) of this rule and use them to determine compliance with the microbiological MCL prescribed in OAR 333-061-0030(4). To invalidate a total coliform-positive sample under this paragraph, the decision with its rationale must be documented in writing, approved and signed by the supervisor of the Department official who recommended the decision. The Department must make this document available to the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The Department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(l) A certified laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produced a turbid culture

in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., Membrane Filter Technique). If a certified laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until it obtains a valid result. The Department may waive the 24-hour time limit on a case-by-case basis.

(m) Any total coliform-positive sample invalidated under subsections (5)(k) or (l) of this rule shall not count towards meeting the minimum monitoring requirements as prescribed in subsections (5)(a) through (e) of this rule.

(n) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present. The system may test for E. coli in lieu of fecal coliforms. If fecal coliforms or E. coli are present, the system must notify the Department by the end of the day when the system is notified of the test result or, if the Department office is closed, by the end of the next business day.

(o) The Department may allow a water system to forgo testing for fecal coliform or E. coli on total coliform-positive samples as prescribed in subsection (5)(n) of this rule if the system assumes that the total coliform-positive sample is fecal coliform-positive or E. coli positive. The system must notify the Department as specified in subsection (5)(n) of this rule and the provisions of OAR 333-061-0030(4) apply.

(p) Public water systems which do not collect five or more routine samples per month must undergo an initial sanitary survey by June 29, 1994 for Community water systems and June 29, 1999 for Non-Transient and Transient Non-Community water systems. Thereafter, systems must undergo another sanitary survey every five years, except that Non-Transient and Transient Non-Community water systems using only protected and disinfected groundwater as defined by the Department, must undergo subsequent sanitary surveys at least every ten years after the initial survey. The Department must review the results of each survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(6) Radionuclides:

(a) Gross alpha particle activity, Radium 226, Radium 228, and Uranium:

(A) Initial Monitoring. Community Water Systems without acceptable historical data, as defined below, must conduct initial monitoring to determine compliance with OAR 333-061-0030(5) by December 31, 2007.

(i) Samples must be collected from each entry point to the distribution system during 4 consecutive quarters before December 31, 2007 according to the following schedule:

Population — Begin initial monitoring by — Complete initial monitoring by  
300 or more — First quarter 2005 — Fourth quarter 2005  
100 - 299 — First quarter 2006 — Fourth quarter 2006  
Less than 100 — First quarter 2007 — Fourth quarter 2007

(ii) New systems or systems using a new source must conduct initial monitoring beginning the first quarter of operation, followed by three consecutive quarterly samples.

(iii) The Department may waive the final two quarters of the initial monitoring at an entry point if the results of the samples from the first two quarters are below the method detection limit.

(iv) Grandparenting of historical data. A system may use monitoring data from each source or entry point collected between June 2000 and December 8, 2003 to satisfy the initial monitoring requirements.

(v) If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at the entry point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Department.

(B) Reduced Monitoring. Radionuclide monitoring may be reduced to once every three years, once every six years, or once every nine years based on the following criteria:

(i) If the average of the initial monitoring result for each contaminant (gross alpha particle activity, radium-226, radium-228, and uranium) at a given entry point is below the detection limit, sampling for that contaminant may be reduced to once every nine years.



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(ii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is at or above the detection limit but at or below the MCL, sampling for that contaminant may be reduced to once every six years.

(iii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is above the MCL but at or below the MCL, the system must collect one sample at that sampling point at least once every three years.

(iv) Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that entry point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Department.

(C) Compositing of samples. A system may composite up to four consecutive quarterly samples from a single entry point if the analysis is done within a year of the first sample. If the analytical result from the composited sample is greater than the MCL, the department may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(D) Substitution of results.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement if the gross alpha particle activity does not exceed 5 pCi/L.

(ii) A gross alpha particle activity measurement may be substituted for the required uranium measurement if the gross alpha particle activity does not exceed 15 pCi/L.

(iii) The gross alpha measurement shall have a confidence interval of 95% (1.65 standard deviations of the net counting rate of the sample) for radium-226 and uranium.

(iv) When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, the method detection limit will be used to determine compliance and the future monitoring frequency.

(b) Beta particle and photon radioactivity:

(A) Community water systems designated by the Department as "vulnerable" must sample for beta particle and photon radioactivity as follows. No waivers shall be granted:

(i) Quarterly samples for beta emitters and annual samples for tritium and strontium-90 must be taken at each entry point to the distribution system. Systems already designated by the state must continue to sample until the state removes the designation.

(ii) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sample point has a running annual average less than or equal to 50 pCi/L, sampling for contaminants prescribed in paragraph (A)(i) of this subsection may be reduced to once every three years.

(B) Community water systems designated by the Department as "contaminated" by effluents from nuclear facilities and must sample for beta particle and photon radioactivity as follows. No waivers shall be granted.

(i) Systems must collect quarterly samples for beta emitters as detailed below and iodine-131 and annual samples for tritium and strontium-90 at each entry point to the distribution system. Sampling must continue until the Department removes the designation.

(ii) Quarterly monitoring for gross beta particle activity is based on the analysis of monthly samples or the analysis of a composite of three monthly samples.

(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring may be required if iodine-131 is detected.

(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

(v) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average less than or equal to 15 pCi/L, the Department may reduce the frequency of monitoring for contaminants prescribed in subparagraph (B)(i) of this subsection at that entry point to every three years.

(C) For systems in the vicinity of a nuclear facility, the Department may allow the substitution of appropriate environmental surveillance data taken in conjunction with operation of a nuclear facility for direct monitor-

ing of man-made radioactivity by the water supplier where such data is applicable to a particular Community water system. In the event of a release, monitoring must be done at the water system's entry points.

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity must be calculated by multiplying elemental potassium concentrations (in mg/l) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample must be performed to identify the major radioactive constituents present in the sample and the appropriate doses must be calculated and summed to determine compliance with OAR 333-061-0030(5). Doses must also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems must monitor monthly at the entry point(s) which exceed the MCL listed in OAR 333-061-0030(5) beginning the month after the exceedance occurs. Systems must continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems who establish that the MCL is being met must return to quarterly monitoring until they meet the requirements set forth in (b)(A)(ii) or (b)(B)(v) of this rule.

(c) General monitoring and compliance requirements for radionuclides.

(A) The Department may require more frequent monitoring than specified in paragraphs (a) and (b) of this section, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Department during each compliance period. To determine compliance with 333-061-0030(5), averages of data shall be used and shall be rounded to the same number of significant figures as the MCL of the contaminant in question.

(C) Compliance.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(iii) Systems must include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 and/or uranium. In that case, if the gross alpha particle activity result is less than detection, the detection limit will be used to calculate the annual average.

(D) The Department has the discretion to delete results of obvious sampling or analytical errors.

(E) When the average annual maximum contaminant level for radionuclides as specified in Table 5 is exceeded, the water supplier shall, within 48 hours, report the analysis results to the Department as prescribed in OAR 333-061-0040 and initiate the public notification procedures prescribed in OAR 333-061-0042(2)(b)(A).

(7) Secondary contaminants:

(a) The levels listed in Table 6 of OAR 333-061-0030 represent reasonable goals for drinking water quality, but routine sampling for these secondary contaminants is not required.

(b) The Department may however, require sampling and analysis under the following circumstances:

(A) User complaints of taste, odor or staining of plumbing fixtures.

(B) Where treatment of the water is proposed and the levels of secondary contaminants are needed to determine the method and degree of treatment.

(C) Where levels of secondary contaminants are determined by the Department to present an unreasonable risk to health.

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(c) If the results of the analyses do not exceed levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030, subsequent sampling and analysis shall be at the discretion of the Department;

(d) If the results of the analyses indicate that the levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030 are exceeded, the Department shall determine whether the contaminant levels pose an unreasonable risk to health or interfere with the ability of a water treatment facility to produce a quality of water complying with the Maximum Contaminant Levels of these rules and specify follow-up actions to be taken.

(e) During the period while any measures called for in subsection (7)(d) of this rule are being implemented, the water supplier shall follow the procedures relating to variances and permits which are prescribed in OAR 333-061-0045.

(8) Monitoring of disinfectant residuals:

(a) For public water systems where continuous disinfection is practiced, the water supplier shall maintain a detectable residual disinfectant throughout the system and shall measure and record the residual daily at one or more representative points;

(b) Where chlorine is used as the disinfectant, the measurement of residual chlorine shall be by the DPD method in accordance with Standard Methods for the Examination of Water and Waste-water, and shall measure the free chlorine residual or total chlorine residual as applicable;

(c) The water supplier shall maintain a summary report of the daily residual disinfectant measurements and shall retain this summary report at a convenient location within or near the area served by the water system.

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

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 23-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0040

### Reporting and Record Keeping

(1) Reporting requirements:

(a) Any person who has reasonable cause to believe that his or her actions have led to contamination of a public water system shall report that fact immediately to the water supplier and the Department.

(b) Results of analyses required by OAR 333-061-0036 and performed by an approved laboratory shall be reported to the Department by the water supplier, unless direct laboratory reporting is authorized by the water supplier, within 10 days after the end of the month, or within 10 days after the end of the required monitoring period, except that analyses indicating any positive coliform bacteria or any other analytical result which exceeds a maximum contaminant level shall be reported to the Department within (24) hours or by the next business day after the results are reported to the water supplier.

(c) If the water system fails to conduct monitoring as required in 333-061-0036 the water system must notify the public as prescribed in 333-061-0042.

(d) The water supplier shall report to the Department within (24) hours the reports on any substance or pathogenic organisms found in the water that has caused or is likely to cause physical suffering or illness.

(e) The water supplier using a surface water source or a groundwater source under direct influence of surface water which provides filtration treatment shall report monthly beginning June 29, 1993 or when filtration is installed, whichever is later, to the Department the results of any test, measurement or analysis required by these rules that is performed on site (e.g., turbidity, "CT" parameters and the lowest disinfectant residual concentrations entering the distribution system and in the distribution system for each day), by trained personnel within 10 days after the end of the month.

(A) All systems using surface water or groundwater under the direct influence of surface water shall consult with the Department within twenty-four (24) hours, after learning:

(i) That the turbidity exceeded 5 NTU;

(ii) Of a waterborne disease outbreak potentially attributable to that water system;

(iii) That the disinfectant residual concentration in the water entering the distribution system fell below 0.2 mg/l and whether or not the residual was restored to at least 0.2 mg/l within four hours.

(B) In addition to the reporting and record keeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides con-

ventional filtration treatment or direct filtration serving at least 10,000 people must report monthly to the Department the information specified in paragraphs (B)(i) and (ii) of this subsection. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also meet the requirements of (1)(e)(A) of this rule and must report monthly to the Department the information specified in paragraph (B)(i) of this subsection.

(i) Turbidity measurements as required by OAR 333-061-0030 (3) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(I) The total number of filtered water turbidity measurements taken during the month;

(II) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified by OAR 333-061-0030(3)(b)(A) through (D);

(III) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Department specified in OAR 333-061-0030(3)(b)(D).

(ii) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (B)(ii)(I) through (IV) of this subsection. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in paragraphs (B)(ii)(I) through (IV) of this subsection if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must either produce a filter profile for the filter within 7 days of the exceedance (if the water system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(II) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(III) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(IV) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must arrange to have a comprehensive performance evaluation by the Department or a third party approved by the Department conducted no later than 30 days following the exceedance and have the evaluation completed and submitted to the Department no later than 90 days following the exceedance.

(iii) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the Department as soon as possible, but no later than the end of the next business day.

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(iv) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the Department as specified in OAR 333-061-0030(3)(b)(D) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the water system must inform the Department as soon as possible, but no later than the end of the next business day.

(C) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration treatment serving less than 10,000 people must report monthly to the Department the information specified in paragraphs (1)(e)(B)(i) of this rule and beginning January 1, 2005 the information specified in (1)(e)(C)(i) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also meet the requirements of (1)(e)(A) of this rule and must report monthly to the Department the information specified in paragraph (B)(i) of this subsection.

(i) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (C)(i)(I) through (III) of this subsection. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in paragraphs (C)(i)(I) through (III) of this subsection if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with 2 or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report to the Department by the 10th day of the following month the filter number(s), the turbidity value(s) that exceeded 1.0 NTU, the corresponding date(s) of occurrence, and the cause (if known) for the elevated turbidity values. The Department may request the water system produce a turbidity profile for the filter(s) in question.

(II) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with 2 or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart for 3 consecutive months, the water system must conduct a filter self-assessment within 14 days of the date the turbidity exceeded 1.0 NTU during the third month, unless a CPE is performed in lieu of a filter self-assessment. Systems with 2 filters monitoring the CFE must conduct a filter self-assessment for both filters. The self-assessment must consist of the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. When a self-assessment is required, the water system must report the date the self-assessment was triggered, the date the self-assessment was completed, and the conclusion(s) of the self-assessment by the 10th of the following month.

(III) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with 2 or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart for 2 consecutive months, the water system must report these turbidity results to the Department by the 10th of the following month and arrange to have a comprehensive performance evaluation (CPE) by the Department or a third party approved by the Department conducted within 60 days of the date the turbidity exceeded 2.0 NTU during the second month. The CPE report must be submitted to the Department no later than 120 days following the date the turbidity exceeded 2.0 NTU during the second month. A CPE is not needed if the Department or approved third party has conducted a CPE within the last 12 months or the Department and the water system are jointly participating in an on-going Comprehensive Technical Assistance (CTA) project as part of the Composite Correction Program with the water system. When a CPE is required, the water system must report that a CPE is required and the date that the CPE was triggered by the 10th day of the following month.

(f) The water supplier using a surface water source or a groundwater source under direct influence of a surface source which does not provide filtration treatment shall report according to subsection (1)(e) of this rule in

addition to the requirements of this subsection. Monthly reporting to the Department will begin January 1, 1991 for systems using surface water sources and January 1, 1991 or 6 months after the Department determines surface influence for systems using groundwater under the direct influence of surface water.

(A) Report to the Department within 10 days after the end of each month, the results or analysis of:

(i) Fecal coliform and/or total coliform bacteria test results on raw (untreated) source water.

(ii) Daily disinfection "CT" values including parameters such as pH measurements, temperature, and disinfectant residuals at the first customer used to compute the "CT" values.

(iii) Daily determinations using the "CT" values of the adequacy of disinfectant available for inactivation of *Giardia lamblia* or viruses as specified in OAR 333-061-0032(1)(a).

(B) Report to the Department within 10 days after the end of each Federal Fiscal year (September 30), the results of:

(i) The watershed control program requirements as specified in OAR 333-061-0032(2)(c)(B).

(ii) The on-site inspection summary requirements as specified in OAR 333-061-0032(2)(c)(C).

(g) All Community and Non-Transient Non-Community public water systems shall report all of the following information pertaining to lead and copper to the Department in accordance with the requirements of this subsection.

(A) Except as provided in subparagraph (vii) of this paragraph, a public water system shall report the information below for all tap water samples and for all water quality parameter samples within 10 days following the end of each applicable monitoring period.

(i) The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool. With the exception of initial tap sampling, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed. By the applicable date specified in OAR 333-061-0036(2)(e)(D)(i) for commencement of initial monitoring, each Community Water System which does not complete its targeted sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Department justifying its selection of tier 2 and/or tier 3 sampling sites. By the applicable date specified in OAR 333-061-0036(2)(e)(D)(i) for commencement of initial monitoring, each Non-Transient Non-Community water system which does not complete its sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Department justifying its selection of sampling sites.

(ii) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures according to OAR 333-061-0036(2)(e)(B)(ii).

(iii) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica, and the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters according to OAR 333-061-0036(2)(e)(F)(iii) through (vi).

(iv) Each water system that requests that the Department reduce the number and frequency of sampling shall provide the information required in OAR 333-061-0036(2)(e)(D)(iv).

(v) Documentation for each tap water lead and copper sample for which the water system requests invalidation.

(vi) The 90th percentile lead and copper tap water samples collected during each monitoring period.

(vii) A water system shall report the results of all water quality parameter samples collected for follow-up tap monitoring prescribed in OAR 333-061-0036(2)(e)(F)(iv) through (vii) during each six-month monitoring period within 10 days following the end of the monitoring period unless the Department specifies a more frequent monitoring requirement.

(B) A water system shall report the sampling results for all source water samples collected for lead and copper within the first 10 days following the end of each source water monitoring period according to OAR 333-061-0036(2)(e)(G).

(i) With the exception of the first round of source water sampling, the system shall specify any site which was not sampled during previous mon-

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itoring periods, and include an explanation of why the sampling point has changed.

(C) Corrosion control treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(2)(a) through (e), systems shall report the following information: for systems demonstrating that they have already optimized corrosion control, the information required in OAR 333-061-0034(2)(d)(B) or (C); for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment according to OAR 333-061-0034(3)(a); for systems required to evaluate the effectiveness of corrosion control treatments, the information required in OAR 333-061-0034(3)(c) of these rules; for systems required to install optimal corrosion control designated by the Department according to OAR 333-061-0034(3)(i), a letter certifying that the system has completed the installation.

(D) Source water treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(4)(a), systems shall report the following information to the Department: the system's recommendation regarding source water treatment if required according to OAR 333-061-0034(4)(b)(A); for systems required to install source water treatment according to OAR 333-061-0034(4)(b)(B), a letter certifying that the system has completed the installation of the treatment designated by the Department within 24 months after the Department designated the treatment.

(E) Public education program reporting requirements.

(i) Any water system that is subject to the public education requirements in OAR 333-061-0034(5) shall, within ten days after the end of each period in which the system is required to perform public education tasks in accordance with OAR 333-061-0034(5)(d), send written documentation to the Department that contains:

(I) A demonstration that the system has delivered the public education materials that meet the content and delivery requirements specified in OAR 333-061-0034(5)(a) through (d); and

(II) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Department, a system that previously has submitted the information in subparagraph (i)(II) of this paragraph need not resubmit the information, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(F) Any system which collects sampling data in addition to that required by this subsection shall report the results to the Department within the first ten days following the end of the applicable monitoring period under OAR 333-061-0036(2)(e)(A) through (H) during which the samples are collected.

(G) Any water system deemed to have optimized corrosion control or any water system subject to reduced monitoring, shall send written documentation to the Department describing the addition of any new source or change in treatment prior to implementation of the change.(H)Each ground water system that limits water quality parameter monitoring to a subset of entry points shall provide written correspondence to the Department that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system. This correspondence must be submitted to the Department prior to commencement of such monitoring.

(h) The water supplier shall report to the Department the results of any test, measurement or analysis required by these rules that is performed on site (e.g. supplemental fluoride) by trained personnel within 10 days after the end of the month, except that reports which indicate that fluoride levels exceed 4.0 mg/l shall be reported within 48 hours:

(i) The water supplier shall submit to the Department within 10 days after completing any public notification action as prescribed in OAR 333-061-0042 a representative copy of each type of notice distributed to the water users or made available to the public and the media along with certification that the system has fully complied with the distribution and public notification requirements.

(j) Water systems required to sample quarterly or more frequently must report to the Department within 10 days after the end of each quarter in which samples were collected. Water systems required to sample less frequently than quarterly must report to the Department within 10 days after the end of each monitoring period in which samples were collected.

(A) Disinfection byproducts. Water systems must report the information specified in **Table 25** as follows: [Table not included. See ED. NOTE.]

(B) Disinfectants. Water systems must report the information specified in **Table 26** as follows: [Table not included. See ED. NOTE.]

(C) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Water systems must report the information specified in **Table 27** as follows: [Table not included. See ED. NOTE.]

(k) Systems using surface water or GWUDI sources must report to the Department or local county health department within 45 days of receiving a sanitary survey report or comprehensive performance evaluation report. Failure to report to the Department requires a Tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(2) Record Maintenance by Water Suppliers:

(a) Water suppliers of public water systems shall retain records relating to the quality of the water produced and the condition of the physical components of the system. These records shall be kept at a convenient location within or near the area served by the water system;

(b) Records of bacteriological analyses shall be kept for at least 5 years and records of chemical analyses, secondary contaminants, turbidity and radioactive substances shall be kept for at least 10 years. Data may be transferred to tabular summaries provided the following information is included:

(A) Date, place and time of sampling, and the name of the person who collected the sample;

(B) Identification of the sample as to whether it was a routine finished water sample, repeat sample, raw water sample or special purpose sample;

(C) Date and time of the analysis, the laboratory and person performing the analysis; and,

(D) Analytical method used and results of the analysis.

(c) Records of actions taken to correct items of non-compliance shall be kept for at least 3 years after the last action taken with respect to the particular violation;

(d) Reports, summaries or communications on sanitary surveys shall be kept for at least 10 years;

(e) Records concerning variances or permits shall be kept for at least 5 years after the expiration of the variance or permit;

(f) Records of residual disinfectant measurements shall be kept for at least 2 years.

(g) All public water systems subject to the requirements of subsection (1)(f) of this rule shall retain the original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Department determinations, and any other information required for no fewer than 12 years.

(h) Copies of public notices issued pursuant to OAR 333-061-0042 and certifications made to the Department must be kept for three years after issuance.

(i) Water systems using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must collect and retain on file recycle flow information specified in paragraphs (i)(A) through (F) of this rule for review and evaluation by the Department beginning June 8, 2004.

(A) Copy of the recycle notification and information submitted to the Department as required by OAR 333-032 (10)(b)

(B) List of all recycle flows and the frequency with which they are returned.

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(D) Typical filter run length and a written summary of how filter run length is determined.

(E) The type of treatment provided for the recycle flow.

(F) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) For systems required to compile a disinfection profile, the results of the profile must be kept indefinitely as well as the disinfection benchmark determined from the profile.

(3) Records Kept by the Department.

(a) Records of turbidity measurements must be kept for not less than one year. The information retained must be set forth in a form which makes possible comparison with the limits specified by OAR 333-061-0030, 0032, and 0036.

(b) Records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with

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0032(3) or (4), 0036(4)(a)(C) through (F), or 0036(4)(b)(B) through (C) of these rules must be kept for not less than one year. Records of decisions made on a system-by-system and case-by-case basis must be made in writing and kept by the Department.

(c) Any decisions made in accordance with consultations made with the Department concerning modifications to disinfection practices including the status of the consultation.

(d) Records of decisions that a water system using alternative filtration technologies, as determined by OAR 333-061-0030(3)(b)(D), can consistently achieve a 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of *Cryptosporidium* oocysts. The decisions must include enforceable turbidity limits for each water system by the Department. A copy of the decision must be kept until the decision is reversed or revised. The Department must provide a copy of the decision to the water system.

(e) Records of water systems required to do a filter self-assessment, required to conduct a comprehensive performance evaluation as required by section (1)(d) of this rule, or required to participate in the Composite Correction Program.

(f) Records of the Department's determinations, including all supporting information and an explanation of the technical basis for the control of disinfectants and disinfection byproducts. These records must also include interim measures toward installation.

(A) Records of water systems that are installing GAC or membrane technology in accordance with OAR 333-061-0030(2)(b)(D). These records must include the date by which the water system is required to have completed installation.

(B) Records of water systems required to meet alternative minimum TOC removal requirements or for whom the Department has determined that the source water is not amenable to enhanced coagulation in accordance with OAR 333-061-0032(9)(e)(C) and (D), respectively. These records must include the alternative limits and rationale for establishing the alternative limits.

(C) Records of water systems using surface water or groundwater under the direct influence of surface water using conventional treatment meeting any of the alternative compliance criteria specified in OAR 333-061-0032(9)(d)(A).

(g) Monitoring plans for water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 persons in accordance with OAR 333-061-0036(3)(b)(K).

(h) Records of decisions made on a water system-by-water system and case-by-case basis under provisions of these rules must be made in writing and kept by the Department

(A) Records of decisions made under this paragraph shall be kept for 40 years (or until one year after the decision is reversed or revised) and a copy of the decision must be provided to the water system:

(i) Any decisions made to approve alternate recycle locations, require modifications to recycle return locations, or require modifications to recycle practices.

[ED. NOTE: Tables referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 448.131 & ORS 448  
Stats. Implemented: ORS 431.110, ORS 431.150, ORS 448.175 & ORS 448.273  
Hist.: HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0042

### Public Notice

(1) The owner or operator of a public water system must provide public notice to persons served by the water system for all violations and situations established by these rules.

(a) Public water systems that provide drinking water to purchasing water systems are required to give public notice to the owner or operator of the purchasing water system who is responsible for providing public notice to the persons it serves.

(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Department may, in writing, allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.

(c) A copy of any public notice must be sent to the Department as required in OAR 333-061-0040(1)(h).

(2) Public notice requirements are divided into three tiers to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved:

(a) Tier 1: A Tier 1 notice is required for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure and include the following:

(A) Violation of the MCL for total coliforms when fecal coliforms or E.Coli are present in the water distribution system as specified in OAR 333-061-0030(4)(b) or when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform as specified in OAR 333-061-0036(5)(n);

(B) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

(C) Violation of the MRDL for chlorine dioxide as prescribed in OAR 333-061-0031(1) when one or more samples taken in the distribution system the day following an exceedance of the MDRL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system;

(D) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed filtration treatment as defined by these rules when the Department determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(E) Violation of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) or Interim Enhanced Surface Water Treatment Rule (IESWTR) treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit, where the Department determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(F) Occurrence of a waterborne disease outbreak or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);

(G) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the Department.

(b) Tier 2: required for all violations and situations with potential to have serious adverse effects on human health and include:

(A) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required or where the Department determines that a Tier 1 notice is required;

(B) Violations of the monitoring and testing procedure requirements, where the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and

(C) Failure to comply with the terms and conditions of any variance or permit in place.

(D) Failure to respond to sanitary survey reports or comprehensive performance evaluation reports prepared by the Department as required in OAR 333-061-0076 and 333-061-0077.

(c) Tier 3: required for other violations or situations not included in Tier 1 and 2 and include:

(A) Monitoring violations prescribed in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;

(B) Failure to comply with a testing procedure established in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;

(C) Operation under a variance or permit granted by the Department;

(D) Availability of unregulated contaminant monitoring results as required under section (6) of this rule;

(E) Exceedance of the fluoride secondary MCL as required under section (7) of this rule.

(F) Disinfection profiling and benchmarking monitoring and testing violations.

(3) All public notices established by these rules shall be distributed in the form, manner and frequency as described in this section:

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(a) Tier 1 notices: public water systems required to distribute Tier 1 notices must:

(A) Provide the notice as soon as practical, but no later than 24 hours after learning of the violation or situation;

(B) Initiate consultation with the Department as soon as practical, but no later than 24 hours after learning of the violation or situation;

(C) Comply with any additional notification requirements established as a result of consultation with the Department;

(D) The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, one or more of the following forms of delivery must be used:

(i) Appropriate broadcast media such as radio and television;

(ii) Posting of the notice in conspicuous locations throughout the area served by the water system;

(iii) Hand delivery of the notice to persons served by the water system; or

(iv) Another delivery method approved in writing by the Department.

(b) Tier 2 notices: public water systems required to distribute Tier 2 notices must:

(A) Provide the public notice as soon as practical, but no later than 30 days after learning of the violation or situation. The Department may, in writing, extend additional time for the initial notice of up to three months in appropriate circumstances;

(B) If the public notice is posted, leave the notice in place as long as the violation or situation exists, but in no case for less than seven days, even if the violation or situation is resolved;

(C) Repeat the notice every three months as long as the violation or situation persists unless the Department determines in writing that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year.

(D) For the turbidity violations specified in subparagraphs (i) and (ii) of this paragraph, public water systems must consult with the Department as soon as practical, but no later than 24 hours after learning of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation with the Department does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours as prescribed in subsection (3)(a) of this rule:

(i) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed treatment as defined by these rules; or

(ii) Violation of the SWTR, LT1ESWTR or IESWTR treatment technology requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit.

(E) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and multiple copies in central locations.

(c) Tier 3 notices: public water systems required to distribute Tier 3 notices must:

(A) Provide the public notice not later than 1 year after learning of the violation or situation or begins operating under a variance or permit.

Following the initial notice, the system must repeat the notice annually for as long as the violation, variance, permit or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, permit, or other situation persists, but in no case less than 7 days even if the violation or situation is resolved.

(B) Instead of individual Tier 3 public notices, a community public water system may use its annual Consumer Confidence Report (CCR) for the initial and all repeat notices detailing all violations and situations that occurred during the previous twelve months. This method may be used as long as it is distributed within the 1 year requirement in paragraph (3)(c)(A) of this rule, follows the public notice content required under section (4) of this rule and is delivered to users as required under paragraph (3)(c)(C) of this rule.

(C) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and delivery of multiple copies in central locations.

(4) Content of Public Notice:

(a) When a public water system has a violation or situation prescribed in these rules requiring a public notice, each public notice must include the following elements:

(A) A description of the violation or situation, including the contaminant(s) of concern, and the contaminant level;

(B) When the violation or situation occurred;

(C) Any potential adverse health effects including the standard language required under paragraphs (d)(A) and (B) of this section;

(D) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(E) Whether alternative water supplies should be used;

(F) What actions consumers should take, including when they should seek medical help, if known;

(G) What the system is doing to correct the violation or situation;

(H) When the water system expects to return to compliance or resolve the situation;

(I) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(J) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (d)(C) of this section.

(b) Content of public notices for public water systems operating under a variance or permit:

(A) If a public water system has been granted a variance or permit, the public notice must contain:

(i) An explanation of the reasons for the variance or permit;

(ii) The date on which the variance of permit was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water or otherwise comply with the terms and schedules of the variance or permit; and

(iv) A notice of any opportunity for public input in the review of the variance or permit.

(B) If a public water system violates the conditions of a variance or permit, the public notice must contain the ten elements listed in subsection (4)(a) of this rule.

(c) Public notice presentation:

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- (A) Each public notice required by these rules must:
- Be displayed in a conspicuous way when printed or posted;
  - Not contain overly technical language or very small print;
  - Not be formatted in a way that defeats the purpose of the notice;
  - Not contain language which nullifies the purpose of the notice.

(B) Each public notice required by these rules must comply with multilingual requirements as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) In cases where the Department has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information required in subparagraph (B)(i) of this subsection where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(d) Standard language: public water systems are required to include the following standard language in their public notice:

(A) Public water systems must include in each public notice the specific health effects language as prescribed in OAR 333-061-0097 for each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or permit.

(B) Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations:

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During {compliance period}, we {did not monitor or test\_ or \_did not complete all monitoring or testing\_ for {contaminants(s)}}, and therefore cannot be sure of the quality of your drinking water during that time.

(C) Public water systems are required where applicable to include the following standard language to encourage the distribution of the public notice to all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(5) Notice to new billing units or new customers:

(a) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or permit, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or permit, or other situations requiring a public notice for as long as the violation, variance, permit, or other situation persists.

(6) Special notice of availability of unregulated contaminant monitoring results:

(a) The owner or operator of a community water system or non-transient, non-community water systems required by EPA to monitor for unregulated contaminants must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) The form and manner of the public notice must follow the requirements for a tier 3 public notice as prescribed in paragraphs (3)(c)(B) and (C) of this rule. The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

(7) Special notice for exceedance of the SMCL for fluoride:

(a) Community water systems that exceed the fluoride secondary MCL of 2 mg/l, determined by the last single sample taken in accordance with OAR 333-061-0036(2), but do not exceed the MCL of 4 mg/l for fluoride must provide the public notice in subsection (d) of this section to persons served by the water system. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. The public water system must repeat the notice at least annually for as long as the exceedance persists. The Department may require an initial notice sooner than 12 months and repeat notices more frequently than annually on a case-by-case basis;

(b) A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the Department. If the public notice is posted, the notice must remain in place for as long as the secondary MCL is exceeded, but in no case less than 7 days, even if the exceedance is eliminated;

(c) The form and manner of the public notice, including repeat notices must follow the requirements for tier 3 public notice;

(d) The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system {name} has a fluoride concentration of {insert value} mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. EPA's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we\_re required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call {name of water system contact} of {name of community water system} at {phone number}. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

(8) Public notification by the Department. The Department may give notice to the public required by this section on behalf of the owner or operator of the public water system. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

Stat. Auth.: ORS 431 & ORS 448

Stats. Implemented: ORS 431.110, ORS 431.150, ORS 448.175 & ORS 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0043

### Consumer Confidence Reports

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this rule, customers are defined as billing units or service connections to which water is delivered by a Community Water System.

(1) Delivery deadlines:

(a) Community water systems must deliver their first report by October 19, 1999, its second report by July 1, 2000, and subsequent reports by July 1, annually thereafter. The first report, and all subsequent reports, must contain data collected during, or prior to, the previous calendar year;

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter;

(c) A community water system that sells water to another community water system must deliver the applicable information to the buyer system:

(A) No later than April 19, 1999, by April 1, 2000, and by April 1 annually thereafter; or

(B) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(2) Content of the Reports:

(a) Each community water system must provide to its customers an annual report that contains the information specified in sections (2),(3) and (4) of this rule;

(b) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(A) The type of water: e.g., surface water, ground water; and

(B) The commonly used name (if any) and location of the body (or bodies) of water.

(c) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the Department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Department or written by the operator;

(d) Each report must contain the following definitions:

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(A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety;

(B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(C) Variance: A system operating under a variance as prescribed in OAR 333-061-0045 must include the following definition in its report: Variances: State permission not to meet an MCL or a treatment technique under certain conditions;

(D) Treatment Technique or Action Level: A system which has a detection for a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions as applicable:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water;

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(E) Maximum Residual Disinfectant Level Goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(F) Maximum Residual Disinfectant Level or MRDL: The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

## (3) Detected Contaminants:

(a) The following information must be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). Detected means at or above the detection level prescribed by each EPA approved analytical method set forth in 40 CFR 141:

(A) Contaminants subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants);

(B) Unregulated contaminants for which monitoring is required; and

(C) Disinfection by-products or microbial contaminants for which monitoring is required under the **Federal Information Collection Rule CFR 141.142 and 141.143** except as required by subparagraph (m)(A) of this section, and which are detected in the finished water.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with state monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter except that:

(A) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulation. No data older than 5 years need be included.

(B) Results of monitoring in compliance with the **Federal Information Collection Rule CFR 141.142 and 141.143** need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(d) For detected regulated contaminants (listed in Table 28 of this rule), the table(s) in the report must contain:

(A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Table 28);

(B) The MCLG for that contaminant expressed in the same units as the MCL;

(C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(d)(D) of this rule;

(D) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with OAR 333-061 and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL;

(iii) When compliance with the MCL is determined on a system wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL;

(iv) When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in **Table 28** of this rule.: [Table not included. See ED. NOTE.]

(e) Turbidity:

(A) When it is reported pursuant to OAR 333-061-0030(3)(a), 333-061-0032(2), and 333-061-0036(4)(a): the highest monthly value. The report should include an explanation of the reasons for measuring turbidity. This includes water systems currently without filtration treatment, but required to install filtration through a Notice of Violation and Remedial Order.

(B) When it is reported pursuant to OAR 333-061-0030(3): The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in OAR 333-061-0030(3) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(f) Lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(g) Total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(h) Fecal coliform: the total number of positive samples.

(i) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Table 29 which are most applicable to the system.

(j) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(k) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation, the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in **Table 29** of this rule. [Table not included. See ED. NOTE.]

(l) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(m) Information on Cryptosporidium, radon, and other contaminants:  
(A) If the system has performed any monitoring for cryptosporidium, including monitoring performed to satisfy the requirements of the Federal Information Collection Rule CFR 141.143 (microbials) which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring, and

(ii) An explanation of the significance of the results.

(B) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(C) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system is strongly encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA rec-



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ommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(n) Compliance with OAR 333-061: In addition to subsection (3)(k) of this rule, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(A) Monitoring and reporting of compliance data;

(B) Filtration and disinfection prescribed by OAR 333-061-0032: For systems which have failed to install adequate filtration or disinfection equipment or processes which constitutes a violation or have an equipment failure constituting a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches;

(C) Lead and copper control requirements: For systems which fail to take one or more actions prescribed by OAR 333-061-0034 the report must include the applicable language in Table 29 of this rule for lead, copper, or both;

(D) Treatment techniques for Acrylamide and Epichlorohydrin: For systems which violate the requirements of OAR 333-061-0030(7), the report must include the relevant health effects language in Table 29 of this rule.

(E) Recordkeeping of compliance data;

(F) Special monitoring requirements prescribed by OAR 333-061-0036(3)(b),(e) and 333-061-0036(2)(c),(h);

(G) Violation of the terms of a variance, administrative order or judicial order.

(o) Variances: If a system is operating under the terms of a variance as prescribed in OAR 333-061-0045, the report must contain:

(A) An explanation of the reasons for the variance;

(B) The date on which the variance was issued;

(C) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance; and

(D) A notice of any opportunity for public input in the review, or renewal, of the variance.

(p) Additional information:

(A) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language in subparagraphs (A)(i), (ii) and (iii) of this subsection, or systems may use their own comparable language. The report also must include the language of subparagraph (A)(iv) of this subsection.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity;

(ii) Contaminants that may be present in source water include:

(I) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(II) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(III) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(IV) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems;

(V) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health;

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(B) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(C) In communities with a large proportion of non-English speaking residents the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language;

(D) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(E) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(4) Required additional health information:

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(b) Special notification is required for water systems with arsenic detections as follows:

(A) Water systems that detect arsenic at levels above 5 micrograms/l, and up to and including 10 micrograms/l must include in its report a short informational statement about arsenic, using language such as: While your drinking water meets the EPA standard for arsenic, it does contain low levels of Arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems.

(B) Until January 22, 2006, water systems that detect arsenic at levels above 10 micrograms/l, but do not exceed 50 micrograms/l must include the arsenic health effects language prescribed in table 29.

(C) Water systems may write their own educational statements, but only in consultation with the Department of Human Services.

(c) A system which detects nitrate at levels above 5 mg/l, but does not exceed the MCL:

(A) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 mg/l is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(B) May write its own educational statement, but only in consultation with the Department.

(d) Systems which detect lead above the action level in more than 5%, and up to and including 10%, of homes sampled:

(A) Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

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(B) May write its own educational statement, but only in consultation with the Department.

(e) Community water systems that detect TTHM above 0.080 mg/l, but below the MCL prescribed in OAR 333-061-0030(2), and monitor as prescribed in OAR 333-061-0036(3)(b), must include health effects language for TTHMs prescribed in paragraph (6)(e)(S) of this rule.

(5) Report delivery and recordkeeping:

(a) Except as provided in subsection (g) of this section, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Department. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Department, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Department.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, can waive the requirement of paragraph (a) of this section for community water systems serving fewer than 10,000 persons.

(A) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(B) Systems serving 500 or fewer persons may forego the requirements of subparagraphs (A)(i) and (ii) of this subsection if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this rule must retain copies of its consumer confidence report for no less than 5 years.

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

Stat. Auth.: ORS 431 & ORS 448

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268 & 448.273

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00;

OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003,

f. & cert. ef. 8-15-03

## 333-061-0045

### Variations

(1) Variations from the maximum contaminant levels and treatment requirements may be granted by the Department to public water systems under the following circumstances where:

(a) An evaluation satisfactory to the Department indicates that alternative sources of water are not reasonably available to the system; and

(b) There will be no unreasonable risk to health; and

(c) The water supplier has provided sufficient evidence to confirm that the best available treatment techniques which are generally available are unable to treat the water in question so that it meets maximum contaminant levels; and

(d) The water supplier agrees to notify the water users at least once every three months, or more frequently if determined by the Department, that the water system is not in compliance; and

(e) A compliance schedule is submitted which outlines how the water supplier intends to achieve compliance, and the water supplier agrees to

review this schedule once every three years to determine whether changes have occurred in the conditions which formed the basis for the schedule; and

(f) A plan is submitted which outlines interim control measures including application of the best technology treatment technique to be implemented during the period that the variance is in effect.

(2) The Department shall document all findings of its determinations and if the Department prescribes a schedule requiring compliance with a contaminant level for which the variance is granted later than five years from the date of issuance of the variance the Department shall:

(a) Document the rationale for the extended compliance schedule;

(b) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

(c) Provide the shortest practicable time schedule feasible under the circumstances.

(3) Before denying a request for a variance, the Department shall advise the water supplier of the reasons for the denial and shall give the supplier an opportunity to present additional information. If the additional information is not sufficient to justify granting the variance, the variance shall be denied.

(4) If the Department determines that the variance should be granted, it shall announce its intention to either hold a public hearing in the affected area prior to granting the variance; or serve notice of intent to grant the variance either personally, or by registered or certified mail to all customers connected to the water system, or by publication in a newspaper in general circulation in the area. If no hearing is requested within 10 days of the date that notice is given, the Department may grant the variance.

(5) When a variance has been granted, and a water supplier fails to meet the compliance schedule, or fails to implement the interim control measures, or fails to undertake the monitoring required under the conditions of the variance, the Department may initiate enforcement action authorized by these rules.

(6) Variations from the maximum contaminant levels for volatile organic chemicals, organic chemicals and inorganic chemicals shall be issued by the Department as follows:

(a) The Department shall require Community water systems and Non-Transient Non-Community water systems to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(B),(E) and (F) as a condition for granting a variance except as provided in subsection (6)(b) of this rule. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance.

(b) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in OAR 333-061-0050(4)(b)(B),(E) and (F) would only achieve an insignificant reduction in contaminants, the Department may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule is technically feasible, the Department may require the system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(d) The Department may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance to avoid an unreasonable risk to health.

(7) The variations from the maximum contaminant level for fluoride shall be granted by the Department as follows:

(a) The Department shall require a Community water system to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(C) as a condition for granting a variance unless the Department determines that such treatment method is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Department determines that none of the treatment methods identified in OAR 333-061-0050(4)(b)(C) are available and effective for the system, that system shall be entitled to a variance. The Department's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Department shall make a finding whether this information supports a decision that such treatment

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method is not available and effective for that system before requiring installation and/or use of such treatment method.

(b) The Department shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods to determine the probability that any of the following methods will significantly reduce the level of fluoride for that system, and if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system:

- Modification of lime softening
- Alum coagulation
- Electrodialysis
- Anion exchange resins
- Well field management
- Alternate source
- Regionalization

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule or any other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation and/or use of such treatment method for the system, the Department shall require the system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(8) Public water systems that use bottled water as a condition for receiving a variance must meet the following requirements.

(a) The public water system must develop and put in place a monitoring program approved by the Department that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all applicable contaminants under OAR 333-061-0036 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Department annually.

(b) As an alternative to subsection (7)(a) of this rule, the public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in **21 CFR 129.3(a)**; the bottled water company has conducted monitoring in accordance with **21 CFR 129.80(g)(1)** through **(3)**; and the bottled water does not exceed any MCLs or quality limits as set out in **21 CFR 103.35, 110, and 129**. The public water system shall provide the certification to the Department the first quarter after it supplies bottled water and annually thereafter.

(c) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(9) Public water systems that use point-of-use devices as a condition for obtaining a variance must meet the following requirements:

(a) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(b) The public water system must develop a monitoring plan and obtain Department approval for the plan before point-of-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(c) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(d) The water system must submit adequate certification of performance, field testing and, if not included in the certification process, a rigorous engineering design review to the Department for approval prior to installation.

(e) The design and application of the point-of-use devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(f) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(10) Public water systems shall not use bottled water or point-of-use devices to achieve compliance with an MCL. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(11) The Department may grant a variance from the requirements of OAR 333-061-0030(4) "Microbiological Contaminants" for any system that demonstrates to the satisfaction of the Department that violations of the total coliform MCL are due to persistent growth of total coliform in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. This demonstration, made by the system in writing and submitted to the Department for review, shall show that the system meets the following conditions:

(a) The system meets treatment level requirements of OAR 333-061-0032,

(b) The system shows no occurrence of coliforms at the entry point to the distribution system,

(c) The system meets the turbidity MCL,

(d) The system maintains a detectable disinfectant residual in the distribution system,

(e) The system has no history of waterborne disease outbreaks using the current treatment and source configuration,

(f) The system maintains regular contact with the Department to assess possible illness outbreaks,

(g) The system complies with coliform monitoring requirements and shows no occurrence of E. coli positive samples during the previous six months,

(h) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department,

(i) The system fully complies with cross connection control program requirements contained in OAR 333-061-0070,

(j) The system agrees to submit a biofilm control plan to the Department within twelve months of the granting of the first request for a variance,

(k) The system monitors heterotrophic plate count weekly in conjunction with routine coliform sample collection and maintains HPC counts at levels less than 500 colonies per ml at any point where the disinfectant residual is less than 0.2 mg/l, and

(l) The system has a microbiological contaminant sampling plan approved by the Department.

(12) The Department is not permitted to issue any variances to the requirements of OAR 333-061-0030(3) as well as the requirements of OAR 333-061-0032, 333-061-0034 and 333-061-0036 pertaining to the treatment of surface water and groundwater under the direct influence of surface water and corrosion control treatment requirements for lead and copper. In addition, no exemptions will be granted for OAR 333-061-0032(3)(c) and 333-061-0032(5)(b).

Statutory Authority: ORS 448.135

Stats. Implemented:

Hist.: HD 9-1981(Temp), f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; HD 2-1983, f. & ef. 2-23-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0046

### Permits

(1) Permits may be issued by the Department under the following circumstances:

(a) The water system is existing and in operation on the date the MCL or treatment technique requirement became effective; and

(b) The water supplier is unable to comply with the maximum contaminant levels or a treatment requirement due to economic or other compelling factors and;

(c) The water system has not been granted a variance.

(2) Permits may be issued only when the following conditions are met:

(a) The system is unable to implement measures to develop an alternative source of water supply; and

(b) The system cannot reasonably make management or restructuring changes that will result in compliance or improve the quality of the drinking water; and

(c) The system cannot meet the standard without capital improvements which cannot be completed prior to the effective date of the standard; and

(d) In the case of a system which needs financial assistance for the necessary improvement, the system has entered into an agreement to obtain such financial assistance through Federal and State funding programs available to the water system; and

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(e) If applicable, the system has entered into an enforceable agreement to become a part of a regional public water system, and the system is taking all practicable steps to meet the standard; and

(f) There will be no unreasonable risk to health; and

(g) The water supplier agrees to notify the water users at least once every three months that the water system is out of compliance; and

(h) The water supplier agrees to a compliance schedule prescribed by the Department which includes interim measures to eliminate the risks to health and which sets a specific time limit for the water supplier to install the water treatment facilities or comply with the maximum contaminant levels. The compliance schedule shall not exceed 3 years from date of issuance. Bottled water, point-of-use devices or point-of-entry devices may be used as interim health protection measures as prescribed in OAR 333-061-0045(8) and (9) and 333-061-0050(4)(d), except that point-of-entry devices are not allowed as a condition for issuing a permit for corrosion control treatment requirements for lead and copper. Point-of-entry devices may be used as a condition for issuing a permit for source water treatment.

(3) The procedures for processing requests for permits shall be the same as indicated for variances in OAR 333-061-0045(3) and (4).

(4) After a permit has been issued, the water supplier shall be subject to the same requirements as those indicated for variances in OAR 333-061-0045(5).

(5) The Department is not permitted to issue any permits for alternate requirements other than those required by OAR 333-061-0030(3) and (4), as well as the requirements of OAR 333-061-0032, 333-061-0034 and 333-061-0036.

(6) The Department shall document all findings of determinations and consider the following:

(a) Before finding that management and restructuring changes cannot be made, the Department shall consider the following measures, and the availability of State Revolving Loan Fund assistance, or any other Federal or State program, that is reasonably likely to be available within the period of the permit to implement these measures:

(A) Consideration of the rate increases, accounting changes, the appointment of a State-certified operator under the State's Operator Certification program, contractual agreements for joint operation with one or more public water systems;

(B) Activities consistent with the State's Capacity Development Strategy to help the public water system acquire and maintain technical, financial and managerial capacity to come into compliance with the Safe Drinking Water Act; and

(C) Ownership changes, physical consolidation with another public water system, or other feasible and appropriate means of consolidation which would result in compliance with the Safe Drinking Water Act.

(b) The Department must consider the availability of an alternative source of water, including the feasibility of partnerships with neighboring public water systems, as identified by the public water system or by the Department consistent with the Capacity Development Strategy.

(7) In the case of a public water system serving a population of not more than 3,300 persons and which needs financial assistance for the necessary improvements under the initial compliance schedule, a permit granted by the Department may be renewed for one or more additional 2-year periods, but not to exceed a total of six additional years, only if the Department establishes that the public water system is taking all practicable steps to meet the requirements and the established compliance schedule to achieve full compliance with the contaminant level or treatment technique for which the permit was granted. The Department shall document its findings in granting a permit under this rule.

Statutory Authority: ORS 448.135

Stats. Implemented:

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0050

### Construction Standards

(1) General:

(a) These standards shall apply to the construction of new public water systems and to major additions or modifications to existing public water systems and are intended to assure that the system facilities, when constructed, will be free of public health hazards and will be capable of producing water which consistently complies with the maximum contaminant levels;

(b) Public water systems which may not comply fully with these construction standards, shall be allowed to continue in operation and shall not be required to undertake alterations to existing facilities, unless the standard is listed as a significant deficiency as prescribed in OAR 333-061-

0076(3) or maximum contaminant levels are being exceeded. Existing facilities are:

(A) Facilities at public water systems constructed or installed prior to August 21, 1981; and

(B) Facilities at public water systems which have been in continual use in or as a public water system and not inoperative for more than 1 year.

(c) Non-public water systems that are converted to public water systems shall be modified as necessary to conform to the requirements of this rule.

(d) Facilities at public water systems shall be designed and constructed in a manner such that contamination will be effectively excluded, and the structures and piping will be capable of safely withstanding external and internal forces acting upon them;

(e) Only materials designed for potable water service and meeting National Sanitation Foundation Standard 61, Section 9 — Drinking Water System Components — Health Effects (Revised September, 1994) or equivalent shall be used in those elements of the water system which are in contact with potable water;

(f) New tanks, pumps, equipment, pipe valves and fittings shall be used in the construction of new public water systems, major additions or major modifications to existing water systems. The Department may permit the use of used items when it can be demonstrated that they have been renovated and are suitable for use in public water systems;

(g) Prior to construction of new facilities, the water supplier shall submit plans to the Department for approval as specified in OAR 333-061-0060(1)(a).

(h) Construction may deviate from the requirements of this section provided that documentation is submitted, to the satisfaction of the Department, that the deviation is equal to or superior to the requirements of this section as specified in OAR 333-061-0055 (variances from construction standards).

(i) A public water system or other Responsible Management Authority using groundwater, or groundwater under the direct influence of surface water, derived from springs, confined or unconfined wells that wish to have a state certified wellhead protection program shall comply with the requirements as specified in OAR 333-061-0057, 0060, and 0065, as well as OAR 340-040-0140 through 0200. Additional technical information is available in the **Oregon Wellhead Protection Guidance Manual**.

(j) All new groundwater sources are subject to consideration for potential direct influence of surface water as prescribed in OAR 333-061-0032(7).

(2) Groundwater:

(a) Wells:

(A) For the purpose of this rule, wells are defined as holes or other excavations that are drilled, dug or otherwise constructed for the purpose of capturing groundwater or groundwater in hydraulic connection with surface water as a source of public drinking water.

(B) The area within 100 feet of the well shall be owned by the water supplier, or a perpetual restrictive easement shall be obtained by the water supplier for all land (with the exception of public rights-of-way) within 100 feet of the well. The easement shall be recorded with the county in which the well is located and with the recorded deed to the property. A certified true copy shall be filed with the Department;

(C) Notwithstanding paragraph (2)(a)(A) of this rule, wells located on land owned by a public entity, (Federal, State, County, Municipality) which is not the water supplier, a permit issued by the public entity to the water supplier shall suffice in lieu of an easement. Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site;

(D) Notwithstanding paragraph (2)(a)(A) of this rule, in those areas served by community gravity sanitary sewers, the area of ownership or control may be reduced to 50 feet;

(E) Public or private roadways may be allowed within 100 feet of a confined well, provided the well is protected against contamination from surface runoff or hazardous liquids which may be spilled on the roadway and is protected from unauthorized access;

(F) The following sanitary hazards are not allowed within 100 feet of a well which serves a public water system unless waived by the Department: any existing or proposed pit privy, subsurface sewage disposal drain field; cesspool; solid waste disposal site; pressure sewer line; buried fuel storage tank; animal yard, feedlot or animal waste storage; untreated storm water or gray water disposal; chemical (including solvents, pesticides and fertilizers) storage, usage or application; fuel transfer or storage; mineral resource extraction, vehicle or machinery maintenance or long term storage; junk/auto/scrap yard; cemetery; unapproved well; well that

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has not been properly abandoned or of unknown or suspect construction; source of pathogenic organisms or any other similar public health hazards. No gravity sewer line or septic tank shall be permitted within 50 feet of a well which serves a public water system. Clearances greater than indicated above shall be provided when it is determined by the Department that the aquifer sensitivity and degree of hazard require a greater degree of protection. Above-ground fuel storage tanks provided for emergency water pumping equipment may be exempted from this requirement by the Department provided that a secondary containment system is in place that will accommodate 125% of the fuel tank storage;

(G) Wells shall not be located at sites which are prone to flooding. In cases where the site is subject to flooding, the area around the well shall be mounded, and the top of the well casing shall be extended at least 2 feet above the anticipated 100-year (1%) flood level;

(H) Except as otherwise provided herein, wells shall be constructed in accordance with the general standards for the construction and maintenance of water wells in Oregon as prescribed in OAR Chapter 690, Departments 200 through 220;

(I) Wells as defined in paragraph (2)(a)(A) of this rule that are less than 12 feet in depth must be constructed so as to be cased and sealed from the surface to a minimum of three feet above the bottom of the well. The casing may consist of concrete or metal culvert pipe or other pre-approved materials. The seal shall be water-tight, be a minimum of four inches in thickness and may consist of cement, bentonite or concrete (see concrete requirements prescribed in OAR 690-210-0315). The construction and placement of these wells must comply with all requirements of this rule.

(J) Before a well is placed into operation as the source of supply at a public water system, laboratory reports as required by OAR rule 333-061-0036 shall be submitted by the water supplier;

(K) Water obtained from wells which exceed the maximum contaminant levels shall be treated as outlined in section (4) of this rule;

(L) The pump installation, piping arrangements, other appurtenances, and well house details at wells which serve as the source of supply for a public water system, shall meet the following requirements:

(i) The line shaft bearings of turbine pumps shall be water-lubricated, except that bearings lubricated with non-toxic approved food-grade lubricants may be permitted in wells where water-lubricated bearings are not feasible due to depth to the water;

(ii) Where turbine pumps are installed, the top of the casing shall be sealed into the pump motor. Where submersible pumps are installed, the top of the casing shall be provided with a watertight sanitary seal;

(iii) A casing vent shall be provided and shall be fitted with a screened return bend;

(iv) Provisions shall be made for determining the depth to water surface in the well under pumping and static conditions;

(v) A sampling tap shall be provided on the pump discharge line;

(vi) Piping arrangements shall include provisions for pumping the total flow from the well to waste;

(vii) A method of determining the total output of each well shall be provided. This requirement may be waived by the Department at confined wells which serve as the source of supply for Transient Non-community water systems;

(viii) A reinforced concrete slab shall be poured around the well casing at ground surface. The slab shall be sloped to drain away from the casing;

(ix) The ground surface around the well slab shall be graded so that drainage is away from the well;

(x) The top of the well casing shall extend at least 12 inches above the concrete slab;

(xi) Provisions shall be made for protecting pump controls and other above-ground appurtenances at the well head. Where a wellhouse is installed for this purpose, it shall meet applicable building codes and shall be insulated, heated and provided with lights, except that where the wellhouse consists of a small removable box-like structure the requirement for lights may be waived by the Department;

(xii) The wellhouse shall be constructed so that the well pump can be removed.

(M) The area in the vicinity of a well, particularly the area uphill or upstream, shall be surveyed by the water supplier to determine the location and nature of any existing or potential public health hazards;

(N) The requirements with respect to land ownership, clearances from public health hazards, and protection against flooding for wells in an unconfined aquifer shall be the same or more restrictive than those prescribed for wells in confined aquifers, as determined by the Department.

(O) Before a well is placed into operation as the source of supply for a public water system, the following documents shall be submitted by the water supplier:

(i) Reports on pumping tests for yield and drawdown for unconfined wells;

(ii) Reports of laboratory analyses on contaminants in the water as required by OAR 333-061-0036;

(iii) Performance data on the pumps and other equipment;

(iv) Proposals for disinfection as required by section (5) of this rule, if applicable.

(v) Reports on determination of potential direct influence by surface water into groundwater source as prescribed in section (3) of this rule.

(b) Springs:

(A) In addition to those requirements under subsection (2)(a) of this rule, construction of spring supplies shall meet the following requirements:

(i) An intercepting ditch shall be provided above the spring to effectively divert surface water;

(ii) A fence shall be installed around the spring area unless other provisions are made to effectively prevent access by animals and unauthorized persons;

(iii) The springbox shall be constructed of concrete or other impervious durable material and shall be installed so that surface water is excluded;

(iv) The springbox shall be provided with a screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access manhole with a tightly fitting cover, and a curb around the manhole.

(v) Spring collection facilities that meet the definition of well in paragraph (2)(a)(A) of this rule must comply with construction requirements specified in paragraph (2)(a)(I) of this rule.

(B) Reports on flow tests shall be provided to establish the yield of springs.

(3) Surface water and groundwater under direct surface water influence source facilities:

(a) In selecting a site for an infiltration gallery, or for a direct intake from a stream, lake, or impounding reservoir, consideration shall be given to land use in the watershed. A sanitary survey of the watershed shall be made by the water supplier to evaluate natural and man-made factors which may affect water quality and investigations shall also be made of seasonal variations in water quality and quantity. A report giving the results of this survey shall be submitted for review and approval by the Department.

(b) A determination shall be made as to the status of water rights, and this information shall be submitted to the Department for review.

(c) Impounding reservoirs shall be designed and constructed so that they include the following features:

(A) The capacity shall be sufficient to meet projected demands during drought conditions;

(B) Outlet piping shall be arranged so that water can be withdrawn from various depths;

(C) Facilities shall be provided for releasing undesirable water.

(d) Direct intake structures shall be designed and constructed so that they include the following features:

(A) Screens shall be provided to prevent fish, leaves and debris from entering the system;

(B) Provisions shall be made for cleaning the screens, or self-cleaning screens shall be installed;

(C) Motors and electrical controls shall be located above flood level;

(D) Provisions shall be made to restrict swimming and boating in the vicinity of the intake;

(E) Valves or sluice gates shall be installed at the intake to provide for the exclusion of undesirable water when required.

(4) Water treatment facilities (other than disinfection):

(a) General

(A) Water treatment facilities shall be capable of producing water which consistently does not exceed maximum contaminant levels. The type of treatment shall depend on the raw water quality. The Department shall make determinations of treatment capabilities based upon recommendations in the **USEPA SWTR Guidance Manual**.

(B) Investigations shall be undertaken by the water supplier prior to the selection or installation of treatment facilities to determine the physical, chemical and microbiological characteristics of the raw water as appropriate. These investigations shall include a determination of the seasonal variations in water quality, as well as a survey to identify potential sources of contamination which may affect the quality of the raw water.

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(C) Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed the maximum contaminant levels, may be used without treatment at public water systems;

(D) Laboratory equipment shall be provided so that the water supplier can perform analyses necessary to monitor and control the treatment processes.

(b) Best Available Technology

(A) Pilot studies or other supporting data shall be used to demonstrate the effectiveness of any treatment method other than that defined as best available technology. Pilot study protocol shall be approved beforehand by the Department.

(B) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for volatile organic chemicals:

(i) Central treatment using packed tower aeration for all these chemicals.

(ii) Central treatment using granular activated carbon for all these chemicals except vinyl chloride.

(C) The Department identifies the following as the best available technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(i) Activated alumina absorption, centrally applied.

(ii) Reverse osmosis, centrally applied.

(D) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total coliforms.

(i) Protection of wells from contamination by coliforms by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and maintaining a minimum pressure of 20 psi at all service connections.

(iv) Filtration treatment and/or disinfection of surface water or groundwater under the direct influence of surface water, or disinfection of groundwater using strong oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with the requirements of an EPA-approved wellhead protection program developed and implemented as part of the federal Safe Drinking Water Act of 1974 and the federal Safe Drinking Water Act Amendments of 1986.

(E) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals.

(i) Central treatment using packed tower aeration for Dibromochloropropane, Ethylene Dibromide, Hexachlorocyclopentadiene and Di(2-ethylhexyl)adipate.

(ii) Central treatment using granular activated carbon for all these chemicals except Trihalomethanes and Glyphosate.

(iii) Central treatment using oxidation (chlorination or ozonation) for Glyphosate.

(F) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for inorganic chemicals.

(i) Central treatment using coagulation/filtration for Antimony, Asbestos, Beryllium, Cadmium, Chromium, Mercury (influent concentration  $\leq 10\mu\text{g/L}$ ), and Selenium (Selenium IV only).

(ii) Central treatment using direct and diatomite filtration for Asbestos.

(iii) Central treatment using granular activated carbon for Mercury.

(iv) Central treatment using activated alumina for Beryllium, Selenium and Thallium.

(v) Central treatment using ion exchange for Barium, Beryllium, Cadmium, Chromium, Cyanide, Nickel, Nitrate, Nitrite and Thallium.

(vi) Central treatment using lime softening for Barium, Beryllium, Cadmium, Chromium (Chromium III only), Mercury (influent concentration  $\leq 10\mu\text{g/L}$ ), Nickel and Selenium.

(vii) Central treatment using reverse osmosis for Antimony, Barium, Beryllium, Cadmium, Chromium, Cyanide, Mercury (influent concentration  $\leq 10\mu\text{g/L}$ ), Nickel, Nitrate, Nitrite, and Selenium.

(viii) Central treatment using corrosion control for Asbestos and Lead and Copper.

(ix) Central treatment using electro dialysis for Barium, Nitrate, and Selenium.

(x) Central treatment using alkaline chlorination ( $\text{pH} \geq 8.5$ ) for Cyanide.

(G) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts:

(i) Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant for total trihalomethanes.

(ii) Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant for HAA5s.

(iii) Control of ozone treatment process to reduce production of bromate for bromate concentrations.

(iv) Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels for chlorite.

(H) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(I) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs for radionuclides.

(i) Central Treatment using ion exchange for radium-226, radium-228, uranium, and beta particle and photon radioactivity.

(ii) Central treatment using reverse osmosis for radium-226, radium-228, uranium, gross beta particle activity, and beta particle and photon radioactivity.

(iii) Central treatment using lime softening for radium-226, radium-228, and uranium.

(iv) Central treatment using coagulation / filtration for uranium.

(c) Small Systems Compliance Technologies :

(A) Removal of Radionuclides

**Table 30** [Table not included. See ED. NOTE.]

**Table 31** [Table not included. See ED. NOTE.]

(d) Filtration of Surface Water Sources and Groundwater Sources Under the Direct Influence of Surface Water

(A) All water systems using surface water or groundwater sources under the direct influence of surface water that fail to meet the criteria for avoiding filtration prescribed in OAR 33-061-0032(2) and (3) must meet all requirements of this subsection for installing filtration treatment.

(B) There are four standard filtration methods: conventional filtration, direct filtration, slow sand, and diatomaceous earth. Other filtration technologies are only acceptable if their efficiency at removing target organisms and contaminants can be demonstrated to be equal to or more efficient than these. The assumed log removals credited to filtration of *Giardia lamblia* and viruses will be based on recommendations in the **USEPA SWTR Guidance Manual**. For membrane filtration, removal credits shall be 2.5 log for Giardia and 2.0 for Cryptosporidium, as long as removal has been verified by a third party. The combination of filtration and disinfection must meet the inactivation levels prescribed in OAR 333-061-0032(1). Any water system wishing to challenge the assumed log removal credits must conduct demonstration studies based on the recommendations in the **USEPA SWTR Guidance Manual** and have the study protocol approved by the Department.

(C) Pilot studies shall be conducted by the water supplier to demonstrate the effectiveness of any filtration method other than conventional filtration. Pilot study protocol shall be approved in advance by the Department. Results of the pilot study shall be submitted to the Department for review and approval.

(D) Regardless of the filtration method used, the water system must achieve a minimum of 0.5-log reduction of *Giardia lamblia* and a 1.0-log reduction of viruses from disinfection alone after filtration treatment.

(E) All filtration systems shall be designed and operated so as to meet the requirements prescribed in OAR 333-061-0032(4) and (5). Design of the filtration system must be in keeping with accepted standard engineering references acknowledged by the Department such as the **Great Lakes Upper Mississippi River "Recommended Standards for Water Works" technical reports by the International Reference Center for Community Water Supply and Sanitation**, or publications from the **World Health Organization**. A list of additional references is available from the Department upon request.

(F) Systems that employ multiple filters shall be designed such that turbidity measurements are monitored for each filter independently of the

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other filter(s). Each filter shall have a provision to discharge effluent water as waste.

(G) Additional requirements for membrane filtration. Each membrane filter system must have a particle counter or laser turbidimeter installed after filtration for continuous integrity monitoring. Once operating, physical integrity testing must be done on each filter canister at least weekly, using pressure hold, diffusive air flow, bubble point, or sonic sensing testing. The operation and maintenance manual must include a diagnosis and repair plan such that the ability to remove pathogens is not compromised.

(e) Criteria and procedures for public water systems using point-of-entry devices.

(A) Public water systems may use point-of-entry devices to comply with maximum contaminant levels only if they meet the requirements of this section.

(B) It is the responsibility of the public water system to operate and maintain the point-of-entry treatment system.

(C) The public water system must develop and obtain Department approval for a monitoring plan before point-of-entry devices are installed for compliance. Under the plan approved by the Department, point-of-entry devices must provide health protection equivalent to central water treatment. "Equivalent" means that the water would meet all Maximum Contaminant Levels as prescribed in OAR 333-061-0030 and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. Monitoring must include contaminant removal efficacy, physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(D) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(i) The water supplier must submit adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the point-of-entry devices.

(ii) The design and application of the point-of-entry devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(iii) The point-of-entry device must be evaluated to assure that the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels of lead and copper at the tap.

(E) All consumers shall be protected. Every building connected to the system must have a point-of-entry device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(5) Facilities for continuous disinfection:

(a) Water obtained from surface sources or groundwater sources under the direct influence of surface water shall, as a minimum, be provided with continuous disinfection before such water may be used as a source of supply for a public water system. Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed microbiological maximum contaminant levels, may be used without treatment at public water systems;

(b) Water obtained from wells or springs shall be considered groundwater unless determined otherwise by the Department. Wells and springs may be utilized without continuous disinfection if the construction requirements of section (2) of this rule are met and analyses indicate that the water consistently meets microbiological standards. A well or spring that is inadequately constructed and shows a history of microbiological contamination shall first be upgraded to meet current construction standards, and if microbiological contamination still persists, then continuous disinfection shall be provided prior to use in public water systems.

(c) In public water systems where continuous disinfection is required as the sole form of treatment, or as one component of more extensive treatment to meet the requirements prescribed in OAR 333-061-0032(1), the facilities shall be designed so that:

(A) The disinfectant applied shall be capable of effectively destroying pathogenic organisms; and

(B) The disinfectant is applied in proportion to flow; and

(C) Disinfectants, other than ultraviolet light disinfection treatment, shall be capable of leaving a residual in the water which can be readily measured and which continues to serve as an active disinfectant; and

(D) Sufficient contact time shall be provided to achieve "CT" values capable of the inactivations required by OAR 333-061-0032(1). For ultraviolet light disinfection treatment, sufficient irradiance expressed in milliWatts per square centimeter (mW/cm<sup>2</sup>) and exposure time expressed in seconds (s) shall be provided to achieve UV dose levels expressed as (mW-s/cm<sup>2</sup>) or milli-Joules per square centimeter (mJ/cm<sup>2</sup>) capable of the inactivations required by OAR 333-061-0032(1).

(d) When continuous disinfection, other than ultraviolet light disinfection, is required for reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, in addition to the requirements of paragraphs (5)(c)(A) through (C) of this rule, the facilities shall be designed so that:

(A) The primary disinfection treatment is sufficient to ensure at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after 3 hours contact time under all flow conditions before first water use;

(e) Provisions shall be made to alert the water supplier before the chlorine supply is exhausted.

(f) Provisions shall be made for sampling the water before and after chlorination;

(g) Testing equipment shall be provided to determine the chlorine residual;

(h) Chlorinator piping shall be designed to prevent the contamination of the potable water system by backflow of untreated water or water having excessive concentrations of chlorine;

(i) Chlorine gas feeders and chlorine gas storage areas shall:

(A) Be enclosed and separated from other operating areas;

(B) Chlorine cylinders shall be restrained in position to prevent upset by chaining 100 and 150 pound cylinders two-thirds of their height up from the floor and by double chocking one ton cylinders;

(C) The room housing the feeders and cylinders shall be above ground surface, shall have doors which open outward and to the outside and shall be ventilated by mechanical means at floor level and shall have an air intake located higher than the exhaust ventilation;

(D) Be located so that chlorine gas, if released, will not flow into the building ventilation systems;

(E) Have corrosion resistant lighting and ventilation switches located outside the enclosure, adjacent to the door;

(F) Be provided with a platform or hydraulic scale for measuring the weight of the chlorine cylinders;

(G) Be provided with a gas mask or self contained breathing apparatus approved by the **National Institute of Occupational Safety and Health (NIOSH)** for protection against chlorine gas and kept in good working condition. Storage of such equipment shall be in an area adjoining the chlorine room and shall be readily available. (Also see the Oregon Occupational Health and Safety regulations contained in OAR chapter 437.)

(j) When continuous disinfection treatment is provided through ultraviolet light disinfection, the facilities shall be designed to meet the requirements of this subsection:

(A) Ultraviolet light may be used as the sole disinfectant for non-community systems serving groundwater with minimal distribution systems, as determined by the Department;

(B) Ultraviolet systems must meet the specifications of a Class A UV system under the National Sanitation Foundation (NSF) Standard 55;

(C) The ultraviolet light failsafe dosage set point shall be equivalent to 38 mWs/cm<sup>2</sup> (38 mJ/cm<sup>2</sup>) with a wavelength between 200 and 300 nanometers;

(D) Ultraviolet lamps are insulated from direct contact with the influent water and are removable from the lamp housing;

(E) The treatment unit must have a fixed flow rate control that prevents flows exceeding the manufacturer's maximum rated flow rate, an ultraviolet light sensor that monitors light intensity through the water during operation, and a visual and audible alarm with an automatic water flow shut-off if the ultraviolet light intensity drops below the failsafe set point;

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(F) There must be a visual means to verify operation of all ultraviolet lamps;

(G) The lamps, lamp sleeves, housings and other equipment must be able to withstand a working pressure of at least 100 psig (689 kPa);

(H) The treatment facility must be sheltered from the weather and accessible for routine maintenance as well as routine cleaning and replacement of the lamp sleeves and cleaning of the sensor windows/lenses;

(I) The lamps must be changed as per the manufacturer's recommendation, or at least annually; and

(J) The treatment unit must be connected into the main water line at the source with the shut-off valves at both the inlet side and the outlet side of the treatment unit. There shall be no bypass piping around the treatment unit.

(6) Finished water storage:

(a) Distribution reservoirs and treatment plant storage facilities for finished water shall be constructed to meet the following requirements:

(A) They shall be constructed of concrete, steel, wood or other durable material capable of withstanding external and internal forces which may act upon the structure;

(B) Ground-level reservoirs shall be constructed on undisturbed soil, bedrock or other stable foundation material capable of supporting the structure when full;

(C) Steel reservoirs, standpipes and elevated tanks shall be constructed in conformance with the **AWWA Standards D100 and D103**;

(D) Concrete reservoirs shall be provided with sufficient reinforcing to prevent the formation of cracks, and waterstops and dowels shall be placed at construction joints. Poured-in-place wall castings shall be provided where pipes pass through the concrete;

(E) Wooden reservoirs shall be redwood or other equally durable wood and shall be installed on a reinforced concrete base. Where redwood reservoirs are used, separate inlet and outlet pipes are required and the water entering the reservoir must be continuously disinfected so as to result in a residual in the water leaving the reservoir in accordance with paragraph (5)(c)(D)(i) of this rule;

(F) Start-up procedures for new redwood tanks shall consist of filling the tank with a solution of water containing a minimum of 2 pounds of sodium carbonate per 1,000 gallons of water and retaining this solution in the tank a minimum of seven days before flushing;

(G) Where ground-level reservoirs are located partially below ground, the bottom shall be above the ground water table and footing drains discharging to daylight shall be provided to carry away ground water which may accumulate around the perimeter of the structure;

(H) The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided;

(I) Finished water storage facilities shall have watertight roofs;

(J) An access manhole shall be provided to permit entry to the interior for cleaning and maintenance. When the access manhole is on the roof of the reservoir there shall be a curbing around the opening and a lockable watertight cover that overlaps the curbing;

(K) Internal ladders of durable material, shall be provided where the only access manhole is located on the roof;

(L) Screened vents shall be provided above the highest water level to permit circulation of air above the water in finished water storage facilities;

(M) A drain shall be provided at the lowest point in the bottom, and an overflow of sufficient diameter to handle the maximum flow into the tank shall be provided at or near the top of the sidewall. The outlet ends of the drain and overflow shall be fitted with angle-flap valves and shall discharge with an airgap to a watercourse or storm drain capable of accommodating the flow;

(N) A silt stop shall be provided at the outlet pipe;

(O) Where a single inlet/outlet pipe is installed and the reservoir floats on the system, provisions shall be made to insure an adequate exchange of water and to prevent degradation of the water quality and to assure the disinfection levels required in paragraph (5)(c)(D)(i) of this rule;

(P) A fence or other method of vandal deterrence shall be provided around distribution reservoirs;

(Q) When interior surfaces of finished water storage tanks are provided with a protective coating, the coating shall meet the requirements of **National Sanitation Foundation Standard 61, Section 9 - Drinking Water System Components — Health Effects (Revised September 1994)** or equivalent.

(R) Reservoirs and clearwells that are to be used as disinfection contact time shall use a tracer study to determine the actual contact time. The Department must approve procedures and protocols for the tracer study prior to the initiation of the study. The Department recommends the

**USEPA SWTR Guidance Manual** for tracer study procedure and protocol.

(S) Reservoirs and clearwells that are to be used for disinfection contact time shall have a means to adequately determine the flow rate on the effluent line.

(b) Pressure tanks for finished water shall meet the following requirements:

(A) Pressure tanks shall be installed above normal ground surface;

(B) Bypass piping around the pressure tank shall be provided to permit operation of the system while the tank is being maintained or repaired;

(C) Pressure tanks greater than 1,000 gallons shall be provided with an access manhole and a water sight-glass.

(D) All pressure tanks shall be provided with a drain, a pressure gauge, an air blow-off valve, means for adding air and pressure switches for controlling the operation of the pump(s);

(E) Pressure tanks shall be constructed of steel and shall be designed for pressure at least 50% greater than the maximum system pressure anticipated.

(7) Pumping facilities:

(a) Wherever possible, booster pumps shall take suction from tanks and reservoirs to avoid the potential for negative pressures on the suction line which result when the pump suction is directly connected to a distribution main;

(b) Pumps which take suction from distribution mains for the purpose of serving areas of higher elevation shall be provided with a low pressure cut-off switch on the suction side set at no less than 20 psi;

(c) Suction lift at pumping stations shall be avoided as far as possible, and pumps shall be installed so that the suction line is under a positive head. If suction lift cannot be avoided, provision shall be made for priming with water which does not exceed maximum contaminant levels;

(d) Pumping stations shall be located above maximum anticipated 100-year (1%) flood level, and the area around the pumping station shall be graded so that surface drainage is away from the station;

(e) Pumping stations shall be of durable construction so as to protect the equipment from the elements. The door to the pumping station shall be lockable, and facilities for heating and lighting shall be provided. The floor of the pumping station shall be sloped to provide adequate drainage.

(8) Distribution systems:

(a) Wherever possible, distribution pipelines shall be located on public property. Where pipelines are required to pass through private property, easements shall be obtained from the property owner and shall be recorded with the county clerk;

(b) Pipe, pipe fittings, valves and other appurtenances utilized at Community water systems shall be manufactured, installed and tested in conformance with the latest standards of the American Water Works Association, National Sanitation Foundation or other equivalent standards acceptable to the Department;

(c) In Community water systems, distribution mains located in public roadways or easements, and the portion of the service connections from the distribution main to the customer's property line or service meter where provided are subject to the requirements of these rules. The piping from the customer's property line, or the meter where provided, to the point of water use (the building supply line) is subject to the requirements of the State Plumbing Code;

(d) In Transient and Non-Transient Non-Community, and State Regulated water systems where the system facilities and the premises being served are both on the same parcel of property, requirements relating to pipe materials and pipe installation shall comply with the State Plumbing Code;

(e) Distribution piping shall be designed and installed so that the pressure measured at the property line in the case of Community water systems, or at the furthest point of water use, in the case of a Transient Non-Community water system of the type described in subsection (d) of this section, shall not be reduced below 20 psi;

(f) Distribution piping shall be carefully bedded and fully supported in material free from rocks and shall be provided with a cover of at least 30 inches. Select backfill material shall be tamped in layers around and over the pipe to support and protect it. Large rocks or boulders shall not be used as backfill over the pipe;

(g) Provision shall be made at all bends, tees, plugs, and hydrants to prevent movement of the pipe or fitting;

(h) Wherever possible, dead ends shall be minimized by looping. Where dead ends are installed, or low points exist, blow-offs of adequate size shall be provided for flushing;



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(i) Air-relief valves shall be installed at high points where air can accumulate. The breather tube on air-relief valves shall be extended above ground surface and provided with a screened, downward facing elbow;

(j) Yarn, oakum, lead or other material which may impair water quality shall not be used where it will be in contact with potable water;

(k) Nonconductive water pipe (plastic or other material) that is not encased in conductive pipe or casing must have an electrically conductive wire or other approved conductor for locating the pipe when the pipeline is underground. The wire shall be No. 18 AWG (minimum) solid copper with blue colored insulation. Ends of wire shall be accessible in water meter boxes, valve boxes or casings, or outside the foundation of buildings where the pipeline enters the building. The distance between tracer lead access locations shall not be more than 1,000 feet. Joints or splices in wire shall be waterproof.

(l) Piping that is to be used for disinfection contact time shall be verified by plug flow calculations under maximum flow conditions.

(9) Crossings-Sanitary sewers and water lines:

(a) All reference to sewers in this section shall mean sanitary sewers;

(b) In situations involving a water line parallel to a sewer main or sewer lateral, the separation between the two shall be as indicated in Figure 1;

(c) In situations where a water line and a sewer main or sewer lateral cross, the separation between the two shall be as follows:

(A) Wherever possible, the bottom of the water line shall be 1.5 feet or more above the top of the sewer line and one full length of the water line shall be centered at the crossing;

(B) Where the water line crosses over the sewer line but with a clearance of less than 1.5 feet, the sewer line shall be exposed to the sewer line joints on both sides of the crossing to permit examination of the sewer pipe. If the sewer pipe is in good condition and there is no evidence of leakage from the sewer line, the 1.5-foot separation may be reduced. However, in this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report of the findings and indicating the reasons for reducing the separation. If the water supplier determines that the conditions are not favorable or finds evidence of leakage from the sewer line, the sewer line shall be replaced with a full length of pipe centered at the crossing point, of PVC pressure pipe (ASTM D-2241, SDR 32.5), high-density PE pipe (Drisco pipe 1000), ductile-iron Class 50 (AWWA C-51), or other acceptable pipe; or the sewer shall be encased in a reinforced concrete jacket for a distance of 10 feet on both sides of the crossing.

(C) Where the water line crosses under the sewer line, the water supplier shall expose the sewer line and examine it as indicated in paragraph (9)(c)(B) of this rule. If conditions are favorable and there is no evidence of leakage from the sewer line, the sewer line may be left in place but must be supported with a steel or reinforced concrete beam or other means of preventing settlement when it spans the water line trench, and special precautions must be taken to assure that the backfill material over the water line in the vicinity of the crossing is thoroughly tamped in order to prevent settlement which could result in the leakage of sewage. In this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report recording the manner in which the sewer line was supported at the crossing and the material and methods used in backfilling and tamping to prevent settlement of the sewer. If the water supplier determines that conditions are not favorable or finds evidence of leakage from the sewer line, the provisions of paragraph (9)(c)(B) of this rule apply.

(d) When a water main is installed under a stream or other watercourse, a minimum cover of 30 inches shall be provided over the pipe. Where the watercourse is more than 15 feet wide, the pipe shall be of special construction with flexible watertight joints, valves shall be provided on both sides of the crossing so that the section can be isolated for testing or repair, and test cocks shall be provided at the valves.

Figure 1: Water Line-Sewer Line Separation

[Figure not included. See ED. NOTE.]

Zone 1: Only crossing restrictions apply

Zone 2: Case-by-case determination

Zone 3: Parallel water line prohibited

Zone 4: Parallel water line prohibited

(10) Disinfection of facilities:

(a) Following completion of new facilities and repairs to existing facilities, those portions of the facilities which will be in contact with the water delivered to users shall be disinfected with chlorine before they are placed into service. Other disinfectants may be used if it is demonstrated that they can also achieve the same result as chlorine;

(b) Prior to disinfection, the facilities shall be cleaned and flushed with potable water according to **AWWA Standards C651 through C654**;

(c) For wells, valves, pumps, water mains and service connections, disinfection by chlorination shall be accomplished according to **AWWA standards C651 through C654** which includes, but is not limited to, the introduction of a chlorine solution with a free chlorine residual of 25 mg/l into the system in a manner which will result in a thorough wetting of all surfaces and the discharge of all trapped air. The solution shall remain in place for 24 hours. After the 24-hour period, the free chlorine residual shall be checked, and if it is found to be 10 mg/l or more, the chlorine solution shall be drained, the facility flushed with potable water and a minimum of one sample shall be collected from the facility for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If the check measurement taken after the 24-hour contact period indicates a free chlorine residual of less than 10 mg/l, the facilities shall be flushed, rechlorinated and rechecked until a final residual of 10 mg/l or more is achieved. Likewise, if the microbiological analysis indicates the presence of coliform organisms, the flushing and disinfection must be repeated until a sample free of coliform organisms is obtained;

(d) For reservoirs and tanks, disinfection by chlorination shall be accomplished according to **AWWA Standard C652** which includes, but is not limited to, the following methods:

(A) Filling the reservoir or tank and maintaining a free chlorine residual of not less than 10 mg/l for the appropriate 6 or 24 hour retention period; or

(B) Filling the reservoir or tank with a 50 mg/l chlorine solution and leaving for 6 hours; or

(C) Directly applying by spraying or brushing a 200 mg/l solution to all surfaces of the storage facility in contact with water if the facility were full to the overflow elevation.

(e) When the procedures described in paragraphs (10)(d)(A) and (B) of this rule are followed, the reservoir or tank shall be drained after the prescribed contact period and refilled with potable water, and a sample taken for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If not, the procedure shall be repeated until a sample free of coliform organisms is obtained;

(f) When the procedure described in paragraph (10)(d)(C) of this rule is followed, the reservoir or tank shall be filled with potable water and a sample taken for microbiological analysis. It will not be necessary to flush the reservoir or tank after the chlorine solution is applied by spraying or brushing. Microbiological analysis shall indicate that the water is free of coliform organisms before the facility can be put into service;

(g) When a reservoir is chlorinated following routine maintenance, inspection, or repair, it may be put back into service prior to receiving the report on the microbiological analysis provided the water leaving the reservoir has a free chlorine residual of at least 0.4 mg/l or a combined chlorine residual of at least 2.0 mg/l.

(h) Underwater divers used for routine maintenance, inspection, or repair of reservoirs shall use a full body dry suit with hardhat scuba and an external air supply. The diver shall be disinfected by spraying a 200 mg/l solution of chlorine on all surfaces that will come into contact with drinking water.

(i) A water line may be returned to service, following repairs or routine maintenance, prior to receiving a report on the microbiological analysis if the following procedures have been completed. The trench shall be liberally treated with hypochlorites, the interior of all pipes and fittings shall be swabbed or sprayed with a 1% hypochlorite solution, and the line shall be thoroughly flushed. Where practical, the repaired line shall be disinfected with a 100 mg/l chlorine solution for 3 hours or a 300 mg/l chlorine solution for 15 minutes then the line shall be flushed thoroughly.

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

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 12-1979, f. & ef. 9-11-79; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0215; HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85 HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

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## 333-061-0064

### Emergency Response Plan and Water System Operations Manual Requirements

(1) All public water systems shall maintain a current emergency operations plan.

(a) The emergency response plan shall be completed according to the following schedule and shall be reviewed and updated at least every five (5) years.

(A) Completed by September 30, 2003 for public water systems serving 100,000 population or more.

(B) Completed by June 30, 2004 for public water systems serving a population of 50,000 or more but less than 100,000.

(C) Completed by December 31, 2004 for public water systems serving a population greater than 3,300 but less than 50,000.

(D) Completed by June 30, 2005 for public water systems serving a population of 3,300 or less.

(E) If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop an emergency response plan as a part of a capacity assessment, then the emergency response plan is required to be completed before final payout of the loan.

(b) As evidence of completion, public water systems shall submit a statement to the Department certifying that the emergency response plan has been completed according to the requirements in this rule and that staff have been instructed in the use of the emergency response plan. The emergency response plan shall be made available for review by the Department and/or the County Health Department.

(c) Community water systems > 3,300 population, shall develop emergency response plans that incorporate the results of security vulnerability assessments.

(d) Community water systems shall coordinate with the lead County Emergency Coordinator when preparing or revising an emergency response plan.

(e) The emergency response plan shall include but is not limited to the following elements:

(A) Communications and authority

(i) Develop an emergency contacts list, and review and update this list at least annually.

(ii) Decision-making authorities and responsibilities of water system personnel shall be determined and detailed in the emergency response plan.

(iii) Procedure for notification of agencies, the water users, and the local media.

(B) Water system security

(i) Public water systems shall develop a security program. The security program shall include, but is not limited to, the following components: security management, physical activity, physical security, chemical storage and use, personnel, computer system, and program evaluation.

(ii) Public water systems shall conduct a security assessment and correct security deficiencies of the water system.

(C) Water system hazard review

(i) Public water systems shall conduct an inspection of the water system annually to identify the hazards that could affect the water system.

(ii) Public water systems shall correct construction deficiencies to eliminate hazards or potential hazards, correct major sanitary survey deficiencies as determined by the Department, and perform regular maintenance.

(D) Emergency equipment and water supplies

(i) Public water systems shall make provisions for an auxiliary power supply if not a gravity system, and redundant equipment for critical components. Community water systems shall identify equipment that can be utilized in the event of an intentional attack which can render harmless or significantly lessen the impact of the attack on the public health and safety and supply of public drinking water.

(ii) Public water systems shall develop a plan for emergency water to include the rationing of drinking water, identifying and utilizing alternative drinking water sources and supplies, and alternative distribution of drinking water.

(E) Emergency response procedures

(i) Public water systems shall develop procedures for responding to emergencies most likely to strike the water system. Community water systems shall develop plans and procedures that can be implemented in the event of a terrorist or other intentional attack on the water system.

(ii) The emergency response plan shall describe procedures to isolate all parts of the water system. Community water systems shall develop actions and procedures which can render harmless or significantly lessen

the impact of terrorist attacks or other intentional actions on public health and safety and supply of public drinking water.

(iii) The emergency response plan shall describe the emergency disinfection procedure, process for issuing a boil water advisory, and process for handling a waterborne disease outbreak.

(f) Water system staff shall be instructed and trained in the use of the emergency response plan.

(2) All public water systems shall maintain a current water system operations manual.

(a) The water system operations manual shall be completed according to the requirements of the capacity assessment or sanitary survey and shall be reviewed and updated at least every five (5) years. If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop a water system operations manual as a part of a capacity assessment, then the water system operations manual is required to be completed before final payout of the loan.

(b) As evidence of completion, public water systems shall submit a statement to the Department certifying that the water system operations manual has been completed according to the requirements in this rule, and that staff have been instructed in the use of the water system operations manual.

(c) The water system operations manual shall include, but is not limited to, the following elements if they are applicable:

(A) Source operation and maintenance;

(B) Water treatment operation and maintenance;

(C) Reservoir operation and maintenance;

(D) Distribution system operation and maintenance; and

(E) Written protocols for on-site operators describing the operational decisions the operator is allowed to make under OAR 333-061-0225.

(d) Water system staff shall be instructed and trained in the use of the water system operations manual.

Stat. Auth.: ORS 431 & ORS 448

Stats. Implemented: ORS 448.160

Hist.: OH 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0076

### Sanitary Surveys

(1) All sanitary surveys as defined by OAR 333-061-0020(125) and this rule shall be conducted by the Department or contract county health department staff.

(2) The sanitary survey report shall be completed by staff and sent to the water system following the site visit. The content of the sanitary survey report shall address, at a minimum, the following components of a water system: source of supply; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; system management and operations; and operator certification compliance.

(3) The sanitary survey report must identify any significant deficiency prescribed in this section discovered in the on-site visit. Significant deficiencies for systems using surface water or groundwater sources under the direct influence of surface water are as follows:

(a) Surface Water Treatment:

(A) Incorrect location for compliance turbidity monitoring;

(B) No auto-dial, call-out alarm or auto-plant shutoff for low chlorine residual or high turbidity when no operator is on-site;

(C) For conventional or direct filtration, settled water turbidity not measured daily;

(D) For conventional or direct filtration, turbidity profile not conducted on individual filters at least quarterly;

(E) For cartridge filtration, no pressure gauges before and after cartridge filter;

(F) For diatomaceous earth filtration, body feed not added with influent flow.

(b) Disinfection:

(A) No means to adequately determine flow rate on contact chamber effluent line;

(B) Failure to calculate CT values correctly;

(C) No means to adequately determine disinfection contact time under peak flow and minimum storage conditions.

(c) Finished water storage:

(A) Hatch not locked;

(B) Roof and hatch not watertight;

(C) No flap-valve or equivalent over drain/overflow;

(D) No screened vent.

(4) Water systems that use surface water sources or groundwater sources under direct influence of surface water must respond in writing to

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the Department or county Health Department within 45 days of receiving the sanitary survey report. The response of the water system must include:

(a) The plan the public water system will follow to resolve or correct the identified significant deficiencies; and

(b) The plan the public water system will follow to resolve or correct any violations of drinking water regulations as identified during the sanitary survey or any other time; and

(c) The schedule the public water system will follow to execute the plan.

(5) Water systems that use surface water sources or groundwater sources under direct influence of surface water that fail to respond to the Department or county Health Department within the specified 45 days, are required to issue public notice as prescribed in OAR 333-0040(1)(k).

(6) Water systems that use surface water sources or groundwater sources under direct influence of surface water must correct the deficiencies or violations identified in the sanitary survey according to the documented schedule identified in section (4) of this rule. Failure to do so constitutes a violation of these rules.

Stat. Auth.: ORS 448.150

Stats. Implemented: ORS 448.123, ORS 448.131, ORS 448.175 & ORS 448.273

Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0077

### Composite Correction Program & Comprehensive Performance Evaluations

(1) All Comprehensive Performance Evaluation Reports (CPEs) as defined by OAR 333-061-0020(26) and this rule shall be conducted by the Department or contract county health department staff.

(2) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment is subject to the Composite Correction Program, including CPEs, as determined necessary or appropriate by the Department.

(3) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment that has a measured filtered water turbidity level greater than 2.0 NTU from any individual filter in two consecutive measurements taken 15 minutes apart in each of two consecutive months as stated in OAR 333-061-0040(1)(d)(B) (ii)(IV) is required to have a CPE conducted on that public water system's water treatment facility.

(4) The CPE report shall be completed by staff and sent to the water system following the site visit. The content of the CPE report shall include, at a minimum, the following components: An assessment of the water treatment plant performance from current and historical water quality data, an evaluation of each major (treatment) unit process, an identification and prioritization of the water treatment plant performance limiting factors, and an assessment by the Department if additional comprehensive technical assistance would be beneficial to the water system. The CPE results must be written into a report and submitted to the public water system by the Department.

(5) The public water system receiving the CPE report must respond in writing to the Department or the local county health department within 45 days (for systems serving at least 10,000 people) or 120 days (for systems serving less than 10,000 people) of receiving the report as required by OAR 333-061-0040(1)(k). The response of the public water system must include:

(a) The plan the public water system will follow to resolve or correct the identified performance limiting factors that are within the water system's (and its governing body) ability to control; and

(b) The schedule the public water system will follow to execute the plan.

(6) The public water system must take corrective action through the CCP according to the schedule identified in paragraph (5)(b) of this rule to resolve the performance limiting factors identified. Failure by the water system to take corrective action to resolve the performance limiting factors constitutes a violation of these rules.

Stat. Auth.: ORS 448.150

Stats. Implemented: ORS 431.123, ORS 448.131, ORS 448.175 & ORS 448.273

Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; PH 12-2003, f. & cert. ef. 8-15-03

## 333-061-0097

### Adverse Health Effects Language

When providing the information on potential adverse health effects required by these rules in notices of violations of maximum contaminant levels, maximum residual disinfectant levels, treatment technique requirements, or notices of the granting or the continued existence of variances or

permits, or notices of failure to comply with a variance or permit schedule, the owner or operator of a public water system shall include the language specified below for each contaminant.

(1) Adverse Health Effects for Organic Chemicals:

(a) Volatile Organic Chemicals (VOCs):

(A) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

(B) Carbon tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(C) Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

(D) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.

(E) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(F) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(G) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(H) Cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(I) Trans-1,2-Dichloroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(J) Dichloromethane(methylene chloride). Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(K) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(L) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(M) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(N) Tetrachloroethylene(PCE). Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

(O) 1,2,4-trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(P) 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

(Q) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

(R) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(S) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(T) Vinyl chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(U) Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

(b) Synthetic Organic Chemicals (SOCs):

(A) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

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(B) 2,4,5-TP(Silvex). Some people who drink water containing 2,4,5-TP in excess of the MCL over many years could experience liver problems.

(C) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(D) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

(E) Benzo(a)pyrene. Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(F) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

(G) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

(H) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(I) Di(2-ethylhexyl)adipate. Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

(J) Di(2-ethylhexyl)phthalate. Some people who drink water containing di(2-ethylhexyl)phthalate in excess of the MCL over many years may have problems with their liver or experience reproductive difficulties, and may have an increased risk of getting cancer.

(K) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(L) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(M) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(N) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(O) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(P) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(Q) Ethylene dibromide (EDB). Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

(R) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(S) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(T) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(U) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys or adverse reproductive effects, and may have an increased risk of getting cancer.

(V) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

(W) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(X) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(Y) Oxamyl. Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(Z) Polychlorinated biphenyls (PCBs). Some people who drink water containing polychlorinated biphenyls in excess of the MCL over many

years could experience changes in their skin, problems with their thymus gland, immune deficiencies or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(AA) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

(BB) Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

(CC) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(DD) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

(2) Special Notice for Lead and Copper.

(a) Mandatory health effects information. When providing the information in public notices on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure."

(b) Mandatory health effects information. When providing information on the potential adverse health effects of copper in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor."

(3) Inorganics- public notice language.

(a) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(b) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(c) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(d) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(e) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(f) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(g) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(h) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(i) Fluoride. Some people who drink water containing fluoride in excess of the MCL (4.0 mg/l) over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL (2.0mg/l) or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

(j) Mercury. Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(k) Nitrate (as nitrogen). Infants below the age of 6 months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(l) Nitrite. Infants below the age of 6 months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

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(m) Total Nitrate and Nitrite. Infants below the age of 6 months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(n) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

(o) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

## (4) Special Notice for microbiological contaminants

(a) When providing information in public notices required under OAR 333-061-0042(2)(b)(A) for a violation of total coliform bacteria (OAR 333-061-0030(4)(a)), the owner or operator of the water system shall include the following specific language in the notice:

"Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems."

(b) When providing information in Public Notices required under OAR 333-061-0042(2)(a)(A) for a violation of fecal coliform /E. coli bacteria (OAR 333-061-0030(4)(b)), the owner or operator of the water system shall include the following specific language in the notice:

"Fecal coliforms and E. Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems."

(c) When providing information under OAR 333-061-0042(2)(b)(A) and 333-061-0030(4)(a) for a violation of total coliform bacteria maximum contaminant level, where the violation has been shown to result from persistent coliform growth in the distribution system, the owner or operator may include the following specific language in the notice with approval from the Department. This language may be used in addition to, but not in place of, the mandatory language contained in OAR 333-061-0097(4)(a):

"In this case, coliforms are present on inside surfaces of water mains and piping even in the presence of a disinfectant and even though proper water treatment and water system operation has taken place. This presence of coliforms presents no hazard to the health of water users, but does interfere with the water system's sampling program. Correction of the problem is difficult and may involve temporary treatment changes that may cause noticeable changes in the water's taste, odor, or appearance. These corrective actions will be carried out after the water system submits a plan which is approved by the Department of Human Services."

(d) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include, bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.

## (5) Treatment Techniques — Public Notice Language.

(a) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

(b) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

(c) Surface Water Treatment Rule. (Giardia, viruses, heterotrophic plate count bacteria, Legionella), Interim Enhanced Surface Water Treatment Rule (Giardia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium), Long Term 1 Enhanced Surface Water Treatment Rule (Giardia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium), and Filter Backwash Recycling Rule (Cryptosporidium). Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

## (6) Disinfectant and Disinfection Byproducts — Special Adverse Health Effects Language.

(a) Total Trihalomethanes (TTHMs). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

(b) Haloacetic Acids (HAA). Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

(c) Chlorine. Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

(d) Chloramines. Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

(e) Chlorine dioxide. (where any 2 consecutive daily samples taken at the entrance to the distribution system are above the MRDL). Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

Note: In addition to the language in this introductory text of subsection (6)(e) of this rule, water systems must include either the language in paragraphs (6)(e)(A) or (6)(e)(B) of this rule. Water systems with a violation at the treatment plant, but not in the distribution system, are required to use the language in paragraph (6)(e)(A) of this rule and treat the violation as a non-acute violation. Water systems with a violation in the distribution system are required to use the language in paragraph (6)(e)(B) of this rule and treat the violation as an acute violation.

(A) The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, and do not include violations within the distribution system serving users of this water supply. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to present consumers.

(B) The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system serving water users. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects of excessive exposure to chlorine dioxide-treated water. The purpose of this notice is to advise that such persons should consider reducing their risk of adverse effects from these chlorine dioxide violations by seeking alternate sources of water for human consumption until such exceedances are rectified. Local and State health authorities are the best sources for information concerning alternate drinking water.

(d) Bromate. Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

(e) Chlorite. Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

(f) Total Organic Carbon (TOC). Total Organic Carbon (TOC) has no health effects. However, TOC provides a medium for the formation of disinfection byproducts (DBPs). These byproducts include trihalomethanes and haloacetic acids. Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

## (7) Adverse health effects for radionuclides:

(a) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(b) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(c) Combined Radium-226/228. Some people who drink water containing radium-226 or -228 in excess of the MCL over many years may have an increased risk of getting cancer.

(d) Uranium. Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, ORS 431.150, ORS 448.131, ORS 448.150, ORS 448.273 & ORS 448.279

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03

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

Adm. Order No.: SSP 20-2003

Filed with Sec. of State: 8-15-2003

# ADMINISTRATIVE RULES

**Certified to be Effective:** 8-15-03

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

**Rules Adopted:** 461-150-0047, 461-170-0101, 461-170-0102, 461-170-0103, 461-170-0104, 461-180-0006

**Rules Amended:** 461-170-0010, 461-170-0020, 461-175-0220, 461-175-0240, 461-175-0270, 461-175-0280, 461-175-0305, 461-180-0030

**Subject:** Adopt rules 461-150-0047, 461-170-0101, 461-170-0102, 461-170-0103, 461-170-0104, and 461-180-0006 and amend rules 461-170-0010, 461-170-0020, 461-175-0220, 461-175-0240, 461-175-0270, 461-175-0280, 461-175-0305, and 461-180-0030, to add a new category of reporting for Food Stamp program cases. This new category is called semi-annual reporting and is limited to FS households with countable income.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-150-0047

### Budgeting Income for Cases In the Semiannual Reporting System (SRS)

(1) Prospective eligibility and budgeting are used for initial and ongoing months in SRS.

(2) Income is budgeted so that the anticipated amount is the same for each month. To do this, the type of income (stable, variable, annualized) the client anticipates receiving must be determined and the monthly income is then determined using the appropriate administrative rules on annualizing, averaging or converting income.

(3) Income reported on the interim change report is used according to section (4) of this rule to determine eligibility and benefit level.

(4) Income for the fifth month of the certification period is used to determine the income for the seventh and following months in the certification period if the client believes it will remain the same throughout the period. If the client believes it will not remain the same, the client and the case manager jointly estimate the income for those months.

Stat. Auth.: 411.816

Stats. Implemented: 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0010

### Reporting Changes; Overview

(1) For a change clients are required to report, a client may report the change by telephone, office visit, report form, or other written means. They must report within the following time frames:

(a) Changes reported outside the MRS or SRS must be reported within 10 days of occurrence. The 10-day period starts when the change occurs.

(A) For earned income, clients have 10 days to report from the first day of a new job or from the day employment is terminated.

(B) For unearned income, the 10-day period starts on the day the client receives the new or changed payment.

(b) Changes required to be reported through the MRS must be reported on the form designated by the Department and according to MRS requirements.

(c) Clients using APR must report changes according to OAR 461-170-0015 and 461-170-0020.

(d) Clients using the semiannual reporting system (SRS) must report changes according to OAR 461-170-0020.

(2) A change is considered reported effective the date the information is received by the Department.

(3) Changes reported for one program are considered reported for all programs in which the client participates and will be acted on by the Department according to the requirements of each program.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1992(Temp), f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-194, f. & cert. ef. 9-1-94; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0020

### Changes That Must be Reported; FS, MAA, MAF, TANF

Clients in the FS, MAA, MAF and TANF programs are required to report the changes described in this rule.

(1) Clients must report the following changes within 10 days of occurrence unless the client is required to report the change by section (2) or (3) or is exempted from the reporting requirement by section (4) of this rule:

(a) A change in members of the filing group and any resulting change in income;

(b) A change in employment, including getting, quitting or losing a job;

(c) A change in source of income;

(d) A change in earned income based on hourly wages when the change is due to:

(A) A change in the rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage; or

(B) A change greater than five in the number of hours worked each week when the change is expected to last one month or longer;

(e) A change in earned income, not based on hourly wages, of more than \$100 a month;

(f) A change in unearned income, except a change in a public assistance grant, of more than \$25;

(g) The acquisition or change in ownership of nonexcluded vehicles;

(h) The sale or receipt of resources that cause total resources to exceed program resource limits;

(i) A change in residence and the shelter costs in the new residence;

(j) A benefit group member's noncompliance with the OFSET program when that person is a mandatory participant; and

(k) A change in the legal obligation to pay child support.

(2) Clients in the monthly reporting system (MRS) must report changes in income as required by the rules applicable to the Monthly Change Report.

(3) Clients in the semiannual reporting system (SRS) must report, by the 10th day of the month following the month of occurrence, when monthly income exceeds the countable income limit in the Food Stamp program and when their mailing address changes. All other changes are required to be reported on the interim change report.

(4) A client participating in the transitional benefit alternative (TBA) in the Food Stamp program is not required to report changes.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SPP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0101

### Semiannual Reporting System (SRS); FS

(1) OAR 461-170-0101 through 0104 establish and explain the semi-annual reporting system (SRS) used in the Food Stamp program.

(2) Clients certified to receive food stamps for six months or longer may participate in SRS if a member of the household receives countable income.

(3) A filing group may not participate in SRS and is removed from SRS if the group:

(a) Contains a migrant or seasonal farm worker;

(b) Contains only homeless individuals;

(c) Is composed only of elderly or disabled people who have no earned income; or

(d) Contains a person who is receiving benefits from the ERDC program.

Stat. Auth.: 411.816

Stats. Implemented: 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0102

### Required Reports for the Semiannual Reporting System (SRS) — Interim Change Report; FS

(1) During the sixth month of a certification period, a client participating in SRS and certified for food stamps for longer than six months must submit to the Department, on a form designated by the Department, a report of household circumstances.

(2) The required interim change report is considered complete when it is received by the Department by the last day of the sixth month of the certification period and:

(a) The client completely and accurately answers all questions necessary to determine eligibility and benefit amounts;

(b) The client provides all required verification; and

(c) The form contains the signature of the primary person or the authorized representative.

# ADMINISTRATIVE RULES

Stat. Auth.: 411.816  
Stats. Implemented: 411.816  
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0103

### Actions Resulting From Changes in Household Circumstances; Semiannual Reporting System (SRS); FS

(1) Benefits may be changed for a client using SRS — based on information obtained other than through the interim change report — only as follows:

(a) The benefit level will be increased if the information demonstrates the client is eligible for greater benefits.

(b) The benefits will be closed or reduced only if:

(A) The household requests a closure of benefits; or

(B) The action is based on information that is verified upon receipt.

Information is considered verified upon receipt if it is not questionable and if the person making the report has first-hand knowledge of the information reported. In addition, a change is considered verified upon receipt if:

(i) A person in the filing group reports he or she has moved from the household and has asked for benefits in another filing group.

(ii) The filing group reports having a new residence and reports new shelter costs.

(2) The Department acts on information reported to the Department's central OHP staff when the interim change report is processed, when the client is recertified, and when the worker becomes aware of the information.

(3) The Department acts on information reported through computer matches with the Employment Department or Social Security Administration when the interim change report is processed, when the client is recertified, and when the worker becomes aware of the information.

Stat. Auth.: 411.816  
Stats. Implemented: 411.816  
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-170-0104

### Effect of Failure to Submit Complete Interim Change Report; Semiannual Reporting System (SRS); FS

(1) If the Department does not receive a complete interim change report by the last day of the sixth month of the certification period, benefits for the seventh month of the certification period are suspended. If the interim change report is not received during the month of suspension, the client is ineligible for that month.

(2) If a completed interim change report is received by the last day of the seventh month, it is used to determine eligibility and benefit level for the seventh and remaining months of the certification period in SRS.

Stat. Auth.: 411.816  
Stats. Implemented: 411.816  
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-175-0220

### Notice Situation; Disqualification

(1) If a benefit group or individual is disqualified for a FS voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, or OFSET program, or assist the state's efforts to collect support, the Department sends the following notice:

(a) If benefits are reduced or closed because of the disqualification:

(A) A continuing benefit decision notice is used when changes are reported on the Monthly Change Report, Interim Change Report or Periodic Review forms.

(B) A timely continuing benefit decision notice is used when changes are not reported on the Monthly Change Report, Interim Change Report or Periodic Review forms.

(b) If benefits are opened without the disqualified individual in the benefit group or if the entire benefit group is denied assistance, a basic decision notice is used.

(2) For a JOBS, JOBS Plus or OFSET disqualification, and for a FS voluntary job quit by a person receiving food stamp benefits, the notice includes the following information:

(a) The client action that resulted in disqualification.

(b) The length of the minimum disqualification period.

(c) The reduced benefit amount.

(d) How they can end the disqualification after the minimum period.

(3) For a voluntary job quit by a person applying for food stamp benefits, the notice includes the following information:

(a) The action that resulted in the disqualification; and

(b) The length of the disqualification period.

(4) For FS and TANF IPV disqualifications:

(a) A basic decision notice is required if a person in the benefit group is disqualified for an IPV as the result of a court order or a final order from an administrative hearing.

(b) A continuing benefit decision notice is required if a person in the benefit group is disqualified for an IPV based on a signed waiver.

Stat. Auth.: ORS 411.816  
Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 20-2003, f. & cert. ef. 8-15-03

## 461-175-0240

### Notice Situation; Lump-Sum

(1) If a financial group receives lump-sum income that will make the financial group ineligible or cause a reduction in benefits:

(a) The Department will deny benefits to an applicant and send a basic decision notice.

(b) If a benefit group is receiving benefits, the Department will stop or reduce them and:

(A) If the action is based on changes reported on the monthly change report, interim change report or periodic review, will send a continuing benefit decision notice.

(B) If the action is not based on changes reported on the monthly change report, interim change report or periodic review, will send a timely continuing benefit decision notice.

(2) In the GA program, the decision notice described in section (1) of this rule includes:

(a) The amount of the countable lump-sum income.

(b) The calculation of this income on a monthly basis.

(c) The length of time that the benefit group is ineligible because of receipt of lump-sum income and the amount that will be included as countable income in the first month of eligibility.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 24-2001, f. & cert. ef. 11-1-01; SSP 20-2003, f. & cert. ef. 8-15-03

## 461-175-0270

### Notice Situation; APR, MRS, SRS or TBA

(1) When a benefit group is entered into the MRS, the Department sends a basic decision notice for the GA, GAM, OSIP, OSIPM, and QMB programs and a continuing benefit decision notice for all other programs.

(2) When a benefit group is entered into the SRS or TBA, and when it starts using the APR, the Department sends a continuing benefit decision notice.

(3) When the Department takes action on information reported on the monthly change report, interim change report or periodic review:

(a) It sends a continuing benefit decision notice for clients in the ERDC, FS, MAA, MAF, REF, REFM, and TANF programs. Except for ERDC and FS, the notice includes:

(A) The amount of income used to determine the benefits or ineligibility; and

(B) The amount of each deduction; or

(C) The reported nonfinancial changes that affect eligibility.

(b) No notice is required for clients in the GA, GAM, OSIP, OSIPM, and QMB programs.

(4) For all changes not reported on the monthly change report, interim change report or periodic review, the Department sends a timely continuing benefit decision notice.

(5) For benefit groups in the MRS, when ending TANF benefits because of information acquired through the information match with the Child Support program, the Department sends a continuing benefit decision notice.

(6) When the Department removes a client from the MRS, SRS or TBA, it will provide a continuing benefit decision notice if the change occurs at a time other than at the start of a certification period.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03

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## 461-175-0280

### Notice Situation; Failure to Submit Report for APR, MRS or SRS

(1) In the MAA, MAF, REF and TANF programs, the Department sends a continuing benefit decision notice when the benefit group fails to return the monthly change report by the tenth day of the payment month. The notice informs the benefit group that:

(a) The report was not received by the Department by the tenth day of the payment month.

(b) The benefit group must provide the report by the end of the payment month to receive benefits for the payment month.

(c) The benefit group will not receive the earned income deductions.

(d) If the report is not received by the Department by the last day of the payment month, benefits will be closed effective the last day of the budget month.

(2) In the ERDC program, the Department sends a continuing benefit decision notice to close benefits when the benefit group fails to return the periodic review report by the last day of the last month of the APR period.

(3) For FS clients in the MRS, the Department sends a continuing benefit decision notice when the benefit group fails to return the monthly change report by the 10th day of the payment month. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the payment month.

(b) The benefit group has until the end of the payment month to provide the report to receive benefits for the payment month.

(c) If the report is not received by the Department by the last day of the payment month, benefits will be suspended effective the last day of the budget month.

(d) The case will remain in suspended status for a month and then be closed.

(4) In the FS program, the Department sends a continuing benefit decision notice when a benefit group in SRS fails to return the interim change report by the 10th day of the sixth month of the certification period. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the sixth month in the certification period.

(b) The benefit group has until the end of the sixth month of the certification period to provide the report to receive benefits for the seventh month of the certification period.

(c) If the report is not received by the Department by the last day of the sixth month of the certification period, benefits will be suspended effective the last day of the sixth month.

(d) The case will remain in suspended status for a month, then the case will be closed.

(5) In the GA, GAM, OSIP and OSIPM programs, the Department does not send a notice if a client fails to provide a monthly change report.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03

## 461-175-0305

### Notice Situation; Removing a Person From a Benefit Group (EXT, FS, MAA, MAF, SAC, TANF) or Need Group (ERDC)

(1) To remove a person from a benefit group or from an ERDC need group, the following notices are used:

(a) A continuing benefit decision notice is used when the removal is based on information reported on the monthly change report, interim change report or periodic review form.

(b) A timely continuing benefit decision notice is used when the removal is not based on the monthly change report, interim change report or periodic review form.

(2) In the EXT, MAA, MAF, SAC and TANF programs, if a child is removed from the benefit group as a result of a court order or a voluntary placement in foster care by the child's caretaker relative, a basic decision notice is used.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03

## 461-180-0006

### Effective Dates; Changes in the Semiannual Reporting System (SRS)

(1) The effective date of a change based on an interim change report is:

(a) The first day of the seventh month of the certification period; or  
(b) If the change causes benefits to close, the last day of the sixth month of the certification period.

(2) The effective date of a change not based on an interim change report is as follows:

(a) For a change resulting in an increase in benefits, the effective date is determined in accordance with OAR 461-180-0010 and 461-180-0020.

(b) For a change resulting in a decrease in benefits, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends when the reported change is considered *verified upon receipt*.

(c) For a change resulting in a closure of food stamp benefits, the effective date is the last day of the month in which the notice period ends.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03

## 461-180-0030

### Effective Dates; Changes in Income or Income Deductions that Cause Reductions

For all cases except those using APR and those in SRS or TBA, this rule is used to determine the effective date when changes in income or income deductions cause a decrease in benefits.

(1) When retrospective budgeting is being used, the effective date for the reduction is the first day of the payment month.

(2) When prospective budgeting is being used, the effective date for reducing benefits is the first day of the month following the month in which the decision notice period ends.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03

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

**Adm. Order No.:** SPD 14-2003

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 411-030-0020, 411-030-0033, 411-030-0040, 411-030-0050, 411-030-0060, 411-030-0070, 411-030-0080, 411-030-0090

**Subject:** These rulemaking actions implement permanent adoption of temporary amendments to these rules that expire July 30, 2003. The amendments include: 1) Clarification of who is eligible for the In-Home Services program under the Home and Community-Based Care Waiver; 2) Program and Department organizational name changes; 3) Revision to procedures for the ancillary withholding of FICA in the Client Employed Provider Program; 4) Clarification of biennial limits on serving Spousal Pay clients and procedures used in establishing the Spousal Pay Program waiting list; 5) Other miscellaneous editing for better readability.

**Rules Coordinator:** Pam Rouske—(503) 945-6954

## 411-030-0020

### Definitions

As used in these rules:

(1) "Activities of Daily Living" (ADL) means those personal, functional activities required by an individual for continued well-being which are essential for health and safety. Activities may include eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Architectural Resources" means any service leading to the modification of the structure of a dwelling to meet a specific service need of the client.

(3) "Area Agency on Aging" (AAA) means the Department of Human Services (DHS) designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to the elderly and possibly the disabled in a planning and service area. For purposes of these rules, the term Area Agency on Aging (AAA) is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 - 410.300.



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(4) "Case Management" means the service provided by a Department or Area Agency on Aging employee, which ensures the effective provision of services to the client.

(5) "Case Manager" means a person who ensures client entry, assessment, service planning, service implementation, and evaluation of the effectiveness of the services.

(6) "Client" means the individual eligible for in-home services.

(7) "Client-Employed Provider Program" (CEP) refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer/employee relationship, the Department of Human Services acts as an agent for the client-employer. These functions are clearly described in OAR 411-030-0060.

(8) "Cognition" means functions of the brain, which assist in orientation to person, place and time, decision-making, learning, and memory.

(9) "Companionship Services" means those services which are designated by the Department of Labor as meeting the personal needs of a client and which are exempt from federal and state minimum wage laws. These exemptions apply only to Live-In Services providers as defined in this rule.

(10) "Contracted In-Home Care" means a service provided through a contractor which consists of minimal or substantial assistance with activities of daily living and self-management tasks. Clients that require full assistance with eating may also utilize contracted in-home care.

(11) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR 333-536-0000 - 333-536-0095 that provides hourly contracted in-home care to clients of the Department or Area Agency on Aging.

(12) "Contracted In-Home Care Specialist" means an employee of a contract agency who has recognized capability to provide the in-home care service tasks authorized for the clients they serve.

(13) "Cost Effective" means that a specific service meets the client's service needs while costing less over the long- or short-term than other service options considered.

(14) "Department" means the Department of Human Services, Seniors and People with Disabilities.

(15) "Exception" means a granting of the unusual use of or payment for a service that is expressly or implicitly prohibited within the In-Home Services rules, OAR 411, division 030.

(16) "Full Assistance" means the client is unable to do any part of an activity of daily living or task; i.e., it must be done entirely by someone else.

(17) "General Household Work" means, according to federal law, housecleaning, chore services, and other tasks provided by an employee that benefits non-client members of the household.

(18) "Health and Safety Emergencies" means the occurrence of a sudden change in a medical condition or an event of an accidental nature that requires evacuation from the premises, administration of prescription medication or first aid, or immediate treatment by medical personnel.

(19) "Hourly Services" means the in-home services, including activities of daily living and self-management tasks, which are provided at regularly scheduled times. None of these hours are exempt from federal or state minimum wage or overtime laws.

(20) "Independent" means the client can perform the task without help.

(21) "In-Home Services" means those services that assist a client to stay in his/her own home.

(22) "Live-In Services" means those Client-Employed Provider Program Services provided when a client requires ADL, self-management tasks, and twenty-four hour availability. Time spent by the live-in employee doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements under the Companionship Services definition outlined in this rule. Such an exemption only exists when the employee actually resides in the home of the client for five calendar days in a calendar week.

(23) "Minimal Assistance" means the client is able to perform a majority of a task, but requires some assistance.

(24) "Oregon Project Independence" (OPI) means the program of in-home services defined in OAR 411, division 032.

(25) "Provider" means the individual who actually renders the service.

(26) "Recognized Capability" means observed ability to competently perform an authorized task.

(27) "Registered Nurse Plan of Care" means a document completed by an RN identifying the tasks which must be provided to meet the client's assessed needs.

(28) "Respite" means securing a paid temporary replacement worker to allow the live-in provider interim relief from providing care to the client. Wages paid the respite worker are exempt from federal and state minimum wage and overtime requirements.

(29) "Self-Management" means those activities, other than activities of daily living, required by an individual to continue independent living; i.e., medication and oxygen management, transportation, meal preparation, shopping, and client-focused housekeeping.

(30) "Seniors and People With Disabilities" (SPD) means the part of the Department of Human Services responsible for rules and policy for programs associated with seniors and persons with disabilities.

(31) "Service Need" means those functions or activities with which the client requires the Department or Area Agency on Aging support.

(32) "Service Priority" means the order in which Department clients are found eligible for nursing home care, Home and Community-Based Services waiver programs, the Spousal Pay Program, and Oregon Project Independence.

(33) "Substantial Assistance" means a client can perform only a small portion of a task and requires assistance with a majority of a task.

(34) "Technological Resources" means those commodities or equipment considered likely to meet a client's service need.

(35) "Twenty-Four Hour Availability" means the availability and responsibility of an employee to meet Activities of Daily Living and self-management needs of a client as required by that client over a twenty-four hour period. These services are provided by a live-in employee and are exempt from federal and state minimum wage and overtime requirements.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0033

### Program Scope

(1) The In-Home Services Program is designed to provide essential supportive services that enable an individual to remain in his/her own home. The services range from assistance with general household tasks to assistance with activities of daily living. The extent of the services may vary from a few hours per week to full-time.

(2) In-home services may be provided either through the Client-Employed Provider Program or a Contracted In-Home Care Agency. A description of these program options is contained in the OAR 411, division 030, In-Home Services rules.

(3) A client residing in any of the following living arrangements may be considered for in-home services:

(a) A home, apartment, duplex, or condominium the client owns, leases, or rents.

(b) Both the client and the relative care provider have their names on the lease, mortgage, or property manager's rental agreement.

(c) The client lives with relatives or others, but receives paid hourly in-home services from someone who resides outside the home.

(d) The client moved in with a relative who:

(A) Owns, leases, or rents the home in which the client lives, and

(B) Is providing paid care services, and

(C) Is sharing a portion of shelter costs according to a rental or lease agreement with the client, and

(D) The intent of the client moving in was for reasons other than receiving paid care services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0040

### Eligibility Criteria

(1) In-home services may be provided to those individuals who meet the established priorities for service as described in OAR 411, division 015 and have been assessed to be in need of a service provided in OAR 411, division 030. Payments for in-home services are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Payment by the Department can be considered or authorized only when such resources are not available, not sufficient, or cannot be developed to adequately meet the needs of the client. Care plans will be based upon the least costly means of providing adequate care.

(2) Clients must be included in one of the following groups:

(a) Current recipients of OSIPM who reside in one of the living arrangements described in OAR 411-030-0033(3) and who are eighteen years of age or older;

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(b) Eligible adults, eighteen and older, receiving TANF with MAA, MAF or Extended Medical benefits only when service is necessary to prevent nursing facility placement; or

(c) Persons who are eligible for:

(A) Oregon Project Independence as defined in OAR 411, division 032;

(B) Independent Choices as defined in OAR 411, division 036;

(C) Spousal Pay Program as defined in OAR 411-030-0080; or

(D) Contracted In-Home Care Agency services as defined in OAR 411-030-0090.

(3) Residents of licensed community-based care facilities are not eligible for the In-Home Services Program.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-12-93; Renumbered from 411-030-0001; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0050

### Case Management

(1) Assessment

(a) The assessment process will identify the client's ability to perform activities of daily living, self-management tasks, and determine the client's ability to address health and safety concerns. The case manager will conduct this assessment in accordance with standards of practices established by the Department.

(b) The assessment will be conducted by a case manager or other qualified Department or Area Agency on Aging representative in the client's home, no less than annually, with a standardized assessment tool approved by Seniors and People With Disabilities.

(2) Contract RN Assessment

(a) Contract RN services are prior authorized by a Department or Area Agency on Aging case manager to provide:

(A) Nursing assessment and reassessment as appropriate;

(B) Medication review;

(C) Assignment of basic care tasks to a Client-Employed Provider; and

(D) Delegation of special tasks of nursing care to a Client-Employed Provider.

(b) Indicators of the need for RN assessment and monitoring include:

(A) Full assistance in cognition;

(B) Medical instability;

(C) Potential for skin breakdown or decubitus ulcer;

(D) Multiple health problems or frailty with a strong probability of deterioration; and

(E) Potential for increased self-care, but instruction and support for the client are needed to reach goals.

(c) Maximum hours for each contracted RN service will be established by the Department.

(3) Service Plan

(a) The client and case manager, with the assistance of other involved individuals, will consider in-home service options as well as architectural, technological, and other community-based care resources to meet the service needs identified in the assessment process.

(b) The case manager has responsibility for determining client eligibility for specific services, presenting alternatives to the client, and assuring the cost effectiveness of the plan. The case manager will monitor the plan and make adjustments as needed.

(c) The client has the primary responsibility for choosing and, whenever possible, developing the most cost-effective service options, including the Client-Employed Provider Program and Contracted In-Home Care Agency services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 12-1985(Temp), f. & ef. 9-19-85; SSD 16-1985, f. 12-31-85, ef. 1-1-86; SSD 4-1987(Temp), f. & ef. 7-1-87; SSD 1-1988, f. & cert. ef. 3-1-88; SSD 6-1988, f. & cert. ef. 7-1-88; SSD 9-1989, f. 6-30-89, cert. ef. 7-1-89; SSD 11-1989(Temp), f. & cert. ef. 9-1-89; SSD 18-1989, f. 12-29-89, cert. ef. 1-1-90; SSD 7-1990(Temp), f. & cert. ef. 3-1-90; SSD 16-1990, f. & cert. ef. 8-20-90; SSD 1-1992, f. & cert. ef. 2-21-92; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; Renumbered from 411-030-0022; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0060

### Client-Employed Provider Program

The Client-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in structure assumes that the provider will be required for activities of daily living and self-management tasks and twenty-four hour availability. The hourly structure assumes that the provider will be required for activities of

daily living and self-management tasks during specific substantial periods. Except as indicated, all of the following materials apply to both structures:

(1) Employment Relationship: The relationship between the provider and the client is that of employee and employer.

(2) Job Descriptions: Each client/employer, in cooperation with the case manager, or if present, contracted Registered Nurse, will create a job description for the potential employee. Such descriptions will make it clear that general household work will comprise less than 20% of the live-in employee's time.

(3) Employee's Liabilities: Employees bear sole responsibility for state and federal income taxes due on earnings as an employee of the client/employer. Both the employer and the Department explicitly deny any responsibility for deducting personal income tax withholdings from the employee's check. The employee is not covered by Workers' Compensation under Oregon Law. Additionally, under Oregon law the employee is not covered by any other state-defined benefit as a state employee. This exclusion includes but is not limited to the Public Employees Retirement System.

(4) Interruption of Services

(a) When a client is absent from the home due to an illness or medical treatment and is expected to return to the home, a live-in provider may be retained to ensure his/her presence upon the client's return or to maintain the client's home for up to 30 days at a rate established by the Department. An exception to this rate may be granted by a local office manager, if the physician providing treatment in a hospital or rehabilitation setting requests the presence of the provider for special services such as interpreting, briefing, or training. In this circumstance, service plan expenditures will continue as though the client was in the home.

(b) The required meals and lodging expenses of the provider, while providing these services fifty miles or more from the client's residence, will be covered. Such expenses, including mileage allowed under Section (11) of this rule, will be covered by the Office of Medical Assistance Programs, whenever possible.

(5) Selection of Employee: The client carries primary responsibility for locating, interviewing, screening, and hiring his/her own employees. The right to employ the individual of his/her choice stands without regard to any limitations established by the legislature or federal government, except for Immigration and Naturalization Service Rules.

(6) Employment Agreement: The client/employer retains the full right to establish the employer/employee relationship at any time after Immigration and Naturalization Service papers have been completed and identification photocopied. No guarantee of payment for those services will be made by the Department until all acceptable employee standards have been verified and both the employer and employee have been formally notified in writing that payment by the Department is authorized.

(7) Termination of Employment: Terms of dismissal or resignation notice are the sole responsibility of the employer to establish at the time of employment.

(8) Payment by the Department

(a) Payment Authorization: Payment for Client-Employed Provider services will be authorized by the Department dependent on the presence of certain employee standards, including:

(A) Maintaining a drug-free work place

(B) An acceptable criminal record as defined in OAR 411, division 009; and

(C) The skills, knowledge, and ability to perform the required work.

(b) Termination of Payment: The Department reserves the right to suspend or terminate payment when:

(A) Violations of protective service and abuse laws occur;

(B) Fiscal improprieties occur;

(C) Services are not provided as required;

(D) Employee does not have the skills to adequately or safely provide services;

(E) The employer requests termination; or

(F) New criminal convictions come to the attention of the Department.

(9) Respite

(a) Eligibility: When a live-in employee is the only employee during the course of a month, or if that employee is the only employee for the beginning or end of a month due to termination or initiation of employment with that employer, the Department will authorize one twenty-four hour period of respite for non-spouse providers each month. For any part of a month worked, the employee will receive a proportional share of that twenty-four hour period of respite authorization.

# ADMINISTRATIVE RULES

(b) Accumulation and Usage: A provider may not accumulate more than 144 hours of respite allowance. The employer, employee, and case manager will coordinate the timely use of these hours. Usage will be in minimum of twenty-four hour blocks. Respite will be provided in multiples of twenty-four hour blocks, except when the balance is less than twenty-four hours, in which case the remnant may be used in a block.

(c) Transferability of Earned Respite Hours: The employee retains the right to earned respite time when terminating employment with one employer, so long as the employee is employed with another employer as a live-in within ninety days of termination. Without the re-institution of such employment, the employee will lose all right to these respite hours on the ninety-first day.

(10) Department Fiscal and Accounting Responsibility.

(a) Direct Service Payments: The Department will make payment to the provider on behalf of the client for all client-employed in-home services, whether authorized by a Department or Area Agency on Aging local Office. This payment will be considered full payment for the services rendered under Title XIX. Under no circumstances is the employee to demand or receive additional payment for these services from the client or any other source.

(b) Ancillary Contributions:

(A) Acting on behalf of the Client/Employer, the Department will apply any applicable FICA (Federal Insurance Contributions Act) regulations and will:

(i) Withhold the provider/employee contribution from payments;

(ii) Refund previously withheld amounts when it is determined the provider/employee is not subject to withholdings; and

(iii) Submit the Client/Employer contribution and the amounts withheld from the provider/employee to the Social Security Administration.

(B) The Department will pay the employer's share of the Unemployment Tax.

(C) The Department will not pay the client for food and shelter expenses associated with employing a live-in provider.

(D) A hardship shelter allowance may be authorized for a client having a live-in provider on or after September 1, 1995, if one of the following conditions is met:

(i) The client will be forced to move from their current dwelling and his/her current average monthly rent or mortgage costs exceed current OSIP and OSIPM standards for a one-person need group as outlined in OAR 461-155-0250; or

(ii) Service costs would significantly increase as a result of the client being unable to provide living quarters for a necessary live-in provider.

(c) Ancillary Withholdings. For purposes of Section (10)(c) of this rule, "labor organization" means any organization that has, as one of its purposes, representing employees in their employment relations.

(A) When authorized by the client/employer and requested by the provider, the Department may deduct from the provider's monthly salary or wages the specified amount for payment to a labor organization designated by the provider to receive payment.

(B) In order to receive this payment, the labor organization must enter into a written agreement with the Department to pay the actual administrative costs of the deductions.

(C) The Department will pay the deducted amount monthly to the designated labor organization.

(D) Upon receipt of a written request from the client/employer, provider, or labor organization, or upon termination of the written agreement with the labor organization, the Department will stop making such deductions and payments.

(11) Employee Expenses Secondary to Performance of Duties

(a) Providers may be reimbursed at the current appropriate state mileage rate when they use their own car for care plan related transportation, if prior authorized by the case manager. If unscheduled transportation needs arise during non-office hours, an explanation as to the need for the transportation must be provided and approved prior to reimbursement.

(b) Volunteer transportation and other transportation services included in the care plan will be considered a prior resource.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SSD 8-1995, f. 8-31-95, cert. ef. 9-1-95; SSD 10-1995(Temp), f. & cert. ef. 9-8-95; SSD 4-1996, f. 3-29-96, cert. ef. 4-1-96; SSD 2-1997, f. 8-29-97, cert. ef. 9-1-97; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0070

### Maximum Hours of Service

(1) Maximum Monthly Hours for Activities of Daily Living:

(a) The planning process will use the following parameters for time allotments for ADL tasks:

(A) Eating: Minimal assistance — 5 hours; substantial assistance — 20 hours; full assistance — 30 hours;

(B) Dressing: Minimal assistance — 5 hours; substantial assistance — 15 hours; full assistance — 20 hours;

(C) Bathing and Personal Hygiene: Minimal assistance — 10 hours; substantial assistance — 15 hours; full assistance — 25 hours;

(D) Mobility: Minimal assistance — 10 hours; substantial assistance — 15 hours; full assistance — 25 hours;

(E) Bowel and Bladder: Minimal assistance — 10 hours; substantial assistance — 20 hours; full assistance — 25 hours;

(F) Cognition: Minimal assistance — 5 hours; substantial assistance — 10 hours; full assistance — 20 hours.

(b) If an individual requires full assistance in mobility and does not need the maximum hours for cognition, the unused cognition hours may be used to supplement the ADL total, if such hours are needed to meet detailed ADL service needs.

(c) For two-client households, each person's service needs are considered separately.

(d) Hours authorized for activities of daily living are paid at a rate established and published by the Department. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(2) Maximum Hours for Self-Management Tasks:

(a) The planning process will use the following parameters for time allotments for all services:

(A) Medication Management: Minimal assistance — 2 hours; substantial assistance — 4 hours; full assistance — 6 hours;

(B) Transportation or Escort Services: Minimal assistance — 2 hours; substantial assistance — 3 hours; full assistance — 5 hours;

(C) Meal Preparation: Minimal assistance — Breakfast — 4 hours, lunch — 4 hours, supper — 8 hours; substantial assistance — breakfast — 8 hours, lunch — 8 hours, supper — 16 hours; full assistance — breakfast — 12 hours, lunch — 12 hours, supper — 24 hours;

(D) Shopping: Minimal assistance — 2 hours; substantial assistance — 4 hours; full assistance — 6 hours;

(E) Housecleaning: Minimal assistance — 5 hours; substantial assistance — 10 hours; full assistance — 20 hours.

(b) Rates paid will be established and published by the Department. When a live-in employee is present, these hours may be paid at less than minimum wage according to the companionship definition in the Fair Labor Standards Act. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(c) When two clients eligible for self management task hours live in the same household, the assessed self-management need of each client will be calculated. Payment will be made for the higher of the two allotments and a total of four additional hours per month to allow for the second client's specific needs.

(3) Twenty-Four Hour Availability:

(a) Payment for twenty-four availability will be considered only when the client uses a client-employed provider and requires this availability due to both of the following:

(A) The client requires minimal, substantial, or full assistance with meeting health or safety emergencies; and

(B) The client requires assistance with activities of daily living and/or self-management tasks at unpredictable times throughout most twenty-four hour periods.

(b) The number of hours allowed per month will be negotiable, but have the following maximums:

(A) Minimal assistance — 50 hours;

(B) Substantial assistance — 110 hours;

(C) Full assistance — 159 hours.

(c) Rates for this availability will be established and published by the Department and be considered eligible for "companionship" designation under state and federal laws. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(4) Under no circumstances will any provider receive payment from the Department for more than the total amount authorized by the Department on the In-Home Services Authorization Form.

(5) Authorized hours are subject to the extent of client need and the availability of funds. Case managers must assess and utilize as appropriate, available friends and family members, cost-effective assistive devices, durable medical equipment and/or housing accommodations, which could reduce the client's reliance on paid in-home service hours.

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(6) It is the intent of the Department to authorize paid in-home services only to the extent necessary to supplement potential or existing resources within the client's personal support system.

[ED. NOTE: Forms referenced are available from the agency.]  
Stat. Auth.: ORS 409.050, 410.070 & 410.090  
Stats. Implemented: ORS 410.010, 410.020 & 410.070  
Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDDS 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDDS 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0080

### Spousal Pay Program

(1) Spousal Pay Program Eligibility: In-home care provided by the spouse of an OSIPM client is compensable by the Department under ORS 411.803 only when the following conditions are met:

(a) The client requires full assistance in at least four of the six activities of daily living, as determined by the assessment, and would require nursing facility placement without in-home services;

(b) The client has a medically diagnosed progressive debilitating condition which will limit additional activities of daily living, or has experienced a spinal cord injury or similar disability with permanent impairment of the ability to perform activities of daily living;

(c) The spouse demonstrates the capability and health to provide the services and actually provides the principal care for which payment has been authorized; and

(d) The client's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another.

(2) Establishment and maintenance of a centralized waiting list for eligible clients requesting services compensated through the Spousal Pay Program.

(a) The Department's Central Office staff will establish and maintain a list of eligible clients based on referrals from local offices.

(b) The Department has established funding to serve a biennial limit on the number of Spousal Pay clients in the program each month.

(c) When the biennial limit is reached, clients requesting services through the Spousal Pay Program, whose eligibility determination process has been finalized, will be placed on a waiting list. Names on the waiting list will be entered according to the date submitted by the local office.

(d) Prior to submission of name, applicants must have completed:

(A) The financial application process; and

(B) Had an assessment of service needs completed by the appropriate local office staff.

(e) As vacancies occur, eligible waiting list clients will be selected in order of submission, as defined in subsection 2(c) of this rule.

(f) Clients on the waiting list may receive services through other appropriate Department programs for which they are eligible.

(3) Payments:

(a) All payments will be prior authorized by the Department or it's designee.

(b) Payments will be based on the equivalent of one-half of the 24-hour availability and self-management task hours, plus the time required for specific documented activities of daily living.

(c) Payment of any respite care will be the responsibility of the spouse and not be paid by the Department.

(d) Payment to a spouse is not considered as a need item to establish initial eligibility or continuing eligibility for OSIPM.

(e) Under ORS 411.802, client-employed providers who become the spouse of their employer will retain the same level of pay as described in OAR 411-030-0070 if their employer meets the spousal pay eligibility criteria as described in subsection (1)(a) of this rule.

Stat. Auth.: ORS 409.050, 410.070 & 410.090  
Stats. Implemented: ORS 410.010, 410.020 & 410.070  
Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; Renumbered from 411-030-0027; SDDS 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03

## 411-030-0090

### Contracted In-Home Care Agency Services

Limitations in Scope and Duration: Contracted in-home care agency services will be used when the service proves to be the most cost efficient in meeting the needs of the client or necessary to meet interim or emergency service needs while more cost-effective solutions are sought and procured. In-Home Care Agencies must be licensed in accordance with OAR 333-536-0000 - 333-536-0095. The specific services provided will be described in each contract's statement of work.

Stat. Auth.: ORS 409.050, 410.070 & 410.090  
Stats. Implemented: ORS 410.010, 410.020 & 410.070  
Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SPD 14-2003, f. & cert. ef. 7-31-03

## Department of Justice Chapter 137

**Adm. Order No.:** DOJ 8-2003(Temp)

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 8-1-03 thru 1-1-04

**Notice Publication Date:**

**Rules Amended:** 137-040-0017

**Subject:** This Temporary Rule amends the AG's Model Public Contract Rule at OAR 137-040-0017 on first-tier subcontractor disclosure requirements applicable to competitively bid public improvement contracts, consistent with ORS 279.027 as amended by HB 3422 (OR Laws 2003, Ch \_\_) effective on August 1, 2003. The amendments affect allowable times for Bid Closing, requirements for Bid Opening, dollar thresholds, filing the disclosure and information to be disclosed.

**Rules Coordinator:** Carol Riches—(503) 378-6313

### 137-040-0017

#### Disclosure and Substitution of First-Tier Subcontractors

(1) **Required Disclosure.** Within two working hours after the Bid Closing on an ITB for a Public Improvement having a Contract Price anticipated by the Agency to exceed \$100,000, all Bidders shall submit to the Agency a disclosure form as described by this rule, identifying any first-tier subcontractors (those Entities that would be contracting directly with the prime contractor) that will be furnishing labor or labor and materials on the Contract, if awarded, whose subcontract value would be equal to or greater than:

(a) Five percent of the total Contract Price, but at least \$15,000; or  
(b) \$350,000, regardless of the percentage of the total Contract Price.

(2) **Bid Closing, Disclosure Deadline, and Bid Opening.** For each ITB to which this rule applies, the Agency shall:

(a) Set the Bid Closing on a Tuesday, Wednesday or Thursday, and at a time between 2 p.m. and 5 p.m., except that these Bid Closing restrictions do not apply to an ITB for maintenance or construction of highways, bridges or other transportation facilities, and provided that the two-hour disclosure deadline described by this rule would not then fall on a legal holiday;

(b) Open Bids publicly immediately after the Bid Closing; and

(c) Consider for Contract award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed by the Agency.

(3) **Bidder Instructions and Disclosure Form.** For the purposes of this rule, an Agency in its solicitation shall:

(a) Prescribe the disclosure form that must be utilized, substantially in the form set forth in ORS 279.027(4); and

(b) Provide instructions in a notice substantially similar to the following:

**"Instructions for First-Tier Subcontractor Disclosure**  
Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is greater than \$100,000 (see ORS 279.027). Specifically, when the contract amount of a first-tier subcontractor furnishing labor or labor and materials would be greater than or equal to: (i) 5% of the project bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the bidder must disclose the following information about that subcontract either in its bid submission, or within two hours after bid closing:

1) The subcontractor's name,

2) The category of work that the subcontractor would be performing, and

3) The dollar value of the subcontract.

If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "NONE" on the accompanying form.

**THE AGENCY MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE (see OAR 137-040-0017)."**

(4) **Submission.** A Bidder shall submit the disclosure form required by this rule either in its Bid submission, or within two working hours after Bid Closing in the manner specified by the ITB.

(5) **Responsiveness.** Compliance with the disclosure and submittal requirements of ORS 279.027(3) and (4) and this rule is a matter of Responsiveness. Bids which are submitted by Bid Closing, but for which the disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract award.

(6) **Agency Role.** Agencies shall obtain, and make available for public inspection, the disclosure forms required by ORS 279.027 and this rule. Agencies shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279.363. Agencies are not

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required to determine the accuracy or completeness of the information provided on disclosure forms.

(7) **Substitution.** Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279.322. Agencies shall accept written submissions filed under that statute as public records. Aside from issues involving inadvertent clerical error under ORS 279.322(5), Agencies do not have a statutory role or duty to review, approve, or resolve disputes concerning such substitutions. See ORS 279.323 regarding complaints to the Construction Contractors Board on improper substitution.

(8) **Effective Date.** The amendments under this temporary rule shall apply to Public Improvement Contracts first advertised on or after August 1, 2003.

Stat. Auth.: ORS 279.049  
Stats. Implemented: ORS 279.027, ORS 279.322, ORS 279.323 & ORS 279.363  
Hist.: DOJ 11-1999, f. 12-30-99, cert. ef. 1-1-00; DOJ 1-2001, f. & cert. ef. 1-17-01; DOJ 12-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; DOJ 1-2002, f. 3-18-02, cert. ef. 3-20-02; DOJ 8-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 1-1-04

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

**Adm. Order No.:** DPSST 11-2003

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-24-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 259-009-0062

**Subject:** The rule changes update the period of time for historical recognition of training completed before August 1, 2003, and puts in place the time line for completion of the task books.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

**259-009-0062**

**Fire Service Personnel Certification**

(1) A fire service professional affiliated with an Oregon fire department may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire department training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance evaluations if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard No. 1001, Edition of 1997, entitled "Fire Fighter Professional Qualifications", including Tentative Interim Amendment 97-1 are adopted subject to the following definitions and modifications:

(A) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(B) Delete section 1-3 (Note: this references NFPA 1500)

(C) Delete section 2-1(c) (Note: this references NFPA 1582)

(D) Delete section 2-2 (Note: These are physical requirements for Fire Fighter)

(E) Entry Level Fire Fighter shall mean an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard No. 1403, Edition of 1997, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and certified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under close supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(F) All applicants for certification as a Fire Fighter I shall complete either the Task Performance Evaluation or a Department of Public Safety Standards and Training approved Task Book.

(b) The provisions of the NFPA Standard No. 1002, Edition of 1998, entitled "Fire Department Vehicle Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) Delete Section 1-3.2.

(B) 3-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 3-1 through 3-2, shall be met prior to certification as a fire department driver/operator-pumper.

(C) 4-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance

requirements defined in Sections 4-1 - 4-2, shall be met prior to certification as a fire department driver/operator-aerial.

(D) 5-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Chapter 4 and Section 5-2, shall be met prior to certification as a fire department driver/operator-tiller.

(E) 6-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 6-1 through 6-2, shall be met prior to certification as a fire department driver/operator-wildland fire apparatus.

(F) 7-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 7-1 through 7-2, shall be met prior to certification as a fire department driver/operator-aircraft rescue and fire-fighting apparatus (ARFF).

(G) 8-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 8-1 through 8-2, shall be met prior to certification as a fire department driver/operator-mobile water supply apparatus.

(H) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program, Section 4-2" from Sections 2-3.1, 3-1.3, 4-1.3, 5-2.2, 6-1.3, 6-1.4-1.3, and 8-1.3.

(I) Either a Task Performance Evaluation must be completed or a Task Book for Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Firefighting Apparatus Operator or Mobile Water Supply Apparatus Operator must be completed and signed off by the Agency head or Training Officer before an applicant can qualify for certification as a Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Firefighting Apparatus Operator or Mobile Water Supply Apparatus Operator.

(K) An individual who completes the requirements of Chapter 2 and meets the requirements of Entry Level Fire Fighter, may be certified as a Fire Driver.

(c) The provisions of the NFPA Standards No. 1003, Edition 1994, entitled Standard for Airport Fire Fighter Professional Qualifications, are adopted subject to the following definitions and modifications:

(A) Complete an approved Task Book.

(B) Amend section 1-3.1 by deleting "Airport fire fighters who drive aircraft rescue and fire fighting (ARFF) vehicles shall meet the requirements of Chapter 7 of NFPA 1002, Standard for Fire Department Vehicle Driver/Operator Professional Qualifications."

(d) The provisions of the NFPA Standard No. 1031, Edition of 1998, entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) November 1, 2000, all new certifications will be based on NFPA 1031.

(ii) November 1, 2000, through July 31, 2003, any certified Fire Prevention/Investigation Officer I may become certified at NFPA Fire Inspector I.

(iii) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer II will be certified as an NFPA Fire Inspector II.

(iv) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer III will be certified as an NFPA Fire Inspector III.

(v) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until July 31, 2003.

(B) All applicants for certification as a Fire Inspector shall successfully complete a Department of Public Safety Standards and Training approved Task Book.

(C) All applicants for certification as a Fire Inspector shall pass a written certification exam administered by the Department of Public Safety Standards and Training. The applicant shall have completed all required training before taking this exam.

(D) All applicants for certification as a Plan Examiner shall successfully complete a Department of Public Safety Standards and Training approved Task Book.

(E) All applicants for certification as a Plan Examiner shall successfully complete a written certification exam administered by the Department of Public Safety Standards and Training. The applicant shall have completed all required training before taking this exam.

(F) Tentative interim amendment 98-1(NFPA 1031).

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(G) Task books shall be monitored by a Field Training Officer approved by the Department of Public Safety Standards and Training. The Field Training Officer should be certified at or above the level being monitored and have at least 5 years inspection experience. Exception: Any Deputy State Fire Marshal (not Entry) with 5 years experience as a deputy in inspections will be approved as a Field Training Officer for Fire Inspector I until July 31, 2003. The Department of Public Safety Standards and Training may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department of Public Safety Standards and Training Staff.

(e) The provisions of the NFPA Standard No. 1033, Edition of 1998, entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) Beginning November 1, 2000, all new certifications will be based on NFPA 1033

(ii) November 1, 2000, through July 31, 2003, any certified Fire Prevention/Investigation Officer I may become certified at NFPA Fire Investigator.

(iii) November 1, 2000, anyone certified as an Oregon Fire Investigator II will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator II. No new Oregon Fire Investigator II certificates will be issued after July 31, 2003.

(iv) November 1, 2000, anyone certified as an Oregon Fire Investigator III will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator III. No new Oregon Fire Investigator III certificates will be issued after July 31, 2003.

(v) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until July 31, 2003.

(B) All applicants for certification as a Fire Investigator shall successfully complete a Department of Public Safety Standards and Training approved Task Book.

(C) All applicants for certification as a Fire Investigator shall pass a written certification exam administered by the Department of Public Safety Standards and Training. The applicant shall have completed all required training before taking this exam. Exception: Anyone holding a valid IAAI Fire Investigator Certification may take the written certification exam and become certified after passing the written exam.

(D) Task books shall be monitored by a Field Training Officer approved by the Department of Public Safety Standards and Training. The Field Training Officer should be certified at or above the level being monitored and have at least 5 years fire investigation experience. Exception: Any Deputy State Fire Marshal (not Entry) with 5 years experience as a deputy in fire investigation will be approved as a Field Training Officer for Fire Investigator until July 31, 2003. The Department of Public Safety Standards and Training may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department of Public Safety Standards and Training Staff.

(f) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II", Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

1-4.4 Change the definition of "Assessment" to read: "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

1-4.11 Change the title and definition of "Fire Screener" to "Fire Screening" to read "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

1-4.14 Include "insurance" in list of agencies.

1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services..."

1-4.16 Change "person" to "youth" and change age from 21 to 18.

1-4.17 Add "...using state-approved prepared forms and guidelines..."

1-4.22 Add "...or by authority having jurisdiction."

1-4.24 Add "...or as defined by the authority having jurisdiction"

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I."

(iii) Bridging will be available for 12 months after adoption of the standard. To bridge to Juvenile Firesetter Intervention Specialist I, a person will be eligible to take an 8-hour update class if s/he documents all of the following:

- Involvement in three fire investigations
- Use of the 10-J and Oregon Screen Tool forms three times
- Five years experience in fire service or a related field

\* Attendance in the current Juvenile Firesetter Intervention class or show participation in the Juvenile Firesetter Network by having the application signed off by the local network.

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(g) The provisions of the NFPA Standard No. 1041, Edition of 1996, entitled Standard for Fire Service Instructor Professional Qualifications, are adopted subject to the following definitions and modifications:

(A) "Fundamentals of Instruction" shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for each level of Fire Service Instructor certification.

(i) This requirement is effective for any application for certification after January 4, 2002.

(h) The provisions of the NFPA Standard No. 1021, Edition of 1997, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 2-1 General. For certification at the Fire Officer Level I, the candidate shall be certified at Fire Fighter II, as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Sections 2-2 through 2-7 of this standard.

(i) 2-1.1 General Co-requisite Knowledge: the organizational structure of the department, departmental operating procedures for administration, emergency operations, and safety; departmental budget process; information management and record keeping; the fire prevention and building safety codes and ordinances applicable to the jurisdiction; incident management system; socioeconomic and political factors that impact the fire service; cultural diversity; methods used by supervisors to obtain cooperation within a group of subordinates; the rights of management and members; agreements in force between the organization and members; policies and procedures regarding the operation of the department as they involve supervisors and members.

(ii) 2-1.2 General Prerequisite Skills: the ability to communicate verbally and in writing, to write reports, and to operate in the incident management system. These skills may be documented through the following course work: Advanced Writing (such as WR121 or equivalent); Advanced Speech (such as SP111 or equivalent); Technical Writing (such as WR227 or equivalent); Math (such as MTH 052 or equivalent); Physical Science (such as PH201 or equivalent). The following are recognized courses for portions of the training requirements 2-2 through 2-7: Fire Fighter Law; Managing Fire Personnel currently #39-13; Increasing Personal Effectiveness & Increasing Team Effectiveness or 3 or more credit college level course in principles of supervision or NFA Leadership I, II, and III; Fire Fighter Safety and Survival for Company Officers currently #61-01; MCTO-P, D & T; Instructor I or equivalent.

(iii) Successfully complete an approved task book for Fire Officer I.

(B) 3-1 General. For certification as Fire Officer Level II, the candidate shall be certified as Fire Officer I and Fire Instructor I, as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Section 3-2 through 3-7 of this standard.

(i) 3-2.3 Existing Curricula: Public Education, Relations, and Information; College Fire Codes and Ordinances; or National Fire Academy Fire Inspection Principles; or International Fire Codes Institute Uniform Fire Code Certificate; Fire Detection Systems & Alarms; College or State Major Emergency Strategy and Tactics; or National Fire Academy Command and Control of Fire Department Operations at Multi-Alarm Incidents; or National Fire Academy Command and Control of Fire Department Operations at Target Hazards; or National Fire Academy Hazardous Materials Incident Management; Incident Safety Officer; Department of Public Safety Standards and Training Fire Instructor II; or Department of Public Safety Standards and Training Instructor Development Course; National Fire Academy Initial Fire Investigation; or National Fire Academy Arson Detection for Fire Responders; or College Fire Investigation Course; or National Fire Academy Fire Cause Determination for Company Officers; or Fire Investigation #35-10; Washington Oregon Interface/National Wildfire Coordinating Group (WOL-NWCG) — S-205 (Wildland); College Strategy and Tactics; or National Fire Academy Managing Company Tactical Operations — Tactics and Decision Making; or National Fire Academy Incident Command System; or National Fire Academy Fire Command Operations.

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(ii) Successfully complete an approved task book for Fire Officer II.

(C) 4-1 General. For certification at the Fire Officer III/Administrator Level, the candidate shall be certified as Fire Officer II as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Sections 4-2 through 4-7 of this standard; or, for certification at the Fire Protection Administrator Level, the candidate shall be certified as either Fire Officer II, Fire Prevention Officer III, Public Education Officer III, Instructor IV, or Fire Investigator III as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Sections 4-2 through 4-7 of this standard.

(i) 4-1.3 Existing Curricula — Basic Institute Classes which would meet Fire Protection Administrator Course Requirements: Inspection and investigation (new); Emergency Service Delivery (new); Principles of Fire Protection Management; Personnel Management; Organization for Fire Protection; Legal Aspects; Fiscal Management;

(D) 5-1 General. For certification at the Fire Officer IV/Executive Level, the candidate shall be certified as Fire Officer III as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Sections 5-2 through 5-7 of this standard, or, for certification at the Fire Protection Executive Level, the candidate shall be certified as either Fire Officer III Fire Protection Administrator as defined by the Department of Public Safety Standards and Training, and meet the job performance requirements defined in Sections 5-2 through 5-7 of this standard.

(i) 5-1.2 General Co-requisite Skill: the ability to effectively apply prerequisite knowledge.

(ii) 5-1.3 Existing Curricula — Advanced Institute Classes which would meet Fire Protection Executive Course Requirements: Master Planning; Advanced Legal Aspects; Advanced Fiscal Management; Local Government and Community Politics; Organizational Psychology; Management Information Systems; Labor Management Relations.

(i) Hazardous Materials Responder (DPSST-P-12 1/96).

(j) Fire Ground Leader, (DPSST, 2001)

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader shall first be certified as an NFPA Fire Fighter II.

(C) An applicant would need to document training in nine areas:

(i) Fire Resistive Building Construction

(ii) Ordinary Building Construction

(iii) Incident Safety Officer or Fire Fighter Safety

(iv) Water Supplies

(v) Strategy and Tactics I, II, and III

(vi) Incident Command System

(vii) Fire Investigation

(D) A task book shall be completed before certification is awarded.

The task book has been made a part of the Fire Officer 1 Task Book.

(k) Wildland Interface Fire Fighter, Wildland Interface Engine Boss/Company Officer, Wildland Strike Team leader, Wildland Division/Group Supervisor (DPSST-P-20 2/99).

(l) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book.

(m) Certification guide for Wildland Fire Investigator (August, 1999).

(n) The provisions of the NFPA Standard No. 1006, Edition of 2000, entitled, "Professional Qualifications for Rescue Technician" are adopted subject to the following modifications:

(A) The Authority Having Jurisdiction shall mean the local or regional fire department.

(B) Historical Recognition:

(i) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application must be submitted to the Department no later than August 1, 2004.

(iii) Historical recognition will be valid for training completed prior to August 1, 2003.

(C) Instructors

(i) Curriculum must be certified by DPSST to meet NFPA 1006.

(ii) An instructor delivering training under a department's accreditation agreement must be a certified technician in that specialty rescue area.

(D) Task Books

(i) Completion of a task book will be required for certification beginning August 1, 2003.

(ii) A task book must be completed for each of the six specialty rescue areas applied for.

(iii) Only a certified technician in that specialty rescue area can sign off the Task Book.

(iv) The requirements in Chapters 2 and 3 need to be met only one time for all six specialty rescue areas.

(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:

(a) Task performance competency shall be evaluated by three people nominated by the employing fire department's Chief Officer for approval by the Department or its designated representative.

(b) The employing department's equipment and operational procedures shall be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.

(d) The training officer for an accredited fire department training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire department whose training program is not accredited.

(4) The following are recommendations for skills maintenance training:

(a) Certified fire personnel should annually complete the following prescribed hours of accredited education and/or training in the area in which they are certified and performing as a primary duty:

Fire Fighter I and Driver: — 30 hours /year

Fire Fighter II, Airport Fire Fighter, Pumper Operator, Aerial Operator, Tiller Operator, Aircraft Rescue and Firefighting Apparatus Operator, Wildland Fire Apparatus Operator and Mobile Water Supply Apparatus Operator: — 60 hours/year  
Instructor personnel — 4 hours of accredited training per year or eight hours per year of successful teaching

All other levels(including Hazardous Materials Operations Level) — 12 hours/year

(b) An individual certified and performing duties in more than one area need only have training hours equal to the single highest requirement.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03

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**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-24-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 259-060-0020, 259-060-0300, 259-060-0500

**Subject:** Increases the fees paid for issuance of Private Security licenses. Allows a fee to be charged for not sufficient checks, outlines who is eligible for the waiver process and adds language to the section of convictions that was taken out in error.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

**259-060-0020**

**Minimum Standards for Certification or Licensure**

(1) Age.

(a) An applicant for certification as a private security officer, private security officer-alarm monitor or private security instructor shall be:

(A) At least 18 years of age to receive certification as an unarmed security officer, private security officer-alarm monitor, or unarmed private security instructor; and

(B) At least 21 years of age to receive certification as an armed security officer or armed private security instructor.

(b) All applicants for licensing as a proprietary security manager or security contractor shall be at least 18 years of age.

(2) Training. An applicant for certification or licensing shall satisfactorily complete the applicable training requirements as specified in the Private Security Service Providers Act and these rules.

(3) Criminal History. An applicant for certification or licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I),

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163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i). There will be no waivers granted for Class A felony convictions.

(b) Within the 10-year period prior to applying for, or during, certification or licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction. Class B and Class C felony convictions may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i).

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intimidation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful

Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i)

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i)

(d) Have been convicted of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing and Delivering), 475.995 (Distribution to Minors), 475.999 (Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction: 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i)

(f) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597. There will be no waivers granted for any persons in this category.

(4) Firearms Restrictions. An applicant for armed private security officer or instructor certification shall not be eligible for certification if the applicant:

(a) Has been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(b) Has been found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(c) Is prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(d) Is prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

(5) Failure to Meet Firearms Criteria. In the event a certified armed private security officer, or an applicant for such certification, should at any time fail to meet the requirements of subsections (4)(a) through (d) herein, the certificant/applicant and the manager, employer or supervisor of the certificant/applicant, shall:

(a) Notify the Department or its designee within 48 hours, in writing, of the circumstance making the certificant/applicant ineligible to purchase, own or possess a firearm. The notification shall list all facts known, including any written documentation, and shall identify a person whom the Department may contact to obtain additional information;

(b) Transfer the employee to an unarmed position until a determination has been made by the Department regarding the status of the certificant/applicant and

(c) Retrieve any issued weapons and ammunition.

(6) ADA Compliance. Individual employers or entities shall be expected to conform to federal ADA guidelines as they relate to physical fitness standards.

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

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

Stats. Implemented: ORS 181.875 & ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST



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3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03

## 259-060-0300

### Denial/Suspension/Revocation

(1) Grounds for Denying, Suspending or Revoking the Certificate of a Private Security Officer (armed or unarmed), Private Security Officer-Alarm Monitor, Instructor or the License of an Executive or Supervisory Manager; Process for Requesting Board Waiver:

(a) The Department may suspend, revoke or deny a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the certificate or license falsified any information submitted on the application for certification or licensing or on any documents submitted to the Department;

(B) The license holder or applicant for licensure has violated the temporary assignment provisions of OAR 259-060-0120(1);

(C) The applicant or holder of the certificate or license has failed to timely submit properly completed forms, documentation or fees required under these rules;

(D) The applicant or holder of the certificate or license has violated the provisions of the Private Security Service Providers Act or these administrative rules or has failed to perform any acts required by these rules.

(b) The Department shall revoke or deny a license or certificate after written notice and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the license or certificate at any time fails to meet the criminal history requirements of OAR 259-060-0020(3) and ORS 181.875(3);

(B) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, fails to meet the minimum qualifications and requirements set forth in OAR 259-060-0020(4);

(C) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, suffers any disqualification, condition or circumstance which, under federal law or the law of this state, would disqualify the person from owning, possessing or purchasing a firearm; or

(c) The Department may suspend a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The holder of the certificate or license has been arrested for or charged with any crime listed in OAR 259-060-0020(3);

(B) The holder of the certificate or license has failed to successfully complete or timely report the annual or biennial refresher training and examination(s) required in OAR 259-060-0080; or

(C) The holder of the armed private security officer certification has failed to successfully complete or timely report the annual firearms marksmanship requalification required under OAR 259-060-0085.

### (2) Denial, Suspension and Revocation Procedure

(a) Employer Request: When the employer of the private security officer, private security officer-alarm monitor, private security manager or private security instructor requests that the person's certification or licensure be denied, suspended or revoked, the request shall be submitted in writing to the Department or its designated staff, stating the reason for the requested suspension, revocation or denial and all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.878, the Department or its designated staff may request that the person's certification or licensure be suspended, revoked or denied.

(c) Department Staff Review: The Department or its designated staff shall review the request and the supporting factual information to determine if the request for suspension, revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule requirements for suspension, revocation or denial, the Department's designated staff shall so notify the employer. If the reason for the suspension, revocation or denial meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department or its designated staff shall request further information from the requesting employer or conduct its own investigation of the matter.

(d) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the Department or its designated committee.

(e) Contested Case Notice: The Department or its designated staff shall cause to be prepared a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its designated staff shall have a copy of the "Notice" served on the person whose certification or licensure is being affected.

(f) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 60 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 90 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(g) Default Order: In the absence of a timely request for a hearing, the Contested Case Notice will become a final order revoking or denying certification pursuant to OAR 137-003-0075(5).

(h) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(i) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards shall be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in OAR 259-060-0020(3). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision shall be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued. The waiver process applies only to the petitioners that are certified and licensed under the Private Security Service Providers Act of 1995 on or before October 23, 1999.

(A) The advisory committee may consider waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The petitioner having been licensed or certified under the Private Security Service Providers Act of 1995 on or before October 23, 1999; and

(ii) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years; and

(iii) The substance of reference checks attests to good moral and ethical fitness; and

(iv) The petitioner's age at the time of the conviction; and

(v) Absence other criminal convictions; and

(vi) Other substantial and compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It shall be the responsibility of the petitioner to request a waiver within 20 calendar days of the Department's notice of denial or revocation.

(C) It shall be the responsibility of the petitioner to present to the advisory committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled advisory committee meeting. The advisory committee will make its recommendation to the Board, following review of those documents.

Stat. Auth.: ORS 181.878, ORS 181.882 & ORS 181.885

Stats. Implemented: ORS 181.878 & ORS 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03

## 259-060-0500

### License Fees

Payments to the Department are non-refundable, and must be paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted. The following fees shall be charged by the Department in carrying out the provisions of the Act:

(1) The fee of \$60 for the issuance of each two-year certification as a private security officer or private security officer-alarm monitor.

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(2) The one-time only fee of \$50 will be charged to each applicant for a fingerprint criminal history check. The additional fee of \$24 will be charged for the third submittal of fingerprint cards when rejected for filing by FBI.

(3) The fee of \$100 for the issuance of a two-year license as a private security supervisory manager.

(4) The fee of \$350 for the issuance of a two-year license as a private security executive manager.

(5) The fee of \$150 for the issuance of a two-year certification as a private security instructor.

(6) The fee of \$30 for the issuance of each upgrade, duplicate or replacement card issued.

(7) The late submission penalty fee of \$50 may be added to the fees for recertification if the provider fails to renew certification within 90 days of the expiration date of the license or certificate. If an applicant provides documented proof, such as payroll data, that he or she has not been employed to provide private security services since the prior certification or licensure expired, the late penalty may be waived by the Department's designated staff.

(8) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 1-1997(Temp), f. 2-21-97, cert. ef. 2-24-97; PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; BPSST 12-2003, f. & cert. ef. 7-24-03

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## Department of Revenue Chapter 150

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

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 7-1-03

**Rules Adopted:** 150-307.804

**Rules Amended:** 150-306.115-(C), 150-308.156, 150-311.668  
(1)(a)-(A), 150-311.668(1)(a)-(B), 150-311.676, 150-311.684, 150-311.686(2)

**Rules Repealed:** 150-306.115-(D), 150-306.115-(E), 150-306.115-(F), 150-306.115-(G), 150-306.115-(H), 150-306.115-(I), 150-306.115-(K), 150-306.115-(L), 150-308.705, 150-308.720, 150-309.100-(B), 150-311.668(1), 150-311.670, 150-311.676-(A)

**Rules Renumbered:** 150-306.115(B) to 150-305.285

**Subject:** To adopt, amend, repeal and renumber administrative rules relating to property tax, appeals, exemptions, and senior deferral.

**Rules Coordinator:** Xann-Marie Culver—(503) 947-2099

### 150-305.285

#### Relief for Subsequent Tax Years

(1) ORS 305.285 provides an additional procedural remedy for a taxpayer. It precludes the need for filing a protective petition during the pendency of petition for a previous year. While ORS 305.285 extends the period for filing petition it does not automatically entitle the taxpayer to the substantive relief requested.

(2) The taxpayer shall make his or her request for relief in a subsequent year to the department on or before December 15 of the year in which the final determination was made, or within six months of the mailing date of the final determination, whichever is later. Subsequent year is defined as any tax year for which it is still possible to file a timely petition at the time the original petition was filed and the petition period had expired when the final determination was made.

(3) The request shall state the name of the taxpayer, the property's account number and the county in which it is located, the year or years for which relief is requested, and the mailing date of the final determination. For purposes of this section, a final determination includes only those cases where there has been a decision on the merits (including stipulations). A copy of this final determination shall be attached to the request.

Stat. Auth.: 305.100

Stats. Implemented: 305.285

Hist.: RD 9-1985, f. 12-26-85, cert. ef. 12-31-85; RD 5-1986, f. & cert. ef. 12-31-86; RD 10-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1991, f. 12-30-91, cert. ef. 12-31-91; RD 1-1997(Temp), f. 6-13-97, cert. ef. 7-4-97 thru 12-31-97; RD 5-1997, f. 12-12-97, cert. ef. 12-

31-97; REV 4-1999, f. 12-1-99, cert. ef. 12-31-99, Renumbered from 150-305.285; REV 1-2003, f. & cert. ef. 7-31-03, Renumbered from 150-306.115-(B)

### 150-306.115-(C)

#### Property Tax Conference Procedures

This rule applies only to conferences conducted by the Property Tax Conference Unit.

(1) The department will hold a conference if it determines that the written record is insufficient to make a decision. If a conference is necessary, it will be held by telephone unless the department finds it more appropriate to hold the conference in person. The department will tape-record the conferences.

(2) When the department schedules a conference, it will send written notice to the participants 30 to 90 days in advance.

(a) The department may grant postponement requests for good cause. The department may require that a participant requesting a postponement obtain the approval of the other participants prior to granting a postponement.

(b) The department may dismiss the appeal if the petitioner or authorized representative fails to appear or be available at the time of the conference.

(3) Conferences will be conducted by a conference officer who is in charge of the conference proceedings.

(4) Conference participants may authorize any person to be a witness on their behalf; however, only those persons qualified under ORS 305.230 may be authorized to act as a taxpayer's representative. The department will not require any particular person to testify. The conference officer will administer an oath to all persons giving testimony.

(5) The burden of proof in all conferences is on the person seeking relief. A preponderance of the evidence is sufficient to sustain the burden of proof.

(6) Any appraisal report to be submitted into evidence must have been mailed to the department and all participants at least 10 days prior to the conference, or it must have been actually received by the department and all participants at least five working days prior to the conference. If an appraisal report is not exchanged timely, the conference officer may exclude the report and any testimony related to it.

(7) Conference participants must not communicate privately with the conference officer concerning the substantive issue in a petition. If such a communication occurs, the conference officer will inform the other participants of the communication and give them a reasonable opportunity to respond.

(8) After the conference is concluded, the conference officer will prepare, in writing, a recommended conference decision for the director's review. The director may delegate to the deputy director the authority to review the recommended conference decision.

(a) The director or deputy may approve or modify the conference officer's recommended decision.

(b) If the director or deputy proposes to modify the conference officer's recommended decision on the basis of new evidence not included in the conference record, the director or deputy must notify the participants of the new evidence and give them at least 30 days to respond to it.

(c) If there is a modification, the modified decision, the conference officer's recommended decision, and a statement of the reasons for the change will be mailed to the conference participants.

(9) The conference decision as approved by the director or deputy, or as modified by the director or deputy, is the department's final ruling on a petition. A conference decision is an order for purposes of ORS 309.115.

(a) Conference decisions may be appealed to the Oregon Tax Court within 90 days of the mailing date, as provided in ORS 305.275 and 305.280.

(b) The department may correct or amend a conference decision within 90 days of the date it was issued. The department will not amend a conference decision that has been appealed to the Tax Court.

(c) The department may issue a preliminary ruling when an intermediate decision is required prior to making the final decision. A preliminary ruling is not a final decision for purposes of appeal.

(10) Participants to a conference may request a copy of the tape of the proceeding and shall pay reasonable costs. See OAR 150-192-440. No written transcripts will be provided.

(11) Any exhibit introduced at the conference may be destroyed by the department anytime after 90 days following the issuance of an order, unless, prior to the end of the 90-day period, the person who presented the exhibit makes a written request for the return of the exhibit.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 306.115

# ADMINISTRATIVE RULES

Hist.: 11-73; 12-31-77; TC 16-1979, f. 12-20-79, cert. ef. 12-31-79; TC 6, 1981, f. 12-7-81, cert. ef. 12-31-81; RD 8-1983, f. 12-20-83, cert. ef. 12-31-83; RD 5-1986, f. & cert. ef. 12-31-86; RD 10-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1991, f. 12-30-91, cert. ef. 12-31-91; RD 1-1997(Temp), f. 6-13-97, cert. ef. 7-4-97 thru 12-31-97; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 4-1999, f. 12-1-99, cert. ef. 12-31-99, Renumbered from 150-305.115-(A); REV 1-2003, f. & cert. ef. 7-31-03

## 150-307.804

### Rural Health Care Facilities Definitions

#### (1) Definitions:

(a) "Medical care" has the same meaning as "health care services" as defined in ORS 750.005(4) and it must be provided by a health care provider.

(b) "Health care provider" has the meaning given that term as defined in ORS 127.505(11).

(2) To qualify for the property tax exemption under ORS 307.804, the rural health care facility must be used exclusively to provide medical care and health care providers must provide the medical care.

(3) The following examples are types of facilities that do not provide medical care exclusively, and therefore do not qualify under the exemption provided in ORS 307.804. These include but are not limited to:

- (a) Athletic clubs as defined in OAR 333.060-0015;
- (b) Nursing homes as defined in ORS 378.710-(5);
- (c) Long term care facilities as defined in ORS 442.015(22);
- (d) Group homes; or
- (e) Drug or alcohol treatment facilities.

Stat. Auth.: 305.100

Stat. Implemented: 307.804

Hist.: REV 1-2003, f. & cert. ef. 7-31-03

## 150-308.156

### Establishing a Changed Property Ratio

(1) The assessor must establish a CPR for property classes 0 through 8 each assessment year. For determining the ratio of the average maximum assessed value over the average real market value, only the first digit of the property class needs to be recognized. These ratios must be rounded to three decimals.

(a) Property classes may be combined to arrive at a ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(b) For specially assessed properties, only the non-specially assessed portion of value will be used to determine a ratio. For specially assessed properties such as farm or timber, the assessor may use either of the following methods to arrive at a CPR:

(A) The non-specially assessed portion of the unchanged 5-x-x or 6-x-x property classes may be used to create the CPR for those classes; or,

(B) The 4-x-x property class values may be combined with the non-specially assessed values from the 5-x-x and/or 6-x-x property classes to calculate the ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(2) Residential property class (1-x-x) includes all manufactured structures and floating homes not assigned to other property classes.

(3) For locally and centrally assessed property, the value of the CPR may not be greater than 1.000.

Stat. Auth.: ORS 305.100, 308.156(7)

Stats. Implemented: ORS 308.156

Hist.: REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; REV 1-2003, f. & cert. ef. 7-31-03

## 150-311.668(1)(a)-(A)

### Requirements to Qualify for Senior Citizen's Property Tax Deferral

In addition to the filing of an application for Senior Citizen's Property Tax Deferral the following is required:

(1) In the case of a husband and wife filing an individual application for deferral, the husband or wife who filed the application:

(a) Must be 62 years of age, or older, on or before April 15 of the year in which the claim is filed;

(b) Must live on the property, except for an absence due to health related reasons of either spouse or both spouses; and

(c) Must individually, or with his or her spouse, either own the property or be purchasing a fee simple estate under a recorded instrument of sale.

(2) In the case of joint owners other than a husband and wife, all joint owners must:

(a) Be 62 years of age, or older, on or before April 15 of the year in which the claim is filed;

(b) Either own or be purchasing the fee simple estate with a right of survivorship under a recorded instrument of sale;

(c) Live on the property, except for an absence due to health related reasons of any one or more of the applicants; and

(d) Apply for the deferral jointly.

(3) The combined household gross income from all sources and all owners must be less than the following limits:

(a) For applications filed in the calendar year 2002 for the deferral of 2002-2003 property taxes, the total household income limit for the income tax year 2001 is \$32,000.

(b) For applications filed in the calendar year 2003 and later, the total household income limit for the prior year is adjusted, based on the application of the U.S. City Average Consumer Price Index as provided in ORS 311.668(7). The Department of Revenue will publish the total household income limit each year in the deferral application.

(c) Household income is defined as stated in ORS 310.630.

(4) To confirm that the taxpayer continues to qualify for the program, the department may request from the taxpayer or their representative additional written information relating to continued program eligibility. Failure to provide the information as requested may disqualify the property from continued deferral.

(5) If the department determines that the property does not continue to qualify for property tax deferral, it will send the taxpayer a Notice of Disqualification. The taxpayer will have 90 days from the date he or she becomes aware of the disqualification, or no later than one year after the determination is made, whichever is the earliest, to appeal to the Oregon Tax Court as provided in ORS 305.280.

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

Stat. Auth.: ORS 305.100, ORS 311.668

Stats. Implemented: ORS 311.668

Hist.: RD 1-1995, f. 12-29-95, cert. ef. 12-31-95, Renumbered from 150-311.670; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02, Renumbered from 150-311.668; REV 1-2003, f. & cert. ef. 7-31-03

## 150-311.668(1)(a)-(B)

### Requirements to Qualify for Disabled Citizen's Property Tax Deferral

In addition to filing an application for Disabled Citizen's Property Tax Deferral, the following is required:

(1) In the case of a husband or wife filing an individual application for deferral, the husband or wife who filed the application:

(a) Must live on the property, except for an absence due to health related reasons of either spouse or both spouses;

(b) Must individually, or with his or her spouse, either own or be purchasing a fee simple estate under a recorded instrument of sale; and

(c) Either husband or wife must be determined eligible to receive, or is receiving, federal Social Security benefits due to disability or blindness on or before April 15 of the year in which the claim is filed.

(2) In the case of joint owners other than a husband or wife, all joint owners:

(a) Must apply for the deferral jointly;

(b) Must either own the property or be purchasing a fee simple estate with rights of survivorship under a recorded instrument of sale;

(c) Must live on the property, except for an absence due to health related reasons of any one or more of the applicants; and

(d) At least one joint owner must be determined eligible to receive, or is receiving, federal Social Security benefits due to disability or blindness on or before April 15 of the year in which the claim is filed.

(3) The combined household income from all sources and all owners must be less than the following limits:

(a) For applications filed in the calendar year 2002 for the deferral of 2002-2003 property taxes, the total household income limit for the income tax year 2001 is \$32,000.

(b) For applications filed in the calendar year 2003 and later, the total household income limit for the prior year is adjusted, based on the application of the U.S. City Average Consumer Price Index as provided in ORS 311.668(7). The Department of Revenue will publish the total household income limit each year in the deferral application.

(c) Household income is defined as stated in ORS 310.630.

(4) To confirm that the taxpayer continues to qualify for the program, the department may request from the taxpayer or their representative additional written information relating to continued program eligibility. Failure to provide the information as requested may disqualify the property from continued deferral.

(5) If the department determines that the property does not continue to qualify for property tax deferral, it will send the taxpayer a Notice of Disqualification. The taxpayer will have 90 days from the date he or she becomes aware of the disqualification, or no later than one year after the determination is made, whichever is the earliest, to appeal to the Oregon Tax Court as provided in ORS 305.280.

# ADMINISTRATIVE RULES

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 311.668  
Hist.: REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 1-2003, f. & cert. ef. 7-31-03

## 150-311.676

### Late Payment of Deferral Accounts Due to an Account Number Error or Omission During Data Exchange

If the department makes a late deferral account payment to the county as a result of an account number error or omission during the exchange of property tax data:

- (1) The county may not charge the department interest; and
- (2) The county must allow the 3 percent discount.

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 311.676  
Hist.: RD 10-1985, f. 12-26-85, cert. ef. 12-31-85; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 1-2003, f. & cert. ef. 7-31-03

## 150-311.684

### Timing of Disqualification or Cancellation from the Deferral Program

(1) The department will disqualify a deferral account when any one of the events described in ORS 311.684 occurs and the event comes to the attention of the department on or before September 1. The department will not pay any future property taxes on a deferral account that is disqualified, and all past deferred taxes, interest, and lien recording and release fees are due as provided in ORS 311.686.

(2) The department will cancel a deferral account upon receiving a written request for the cancellation from the taxpayer on or before September 1. The department will not pay any future property taxes on a deferral account that is cancelled. Past deferred taxes, interest, and lien recording fees may continue to be deferred on an account that has been cancelled either until the time of a disqualifying event under ORS 311.684 or until the department receives full payment for the amount owed.

(3) If an account is foreclosed, the department will disqualify the account and the amount owed the department must be paid by August 15 of the following calendar year before the lien will be released.

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 311.684  
Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; TC 2-1979, f. & cert. ef. 3-5-79; REV 1-2003, f. & cert. ef. 7-31-03

## 150-311.686(2)

### Payment Accountability Following Either Disqualification or Cancellation from Deferred Status

(1) Payment of deferred taxes, interest, and lien recording and release fees.

(a) When a disqualifying event as described in ORS 311.684 occurs, the taxpayer must pay all deferred taxes, interest, and lien recording and release fees due to the department by August 15 of the following calendar year.

(b) The department must receive all deferred taxes, interest, and lien recording and release fees before it releases the lien.

(2) Payment of property taxes.

(a) If the account is cancelled on or before September 1, the taxpayer must pay the county the current year property taxes due on November 15.

(b) If the account is cancelled after September 1 and on or before November 15, the department will pay the current year property taxes to the county on November 15.

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 311.686  
Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 1-2003, f. & cert. ef. 7-31-03

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**Rules Adopted:** 150-314.525(5), 150-314.752

**Rules Amended:** 150-305.220(3), 150-314.280(N), 150-314.415(1)(e)-(B), 150-314.430(1)-(A), 150-316.207(3)(a), 150-317.267(B), 150-317.329, 150-318.020(2)

**Subject:** To adopt or amend administrative rules relating to collections and business income and excise taxes.

**Rules Coordinator:** Xann-Marie Culver—(503) 947-2099

## 150-305.220(3)

### Interest Rate Formula Rule

(1) Once a year the director will compare the Oregon interest rate used for deficiencies, delinquencies, and refunds with the interest rate charged by the Internal Revenue Service for deficiencies and delinquencies to which one percent has been added. If the Oregon rate is one percent or more different from the modified federal rate, the director will revise the Oregon rate to the federal rate plus one percent. The comparison will be conducted in July and will use the rates charged by the Internal Revenue Service for the 3rd calendar quarter.

(2) Interest rates established under section (1) will be effective for interest periods beginning on or after January 1, 2004 and for interest periods beginning on or after January 1 of each year thereafter.

Stat. Auth.: ORS 305.100 & ORS 305.220(3)(a)  
Stats. Implemented: ORS 305.220  
Hist.: RD 10-1984, f. 12-5-84, cert. ef. 12-31-84; RD 8-1986, f. & cert. ef. 12-31-86; RD 14-1987, f. 12-18-87, cert. ef. 1-16-88; RD 2-1989, f. 12-18-89, cert. ef. 12-31-89; RD 4-1991, f. 12-30-91, cert. ef. 12-31-91; REV 9-2002, f. 12-31-02, cert. ef. 1-31-03; REV 2-2003, f. & cert. ef. 7-31-03

## 150-314.280-(N)

### Modified Factors for Financial Organizations

(1) This rule is based on a model regulation adopted by the Multistate Tax Commission to promote uniform treatment of this item by the states. A financial organization having income from business activity that is taxable both within and without this state must allocate and apportion its net income as provided in this rule for tax years beginning on or after January 1, 1993. All items of nonbusiness income (income that is not includable in the apportionable tax base) must be allocated pursuant to the provisions of ORS 314.610 through 314.645 and the rules thereunder. A financial organization organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States whose effectively connected income (as defined under the Federal Revenue Code) is taxable both within this state and within another state, other than the state in which it is organized, must allocate and apportion its net income as provided in this rule.

(2)(a) For tax years beginning on or after January 1, 1991 and before May 1, 2003, all business income must be apportioned to this state by multiplying the income by a fraction. The numerator of the fraction is two times the receipts factor, as described in section (4) of this rule, plus the property factor, as described in section (5) of this rule, plus the payroll factor, as described in section (6) of this rule. The denominator of the fraction is four. If one of the factors is missing, the remaining factors are added and the sum is divided by three (divide by two if the missing factor is the receipts factor). A factor is missing if both its numerator and denominator are zero, but it is not missing merely because its numerator is zero.

(b) For tax years beginning on or after May 1, 2003, all business income must be apportioned to this state by multiplying the income by a multiplier equal to 80 percent of the receipts factor described in section (4) of this rule plus 10 percent of the property factor described in section (5) of this rule plus 10 percent of the payroll factor described in section (6) of this rule.

(c) Each factor must be computed according to the method of accounting (cash or accrual) used by the taxpayer for the taxable year.

(d) See OAR 150-314.280-(M) for other methods of apportionment and allocation or modification of the method in this rule that may be allowable.

(3) Definitions as used in this rule, unless the context otherwise requires:

(a) "Billing address" means the location indicated in the books and records of the taxpayer on the first day of the taxable year (or on such later date in the taxable year when the customer relationship began) as the address where any notice, statement, or bill relating to a customer's account is mailed.

(b) "Borrower or credit card holder located in this state" means:

(A) A borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state; or

(B) A borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) "Commercial domicile" means:

(A) The headquarters of the trade or business, that is, the place from which the trade or business is principally managed and directed; or

(B) If a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such taxpayer's commercial domicile is deemed for the purposes of this rule to be the state of the United States or the District of Columbia from which such taxpayer's trade or business in the United States

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is principally managed or directed. It is presumed, subject to rebuttal, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, no matter where the services of such employees are performed, as of the last day of the taxable year.

(d) "Credit card" means credit, travel or entertainment card.

(e) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services provided by the merchant to the credit card.

(f) "Financial organization" is defined in ORS 314.610(4).

(g) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans do not include: loans representing property acquired in lieu of or pursuant to a foreclosure under section 595 of the federal Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; noninterest bearing balances due from other depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC, or other mortgage-backed or asset-backed security; and other similar items.

(h) "Loan secured by real property" means that 50 percent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(i) "Merchant discount" means the fee (or negotiated discount) charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(j) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(k) "Person" means an individual, estate, trust, partnership, corporation, and any other business entity.

(l) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly:

(A) Starts his or her work and to which the employee customarily returns in order to receive instructions from the employer, or

(B) Communicates with customers or other persons, or

(C) Performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points.

(m) "Real property owned" and "tangible personal property owned" means real and tangible personal property, respectively,

(A) On which the taxpayer may claim depreciation for federal income tax purposes; or

(B) Property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes (or could claim depreciation if subject to federal income tax). Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(n) "Regular place of business" means an office at which the taxpayer conducts business in a regular and systematic manner and that is continuously maintained, occupied, and used by employees of the taxpayer.

(o) "State" is defined in ORS 314.610, paragraph (8).

(p) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(q) "Taxable" is defined as "taxable in another state" in ORS 314.620.

(r) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(4) Receipts Factor.

(a) In general. The receipts factor is a fraction as provided in ORS 314.665(1). The receipts factor includes only those receipts described here-

in that constitute business income and are included in the computation of the apportionable income base for the taxable year.

(b) Receipts from the lease of real property. See OAR 150-314.665(4).

(c) Receipts from the lease of tangible personal property.

(A) Except as described in paragraph (B) of this subsection, the numerator of the receipts factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(B) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(d) Interest from loans secured by real property.

(A) The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this subsection are included in the numerator of the receipts factor if more than 50 percent of the fair market value of the real property is located within this state. If more than 50 percent of the fair market value of the real property is not located within any one state, then the receipts described in this subsection must be included in the numerator of the receipts factor if the borrower is located in this state.

(B) The determination of whether the real property securing a loan is located within this state is made as of the time the original agreement was made, and any and all subsequent substitutions of collateral are disregarded.

(e) Interest from loans not secured by real property. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(f) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(A) The amount of net gains (but not less than zero) from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The amount of net gains (but not less than zero) from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(g) Receipts from credit card receivables. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(h) Net gains from the sale of credit card receivables. The numerator of the receipts factor includes all net gains (but not less than zero) from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Credit card issuer's reimbursement fees. The numerator of the receipts factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer's total amount of interest and

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fees or penalties in the nature of interest from credit card receivables and fees charged to card-holders.

(j) Receipts from merchant discount. The numerator of the receipts factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts are computed net of any card holder charge backs, but are not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card-holders.

(k) Loan servicing fees.

(A) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(C) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor must include such fees if the borrower is located in this state.

(l) Receipts from services. See OAR 150-314.665(4).

(m) Receipts from investment assets and activities and trading assets and activities.

(A) Interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities are included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities, trading account assets, federal funds; securities purchased and sold under agreements to resell or repurchase, options, future contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. With respect to the investment and trading assets and activities described in subparagraphs (i) and (ii) of this paragraph, the receipts factor includes the amounts described in such subparagraphs.

(i) The receipts factor includes the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The receipts factor includes the amount by which interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(B) The numerator of the receipts factor includes interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in paragraph (A) that are attributable to this state.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero) and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator of the receipts factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, (but excluding amounts described

in subparagraphs (i) and (ii) of this paragraph), attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the average value of such trading assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) For purposes of this paragraph, average value is determined using the rules for determining the average value of tangible personal property set forth in subsections (c) and (d) of section (5).

(C) In lieu of using the method set forth in paragraph (B) of this subsection, the taxpayer may elect, or the department may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this paragraph.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator of the receipts factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions (but excluding amounts described in subparagraphs (i) and (ii) of this paragraph) attributable to this state and included in the numerator is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the gross income from such trading assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(D) If the taxpayer elects or is required by the department to use the method set forth in paragraph (C) of this subsection, it must use this method on all subsequent returns unless the taxpayer receives prior written permission from the department, or the department requires, the use of a different method.

(E) The taxpayer has the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state, such asset or activity is considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines are presumed to be established at the commercial domicile of the taxpayer.

(n) All other receipts. The numerator of the receipts factor includes all other receipts pursuant to the rules set forth under ORS 314.665.

(o) Attribution of certain receipts to commercial domicile. All receipts that would be assigned under this section to a state in which the taxpayer is not taxable are included in the numerator of the receipts factor, if the taxpayer's commercial domicile is in this state.

(5) Property Factor.

(a) In general. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real property, tangible personal property, loans, and credit card receivables located and used within this state during the taxable year and the denominator of which is the average value of all such property located and used both within and without this state during the taxable year.

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(b) Property included. The property factor includes only property the income or expenses of which are included (or would have been included if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the apportionable income base for the taxable year.

(c) Value of property owned by the taxpayer.

(A) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(B) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established pursuant to regulatory or financial accounting guidelines that is treated as charged off for federal income tax purposes is treated as charged off for purposes of this section.

(C) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(d) Average value of property owned by the taxpayer. See OAR 150-314.655(2)-(A) and 150-314.655(3).

(e) Average value of real property and tangible personal property rented to the taxpayer. See OAR 150-314.655(2)-(B).

(f) Location of real property and tangible personal property owned by or rented to the taxpayer.

(A) Except as described in paragraph (B) of this subsection, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(B) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft is deemed to be used in this state and the amount of value that is included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered.

(g) Location of loans.

(A)(i) A loan is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state is presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses said records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in subparagraph (A)(ii) of this section may be rebutted upon a showing by the department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan is located within this state if:

(I) The taxpayer had a regular place of business within this state at the time the loan was made; and

(II) The taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(B) In the case of a loan that is assigned by the taxpayer to a place without this state that is not a regular place of business, it is presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the tax-

payer's commercial domicile, as defined by subsection (3)(c), was within this state.

(C) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue will be reviewed on a case-by-case basis and consideration will be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) Solicitation. Solicitation is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business that the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) Investigation. Investigation is the procedure whereby employees of the taxpayer determine the credit-worthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation. Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement (e.g., the amount, duration, interest rate, frequency of repayment, currency denomination, and security required). Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iv) Approval. Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) Administration. Administration is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(h) Location of credit card receivables. For purposes of determining the location of credit card receivables, credit card receivables are treated as loans and are subject to the provisions of subsection (g) of this section.

(i) Period for which properly assigned loan remains assigned. A loan that has been properly assigned to a state, absent any change of material fact, remains assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(6) Payroll factor. In general. The payroll factor is determined as provided in ORS 314.660 and the rules thereunder.

(7) When an Oregon consolidated group includes both financial corporations and nonfinancial corporations, Oregon returns must be filed as follows:

(a) If a financial corporation and one or more nonfinancial corporations are subject to taxation by Oregon:

(A) The financial corporation must file a return in its name under the provisions of ORS 317.710(5)(b), apportioning the income of the entire unitary group included in its federal consolidated return under the provisions of this rule. The factor numerators must include the Oregon property, payroll and receipts of the financial corporation only. The denominators must include the total property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

(B) The nonfinancial corporations subject to Oregon taxation must file a consolidated return in the name determined under the provisions of OAR 150-317.710(5)(a)-(A). The income of the entire unitary group included in their consolidated federal return, including the financial corporation, must be apportioned using the standard apportionment factors under ORS 314.655 through 314.665. The numerators of the apportionment factors must include the Oregon property, payroll, and sales of the nonfinancial corporations and exclude the Oregon property, payroll, and receipts of

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the financial corporation. The denominators of the apportionment factors must include the property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

(b) If a financial corporation is the only member of the unitary group subject to Oregon taxation, the income of the entire unitary group included in its consolidated federal return must be apportioned as provided in this rule. The Oregon property, payroll, and receipts of the financial corporation must be included in the apportionment factor numerators. The total property, payroll, and receipts or sales of the entire unitary group that is included in income or loss subject to apportionment must be included in the apportionment factor denominators.

(c) If no financial corporation is subject to Oregon taxation, but one or more nonfinancial corporations are, the standard apportionment factors provided in ORS 314.655 through 314.665 must be applied to the income of the entire unitary group, including any financial corporations. The Oregon property, payroll, and sales of the nonfinancial corporations must be included in the apportionment factor numerators. The denominators of the apportionment factors must include the property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

Stat. Auth.: ORS 305.100 & 314.280

Stats. Implemented: ORS 314.280

Hist.: RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2002, f. & cert. ef. 12-31-02; REV 2-2003, f. & cert. ef. 7-31-03

## 150-314.415(1)(e)-(B)

### Refund Offset Priority

(1) Definitions for purposes of this rule.

(a) Unrestricted accounts. An account assigned by a state agency which is collected by use of all Department of Revenue resources available.

(b) Appropriation accounts. An account that is established by an appropriation of the state legislature.

(c) Nonassessed accounts. The deficiency tax account amount by which the tax as correctly computed exceeds the tax, if any, reported by the taxpayer.

(d) Assessed accounts. The tax account that has not been appealed or paid and a written notice of assessment stating the amount so assessed has been sent to the taxpayer.

(e) Oldest account. The oldest account is an account with the earliest set-up date. If more than one account has the same set-up date, the earliest tax year is the oldest account. "Set-up date" means the date the account was established or created.

(2) The department will offset a refund to assessed accounts. The department may also offset a refund to nonassessed accounts when the taxpayer sends the department a written authorization to offset the refund. Offsets will be made using the following guidelines:

(a) First, offset to the oldest account within the program that has the refund.

(b) Second, offset to other programs, oldest account first, following the priorities shown in section (4) below.

(3) A taxpayer's refund will be offset only to accounts owed by that taxpayer. An individual refund will not be offset to a corporate account nor a corporate refund offset to accounts of a subsidiary.

(4) The priority criteria is:

(a) Funds due the general fund excluding funds due other state of Oregon agencies. This includes all revenue from the cigarette and amusement device tax which is allocated part to the general fund and part to local governments.

(b) Funds due an appropriation account which will revert to the general fund.

(c) Funds due a state of Oregon tax program for distribution to local governments.

(d) Funds due other state of Oregon agencies.

(e) Funds due local jurisdictions for which the department collects under ORS 293.250.

(f) Funds due entities which serve a garnishment or levy on the Department of Revenue.

(g) Funds due charitable check-off programs designated by the taxpayer in lieu of receiving a refund check.

(5) If the refund balance as adjusted by the department in processing and after offset is insufficient to pay the designated charitable check-off contributions in full, payment will be prorated. The proration will be the ratio of the designated contribution to a specific fund divided by the total contribution to all funds.

(6) State tax refunds will not be offset to accounts for TriMet Transportation District or the Lane Transit District without the written per-

mission of the taxpayer. Refunds from these programs will be offset to accounts within the same program but not to an account for a different local tax program.

(7) Delinquent senior citizen deferral accounts are part of the offset program. This includes the property tax and special assessment deferrals.

*Example:* A taxpayer has a personal income tax refund due for the year. The amount of the refund owed is \$200. The taxpayer also has two liability accounts. The taxpayer owes \$100 to the Department of Revenue on an assessed personal income tax account for the previous year. The Taxpayer also owes \$300 to the Department of Education. This is how the offset to the refund would look: [Table not included. See ED. NOTE.] [ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.415(1)(e)

Hist.: 10-5-83, 12-31-83; 12-31-85, Renumbered from 150-314.415(1)(d)-(B); RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 7-1992, f. & cert. ef. 12-29-92; REV 2-2003, f. & cert. ef. 7-31-03

## 150-314.430(1)-(A)

### Definition: Collection Charge

As used in ORS 314.430(1) "collection charge" includes:

(1) The fees and costs listed in ORS 18.910(4), related to recovery of expenses incurred in enforcing judgments, and

(2) All fees or charges of the Secretary of State imposed under ORS 305.184 incurred in filing, releasing, cancelling, or satisfying a warrant filed with the Secretary of State under ORS 305.182.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.430

Hist.: RD 10-1983, f. 12-20-83, cert. ef. 12-31-83; RD 2-1989, f. 12-18-89, cert. ef. 12-31-89; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; REV 2-2003, f. & cert. ef. 7-31-03

## 150-314.525(5)

### Underpayment of Estimated Tax; First and Second Installment for Large Corporations

(1) The first required installment is the lowest payment computed under ORS 314.525(2)(a) through (2)(d).

(2) If a large corporation qualifies for the exception to paying interest on underpayment of estimated tax for the first installment under ORS 314.525(2)(b), the second required installment is calculated by adding:

(a) The reduction to the first installment from using the amount determined under ORS 314.525(2)(b), and

(b) The required second installment determined without regard to ORS 314.525(2)(b).

(3) The reduction to the first installment from using the amount determined under ORS 314.525(2)(b) is:

(a) The lowest first installment determined under ORS 314.525(2) without regard to ORS 314.525(2)(b), less

(b) The first installment determined under ORS 314.525(2)(b).

*Example:* Big, Inc. (Big) qualifies as a "large corporation" under ORS 314.525(5) and had tax, payments, and required payments under ORS 314.525(2) as follows: [Table not included. See ED. NOTE.]

[ED. NOTE: Table referenced in this rule is available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.525

Hist.: REV 2-2003, f. & cert. ef. 7-31-03

## 150-314.752

### Business Tax Credits Available to S Corporation Shareholders

The following credits may be claimed by shareholders of an S corporation as provided in subsection (2) of ORS 314.752:

(1) Voluntary removal of riparian land from farm production credit provided by ORS 315.113,

(2) On-farm processing facilities credit provided by ORS 315.119,

(3) Employee and dependent scholarship program payments provided by ORS 315.237,

(4) First break program credit provided by ORS 315.259,

(5) Individual development accounts credit provided by ORS 315.271,

(6) Emission reducing production technology or process (pollution prevention) credit provided by ORS 315.311,

(7) Long term care insurance credit provided by ORS 315.610,

(8) Trust for cultural development account contributions credit provided by ORS 315.675,

(9) Lending institution loans for affordable housing credit provided by ORS 317.097,

(10) Energy conservation loans to residential fuel oil customers or wood heating residents credit provided by ORS 317.112,

(11) Long term enterprise zone facilities credit provided by ORS 317.124,

(12) Farmworker housing loans credit provided by ORS 317.147,

(13) Contribution of computers or scientific equipment for research to educational organizations credit provided by ORS 317.151,



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(14) Qualified research activities credit provided by ORS 317.152, and

(15) Alternative qualified research activities credit provided by ORS 317.154.

Stat. Auth.: ORS 305.100, 314.752  
Stats. Implemented: ORS 314.752  
Hist.: REV 2-2003, f. & cert. ef. 7-31-03

## 150-316.207(3)(a)

### Officer Liability: Joint Determination of Liability Conference

(1) If one or more of the persons who may be held liable under ORS 316.162 to 316.212 appeals an assessment of unpaid withholding taxes, a joint conference may be required by the department. It is the policy of the department to notify all persons against whom liability may be asserted to attend the joint conference.

(2) If any of the persons notified fail to appear at the conference, the department may proceed with the conference.

(3) Notification of the conference may be mailed to each person against whom the department may assert liability. Mailing may be made by regular mail unless the person notified has requested receiving certified mail.

(4) A finding at the conference that a person or persons are liable does not preclude a later finding that other persons are also liable.

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 316.207  
Hist.: RD 11-1985, f. 12-26-85, cert. ef. 12-31-85; RD 1-1997(Temp), f. 6-13-97, cert. ef. 7-4-97 thru 12-31-97; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 2-2003, f. & cert. ef. 7-31-03

## 150-317.267-(B)

### Modification for Dividends Received: Tax Years 1986 and Later

(1) For dividends received in tax years beginning on or after January 1, 1986 and before January 1, 1987, a corporation is allowed to subtract from federal taxable income 85 percent of dividends received or deemed received from another corporation.

(2) For dividends received in tax years beginning on or after January 1, 1987 and ending before January 1, 1988, a corporation is allowed to subtract from federal taxable income 80 percent of dividends received or deemed received from another corporation. However, in the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed must be reduced under the same conditions and in the same amount as the dividends received deduction is reduced for federal tax purposes.

(3) For dividends received or accrued after December 31, 1987, in tax years ending after December 31, 1987, a corporation is allowed to subtract from federal taxable income 80 percent of dividends received or deemed received from another corporation. Dividends deemed received includes subpart F income included in federal taxable income pursuant to IRC Section 951. In order to take the Oregon dividends received deduction, however, the taxpayer must first add back the federal dividend received deductions allowed by Internal Revenue Code (IRC) Sections 243 and 245 and the dividends eliminated under the federal consolidation rules. Exceptions to this general rule are as follows:

(a) Dividends received from corporations owned less than 20 percent by the recipient must be reduced by a 70 percent rather than 80 percent dividends received deduction for dividends received or accrued after December 31, 1987.

(b) Dividends received from a foreign sales corporation and deducted under IRC Section 245(c) are not added back. These dividends are totally excluded from Oregon taxable income.

(c) Dividends received from a related domestic international sales corporation are totally excluded from Oregon taxable income. A subtraction is allowed for these dividends to the extent they are included in federal taxable income.

(d) Dividend income included in federal taxable income pursuant to the "gross-up" provisions of IRC Section 78 is not taxable by Oregon. These dividends are subtracted in full under ORS 317.273.

(e) Dividends eliminated under IRC section 243(a)(3) are not added back to federal taxable income on the Oregon return if the recipient and the payer corporations are both members of the same unitary group filing an Oregon consolidated tax return. If they are not members of the same Oregon consolidated group, the 100 percent federal dividend deduction is added back to federal taxable income and the appropriate Oregon dividends received deduction is subtracted.

(4) Unlike the federal dividend received deduction, the Oregon deduction is permitted on dividends received or deemed received from foreign as well as domestic corporations. Income included in federal taxable

income pursuant to IRC Section 951(a) qualifies for the dividend received deduction. Such income is a dividend "deemed received." Dividends from tax exempt corporations and dividends that qualify for a federal dividend deduction limited to a certain measure of income qualify for the full Oregon dividend deduction. An example of the latter is a dividend from a Federal Home Loan Bank.

(5) A dividends received deduction is not allowed with respect to "dividends" that are not treated as dividends under federal law or dividends that are not included in federal taxable income as provided in ORS 317.267(1).

Example: L corporation received \$10,000 in "dividend" income it received from funds invested in a mutual savings bank. L corporation does not own stock in the bank. The \$10,000 represents interest income and not dividend income. Since these "dividends" are not dividends as defined under IRC Section 316 and therefore not eligible for the federal dividends received deduction, they are not eligible for the Oregon dividends received deduction under ORS 317.267.

(6) In the case of dividends on debt-financed portfolio stock, the percentage of the Oregon dividend received deduction will be reduced in the same manner as the federal deduction under IRC 246A.

(7) Section (3) of this rule applies to amounts received during all periods open to adjustment.

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

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 317.267  
Hist.: RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; REV 2-2003, f. & cert. ef. 7-31-03

## 150-317.329

### IRC Section 338: Application to Oregon

(1) Internal Revenue Code (IRC) Section 338 applies when at least 80 percent of the voting power and total value of the stock of a target corporation is acquired by a purchasing corporation. Under the election provided by IRC 338(g), the acquiring corporation treats the purchase of the target corporation's stock as the purchase of its assets. The target's assets are given a stepped-up basis and the target reports gain as if its assets were sold at fair market value. The seller recognizes a gain on the sale of stock.

(2) For all Oregon apportionment computations discussed in this rule, the gross receipts from the deemed sale of assets are not included in the target's sales factor.

(3) If the target filed a separate federal return for the period ending with the date of acquisition, the gain from the deemed sale of assets must be included in the separately filed final return of the target corporation for the period which ends on the date of acquisition.

(a) For Oregon apportionment purposes, the apportionment factors computed on the separate Oregon return for the period ending with the date of acquisition must be used.

(b) The deemed gain on sale of assets is subject to Oregon apportionment if the target is doing business in Oregon.

(c) The gain on sale of stock is taxed by Oregon to the selling corporation through apportionment if the stock is considered a business asset and the seller is doing business in Oregon.

(d) The gain on sale of stock is taxed by Oregon to the selling corporation through allocation if the stock is considered a nonbusiness asset and the seller's commercial domicile is in Oregon.

Example: S Corporation, a calendar year filer, and its nonunitary subsidiary, T Corporation, file separate federal returns. T does business in Oregon. S does not. On July 31, 2002, P Corporation purchases all of T's stock from S and makes an election under IRC 338. T files a separate short period Oregon return through July 31, 2002, and apportions income, including the deemed sale of assets, to Oregon using its apportionment factors for the year to date. S's gain on the sale of T's stock, an intangible, is not taxed by Oregon.

(4) If the acquired target corporation is the common parent of an affiliated group, the group may elect to file a consolidated federal return. The final return of the common parent is also the final return of each subsidiary, which is considered to be acquired on the same date. The deemed sale of assets for each consolidated corporation must be reported on the consolidated return for the period ending on the date of acquisition. The apportionment factors computed on the Oregon return for the period ending with the date of acquisition must be used to apportion the income including the gain from the deemed sale of assets. The property factor must reflect the corporation's basis prior to the step-up in basis under IRC 338.

(5) If the acquired corporation was purchased from an affiliated group with which it was unitary and elects to file a consolidated federal return, it must be included in the consolidated Oregon return of the selling group through the date of acquisition. However, the deemed gain from the sale of assets must be included on a separately filed single transaction return unless an election is made under IRC 338(h)(10). (See Section 5 of this rule for further information concerning the IRC 338(h)(10) election). For Oregon purposes, the deemed gain must be attributed to Oregon using the appor-

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tionment factors from the consolidated Oregon return for the period ending with the date of acquisition.

(6) An election may be made jointly by the selling and acquiring corporations under IRC 338(h)(10). If a corporation makes the election under IRC 338(h)(10) on its federal return, that election applies to the Oregon return.

(a) If a selling corporation making the election under IRC 338(h)(10) files a consolidated Oregon return including the target corporation, that return must include the gain or loss from the deemed sale of the target's assets in income to be apportioned. The gain or loss from the sale of the target's stock will not be recognized. The apportionment factors for the target must be included through the date of the stock sale. The property factor must reflect the target's basis in its assets prior to the step-up in basis under IRC 338.

(b) If a selling corporation making an election under IRC 338(h)(10) does not file a consolidated Oregon return with the target corporation, and the target corporation is doing business in Oregon, the gain or loss from the target's deemed sale of assets must be reported on the target's separately filed Oregon return.

(c) If the selling corporation has not made an election under IRC 338(h)(10) on its federal return, the election will not be accepted by Oregon.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 317.329  
Hist.: RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1996, f. 12-23-96, cert. ef. 12-31-96; REV 2-2003, f. & cert. ef. 7-31-03

## 150-318.020(2)

### Income Subject to Tax Under ORS Chapter 318

(1) The Oregon Corporation Income Tax is imposed on income derived from sources within this state. The term "income derived from sources within this state" is intended to cover income from activities in this state, which are insufficient to constitute "doing business." "Doing business" is defined in ORS 317.010(4).

(2) Oregon's jurisdiction to tax is limited by the Due Process Clause of the U.S. Constitution, which requires the existence of some minimum connection between the state and the person, property or transaction it seeks to tax. This minimum connection, making income subject to the Oregon income tax, may be satisfied by:

- (a) Maintaining tangible or intangible property in Oregon;
- (b) Entering into franchising or licensing agreements for use of a franchise or license in Oregon;
- (c) Receiving franchise fees or royalties from Oregon sources;
- (d) Selling or otherwise disposing of a franchise or license used in Oregon; or

(e) Selling or otherwise transferring tangible personal property pursuant to a franchise or license to a franchisee or licensee within the state.

(3) A corporation with receipts from royalties or franchise fees or the sale or transfer of tangible personal property pursuant to franchise or license agreements may be subject to the Corporation Excise Tax if the corporation engages in activities that rise to the level of doing business in Oregon. Such activities include inspection of the franchisees' businesses or records and providing training in Oregon to franchisees. Such a corporation is not subject to the Corporation Income Tax.

(4) Examples of "income derived from sources within this state," and "doing business" include:

(a) A corporation with only passive income from tangible or intangible property in Oregon has "income derived from sources within this state" and is subject to the Corporation Income tax;

(b) A corporation is "doing business" in Oregon and subject to the Corporation Excise Tax if it engages in any profit seeking activity in the state through its employees or representatives that is not protected by federal public law 86-272.

(c) A corporation with an isolated sale of real property in this state has "income derived from sources within this state" and is subject to the Corporation Income Tax.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 318.020  
Hist.: 1955; 1-65; RD 7-1983, f. 12-20-83, cert. ef. 12-31-83; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; REV 7-1998, f. 11-13-98, cert. ef. 12-31-98; REV 2-2003, f. & cert. ef. 7-31-03

## Department of Transportation Chapter 731

**Adm. Order No.:** DOT 3-2003(Temp)

**Filed with Sec. of State:** 7-21-2003

**Certified to be Effective:** 8-1-03 thru 1-27-04

**Notice Publication Date:**

**Rules Amended:** 731-007-0050

**Subject:** The 2003 Legislature passed HB 3422 into law during the recent legislative session. This bill modifies the legal requirements for Sub-Contractor Disclosure on Public Improvement Projects. Changes include requiring the bidder to submit to the public contracting agency the first-tier subcontractor disclosure form two working hours (instead of four working hours) after the date and time of the deadline; submittal of the first-tier sub-contractor disclosure shall only apply to public improvements with a contract value of more than \$100,000 (instead of \$75,000); and the dollar value of the sub-contract will be added to the disclosure form. ODOT must amend the rule to comply with those changes. A permanent rule cannot be written until the Department of Justice (DOJ) has revised the Oregon Attorney General's Model Public Contracting Rules to reflect changes made from laws passed in the 2003 legislative session. DOJ will not have adopted a permanent rule in sufficient time for the Oregon Department of Transportation to adopt a permanent rule prior to the new legislation becoming effective. HB 3422 impacts projects that are advertised for bid after August 1, 2003. ODOT must adopt a temporary administrative rule to conduct the bid openings for highway construction projects until the AG Model Rules are revised and permanent rules can be established.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

### 731-007-0050

#### Disclosure and Substitution of First-Tier Subcontractors

(1) **Required Disclosure.** Within two working hours of the Bid Closing on an ITB for a Public Improvement having a Bid price exceeding \$100,000, a Bidder shall submit to ODOT a disclosure form as described by this rule. The disclosure form shall identify any first-tier subcontractors (those Entities that would be contracting directly with the prime Contractor) that will be furnishing labor or labor and materials on the Contract, if awarded, whose subcontract value would be equal to or greater than:

- (a) Five percent of the total Contract Bid, but at least \$15,000; or
- (b) \$350,000 regardless of the percentage of the total Bid.

(2) **Disclosure Deadline and Bid Opening.** For each Bid Proposal or ITB to which this rule applies, ODOT shall:

(a) Receive bids until the time identified as Closing time and at the location described in the ITB and immediately thereafter publicly open the bids; and

(b) Set the Bid Opening at the time and place identified in the ITB.

(3) **Bidder Instructions and Disclosure Form.** For the purposes of this rule, ODOT in its solicitation shall:

- (a) Prescribe the disclosure form that must be utilized; and
- (b) Provide instructions in a notice substantially similar to the following:

#### "Instructions for First-Tier Subcontractor Disclosure

Bidders are required to disclose information about certain first-tier subcontractors when the Contract value for a Public Improvement is greater than \$100,000 (see ORS 279.027). Specifically, when the Bid of a first-tier subcontractor is greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, you must disclose the following information about that subcontract within two (2) working hours of Bid Closing:

- a) The subcontractor's name,
- b) The category of work the subcontractor will be performing, and
- c) The dollar value of the subcontract.

If you will not be using any subcontractors that are subject to the above disclosure requirements, you are required to indicate "NONE" on the accompanying form.

ODOT MUST REJECT THE BID(S) OF A BIDDER WHO, IF REQUIRED TO SUBMIT THIS DISCLOSURE FORM, FAILS TO SUBMIT THE DISCLOSURE FORM WITH THE REQUESTED INFORMATION BY THE STATED DEADLINE. (See OAR 731-007-0050).

To determine disclosure requirements, ODOT recommends that you disclose subcontract information for any subcontractor as follows:

- 1) Determine the lowest possible Bid. That will be the base Bid amount less all alternate deductive Bid amounts (exclusive of any options that can only be exercised after Bid award).
- 2) Provide the required disclosure information for any first-tier subcontractor whose potential Contract services (i.e., subcontractor's base Bid amount plus all alternate additive Bid amounts, exclusive of any options that can only be exercised after

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Contract award) are greater than or equal to: (i) 5% of the lowest Bid amount, but at least \$15,000, or (ii) \$350,000, regardless of the percentage. Total all possible Work for each subcontractor in making this determination (e.g., if a subcontractor will provide \$15,000 worth of services on the base Bid and \$40,000 on an additive alternate, then the potential amount of subcontractor's services is \$55,000. Assuming that \$55,000 exceeds 5% of the lowest Bid, provide the disclosure for both the \$15,000 services and the \$40,000 services).

For determination of compliance with the disclosure requirements, ODOT will use the total Bid amount submitted by the contractor as verified by ODOT."

(4) **Submission.** A Bidder shall submit the disclosure form required by this rule within two working hours of Bid Closing in the manner specified by the ITB.

(5) **Late Submission.** Compliance with the disclosure and submittal requirements of ORS 279.027(2) and this rule is a matter of Responsiveness. Bids which are submitted by Bid Closing, but for which the separate disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract award.

(6) **Substitution.** Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279.322. ODOT does not have a statutory role or duty to review, approve or resolve disputes concerning such substitutions. However, ODOT is not precluded from making related inquiries or investigating complaints in order to enforce Contract provisions that require compliance generally with laws, rules and regulations.

(7) This rule applies to public improvement contracts first advertised on or after the effective date of August 1, 2003.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 279.049 & ORS 279.323

Stats. Implemented: ORS 279.027 & ORS 279.322

Hist.: DOT 1-2000(Temp.), f. 1-19-00, cert. ef. 2-1-2000 thru 7-29-00; DOT 3-2000, f. 7-14-00, cert. ef. 7-29-00, Renumbered from 731-005-0020; DOT 2-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 6-29-02; DOT 2-2002, f. 6-24-02, cert. ef. 6-30-02; DOT 3-2003(Temp), f. 7-21-03 cert. ef. 8-1-03 thru 1-27-04

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

**Adm. Order No.:** DMV 9-2003

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 735-050-0080, 735-050-0090

**Subject:** OAR 735-050-0080 establishes how DMV will implement the program to randomly sample compliance with financial responsibility requirements. The amendment allows DMV to select a person for verification if there is no evidence on the vehicle record that financial responsibility requirements are being met. The amendment also includes suspension of driving privileges of a person who provides false information as part of the financial responsibility verification process. Other amendments are for clarity, including amendment of OAR 735-050-0090, relating to the post-imposition hearing.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

### 735-050-0080

#### Financial Responsibility Verification Program

(1) DMV will randomly select motor vehicles for financial responsibility verification. The total number randomly selected each year will not exceed ten percent of the motor vehicles registered in Oregon that are subject to verification.

(2) DMV may, in addition, designate persons for verification of financial responsibility requirements if DMV has reasonable grounds to believe that the person is in violation of financial responsibility requirements. The DMV's determination of reasonable grounds will be based on the following:

(a) Written statements from police, insurance companies, insurance agents, and the public;

(b) Any admission to DMV by the owner of an Oregon-registered vehicle that the vehicle is not insured;

(c) Receipt by DMV of any record from another jurisdiction that the owner of any Oregon-registered vehicle was convicted of driving uninsured, regardless of the vehicle driven at the time of offense.

(d) Receipt by DMV of any record from another jurisdiction indicating that an Oregon-registered vehicle was driven without insurance, regardless of who was driving the vehicle;

(e) Statements made during an administrative hearing by a driver or owner of a vehicle that the Oregon-registered vehicle was driven while uninsured; or

(f) No record of submission from an insurance company, pursuant to ORS 742.580, ORS 806.195 and OAR 735-050-0130 through 735-050-0160, that a motor vehicle liability insurance policy has been issued.

(3) DMV will use a written statement as identified in section (2)(a) of this rule as a basis for a financial responsibility verification request only if the person making the statement does all of the following:

(a) Signs and dates the request;

(b) Identifies the vehicle which the person believes is being operated in violation of financial responsibility requirements; and

(c) Explains why the person believes the vehicle is being operated in violation of financial responsibility requirements and includes facts that would cause a reasonable person to believe the vehicle is being operated in violation of financial responsibility requirements.

(4) DMV will suspend the driving privileges or right to apply for driving privileges of any person who fails to make a future responsibility filing after failing verification or who falsely certifies compliance with financial responsibility requirements.

(5) A person who fails to make a future responsibility filing after failing verification or who falsely certifies compliance with financial responsibility requirements is entitled to a pre-suspension hearing in accordance with ORS 809.440(1) and 809.410. If no pre-suspension hearing is held, a person may be entitled to a post-imposition hearing in accordance with OAR 735-050-0090.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 806.150

Stats. Implemented: ORS 806.150 & ORS 809.450

Hist.: MV 2-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0075; MV 12-1990, f. & cert. ef. 7-16-90; MV 6-1991, f. & cert. ef. 7-16-91; DMV 9-2003, f. & cert. ef. 7-17-03

### 735-050-0090

#### Post-Imposition Financial Responsibility Hearing

DMV may provide, upon request, for a post-imposition hearing to determine the validity of the suspension of driving privileges resulting from failing to make a future responsibility filing after failing verification or from falsely certifying compliance with financial responsibility requirements subject to the following:

(1) The suspension must have resulted from a failure to make a future responsibility filing after failing verification under ORS 809.410(10) or from a false certification of compliance with financial responsibility requirements under ORS 809.410(12).

(2) The person must not have had a previous hearing on the suspension.

(3) The person must have already provided to DMV any information that would indicate the vehicle in question was insured at the time of verification.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 806.150

Stats. Implemented: ORS 809.450

Hist.: MV 2-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0085; DMV 9-2003, f. & cert. ef. 7-17-03

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**Adm. Order No.:** DMV 10-2003(Temp)

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03 thru 1-12-04

**Notice Publication Date:**

**Rules Amended:** 735-116-0000

**Subject:** During the 1999 Legislative Session, ORS 821.020 was amended changing the location in the state where the rule applies. During the 2001 Legislative Session one equipment change was made in the statute for vehicles ridden on sand. Neither of these changes was timely reflected by amendment to OAR 735-116-0000. This temporary amendment correctly identifies the location in the state where the rule applies and deletes the exemption for flags on motorcycles in designated areas because they are now required.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

### 735-116-0000

#### Equipment Standards for Off-Road Vehicles

(1) The Transportation Safety Division of the Department of Transportation adopts the following requirements for equipment for off-road vehicles operating in areas as described in ORS 821.020.

(2) For purposes of this rule, the following definitions apply:

(a) "Off-road vehicle" means any vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain;

(b) "Motor vehicle" means any vehicle which is self-propelled;

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(c) "Motorcycle" means every vehicle designed to travel with not more than two wheels in contact with the ground, and so that the driver sits astride the vehicle frame; and

(d) "Multi-wheeled motorized vehicle" means a Class 1 all-terrain vehicle and any other vehicle, except a tractor, designed to travel with three or more wheels in contact with the ground, with the driver sitting astride the vehicle frame.

(3) Equipment standards for these vehicles are:

(a) Brakes — All vehicles shall have brakes that are operable and effective in bringing the vehicle to a stop;

(b) Chain Guard — Any vehicle equipped with a chain shall have a guard so designed that in the event of failure, the chain will remain under the vehicle;

(c) Fire Extinguisher — All vehicles, except motorcycles and multi-wheeled motorized vehicles, shall be equipped with a functional dry chemical type fire extinguisher of at least two pounds capacity that is approved by the Underwriters Laboratories or other acceptable testing agency;

(d) Flag — All vehicles shall display a red flag when operating on the sand. The flag must be displayed at a height of at least nine feet from the ground level when the vehicle is under power. The flag must have one side that is at least eight inches wide, and the flag must not be less than twelve inches long;

(e) Floor Pan/Foot Pads — All vehicles shall have floor pans, with the exception of motorcycles and multi-wheeled motorized vehicles, which shall have foot pads or the equivalent, so designed and mounted as to keep the driver's and any passenger's feet within the frame of or from underneath the vehicle;

(f) Fuel Tank — All fuel tanks shall be:

(A) Securely mounted;

(B) Properly constructed of metal, plastic, or other industry safety approved material;

(C) Properly constructed for the carrying of fuel; and

(D) All connections shall be kept secure and tight.

(g) Muffler — All vehicles shall be equipped with a muffler that conforms to the current noise level and defect standards of the Department of Environmental Quality for vehicles operated off-road;

(h) Roll Bar — All vehicles, except motorcycles and multi-wheeled motorized vehicles, shall be equipped with a roll bar or other enclosure that will support the vehicle's weight and be so designed as to protect the occupants' head(s) when the vehicle is resting on this roll bar or enclosure;

(i) Seats — All vehicles shall be equipped with a securely mounted seat for the driver and each passenger;

(j) Seat Belts — All vehicles, except motorcycles and multi-wheeled motorized vehicles, shall be equipped with securely mounted seat belts of the quick-release type, readily available for use for the driver and each passenger;

(k) Windshield Wipers — All vehicles equipped with a windshield, except motorcycles, must have an effective working windshield wiper.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 821.030

Stats. Implemented: ORS 814.040, ORS 821.010 & ORS 821.020

Hist.: MV 65, f. & ef. 12-15-75; MV 17-1983, f. & ef. 12-5-83; MV 12-1986, f. & ef. 8-22-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0200; DMV 10-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

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**Adm. Order No.:** DMV 11-2003(Temp)

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03 thru 1-12-04

**Notice Publication Date:**

**Rules Amended:** 735-140-0000, 735-140-0010, 735-140-0015, 735-140-0025, 735-140-0060, 735-140-0080, 735-140-0090

**Subject:** OAR 735-140-0000 to 735-140-0025 and 735-140-0060 describe the procedures and requirements necessary to exempt a manufactured structure from title and registration requirements. OAR 735-140-0080 and 735-140-0090 describe recording and notification requirements for exempting, or titling a manufactured structure. The need to amend these rules is necessitated by legislation passed during the 2003 Legislative Assembly. Specifically, 2003 Oregon Laws, Chapter 189, Sections 1 & 2 (SB 328) amended ORS 820.510. The amendment authorizes the owner of a manufactured structure who holds a recorded leasehold estate of 20 years or more to obtain an exemption from title and registration requirements under ORS 820.510 and OAR 735-140-0010, if the lease specifically permits the structure owner to do so. DMV is revising its manufactured structure rules to conform them to amended ORS 820.510. These rules are

amended to add or modify terms, requirements, qualifications and conditions associated with the law change.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-140-0000

### Purpose and Definitions

(1) OAR 735-140-0000 through 735-140-0130 establish the procedures necessary to exempt a manufactured structure from title and registration requirements or to title a manufactured structure that has been previously exempted pursuant to ORS 820.510. OAR 735-140-0140 describes the requirements for issuing a manufactured structure trip permit.

(2) The following definitions apply to OAR 735-140-0000 through 735-140-0140:

(a) "Beneficiary of a trust deed" means the person designated in a trust deed as the person for whose benefit a trust deed is given. A trust deed conveys an interest in real property to a trustee in trust, to secure performance of an obligation owed to the beneficiary.

(b) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(c) "Entity" means a person, agency, or business and includes a federal, state, county or municipal agency.

(d) "Legal description of the land" means the description of the real estate upon which the manufactured structure is located, found in the public record of the county where the land is located and shall include a description of any mortgage, trust deed, lien or other security interest on the land. A "legal description of the land" may be found on the land deed, a property tax statement or in the county clerk's record.

(e) "Legal description of the manufactured structure" means the model year, make, width, length and vehicle identification number (VIN).

(f) "Land leaseholder" means the holder of a recorded leasehold estate of 20 years or more if the lease specifically permits the owner of the manufactured structure to obtain an exemption under ORS 820.510(1)(b).

(g) "Lessor" means a person who transfers the right to possession and use of property under a lease as shown in the record of the county in which it is recordable by law.

(h) "Lienholder of record" means a person who holds a claim, encumbrance or charge on property for payment of a debt or obligation as shown in the record of the county in which it is recordable by law.

(i) "Lot book report" means a report or memo from a title insurance company showing the record owner(s), any other parties with a vested interest and a legal description of the land upon which a manufactured structure is located.

(j) "Manufactured structure trip permit agent" means any entity designated by Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to issue manufactured structure trip permits on behalf of DMV.

(k) "Mortgage" means a security interest in real property.

(l) "Mortgagee" means a person who takes, holds or receives a mortgage (such as a bank, etc.).

(m) "Owner" when referring to the owner of a manufactured structure is as defined in ORS 801.375, but does not include a security interest holder or lessee, unless the owner of the manufactured structure is a land leaseholder as provided by ORS 822.510(1)(b) and as described in subsection (f) of this section.

(n) "Personal property" means movable property or all property other than real estate.

(o) "Real property" means land and generally whatever is erected or affixed to the land or immovable property.

(p) "Record owner" means the person having title to real estate that is evidenced recorded in the public land records of the county in which the real estate is located.

(q) "Record title" means an ownership interest in real estate that is evidenced in the public land records of the county in which the real estate is located.

(r) "Security interest holder" means a person who holds an interest in property which secures payment or performance of an obligation pursuant to a security agreement.

(s) "Tax lot number" means a number assigned to the manufactured structure or the real estate by the county assessor's office.

(t) "Title of a manufactured structure" is as defined in ORS 801.526.

(u) "Title report" or "supplemental title report" means a report or memo from a title insurance company showing the record owner(s), any other parties with a vested interest and a legal description of the land upon which a manufactured structure is located.

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(v) "Vehicle identification number (VIN)" has the same meaning given in ORS 801.600.

(w) "Vested interest" means a right or title in real property that can be conveyed to another.

Stat. Auth.: ORS 184.616, ORS 814.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 820.510, ORS 820.510 & Ch. 189, OL 2003  
Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0010; MV 15-1989, f. & cert. ef. 8-16-89; DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0010

### Documents Required; Exemption of Manufactured Structure: Applicant Owns Manufactured Structure and Land, or is a Land Leaseholder

Except as authorized under ORS 820.510(2) and OAR 735-140-0015, an applicant for an exemption from registration and title requirements must submit the following documents to DMV:

(1) If the applicant owns the manufactured structure and the land and structure are titled and registered in Oregon, an "Application to Exempt a Manufactured Structure From Registration and Titling" (DMV Form 6722). If the applicant owns the manufactured structure and is a land leaseholder, a Manufactured Structure Leaseholder Certification (DMV Form 7248). Unless stated otherwise, either form must contain the following:

(a) The legal description of the manufactured structure and the land on which it is located;

(b) The tax lot number for the manufactured structure and the land upon which the manufactured structure is located. The same tax lot number may be assigned by the county assessor for both the manufactured structure and the land;

(c) The names and addresses of all owners of the manufactured structure and all record owners of the land upon which the manufactured structure is located. The owner(s) of the manufactured structure and the record owner(s) of the land or land leaseholder(s) of the land must be the same. For example, if John Q. Public and Sara Public are shown as the owners of the manufactured structure, John Q. Public and Sara Public must either be record owners of the land, or land leaseholder(s) of the land. The owner name(s) as shown on the vehicle title (or if there has been a release of interest on the application for exemption), must be identical to the name(s) of the record owner(s) of the land, or land leaseholder(s) of the land unless the owner(s) or land leaseholder(s) submit a signed statement explaining any discrepancy and that he or she is in fact the same person(s);

(d) The names and addresses of all lessors, mortgagees, trust deed beneficiaries or lienholders of record holding an interest in the land and the names and addresses of all security interest holders or lienholders of record holding an interest in the manufactured structure;

(e) A certification from the applicant(s) that all lessors, mortgagees, trust deed beneficiaries, lienholders of record and security interest holders listed on the title or lot book report have been listed on the application or that the land and manufactured structure are free and clear of all mortgages, deeds of trust, security interests and liens, if there are none listed;

(f) Signed approval of all security interest holders and lienholders in the manufactured structure to submit the application or proof that all security interest holders and lienholders have been notified of the intent to submit the application. Such proof shall consist of a copy of the notice provided to the security interest holders and lienholders along with proof that such notice was received, including but not limited to a return receipt from the post office or an affidavit of personal service; and

(g) The signature of all owners of the manufactured structure.

(2) If ownership of the manufactured structure is being transferred:

(a) Proof that all property taxes, all special assessments and all delinquent property taxes are paid as required by ORS 820.500 and OAR 735-140-0070; and

(b) A release of interest from any person listed on the title who is transferring an ownership interest.

(3) A title report, lot book report or equivalent report from a title company specific to the land upon which the manufactured structure is located. The report must be dated no more than seven days before the date the application is received by DMV so that the identity of all record owners, mortgagees, trust deed beneficiaries, lienholders of record, and security interest holders in the land at the time of the application can be verified.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 308.865, ORS 308.875, ORS 820.510 & Ch. 189, OL 2003  
Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0020; MV 15-1989, f. & cert. ef. 8-16-89; DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0015

### Documents Required for Exemption for New Manufactured Structure or Manufactured Structure Never Titled or Registered in Oregon

An applicant meeting the requirements under ORS 820.510(2) for an exemption from registration and title for a new manufactured structure or a manufactured structure that has never been titled or registered in Oregon must submit to DMV:

(1) A Certification Exempting a Manufactured Structure from Title and Registration (DMV Form 735-6723). The completed certification must be signed before a notary by:

(a) All owners of the manufactured structure. This subsection does not apply to an owner who is land leaseholder; or

(b) An attorney acting on behalf of the owner(s).

(2) The Manufacturer's Certificate of Origin (MCO), if the manufactured structure has not been previously titled, or the Certificate of Title, if the manufactured structure is titled in another jurisdiction. The MCO or Certificate of Title must be endorsed if an ownership interest in the manufactured structure is being transferred.

(3) This rule does not apply to an exemption from title and registration requirements under ORS 820.510(1)(b). A land leaseholder must follow the procedures set forth in OAR 735-140-0010.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 820.500, ORS 820.510 & Ch. 189, OL 2003  
Hist.: DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0025

### Application for Manufactured Structure Title Provided by an Escrow Agent

The application for a manufactured structure title submitted by an escrow agent as specified in Section 2(5), Chapter 675, Oregon Laws 2001, shall consist of a completed and signed Escrow Agent Certification (DMV Form 735-7216) and the appropriate application for title form. As used in Section 2(5), Chapter 675, Oregon Laws 2001, and this rule, "appropriate application for title form" means:

(1) A completed and signed Application for Title and Registration (DMV Form 735-222 or DMV Form 735-226) to obtain or transfer a certificate of title on a manufactured structure, or to add or delete a security interest or otherwise amend a manufactured structure title;

(2) A completed and signed Application to Exempt a Manufactured Structure From Registration and Titling (DMV Form 735-6722) to obtain an exemption from registration and title requirements for a manufactured structure that is titled and registered in Oregon;

(3) A completed and signed Certification Exempting a Manufactured Structure From Title and Registration (DMV Form 735-6723) to obtain an exemption from registration and title requirements for a new manufactured structure or a manufactured structure that has never been titled or registered in Oregon; or

(4) A completed and signed Manufactured Structure Leaseholder Certification (DMV Form 735-7248) to obtain an exemption from registration and title requirements for a manufactured structure owned by a land leaseholder.

Stat. Auth.: ORS 184.616, ORS 184.619 & Ch. 675, OL 2001, Ch. 189, OL 2003  
Stats. Implemented: ORS 802.240, ORS 803.045, ORS 803.090, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.100, ORS 803.205, ORS 820.500 & Ch. 675, OL 2001, Ch. 189, OL 2003  
Hist.: DMV 25-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0060

### Applicants Qualifications

(1) All owners of the manufactured structure must sign the application for exemption submitted to DMV pursuant to OAR 735-140-0010(1).

(2) The Certification Exempting A Manufactured Structure From Title and Registration submitted to DMV pursuant to OAR 735-140-0015 must be signed by all owners of the manufactured structure or signed by an attorney acting on the owners' behalf and must be notarized.

(3) To qualify for exemption pursuant to OAR 735-140-0010 and 735-140-0015, all owners of the manufactured structure must be:

(a) The same as each record owner, or each land leaseholder of the land upon which the manufactured structure is located for an exemption under OAR 735-140-0010; or

(b) The same as each record owner of the land upon which the manufactured structure is located for an exemption under OAR 735-140-0015.

(c) For example, if John Q. Public and Sara Public are owners of the manufactured structure, John Q. Public and Sara Public must both show as record owners or if applicable, land leaseholders of the land upon which the manufactured structure is located. If John Q. Public and Sara Public are

# ADMINISTRATIVE RULES

owners of the manufactured structure, but only John Q. Public shows as record owner or land leaseholder of the land, the manufactured structure does not qualify for exemption.

(4) A lessee of a manufactured structure is not eligible to apply for an exemption or to apply for a title and registration for an exempt manufactured structure. The lessee of the land upon which the manufactured structure is located, is not eligible to apply for an exemption or to apply for a title and registration for an exempt manufactured structure, unless the lessee is the holder of a leasehold estate of 20 years or more as described in ORS 820.510(1)(b) and OAR 735-140-0000(2)(f).

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 820.510 & Ch. 189, OL 2003  
Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0070; DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0080

### Recording of Exemption or Title

(1) An Application to Exempt a Manufactured Structure From Title and Registration, Manufactured Structure Leaseholder Certification under OAR 735-140-0010, or an Application to Remove Manufactured Structure From Exempt Status that has been approved by DMV must be recorded with the county clerk:

(a) Upon determination that an application is complete, DMV will return the original to the applicant and retain a copy;

(b) Within 15 days of the date DMV mails or personally gives the approved application to the applicant, the applicant must have the application, or if applicable, a Manufactured Structure Leaseholder Certification (DMV Form 735-7248) recorded with the county clerk of the county in which the land upon which the manufactured structure is located; and

(c) DMV must receive a copy of the recorded Application to Exempt a Manufactured Structure From Title and Registration, or if applicable, a Manufactured Structure Leaseholder Certification (DMV Form 735-7248), or Application to Remove Manufactured Structure From Exempt Status from the applicant within 30 days of the date of recording. The copy of the recorded application must show the date, time and place of recording.

(2) A duplicate original of the Certification Exempting a Manufactured Structure From Title and Registration must be recorded with the county clerk and a copy must be mailed or delivered to the tax collector of the county in which the land upon which the manufactured structure is located.

(3) When the Application to Exempt a Manufactured Structure From Title and Registration is recorded, the applicant must surrender the endorsed certificate of title and registration plate to the county assessor at the time of recording. When a Manufactured Structure Leaseholder Certification is recorded, the applicant must surrender the certificate of title and registration plate or, if applicable, the manufacturer's certificate of origin. The county assessor must send the surrendered certificate of title and registration plate or manufacturer's certificate of origin to DMV. If the applicant does not surrender the endorsed certificate of title and registration plate, or manufacturer's certificate of origin to the county assessor, they must be submitted to DMV along with a copy of the recorded application, or certification within 30 days of the date the application, or certification was recorded. DMV will not accept a copy of the recorded application, or certification until the endorsed certificate of title and the registration plate, or manufacturer's certificate of origin have been surrendered, unless the applicant certifies that the title and/or registration plate have been lost or destroyed.

(4) Failure of the applicant to record the Application to Exempt a Manufactured Structure From Title and Registration, Manufactured Structure Leaseholder Certification (DMV Form 735-7248), or the Application to Remove Manufactured Structure From Exempt Status within 15 days of the date DMV mails or personally gives the application, or certification to the applicant will automatically void the application, or certification. The county clerk may not record a void application, or certification. DMV will not recognize an exemption from title and registration requirements under OAR 735-140-0010 or issue a certificate of title and registration if the application or certification is void.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 820.510 & Ch. 189, OL 2003  
Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0090; MV 15-1989, f. & cert. ef. 8-16-89; DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

## 735-140-0090

### Notice of Exemption or Title

(1) DMV shall notify the following persons when the copy of a properly recorded Application to Exempt a Manufactured Structure From Title

and Registration, or Manufactured Structure Leaseholder Certification has been received by DMV and exemption has been obtained:

(a) Security interest holders listed on the application and in the records of the Department;

(b) Lienholders of record listed on the application;

(c) If applicable, each lessor listed on the application;

(d) The county assessor of the county in which the land upon which the manufactured structure is located; and

(e) The applicant(s).

(2) DMV shall notify the following persons when the copy of a properly recorded Application to Remove the Manufactured Structure From Exempt Status has been received by DMV and title and registration issued:

(a) Mortgagees listed on the application and the lot book or title report;

(b) Trust deed beneficiaries listed on the application and the lot book or title report;

(c) Lienholders of record listed on the application and the lot book or title report;

(d) Security interest holders listed on the application;

(e) If applicable, each lessor listed on the application;

(f) The county assessor of the county in which the land upon which the manufactured structure is located; and

(g) The applicant(s).

(3) An Application to Exempt a Manufactured Structure From Title and Registration, Manufactured Structure Leaseholder Certification or an Application to Remove Manufactured Structure From Exempt Status becomes void if not recorded or not recorded with the county clerk within the required 15-day period.

(4) When an application becomes void, DMV shall notify the:

(a) Applicant(s);

(b) Mortgagees listed on the application;

(c) Trust deed beneficiaries listed on the application;

(d) Lienholders of record listed on the application;

(e) If applicable, each lessor listed on the application;

(f) Security interest holders listed on the application; and

(g) The county assessor of the county in which the land upon which the manufactured structure is located.

(5) DMV shall notify the county assessor of the county in which the land upon which the manufactured structure is located when DMV approves a Certification Exempting a Manufactured Structure From Title and Registration.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 820.510 & Ch. 189, OL 2003  
Stats. Implemented: ORS 820.510 & Ch. 189, OL 2003

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0100; MV 15-1989, f. & cert. ef. 8-16-89; DMV 16-2002, f. 9-20-02 cert. ef. 11-1-02; DMV 11-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04

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

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

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03

**Notice Publication Date:** 5-1-03

**Rules Adopted:** 740-020-0010, 740-020-0020

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

**Rules Coordinator:** Brenda Trump—(503) 945-5278

### 740-020-0010

#### Scope Defined

(1) ORS 823.007(1) requires each employee of the department who performs a function concerning the economic regulation of motor carriers to file with the department an employee statement of pecuniary interests in motor carriers. Division 20 rules establish when a statement is required, defines terms associated with the statement and describes the circumstances under which disciplinary action may occur for failure to comply with ORS 823.007(1).

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(2) For the purposes of ORS 823.007(2), "a function concerning economic regulation of motor carriers" means any action or transaction that affects or potentially affects the financial status of a motor carrier. Such functions include, but may not be limited to:

- (a) Entry, including issuance of operating authority;
- (b) Regulation and establishment of rates of household goods and passenger carriers described in ORS 825.202;
- (c) Registration of commercial motor vehicles for highway use tax purposes;
- (d) Registration or apportioned registration of commercial motor vehicles;
- (e) Receiving, collecting and accounting for money received from motor carriers;
- (f) Enforcement of motor carrier regulations, including audit, inspection and investigation for compliance with tax, safety and other regulations;
- (g) Issuance of variance permits under ORS Chapter 818;
- (h) Weighing commercial vehicles and enforcing highway size and weight standards;
- (i) Authorization of farm registration under ORS Chapter 805;
- (j) Processing insurance and surety deposit filings; and
- (k) Processing refunds.

(3) This rule does not apply to employees of the Driver and Motor Vehicle Services Division.

Stat. Auth.: ORS 184.616, 184.619 & 823.007  
Stats. Implemented: ORS 823.007  
Hist.: MCTD 3-2003, f. & cert. ef. 7-17-03

## 740-020-0020

### Employee Disciplinary Action — Failure to File a Statement Regarding Pecuniary Interest

(1) The department may take disciplinary action that may include dismissal of a department employee who performs one or more of the functions described in OAR 740-020-0010(2) if the employee:

- (a) Is employed on or before September 1, 2003, and fails to file the statement required by ORS 823.007 before September 15, 2003;
- (b) Is employed after September 1, 2003, and fails to file the statement required by ORS 823.007 before the 15th day after the date of employment;
- (c) Fails to file the supplementary statement required by ORS 823.007 before the 15th day following acquisition of a pecuniary interest; or
- (d) Fails to cause divestiture of a pecuniary interest within the time specified in an order issued pursuant to ORS 823.007.

(2) Dismissal of an employee under section (1) of this rule is subject to either:

- (a) The procedure and appeal as provided in ORS 240.555 and 240.560 for unrepresented employees; or
  - (b) The labor agreement for represented employees.
- (3) An employee dismissed under section (2) is eligible for reemployment.

Stat. Authority: ORS 184.616, 184.619 & 823.007  
Stats. Implemented: ORS 823.007  
Hist.: MCTD 3-2003, f. & cert. ef. 7-17-03

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### Department of Transportation, Rail Division Chapter 741

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

**Filed with Sec. of State:** 7-17-2003

**Certified to be Effective:** 7-17-03

**Notice Publication Date:** 5-1-03

**Rules Adopted:** 741-060-0100, 741-060-0110

**Rules Amended:** 741-060-0010, 741-060-0020, 741-060-0030, 741-060-0040, 741-060-0050, 741-060-0060, 741-060-0070, 741-060-0080, 741-060-0090

**Subject:** These rules establish the system safety criteria to be met by rail fixed guideway systems in the State of Oregon. The amendments clarify the application of standards, and add and clarify definitions. The amendments also modify the system safety program plan requirements to specify the timeframe to revise a plan to comply with necessary modifications; timeframe for conducting ongoing internal safety audits; and the inclusion of a drug and alcohol testing program. The amendment to OAR 741-060-0080 changes the requirement for reporting an accident form within 24 hours to within six hours. The amendment to OAR 741-060-0090 requires a final written report of

all security breaches from the end of each month, rather than the end of each quarter. A new rule is adopted to specify that each transit system must establish an hours-of-service policy, the maximum hours of service, exceptions and record keeping. In addition, Chapter 522, Oregon Laws 2001 (SB 323) established a stable revenue source to support this program, which is mandated by both federal and state law. SB 323 requires ODOT to set annual fees for operators of rail fixed guideway systems to defray the cost of the safety program. It also requires ODOT to establish by rule the manner and timing of collection of the fee. A new rule is adopted to establish payment of the annual fee for safety oversight. Other changes are made for clarification and housekeeping purposes.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 741-060-0010

### General Provisions

(1) OAR 741-060-0010 through 741-060-0110 establish the system safety criteria to be met by rail fixed guideway systems in the State of Oregon.

(2) Federal Transit Administration standards and requirements, U.S.C. 5330 and Title 49 of the Code of Federal Regulations, Part 659, Rail Fixed Guideway Systems, State Safety Oversight, effective January 26, 1996, are hereby adopted by reference as the minimum acceptable safety program standards for safety oversight of rail fixed guideway systems as defined in OAR 741-060-0020(11)(a). These federal regulations are available from the Oregon Department of Transportation Rail Division.

(3) OAR 741-060-0010 through 741-060-0110 apply to all rail transit systems operating rail fixed guideway systems in the State of Oregon. Non-compliance with these rules is subject to a penalty under ORS 824.990(1)(a). All existing rail transit systems shall have 60 days following the effective date of these rules to comply, and all new rail transit systems shall be in compliance prior to beginning revenue service.

(4) The Oregon Department of Transportation, Rail Division, shall monitor compliance with the safety program standards.

(5) On or before January 15 of each year, each transit system shall certify to the Rail Division that it has complied with the provisions of OAR 741-060-0010 through 741-060-0110, for the preceding year.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0020

### Definitions

As used in OAR 741-060-0010 through 741-060-0110, the following definitions apply:

(1) "Accident," also known as "Major Incident," means any event involving a transit vehicle or occurring on a transit-controlled property, involving one or more of the following:

- (a) A fatality;
- (b) Injuries requiring immediate medical attention away from the scene;
- (c) Property damage equal to or exceeding \$25,000;
- (d) An evacuation due to life safety or security reasons;
- (e) A collision at a grade crossing;
- (f) A mainline derailment;
- (g) A collision between a rail transit vehicle and another rail transit vehicle or a transit non-revenue vehicle.

(2) "APTA Guidelines" means the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans," published August 20, 1991. This manual is available from the Oregon Department of Transportation, Rail Division.

(3) "Contractor" means an entity that performs tasks required by Division 60 rules on behalf of the Rail Division or transit system. The transit system may not be a contractor for the Rail Division.

(4) "Danger" means exposure to injury, damage, loss or pain.

(5) "Department" means the State of Oregon Department of Transportation.

(6) "FTA" means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

(7) "Hazardous condition" means a condition that may endanger human life or property, including unacceptable hazardous conditions.

(8) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. It may involve, at a minimum, no more than a review and approval of the transit agency's deter-

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mination of the probable cause of an accident or unacceptable hazardous condition.

(9) "Major Incident" means same as "Accident" above.

(10) "On-Duty Time" means a period of time beginning when a safety sensitive employee reports for work at a designated point and/or at a designated time, and continues until such time as they are released or relieved from all responsibility for performing work. On-duty time shall begin only after the safety sensitive employee has completed at least the minimum number of continuous hours off duty. During on-duty time, interim periods of rest of one (1) hour or more shall not be considered as on-duty time. Less than one (1) hour of rest shall be considered as continuous.

(11) "Rail Fixed Guideway System" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers that is not regulated by the Federal Railroad Administration, and:

(a) Included in the FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); or

(b) A municipal corporation, as defined in ORS 824.045(2), operating a passenger rail system not applicable to (11)(a) above.

(12) "Rail Division" means the Rail Division of the Oregon Department of Transportation.

(13) "Safety" means freedom from danger.

(14) "Safety Sensitive Employee" means an individual employed by, contracted by, or a volunteer of, the Rail Fixed Guideway System who operates a light rail vehicle, trolley, streetcar, or other vehicle used for carrying passengers, or who dispatches or controls the movement of such vehicles, or who is engaged in the installation or maintenance of the vehicles, train control, train protection, or signaling system.

(15) "Security" means freedom from intentional danger.

(16) "Security breach" means an unforeseen event or occurrence that endangers life or property and may result in the loss of services or system equipment. For reporting purposes, security breach includes, but may not be limited to:

- (a) Homicide;
- (b) Forcible rape;
- (c) Robbery, armed;
- (d) Aggravated assault, resulting in injury;
- (e) Bomb threat, with device; or
- (f) Hijack.

(17) "System Safety Program Plan" means a document adopted by the transit system detailing its safety policies, objectives, responsibilities and procedures.

(18) "System Security Program Plan" means a document adopted by the transit system detailing its security policies, objectives, responsibilities and procedures.

(19) "Transit system" means any entity operating a rail fixed guideway system.

(20) "Transit System Security Program Planning Guide" means the guidelines available from the FTA for the development of System Security Program Plans.

(21) "24-Hour Day" means a period of time that begins at the time an employee reports to work, after concluding at least the required minimum number of consecutive hours off.

(22) "Unacceptable hazardous condition" means a hazardous condition that is determined to be "unacceptable" using the APTA Guidelines Hazard Resolution Matrix (Checklist #7) and that could cause death or serious injury to passengers, employees, or the public, or any significant damage to structures or property if not immediately corrected.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0030

### System Safety Program Plan Requirements

(1) Each transit system with a rail fixed guideway system meeting the definition in OAR 741-060-0020(11)(a) shall prepare a system safety program plan conforming to the APTA Guidelines and OAR 741-060-0010 through 741-060-0110. Each transit system with a rail fixed guideway system meeting the definition in 741-060-0020(11)(b) shall prepare a system safety program plan conforming to OAR 741-060-0010 through 741-060-0110.

(2) The system safety program plan, including any subsequent revisions, shall be submitted to the Rail Division for review and approval. The Rail Division will review the system safety program plan on an annual

basis. The transit system shall have 30 days to revise its plan to comply with requested modifications.

(3) The system safety program plan shall describe the method used to maintain effective communications and liaison with Rail Division staff for:

(a) Reporting and investigating accidents and unacceptable hazardous conditions;

(b) Submitting corrective action plans;

(c) Submitting annual internal safety audit reports; and

(d) Facilitating on-site safety reviews by the Rail Division.

(4) The system safety program plan for transit systems meeting the definition in OAR 741-060-0020(11)(b) shall include a drug and alcohol-testing program, or reference to an existing program, that pertains to its safety sensitive employees. The program, if contained in a separate document from the plan, shall be reviewed and approved by the Rail Division.

(5) The transit system shall implement and comply with the system safety program plan during the operation of the rail transit system.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0040

### Monitoring the System Safety Program Plan

(1) Rail Division staff, or its contractor, may perform inspections, investigations and reviews of the operation and maintenance of each rail fixed guideway system to assess whether the actual safety and practices for the transit system comply with its system safety program plan.

(2) At least once every three years, Rail Division staff, or its contractor, shall conduct an on-site review of the implementation of each transit agency's system safety program plan to verify compliance with, and evaluate the effectiveness of, the plan.

(3) Following each on-site review, the Rail Division, or its contractor, shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system safety program plan or revising the implementation procedures. The transit system shall prepare a corrective action plan outlining the steps necessary to correct any deficiency noted during the on-site review, with completion dates and the assigned responsible party.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0050

### System Security Program Plans Requirements

(1) Each transit system with a rail fixed guideway system meeting the definition in OAR 741-060-0020(11)(a) shall prepare a system security program plan conforming to the FTA "Transit Security Program Planning Guide" and OAR 741-060-0010 through 741-060-0110. Each transit system with a rail fixed guideway system meeting the definition in OAR 741-060-0020(11)(b) shall prepare a system security program plan conforming to OAR 741-060-0010 through 741-060-0110.

(2) The system security program plan shall describe the policies, objectives, responsibilities and procedures for the security of transit system employees and passengers.

(3) The system security program plan, including any subsequent revisions, shall be submitted to the Rail Division for review and approval. The Rail Division will review the system security program plan on an annual basis. The transit system shall have 30 days to revise its plan to comply with any requested modifications.

(4) The transit system shall comply with the system security program plan for the operation phase of the rail transit system.

(5) The system security program plan shall not be available to the public.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 184.619, 823.01 & ORS 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0060

### Monitoring the System Security Program Plan

(1) Rail Division staff, or its contractor, may perform investigations and reviews of the operational phase of each transit system to assess that the actual security practices for the transit system comply with its system security program plan.

(2) At least once every three years, Rail Division staff, or its contractor, shall conduct an on-site review of the implementation of each transit agency's system security program plan to verify compliance with, and evaluate the effectiveness of, the plan. Following each triennial on-site review, the Rail Division, or its contractor, shall prepare a written report of its find-



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ings and recommendations, and the need, if any, for updating the system security program plan or revising the implementation procedures. The transit system shall prepare a corrective action plan outlining the steps necessary to correct any deficiency noted during the on-site review, with completion dates and assigned responsible party.

(3) The Rail Division and the transit agencies are prohibited from publicly disclosing any security sensitive information from the system security program plans.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045  
Stats. Implemented: ORS 824.045  
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0070

### Requirements for Internal Safety Audits

(1) Planned and scheduled internal safety audits shall be performed by each transit system to evaluate compliance and measure the effectiveness of its system safety program plan and system security program plan. Over a three-year period, the transit system must conduct on-going internal safety audits that cover all 23 items in the APTA Guidelines System Safety Check List.

(2) Each internal safety audit shall be performed in accordance with a written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the system safety program plan and system security program plan activity being audited. The auditors may be organizationally assigned to the unit responsible for the activity being audited, but they must be independent from the first line of supervision responsible for performing the activity being audited.

(3) Internal safety audits shall be documented in an annual audit report that covers the audits performed and the results of each audit in terms of the adequacy and effectiveness of the system safety program plan and system security plan. The annual report for the internal safety audits performed during the preceding year shall be submitted to the Rail Division prior to the 15th of January of each year.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045  
Stats. Implemented: ORS 824.045  
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0080

### Requirements for Reporting Accidents, Security Breaches and Unacceptable Hazardous Conditions

(1) Each transit system shall report certain accidents and security breaches, and all unacceptable hazardous conditions to the Rail Division. An accident requiring a report within 6 hours is one that meets the definition established in OAR 741-060-0020(1), and is associated with the operation of rail transit vehicles and other on-track equipment at any location in the system. A security breach requiring 6-hour notice is one that meets the definition in OAR 741-060-0020(16). An unacceptable hazardous condition is one that meets the definition in OAR 741-060-0020(22).

(2) Within 6 hours, each transit system shall notify the Rail Division by telephone, electronic mail or FAX, of an accident, security breach or any unacceptable hazardous condition. The Rail Division shall furnish each transit agency with the appropriate phone, electronic mail address and FAX numbers and any changes. The report shall contain the following information:

- (a) Name of reporting party;
- (b) Date and time of report;
- (c) Date and time of accident or security breach and possible cause of accident;

(d) Location and brief description of accident, security breach or unacceptable hazardous condition; and

(e) Action taken to insure the safety of employees, passengers and public for a security breach or an unacceptable hazardous condition.

(3) Each transit system shall file a monthly summary report:

(a) Summarizing the number of accidents, including any other accident involving:

(A) A collision between rail transit vehicles and motor vehicles or pedestrian at a gated crossing;

(B) A collision between rail transit vehicles or between a rail transit vehicle and other on-track equipment or between on-track equipment;

(C) A fire or other event that requires the evacuation of passengers for safety reasons or requires fire suppression activities conducted by a fire department; or

(D) A derailment that damages or fouls the mainline.

(b) With a copy of a detailed report attached for each accident and unacceptable hazardous condition listed on the summary report;

(c) Whether or not any accident occurred or any unacceptable hazardous condition was identified during the month; and

(d) Within 45 days from the last day of the month covered.

(4) Each transit system shall file a monthly report summarizing the number of security breach events reported during this period. This report shall be due within 45 days following the end of the month.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045  
Stats. Implemented: ORS 824.045  
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0090

### Requirements for Investigating Accidents, Security Breaches and Unacceptable Hazardous Conditions

(1) Each transit system shall investigate accidents, security breaches and unacceptable hazardous conditions. The transit system may use its own staff or a contractor to conduct the required investigations. The Rail Division may also perform separate, independent investigations at its own discretion.

(2) The transit system shall be responsible for overseeing the investigations and ensuring preparation and submittal of investigation reports.

(3) Each transit system shall submit to the Rail Division for review and approval, a final written report for all investigated reportable accidents and unacceptable hazardous conditions within 45 days after the last day of the month in which the accident occurred or the unacceptable hazardous condition was discovered. The report shall identify the causal factors contributing to the accident or unacceptable hazardous condition, and contain or reference a corrective action plan and schedule to prevent a recurrence of the accident or to mitigate the unacceptable hazardous condition. Each transit system shall also submit a final written report of all security breaches investigated within 45 days from the end of each month. The written reports shall be submitted to the Rail Division, on an approved format containing all required information.

(4) Investigation reports and corrective action plans prepared by a rail transit system or the Rail Division shall not be admissible as evidence nor shall they be used in any civil action for damages based on or arising out of matters covered therein.

Stat. Auth.: ORS 184.616, ORS 184.619, 823.011 & ORS 824.045  
Stats. Implemented: ORS 824.045  
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03

## 741-060-0100

### Hours of Service

(1) Each transit system shall establish, implement and enforce an hours of service policy for its safety sensitive employees. The policy and any subsequent changes shall be reviewed and approved by the Rail Division.

(2) The policy must not allow a safety sensitive employee to be required or allowed to:

(a) Perform work in excess of the maximum hours of on-duty time during a 24-hour day; or

(b) Go on duty until the employee has had the minimum required number of consecutive hours off.

(3) Hours of service limitations may be waived under situations of emergencies, as declared by the Chief Executive Officer of Operations, or his/her designee. When a situation requiring the extended service of a safety sensitive employee occurs which is both unforeseeable and beyond the control of the transit system, the employee may be on duty in excess of the allotted hours. These situations may include, but are not limited to winter storms, major public emergencies (earthquake, fires, etc.), accidents, etc. During emergency situations, hours of service must be limited to the maximum extent practical.

(4) The transit system shall maintain hours of service records for safety sensitive employees, and made available to the Rail Division for review for a period of two (2) years. Any event where an employee works in excess of the allotted hours in any 24-hour day, or does not receive the minimum rest time off, a report shall be made to the Rail Division by phone, fax or electronic mail within 48 hours of the known event. Reports shall contain:

- (a) The employee's name;
- (b) The employee's identification number;
- (c) The employee's discipline;
- (d) The type of violation;
- (e) The schedule of work and rest for the period of 24 hours prior to the infraction; and

(f) A brief description of circumstances leading to the infraction.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045  
Stats. Implemented: ORS 824.045  
Hist.: RD 2-2003, f. & cert. ef. 7-17-03

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## 741-060-0110

### Annual Fee for Safety Oversight

(1) On or before February 15 of each year, the department shall provide to municipalities operating a rail fixed guideway system, as defined in ORS 824.045(2), an estimate of costs for the safety program described in OAR 741-060-0010 through 741-060-0110 for the next fiscal year based on the legislatively approved budget. The department shall also provide an estimate of costs apportioned among each system, based on time and expenses associated with the safety oversight of each system.

(2) The department may also require reimbursement for expenses directly attributable to a single system, such as federally required audits.

(3) On or before March 15 of each year, each municipality operating a rail fixed guideway system will verify the department's estimated fee.

(4) Each system shall pay the full fee on or before May 1, or pay 50% on or before May 1, and the remainder by December 31 of each year.

(5) The department shall refund fees collected in excess of the actual costs at the end of the fiscal year in which the fee was collected, or shall credit the amount including interest against the subsequent year's fee payment.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RD 2-2003, f. & cert. ef. 7-17-03

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## Department of Veterans' Affairs Chapter 274

**Adm. Order No.:** DVA 6-2003(Temp)

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-25-03 thru 10-17-03

**Notice Publication Date:**

**Rules Amended:** 274-020-0341

**Rules Suspended:** 274-020-0341(T)

**Subject:** This Temporary rule amends and supersedes the Temporary OAR filed April 18, 2003 and effective April 21, 2003 through October 17, 2003.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after July 25, 2003, shall have the interest rate of 5.375 percent with an origination fee of 1.0 percent or 5.25 percent with and origination fee of 1.5 percent.

**Rules Coordinator:** Charles E. Gehley—(503) 373-2142

### 274-020-0341

#### Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

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(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

- (A) 5.95 percent with an origination fee of 1.0 percent;
- (B) 5.79 percent with an origination fee of 1.5 percent; or
- (C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans.
  - (i) 5.55 percent with an origination fee of 1.0 percent;
  - (ii) 5.39 percent with an origination fee of 1.5 percent; or
  - (iii) 5.25 percent with an origination fee of 2.0 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.
  - (i) 5.95 percent with an origination fee of 1.0 percent;
  - (ii) 5.79 percent with an origination fee of 1.5 percent; or
  - (iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
  - (i) 5.25 percent with an origination fee of 1.0 percent; or
  - (ii) 4.99 percent with an origination fee of 1.5 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:
  - (i) 5.25 percent with an origination fee of 1.0 percent; or
  - (ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.375 percent with an origination fee of 1.0 percent; or
- (B) 5.25 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

- (a) November 12, 1997, shall be fixed and shall be 7.95 percent.
- (b) February 2, 1998, shall be fixed and shall be 7.5 percent.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.325 & ORS 407.327  
Stats. Implemented: 407.325 & ORS 407.327  
Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-84; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. ef. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert.

ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03

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**Adm. Order No.:** DVA 7-2003(Temp)

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 8-1-03 thru 10-17-03

**Notice Publication Date:**

**Rules Amended:** 274-020-0341

**Rules Suspended:** 274-020-0341(T)

**Subject:** This Temporary rule amends and supersedes the Temporary OAR filed July 24, 2003 and effective July 25 through October 17, 2003.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after August 1, 2003, shall have the interest rate of 5.50 percent with an origination fee of 1.0 percent or 5.375 percent with an origination fee of 1.5 percent.

**Rules Coordinator:** Charles E. Gehley—(503) 373-2142

## 274-020-0341

### Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

- (a) Four percent on all loans through August 21, 1969;
- (b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

- (A) Effective August 22, 1969, 5.2 percent;
- (B) Effective September 4, 1969, 6.9 percent;
- (C) Effective December 10, 1969, 7.1 percent;
- (D) Effective April 8, 1970, 6.8 percent;
- (E) Effective August 19, 1970, 6.4 percent;
- (F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

- (a) Effective May 27, 1971, 5.9 percent on all loans;
- (b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;
- (c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;
- (d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;
- (e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;
- (f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate real property loans shall be as follows:

# ADMINISTRATIVE RULES

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(w) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-1-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00.

# ADMINISTRATIVE RULES

f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03

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**Adm. Order No.:** DVA 8-2003(Temp)

**Filed with Sec. of State:** 8-14-2003

**Certified to be Effective:** 8-15-03 thru 10-17-03

**Notice Publication Date:**

**Rules Amended:** 274-020-0341

**Rules Suspended:** 274-020-0341(T)

**Subject:** This Temporary rule amends and supersedes the Temporary OAR filed July 31, 2003 and effective August 1, 2003 through October 17, 2003.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after August 15, 2003, shall have the interest rate of 5.75 percent with an origination fee of 1.0 percent or 5.625 percent with an origination fee of 1.5 percent.

**Rules Coordinator:** Charles E. Gehley—(503) 373-2142

## 274-020-0341

### Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of

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1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

- (A) 5.95 percent with an origination fee of 1.0 percent;
- (B) 5.79 percent with an origination fee of 1.5 percent; or
- (C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans.
  - (i) 5.55 percent with an origination fee of 1.0 percent;
  - (ii) 5.39 percent with an origination fee of 1.5 percent; or
  - (iii) 5.25 percent with an origination fee of 2.0 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.
  - (i) 5.95 percent with an origination fee of 1.0 percent;
  - (ii) 5.79 percent with an origination fee of 1.5 percent; or
  - (iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
  - (i) 5.25 percent with an origination fee of 1.0 percent; or
  - (ii) 4.99 percent with an origination fee of 1.5 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:
  - (i) 5.25 percent with an origination fee of 1.0 percent; or
  - (ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(w) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.375 percent with an origination fee of 1.0 percent; or
  - (B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)
- (x) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.50 percent with an origination fee of 1.0 percent; or
  - (B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)
- (y) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.75 percent with an origination fee of 1.0 percent; or
- (B) 5.625 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. ef. 5-18-95; DVA 6-1995(Temp), f. & cert. ef. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA 1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-

10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03

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## Employment Department Chapter 471

**Adm. Order No.:** ED 10-2003

**Filed with Sec. of State:** 7-25-2003

**Certified to be Effective:** 7-27-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 471-030-0052

**Subject:** The Employment Department is proposing to amend the "Satisfaction of Disqualifications" rule to clarify the criteria that will be used in order to satisfy a disqualification from receiving Unemployment Insurance benefits for misrepresentation.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

### 471-030-0052

#### Misrepresentation Disqualification

(1) An authorized representative of the Employment Department shall determine the number of weeks of disqualification under ORS 657.215 according to the following criteria:

(a) When the disqualification is imposed because the individual failed to accurately report work and/or earnings, the number of weeks of disqualification shall be determined by dividing the total amount of benefits overpaid to the individual for the disqualifying act(s), by the maximum Oregon weekly benefit amount in effect during the first effective week of the initial claim in effect at the time of the individual's disqualifying act(s), squaring the result and rounding it up to the nearest whole number.

(b) When the disqualification is imposed because the disqualifying act(s) under ORS 657.215 relates to the provisions of ORS 657.176, the number of weeks of disqualification shall be the number of weeks calculated in the same manner as under subsection (a) above, or four weeks, whichever is greater.

(c) When the disqualification is imposed because the disqualifying act(s) relates to the provisions of ORS 657.155 (other than work and/or earnings), the number of weeks of disqualification shall be the number of weeks calculated in the same manner as under subsection (a) above, or the number of weeks in which a disqualifying act(s) occurred, whichever is greater.

(d) When the disqualification is imposed because the disqualifying act(s) under ORS 657.215 relates to the provisions of ORS 657.176 and a failure to accurately report work and/or earnings, the number of weeks of disqualification shall be the number of weeks calculated in the manner set forth in subsection (a) plus four weeks.

(e) When the disqualification is imposed because the disqualifying act(s) relates to the provisions of ORS 657.155 (other than work and/or earnings) and a failure to accurately report work and/or earnings, the number of weeks of disqualification shall be the number of weeks calculated in the manner set forth in subsection (a) plus the number of weeks in which a disqualifying act(s) occurred relating to the provisions of ORS 657.155 (other than work and earnings.)

(2) The number of weeks of disqualification assessed under section (1) of this rule shall be doubled, but not to exceed 26 weeks, if the individual has one previous disqualification under ORS 657.215, and that prior disqualification determination has become final.

(3) Notwithstanding sections (1) and (2) of this rule, the number of weeks of disqualification under ORS 657.215 shall be 26 weeks if:

(a) The disqualification under ORS 657.215 is because the individual committed forgery; or

(b) The individual has two previous disqualifications under ORS 657.215, and those prior two disqualification determinations have become final.

(4) Notwithstanding Sections (1), (2) and (3), an authorized representative of the Employment Department may determine the number of weeks of disqualification according to the circumstances of the individual case, but not to exceed 26 weeks.

(5) All disqualifications imposed under ORS 657.215 shall be served consecutively.

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(6) Any week of disqualification imposed under ORS 657.215 may be satisfied by meeting all of the eligibility requirements of ORS Chapter 657, other than ORS 657.155(1)(e).

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.215  
Hist.: IDE 151, f. 9-28-77, ef. 10-4-77; ED 10-2003, f. 7-25-03, cert. ef. 7-27-03

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**Adm. Order No.:** ED 11-2003

**Filed with Sec. of State:** 7-25-2003

**Certified to be Effective:** 7-27-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 471-030-0080

**Subject:** This rule is being amended to clarify responsibility for certification for professional technical training; establish clear, statewide criteria for Employment Department certifications; and to restore work search and availability requirements to those claimants who are not actively participating in professional technical training on a full time basis.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

## 471-030-0080

### Professional Technical Training

(1) Professional technical training, as defined in ORS 657.335, shall not be approved by the Director unless the public or private institution, school, or agency offering such program is certified or licensed by the Oregon State Board of Education, the Superintendent of Public Instruction, Regional Workforce Investment Board, or other Oregon State agency authorized to grant such certification or license or an equivalent state agency in the state where the training is to be provided.

(2) Professional technical training shall not be approved by the Director if the Director finds that the planned curriculum of classes and course activity is less than the equivalent of full-time student status. The Director may waive this requirement when such requirement would be inconsistent with the policy set forth in ORS 657.337.

(3) To receive benefits for any week during professional technical training, a dislocated worker who is otherwise eligible for unemployment insurance benefits must:

(a) Submit a written application for approval of professional technical training on forms prescribed or approved for such purpose by the Director with a local office of the Employment Department within 90 days of:

- (A) Certification as a dislocated worker; or
- (B) Termination from the dislocating employment; or
- (C) The filing of a claim for unemployment insurance benefits; and

(b) Submit to the Employment Department a timely claim for such week in accordance with procedures established in 471-030-0045(3) of these rules; and

(c) Submit to the Employment Department a statement signed by an authorized representative of the training facility which certifies that the claimant was satisfactorily pursuing the approved professional technical training during such week; and

(d) Be in attendance half or more of the scheduled class days during such week unless the days not in attendance will not prevent satisfactory completion of the approved professional technical training.

(4) Decisions of the Director to approve or disapprove an application for course approval or to discontinue such approval for one or more weeks during professional technical training or to approve or deny supplemental benefits under the provisions of ORS 657.335 through 657.360 shall be in writing, shall set forth the reasons therefor, and shall be served upon the claimant by personal delivery or by mailing to the claimant's last known address of record with the Employment Department.

(5) As used in ORS 657.335(1):

(a) "Eligible dislocated workers" includes:

(A) For purposes of ORS 657.345(1), any worker attending training financed wholly or in part, or directly delivered by, a recipient or subrecipient administering Title 1B of the Workforce Investment Act of 1998 (P.L. 105-220).

(B) For purposes of ORS 657.345(2), any worker identified as dislocated by the Employment Department under paragraphs (a), (b), (c) or (d) of ORS 657.335(1).

(b) "Unlikely to return to their previous occupation or industry" includes the following:

(A) The individual has been identified as meeting the Worker Profiling Program participation threshold developed by the Employment Department, or

(B) The individual has been permanently separated from an employer in an occupation identified as declining by the Employment Department in that geographic area in which the claimant resides, or

(C) The individual has been evaluated and referred to training by a vocational rehabilitation provider, including but not limited to Vocational Rehabilitation Division, Workers Compensation Division, or a private insurance carrier.

(c) "Long-term unemployed" means unemployed from the dislocated occupation for at least 15 of the last 26 weeks or for at least 8 consecutive weeks immediately prior to application (including survival jobs during such period).

(6) In applying the provisions of ORS 657.340, the Director may approve a program of instruction, including transfer credit programs of instruction given at community colleges, leading toward a baccalaureate or higher degree or training that has for its purpose the preparation of persons for employment in occupations which require a baccalaureate or higher degree from institutions of higher education if:

(a) The individual does not have significant transferable skills for other occupations in the statewide labor market;

(b) Unless previously approved in accordance with the provisions of Title 1B of the Workforce Investment Act of 1998 (P.L. 105-220), the individual is within 48 quarter credit hours (or the semester equivalent) from completing the baccalaureate or higher degree; and

(c) Completing the baccalaureate or higher degree offers the best chance of long term employment.

(7) As used in ORS 657.340(2), "attendance in professional technical training" means the period of time beginning with the starting date of the professional technical training and ends with satisfactory completion of the training program. The period of time defined in this section includes customary academic recesses for holidays and between academic terms but does not include the customary academic summer recess. For purposes of applying ORS 657.340(2), an individual may be determined not to be in "attendance in professional technical training" as defined in this section if the individual fails to demonstrate satisfactory progress and attendance as defined in section (3) of this rule.

(8) As used in ORS 657.340(3), "terms and conditions" includes "benefit year" as defined in ORS 657.010(3). In applying the provisions of ORS 657.340(3), the benefit year of an eligible dislocated worker may be extended, whether or not the benefit year has expired, if the eligible dislocated worker has not filed a subsequent initial claim establishing a new benefit year.

(9) The determination that an individual meets the definition of dislocated worker may be made by the Employment Department for purposes of paying benefits under ORS 657.335 to 657.360.

Stat. Auth.: ORS 657.610  
Stats. Implemented: ORS 657.335 - ORS 657.360  
Hist.: IDE 150, f. & ef. 2-9-76; IDE 1-1983(Temp), f. & ef. 3-9-83; IDE 2-1983, f. & ef. 8-12-83; ED 1-1991, f. & cert. ef. 4-1-91; ED 4-1991(Temp), f. & cert. ef. 12-30-91; ED 3-1992, f. & cert. ef. 6-29-92; ED 4-1992(Temp), f. & cert. ef. 10-19-92; ED 1-1993, f. & cert. ef. 3-22-93; ED 4-1994, f. & cert. ef. 9-2-94; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 5-2000, f. 10-6-00, cert. ef. 10-8-00 thru 4-6-01; ED 5-2001(Temp), f. 4-6-01, cert. ef. 4-7-01 thru 10-4-01; ED 6-2001, f. 4-20-01, cert. ef. 4-22-01; ED 8-2002, f. 11-22-02 cert. ef. 11-24-02; ED 11-2003, f. 7-25-03, cert. ef. 7-27-03

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## Employment Relations Board Chapter 115

**Adm. Order No.:** ERB 1-2003(Temp)

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-1-03 thru 1-31-04

**Notice Publication Date:**

**Rules Amended:** 115-045-0005, 115-045-0010, 115-045-0020, 115-045-0021, 115-045-0023, 115-045-0025

**Subject:** Adopt rules regarding change in time period for filing appeals, change in what constitutes a timely filing of the appeal, and change in a hearing's postponement past the 30-day requirement on agreement between the parties; rules necessitated by enactment of House Bill 2474 adopted by 2003 Legislature, declaring an emergency.

**Rules Coordinator:** Tonic Cotell—(503) 378-3807, ext. 248

## 115-045-0005

### Filing of Appeals

Filing of appeals must be in accordance with these rules. An appeal must be in writing and filed not later than 30 days after the effective date of the action being appealed. An appeal shall be considered filed when it is

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received by the Board or postmarked, if mailed postpaid and properly addressed. Amendments or supplements to appeals will be accepted only on a showing of good cause.

Stat. Auth.: ORS 243  
Stats. Implemented: ORS 240.086(1)  
Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 9-1985, f. 10-29-85, ef. 10-31-85; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## 115-045-0010

### Regular Employee Appeals from Suspension, Reduction in Pay, Demotion and Dismissal Actions

(1) A regular employee who is suspended, reduced in pay, demoted or dismissed may appeal the action to the Board.

(2) The appeal must be in writing and must contain a detailed statement specifying:

- (a) The action being appealed;
- (b) The reasons why appellant believes the action was not in good faith for cause or was taken for political, religious or racial reasons, sex, marital status or age; and
- (c) The corrective action being requested.

(3) Notice of appeal must be filed with the Board no later than 30 days after the effective date of such action.

Stat. Auth.: ORS 240 & ORS 243  
Stats. Implemented: ORS 240.086(1) & ORS 240.560  
Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 1-1982, f. & ef. 1-19-82; ERB 9-1985, f. 10-29-85, ef. 10-31-85; ERB 6-1995, f. 11-30-95, cert. ef. 12-1-95; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01; ERB 1-2002, f. & cert. ef. 5-21-02; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## 115-045-0020

### Other Appeals from Other Personnel Actions

(1) A classified employee may appeal any personnel action affecting the person (including trial service removals) that is alleged to be arbitrary or contrary to law, rule or policy, or taken for political reasons.

(2) The appeal must be in writing, and must contain a detailed statement specifying:

- (a) The action being appealed;
- (b) The reasons why the appellant believes the action was arbitrary, contrary to law, rule or policy, or taken for political reasons; and
- (c) The corrective action being requested.

(3) The written appeal must be filed no later than 30 days after the effective date of such action.

Stat. Auth.: ORS 240 & ORS 243  
Stats. Implemented: ORS 240.086(1)  
Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 1-1982, f. & ef. 1-19-82; ERB 9-1985, f. 10-29-85, ef. 10-31-85; ERB 6-1995, f. 11-30-95, cert. ef. 12-1-95; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01; Renumbered from 115-045-0015; ERB 1-2001, f. 2-16-01, cert. ef. 7-1-01; ERB 1-2002, f. & cert. ef. 5-21-02; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## 115-045-0021

### Dismissal Appeals by Management Service Employees with Immediate Prior Regular Classified Service

(1) A management service employee with immediate prior regular classified service status who is dismissed from state service may appeal the dismissal to the Board.

(2) The appeal must be in writing and must contain a detailed statement specifying:

- (a) The action being appealed;
- (b) The reasons why the employee believes the action was not in good faith for cause or was taken for political, religious or racial reasons, sex, marital status or age; and
- (c) The corrective action being requested.

(3) The written appeal must be filed with the Board no later than 30 days after the effective date of such action.

Stat. Auth.: ORS 240 & ORS 243  
Stats. Implemented: ORS 240.560  
Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 1-1982, f. & ef. 1-19-82; ERB 9-1985, f. 10-29-85, ef. 10-31-85; ERB 6-1995, f. 11-30-95, cert. ef. 12-1-95; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01, Renumbered from 115-045-0010; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## 115-045-0023

### Other Management Service Employee Appeals

(1) Disciplinary Actions. A management service employee who is reprimanded, reduced in pay, suspended, demoted or removed from management service may appeal such action to the Board.

(2) Nondisciplinary actions. A management service employee who is removed from the management service for nondisciplinary reasons, assigned, reassigned or transferred may appeal such action to the Board.

(3) Appeals must be in writing and must contain a statement specifying:

- (a) The action being appealed;
- (b) The reasons why the appellant believes the action was contrary to ORS 240.570(3) (for disciplinary actions) or ORS 240.570(2) (for nondisciplinary actions); and

(c) The corrective action being requested.

(4) The written appeal must be filed no later than 30 days after the effective date of such action.

Stat. Auth.: ORS 240.086(3) & ORS 243  
Stats. Implemented: ORS 240.570  
Hist.: ERB 1-1982, f. & ef. 1-19-82; ERB 1-1985(Temp), f. & ef. 8-19-85; ERB 9-1985, f. 10-29-85, ef. 10-31-85; ERB 3-1993, f. & cert. ef. 12-15-93; ERB 6-1995, f. 11-30-95, cert. ef. 12-1-95; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01; Renumbered from 115-045-0024; ERB 1-2002, f. & cert. ef. 5-21-02; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## 115-045-0025

### Hearings

(1) The Board agent may investigate and attempt to resolve the dispute with the parties. If the case cannot be resolved within a reasonable time, it will be scheduled for public hearing and an order of the Board.

(2) Time and Place of Hearings. The time and place of hearing will be set by the Board agent. Notice of the hearing shall be served personally or by registered or certified mail on the agency head and all other interested parties at least ten days in advance of the hearing date. For disciplinary actions, the hearing will be set no later than 30 days from the date the appeal was filed, unless the parties to the hearing agree to a postponement.

(3) Postponements. When the parties to a hearing agree to a postponement, they shall promptly submit a written request for postponement to the Board agent. For good cause shown, the Board agent may grant a postponement. A hearing on an appeal under ORS 240.560 will not be postponed beyond 30 days from the date the appeal was filed, unless the parties to the hearing and the Board agent agree to a postponement.

Stat. Auth.: ORS 243  
Stats. Implemented: ORS 240.086(3)  
Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1995, f. 11-30-95, cert. ef. 12-1-95; ERB 2-2000, f. 12-1-00, cert. ef. 7-1-01; ERB 1-2002, f. & cert. ef. 5-21-02; ERB 1-2003(Temp), f. & cert. ef. 8-1-03 thru 1-31-04

## ..... Landscape Contractors Board Chapter 808

**Adm. Order No.:** LCB 5-2003

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-1-03

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**Rules Adopted:** 808-002-0785, 808-003-0210, 808-004-0350, 808-004-0420

**Rules Amended:** 808-003-0090, 808-003-0100, 808-004-0300, 808-004-0340, 808-004-0400, 808-004-0550, 808-004-0560, 808-004-0600, 808-008-0100, 808-009-0160

**Subject:** 808-002-0785 Defines Primary Contractor

- 808-003-0090 Corrects ORS cite
- 808-003-0100 Corrects typo
- 808-003-0210 Increases amount of landscape work a general contractor may perform from \$2,500 to \$3,000
- 808-004-0300 Clarifies when a claim is accepted for filing
- 808-004-0340 Adds requirement to submit job site address and directions on Statement of Claim form
- 808-004-0350 Adopts procedure to close a claim if information on claim form is incomplete
- 808-004-0400 Changes "investigation" to "meeting"
- 808-004-0420 Adopts requirement that homeowner and primary contractor claims based on same facts be processed together
- 808-004-0550 Add OAR cite
- 808-004-0560 Amended to include arbitration
- 808-004-0600 Clarifies when LCB will notify surety company claim is ready for payment
- 808-008-0100 Changes "investigation" to "meeting"
- 808-009-0160 Includes the amended declaration of damages form

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 986-6570

### 808-002-0785

#### Primary Contractor

"Primary contractor" is an entity who has a contract, either oral or written, with the owner of the property to perform work subject to ORS Chapter 671, or who is holding itself out to be a licensed contractor in con-



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nection with property it owns; who may engage one or more subcontractors to perform all or part of the work; and who may have responsibility for the entire project which is the subject of the contract. Responsibility for the entire project includes coordinating work, seeing that prompt and proper payment is made to all subcontractors and suppliers, thereby preventing the filing of construction liens against the property.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671  
Hist.: LCB 5-2003, f. & cert. ef. 8-1-03

## 808-003-0090

### Employer Status

Landscape businesses shall be licensed as either nonexempt (employer with employees) or exempt (no employees) as provided in ORS 671.525.

(1) The nonexempt class is composed of the following entities:

(a) Sole proprietors, partnerships, corporations, limited liability companies with one or more employees, and

(b) Partnerships, corporations, and limited liability companies with more than two partners, corporate officers, or members, if any of the partners, corporate officers, or members are not part of the same family and related as parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, or grandchildren.

(2) The exempt class is composed of sole proprietors, partnerships, corporations, and limited liability companies that do not qualify as nonexempt.

(3) The maximum number of exempt individuals in an entity without employees other than same-family partners, members, or corporate officers shall be:

- (a) Two partners in a partnership;
- (b) Two members in a limited liability company; and
- (c) Two corporate officers in a corporation.

(4) An exempt landscaping business may work with the assistance of individuals who are employees of a nonexempt landscaping business so long as the nonexempt landscaping business:

- (A) Is in compliance with ORS chapters 316, 656, and 657 and is providing the employee(s) with workers' compensation insurance; and
- (B) Does the payroll and pays all its employees, including those employees who assist an exempt contractor.

(5) Non-exempt entities shall supply employer account numbers for workers' compensation, unemployment, state Department of Revenue, and IRS identification.

(6) Exempt entities need supply no employer account numbers except as stated below.

(7) Partnerships without employees other than the partners may be classed as "nonexempt-no construction work" when the entity certifies that all partners or members qualify as nonsubject workers as provided in ORS 656.027, by virtue of their not being directly involved in construction work. Such partnerships need supply no employer account numbers except the IRS account number.

(8) Corporations and limited liability companies qualifying as exempt as provided by ORS 656.027(10) shall supply Employment Division and Department of Revenue account numbers unless the corporation or limited liability company certifies that corporate officers or members receive no compensation (salary or profit) from the corporation or limited liability company. Exempt corporations shall supply IRS account numbers.

(9) Out-of-state businesses with no Oregon employees shall supply their home state account numbers, and workers' compensation account.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.525  
Hist.: LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-003-0100

### Licenses

(1) A landscape contractors license or landscaping business license and its identifying license number will be issued to one individual or entity only. Other individuals or entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS Chapter 671 through the use of another individual's or entity's license.

(2) The Board adopts the form "Independent Contractor Certification Statement", as required by ORS 671.565.

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture seeks to change to another type of entity and a new Employer Identification

Number is required, the former landscaping business license will be terminated. The new entity must license anew.

(4) Landscape contractor licenses shall be issued in the name of the individual.

(5) Landscaping business licenses shall be issued as follows:

(a) A sole proprietorship shall be issued in the name of the sole proprietor;

(b) A sole proprietorship using an assumed business name shall be issued in both the name of the individual and assumed business name

(c) A partnership shall be issued in the name(s) of the partners;

(d) A partnership using an assumed business name shall be issued in the name of the partners and the assumed business name;

(e) A corporation shall be issued in the corporate name;

(f) A limited liability company shall be issued in the limited liability company name.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.560

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0030; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 2-2002, f. & cert. ef. 5-24-02; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-003-0210

### General contractor licensed under ORS 701 who performs landscaping work

A general contractor licensed under ORS 701 who performs landscaping work is exempt from ORS 671.510 to 671.710 per ORS 671.540(9) if:

(1) The landscaping work is performed on residential property as defined in OAR 808-002-0840; and

(2) The general contractor is under contract for the construction of a new dwelling; and

(3) The landscaping work was completed on or before September 1, 2003 and is less than \$2,500 per residential dwelling as defined in OAR 808-002-0820; or

(4) The landscaping work was completed after September 1, 2003 and is less than \$3,000 per residential dwelling as defined in OAR 808-002-0820.

Stat. Auth.: ORS 670.310, 671.670  
Stats. Implemented: ORS 671.540  
Hist.: LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0300

### Filing Date of Claims

A claim shall be deemed to have been filed when a Statement of Claim is received by the agency that:

(1) Is in substantial compliance with OAR 808-004-0340; and

(2) Contains information that is sufficient to identify the claimant and respondent.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.700 & ORS 671.703  
Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0340

### Form of Claims

(1) A claim shall be submitted on a Statement of Claim form provided by the agency. The agency may require the use of the most recent revision of the Statement of Claim form.

(2) The claimant shall provide the following information, if applicable to the claim, on or enclosed with the claim form:

(a) The name, address, and telephone number of the claimant;

(b) The name, address, telephone number and license number of the landscaping business;

(c) The amount, if known at the time the Statement of Claim is filed, that the claimant alleges is due from the landscaping business after crediting payments, offsets, and counterclaims in favor of the landscaping business to which the claimant agrees;

(d) A brief statement of the nature of the claim, setting forth whether the claim is for labor, material or equipment, taxes or contributions due the State of Oregon, negligent or improper work or breach of contract related to a contract with the claimant;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract with attached material invoices, time sheets, or other relevant attached documents;

(g) Job site address with driving directions to the job site;

# ADMINISTRATIVE RULES

- (h) The beginning and ending date of the work or invoices;
- (i) Payments, offsets, and counterclaims of the landscaping business, if known, to which the claimant does not agree;
- (j) A certification by the claimant that the Statement of Claim is true; and

(k) A copy of any court judgment or arbitration award, including the original complaint and any answers or counter-suits related to the work that is the subject of the claim.

(3) A claim by a subcontractor shall include a copy of each original invoice relating to the claim.

(4) An employee claim shall include copies of time cards or other evidence of the amount of compensation claimed.

(5) A material supplier or equipment claim shall include a copy of each original invoice relating to the claim and a recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, and each invoice amount. Claimant shall include documentation that claim is a minimum of 60 days old and two attempts to collect have been made.

(6) A claim involving negligent or improper work shall include a list of the alleged negligent or improper work.

(7) A claim involving a breach of contract shall describe the nature of the breach of contract.

(8) The Statement of Claim form must be signed by the claimant or an agent of the claimant.

(9) A Statement of Claim that does not comply with the requirements of this rule is subject to OAR 808-004-0350.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0040; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0010; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0350

### Procedure if Information on Statement of Claim is Incomplete

(1) The agency may close a claim if:

(a) The Statement of Claim does not meet the requirements of OAR 808-004-0340; and

(b) The claimant fails to provide the missing information in response to a written request from the agency for the information.

(2) The agency's written request for information and closure of the claim must comply with OAR 808-004-0260.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0400

### Initial Administrative Processing of Claims

(1) Upon receipt of a claim, the agency shall notify the landscaping business, furnishing the landscaping business with a copy of the claim.

(2) After receipt of the claim, the agency shall investigate the claim to determine its validity. The investigation may include an on-site meeting.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 183.460 & ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0420

### Processing Owner and Primary Contractor Claim Together

If a claim based on the same facts and issues is received at any time during the processing of a primary contractor claim or a homeowner claim, the two claims will be processed together.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0550

### Proposed Default Order to Dismiss

(1) The agency may issue a proposed default order proposing dismissal of a claim if the evidence in the claim record persuades the agency that one of the following grounds for dismissal exists:

(a) The claim is not the type of claim that the agency has jurisdiction to determine under ORS 671.690, 671.703 or OAR 808-004-0320.

(b) The claim was not filed within the time limit specified under ORS 671.710 and OAR 808-004-0320.

(c) The claimant did not permit the respondent to comply with agency recommendations under ORS 671.703.

(d) The respondent breached a contract or performed work negligently or improperly, but the monetary value of damages sustained by the claimant is less than an amount due to the respondent from the claimant under the terms of the contract.

(e) The claimant contends that the respondent failed to fulfill the terms of a settlement that resolved the claim but the agency finds that the respondent fulfilled the respondent's obligation under the settlement agreement.

(2) The agency may issue a proposed default order proposing dismissal of a claim if, after the agency investigates the claim, the record of the claim does not contain evidence that persuades the agency that:

(a) The claimant suffered damages;

(b) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(c) The monetary value of those damages is substantiated on the record.

(3) If the claimant makes a timely request for a hearing after the agency issued a proposed default order under section (1) or (2) of this rule, the agency may:

(a) Refer the claim for a hearing solely to determine whether the dismissal was proper; or

(b) Require that the claimant file a declaration of damages stating an amount the claimant alleges the respondent owes the claimant and refer the claim for a hearing to determine if the claim should be dismissed and if not, the validity of the claim and whether the amount claimed, or some lesser amount is proper.

(4) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Hearing Officer Panel issued under this rule.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 183.460 & ORS 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0560

### Requirements for Proposed Default Order or Referral to Hearing Officer Panel, Hearing Request

(1) A proposed default order on a claim issued by the agency shall include a contested case notice that complies with OAR 137-003-0505.

(2) A referral to the Hearing Officer Panel for an arbitration or a contested case hearing must:

(a) Comply with OAR 808-004-0590, which regulates whether the claim will be arbitrated or heard as a contested case hearing.

(b) Comply with OAR 137-003-0515, which sets out requirements for the referrals including, but not limited to formal requirements.

(c) Include a contested case notice if the agency did not issue a contested case notice under OAR 137-003-0505 prior to the agency's referral of the claim to the Hearing Officer Panel.

(3) If the agency refers a claim to the Hearing Officer Panel for arbitration or a contested case hearing on the amount, if any, that the respondent owes the claimant, the following requirements apply:

(a) The referral to the Hearing Officer Panel must identify by date the declaration of damages on the Statement of Claim that limits the amount that the respondent may be ordered to pay the claimant and state the amount that the order is limited to under OAR 808-009-0160 and 808-008-0420.

(b) The agency shall serve on the parties an explanation of

(A) The limitation on the amount a respondent may be ordered to pay a claimant under OAR 808-009-0160 and 808-008-0420; and

(B) The procedure to file a new declaration of damages under OAR 808-009-0020 and 808-008-0110.

(4)(a) To be timely, a request for a hearing must be in writing and be received by the agency within 21 days from the date a proposed default order is mailed by the agency.

(b) An untimely request for a hearing must comply with the requirements of OAR 137-003-0528. The agency may require that the request be supported by an affidavit setting out facts that affirmatively show that the failure to make a timely request was beyond the reasonable control of the party.

(5) The agency may issue a proposed default order under OAR 137-003-0670(4) that will automatically become a final order 21 days after the date of issue without further notice if no party makes a timely request for a hearing.

(6)(a) Except as provided in subsection (b) of this section, a contested case notice issued under this rule must include a statement that the agency's file on the claim is designated as the record only for purposes of

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a default order issued under this rule and not for purposes of an order by default issued after a hearing under OAR 808-009-0140.

(b) If a proposed default order issued under this rule is an order to dismiss a claim, a contested case notice issued under this rule may include a statement that the agency's file on the claim is designated as the record for purposes of a default order issued under this rule and of an order by default issued after a hearing under OAR 808-009-0140.

Stat. Auth.: ORS 183.415, ORS 183, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183.415

Hist.: LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-004-0600

### Payment from Bond or Security

(1) The agency may notify the surety of claims pending.

(2) The agency shall notify the surety company or deposit holder of claims ready for payment. Claims are ready for payment when all of the following have occurred:

(a) An arbitration award has been issued and is ready for payment under OAR 808-008-0440 after 30 days have elapsed to allow the respondent time to pay the award or file exceptions with the circuit court or a final order has been issued in a contested case and 30 days have elapsed to allow the respondent time to pay the order;

(b) The agency has received no evidence that the respondent has complied with the final order or award;

(c) The agency has not granted a stay of enforcement of the final order pending judicial review by the Court of Appeals; and

(d) All other claims filed against the licensee under ORS 671.510 to 671.710 within the same or prior 90-day period under ORS 671.710 have either been resolved, been closed or have reached the same state of processing as the subject claim.

(3) Claims related to a job that are satisfied from a surety bond or deposit shall be paid as follows:

(a) If a surety bond or deposit was in effect when the work period began, payment shall be made from that surety bond or deposit.

(b) If no surety bond or deposit was in effect when the work period began, but a surety bond or deposit subsequently became effective during the work period of the contract, payment must be made from the first surety bond or deposit to become effective after the beginning of the work period.

(c) A surety bond or deposit that is liable for a claim under subsection (a) or (b) of this section is liable for all claims related to the job and subsequent bonds or deposits have no liability for any claim related to the job.

(4) If during a work period the amount of a surety bond or deposit is changed and a claim is filed relating to work performed during that work period, the claimant may recover from the surety bond or deposit up to the amount in effect at the time the contract was entered into.

(5) The full penal sum of the bond shall be available to pay claims under this rule, notwithstanding that the penal sum may exceed the bond amount required under ORS 671.690.

(6) Unless the order provides otherwise, if an award or a final order provides that two or more respondents are jointly and severally liable for an amount due to a claimant and payment is due from the surety bonds or deposits of the respondents, payment shall be made in equal amounts from each bond or deposit subject to payment. If one or more of the bonds or deposits is or becomes exhausted, payment shall be made from the remaining bond or deposit or in equal amounts from the remaining bonds or deposits. If one of the respondents liable on the claim makes payment on the claim, that payment shall reduce the payments required from that respondent's bond or deposit under this section by an amount equal to the payment made by the respondent.

(7) A surety company may not condition payment of a claim on the execution of a release by claimant.

(8) An expired or terminated status of the license of the respondent does not excuse payment by a surety company required under this rule.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.690 & ORS 671.710

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-004-0060; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-008-0100

### On-Site Investigation, Settlement Discussions

(1) At the discretion of the agency the arbitration hearing may be preceded by an on-site meeting or settlement discussions.

(2) At the discretion of the arbitrator, the arbitration may be preceded by settlement discussions.

(3) The arbitrator may request that the agency conduct an on-site meeting prior to arbitration. The agency may grant or deny the request at its discretion.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 5-2003, f. & cert. ef. 8-1-03

## 808-009-0160

### Order Based on Hearing, Limitation on Order

(1) "Order" as used in sections (2) to (5) of this rule means a proposed and final order a hearing officer is authorized to issue under section (6) of this rule.

(2) If a claim is referred for a hearing to determine the amount, if any, that a respondent owes a claimant, the hearing officer may not issue an order in an amount greater than the total amount claimant alleges respondent owes claimant in:

(a) The most recent declaration of damages or amended declaration of damages filed under OAR 808-004-0540, 808-004-0550 or 808-009-0020; or

(b) The Statement of Claim filed under OAR 808-004-0340, if no declaration of damages was filed.

(3) If a claim is referred for a hearing to determine whether any portion of a judgment is within the jurisdiction of the agency, the hearing officer may not issue an order requiring payment of an amount greater than the amount of the judgment.

(4) An order issued by a hearing officer may direct specific performance on the part of the respondent, order the respondent to pay monetary damages to the claimant or dismiss the claim.

(5) A hearing officer shall consider any amounts due to the respondent from the claimant under the terms of the contract and reduce the amount of an order by that amount.

(6) Except as provided in OAR 808-009-0200, a hearing officer shall issue a proposed and final order under OAR 137-003-0645(4) that shall automatically become a final order 21 days after the date of issue without further notice unless;

(a) A party files timely exceptions under OAR 808-009-0400;

(b) The agency requests that the hearing officer hold a further hearing or revise or amend the proposed order under OAR 137-003-0655(1);

(c) The agency issues an amended proposed order under OAR 137-003-0655(3); or

(d) The agency notifies the parties and the hearing officer that the agency will issue the final order.

(7) If a limitation on damages under section (2) is based on a declaration of damages or Statement of claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 5-2003, f. & cert. ef. 8-1-03

## Oregon Department of Education Chapter 581

**Adm. Order No.:** ODE 14-2003

**Filed with Sec. of State:** 8-14-2003

**Certified to be Effective:** 8-14-03

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

**Rules Amended:** 581-015-1106

**Subject:** This amendment will streamline the process of renewal of authorization for early childhood specialists and early childhood supervisors within the Early Intervention/Early Childhood Special Education (EI/ECSE) Program. These changes will make it easier for staff and programs to retain qualified staff and provide services to children.

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

# ADMINISTRATIVE RULES

copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-015-1106

### Authorization of Early Childhood Supervisor

(1) This rule establishes an alternative to a Teacher Standards and Practices Commission (TSPC) administrative license for individuals to serve as Early Childhood Supervisors for Programs. Individuals with a TSPC issued administrative license and who hold a masters degree in early childhood education, special education or a related field with three years of experience working with infants, toddlers, young children and families are not covered by sections (4) through (12) of this rule.

(2) Responsibilities of the Early Childhood Supervisor may include but are not limited to:

- (a) Oversight of EI/ECSE services;
- (b) Supervision and training of personnel in EI/ECSE programs;
- (c) Serving as administrative representative at IFSP meetings;
- (d) Facilitating meetings with personnel and families; and
- (e) Facilitating interagency collaboration.

(3) Early Childhood Supervisors shall possess a minimum of a master's degree in early childhood education, special education or a related field.

(4) Individuals without a TSPC administrative license shall successfully demonstrate competency at the supervisor level in the following areas, which are described in the document, "Competencies for Professionals Working in EI/ECSE in Oregon":

- (a) Typical/Atypical Childhood Development;
- (b) Assessment;
- (c) Family;
- (d) Service Delivery;
- (e) Program Management;
- (f) Service Coordination;
- (g) Research;
- (h) Professional Development Values/Ethics.

(5) Candidates for the Early Childhood Supervisor authorization shall complete an application and portfolio that documents their mastery level of each component within the competency areas listed in section (4) of this rule.

(6) The candidate shall submit the application and portfolio to the Oregon Department of Education for review. Supervisors employed on or after October 1, 1998, must complete the authorization within 12 months of employment. The Office of Special Education shall convene a panel at least two times per year to review the candidate's portfolio. The panel shall consist of a minimum of three professionals representing the Oregon Department of Education, higher education, and EI/ECSE service providers. The panel will recommend approval or non-approval of the Early Childhood Supervisor authorization for the candidate to the State Superintendent of Public Instruction.

(7) The Superintendent shall approve or deny the candidate's application considering the recommendation of the panel:

(a) Each approved candidate shall receive authorization from the Department as an Early Childhood Supervisor;

(b) Each non-approved candidate shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(8) Initial authorization shall be valid for a period of three years. Subsequent authorization shall be valid for a period of five years.

(9) Applicants renewal of the Early Childhood Supervisor authorization shall include the following:

(a) For initial renewal, a minimum of two years experience between issuance of initial authorization and renewal application;

(b) For subsequent renewal, a minimum of three years experience between previous renewal and current application.

(c) Written verification by the applicant's supervisor documenting:

(A) Completion of a minimum of 75 Professional Development Units for initial reauthorization or a minimum of 125 Professional Development Units for subsequent reauthorization;

(B) Completion of a Professional Development Plan developed with the applicant's supervisor; and

(C) Development of a new Professional Development Plan developed with the applicant's supervisor.

(10) The Department shall deny or revoke authorization of an Early Childhood Supervisor under any of the following conditions:

(a) The individual has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number; or

(b) The individual has made a false statement as to the conviction of a crime.

(11) The Department may deny or revoke authorization for an Early Childhood Supervisor if the individual is charged with a breach of professional responsibilities, which is verified by his/her immediate supervisor.

(12) Individuals whose authorization has been revoked shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(13) All supervisors employed by EI/ECSE contractors or subcontractors shall have a professional plan based on the content of the EI/ECSE competencies as listed in section (4) of this rule.

(14) A temporary waiver may be requested by the EI/ECSE contractor when an emergency arises due to a misassignment or unsuccessful recruitment efforts. The request for the waiver shall be submitted to the Oregon Department of Education and shall include:

(a) Documentation of efforts to employ personnel who meet the required competencies;

(b) The name, position, and qualifications of the employed personnel;

(c) A copy of the professional development plan as described in section (13) of this rule; and

(d) Assurances that the plan will be implemented.

Stat. Auth.: ORS 329.255 & ORS 329.275

Stats. Implemented: ORS 343.465 - ORS 343.534

Hist.: EB 15-1997, f. & cert. ef. 12-29-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2003, f. 6-9-03, cert. ef. 6-10-03; ODE 14-2003, f. & cert. ef. 8-14-03

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**Adm. Order No.:** ODE 15-2003

**Filed with Sec. of State:** 8-14-2003

**Certified to be Effective:** 8-14-03

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

**Rules Amended:** 581-015-0968

**Subject:** The IDEA Amendments of 1997 (June 4, 1997) and final federal regulations (March 12, 1999) modified provisions relating to special education programs and services. These amendments bring the Oregon regulations relating to early intervention (EI) and early childhood (ECSE) special education programs in compliance with federal regulations.

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

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-015-0968

### IFSP Meeting Timelines

(1) Contractors or subcontractors shall conduct a meeting to develop an initial IFSP within:

(a) Forty-five calendar days from the date the child is referred for EI services; and

(b) Thirty calendar days from the date the child is determined eligible for ECSE services.

(2) Contractors or subcontractors shall initiate and conduct a meeting to review and revise the IFSP every 365 days to:

(a) Determine whether the annual goals for the child are being achieved; and

(b) Revise the IFSP as appropriate to address:

(A) Any lack of expected progress toward the annual goals and appropriate activities;

(B) The results of any reevaluation;

(C) Existing information about the child provided to, or by, the parents;

(D) The child's anticipated needs; or

(E) Other matters.

(3) Contractors or subcontractors shall initiate and conduct a review of the IFSP, with the participation of the child's parents consistent with OAR 581-015-0964 and 0966, every six months or more frequently if conditions warrant or if the family requests such a review.

(a) The purpose of this review is to determine:

(A) The degree to which progress on annual goals is being made; and

(B) Whether revision of goals or services is needed.

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(b) This review may be carried out by a meeting or by another means that is acceptable to the parents and other participants. However, if IFSP revisions are necessary, an IFSP meeting shall be conducted.

(4) Contractors or subcontractors shall initiate and conduct a meeting to plan the child's transition to ECSE services or other preschool services at least 90 calendar days before the child's third birthday.

(5) For children eligible for ECSE services under OAR 581-015-0943, contractors or subcontractors shall initiate and conduct an IFSP meeting on or before the child's third birthday in accordance with OAR 581-015-0960.

(6) Contractors or subcontractors shall conduct an IFSP meeting more frequently than six month reviews if it believes that a change in the IFSP may be necessary to ensure the provision of appropriate EI services for a child under age three or a free appropriate public education to a child over age three.

(7) A parent may request a meeting at any time to review or revise the IFSP.

(8) In response to a parent request for IFSP meeting, the contractor or subcontractor shall hold an IFSP meeting within a reasonable time.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, ORS 343.495 & ORS 343.513 - ORS 343.533

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 15-2003, f. & cert. ef. 8-14-03

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## Oregon Liquor Control Commission Chapter 845

**Adm. Order No.:** OLCC 10-2003

**Filed with Sec. of State:** 7-22-2003

**Certified to be Effective:** 9-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 845-007-0035, 845-015-0130, 845-015-0165, 845-015-0175, 845-015-0177

**Rules Repealed:** 845-015-0178

**Subject:** These six rules address the subject of advertising in, by and for retail sales agencies (liquor stores). The rules are being updated to reflect current standards and practices. Five rules have been amended; one needs to be repealed.

**Rules Coordinator:** Katie Hilton — (503) 872-5004

### 845-007-0035

#### Removal of Objectionable and Non-Conforming Advertising

(1) Licensees and retail sales agents must remove any sign, display, or advertisement if the Commission finds it violates these rules.

(2) The Commission will specify a reasonable time period in which to remove the objectionable advertisements.

Stat. Auth.: ORS 471 & 472, including ORS 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.730(7)

Hist.: LCC 56, f. 10-20-76, ef. 12-1-76; Renumbered from 845-010-0111; LCC 7-1985, f. 7-30-85, ef. 9-1-85; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03

### 845-015-0130

#### Advertising a Retail Liquor Store

Advertising a Liquor Store:

(1) The Commission allows a retail sales agent to place:

(a) A public notice about a retail liquor store in a general readership local publication, with prior approval;

(b) An exterior sign on a retail liquor store, with prior approval for sign and contents;

(c) A "mixer shop" sign on an exclusive retail liquor store if it is in smaller size and different color; and

(d) A retail liquor store listing on a shopping center directory, map and roadside tenant reader board.

(2) A retail sales agent may support a local, non-profit community event and receive recognition for that support if the recognition given is the same as the minimum allowed for other supporters.

(3) Agents may not use or refer to specific brand names of distilled spirits in their advertising.

Stat. Auth.: ORS 471 & ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1) & ORS 471.750(2)

Hist.: LCC 26-1986, f. 11-20-86, ef. 1-1-87; OLCC 16-1990, f. 6-29-90, cert. ef. 7-1-90; OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0090; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03

### 845-015-0165

#### Supplier Rebates on Distilled Spirits

(1) The Commission allows suppliers to give consumer rebates on distilled spirits only that identify price reductions which offer consumers the opportunity to switch brands or try new products. The Commission does not allow rebates that encourage consumers to buy distilled spirits in quantity. An example of this would be a rebate that offers \$5 for the purchase of one bottle but \$12 for two.

(2) Suppliers will distribute distilled spirits rebate coupons only through retail liquor stores or by publishing them in newspapers or magazines. Any newspaper or magazine advertising associated with rebate coupons must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(3) All rebate coupons offered in the State of Oregon must meet the following requirements:

(a) Rebate coupons must be redeemable only by mail;

(b) Rebate coupon offers must bear an expiration date;

(c) The supplier must require proof of purchase;

(d) Rebate coupons must be valid only for adults of legal drinking age. The Commission may require withdrawal of the rebate coupon if the supplier does not comply with the conditions of the rebate coupon or Commission rules.

(4) The supplier must furnish rebate coupons to all retail liquor stores carrying the product. Any advertising materials such as posters, signs, banners, or display racks the supplier provides to promote rebate coupons in a retail liquor store must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(5) The supplier is responsible for the redemption of rebate coupons. The supplier and the retail customer are responsible for settling any disagreement about the supplier's coupon.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 2-1983, f. 3-8-83, ef. 7-1-83; LCC 2-1985, f. 2-28-85, ef. 4-1-85; OLCC 19-1991, f. 10-31-91, cert. ef. 11-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0055; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03

### 845-015-0175

#### General Requirements for Advertising in a Retail Liquor Store

(1) Advertising Liquor in a Retail Liquor Store. ORS 471.750(2) allows signs and displays advertising distilled spirits products in retail liquor stores and gives the Commission the authority to regulate this advertising. The Commission prohibits advertising liquor in a retail liquor store other than as permitted by this rule and OAR 845-015-0177.

(2) General Requirements. The Commission allows signs and displays that:

(a) Comply with ORS 471.750(2), and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulations;

(b) Are temporary in nature and not permanent fixtures in the retail liquor store;

(c) Are truthful, in good taste and not lewd, sexist or racist;

(d) Do not obstruct another distillery's products;

(e) Advertise a rebate (as OAR 845-015-0165 allows), sweepstakes or offer a premium or an on-pack for the consumer. However,

(A) The sweepstakes or premium offer must not require the purchase of liquor in order to receive a prize or merchandise, unless the manufacturer or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity.

(B) When the on-pack is liquor, it must:

(i) Not exceed one 50 ml per bottle;

(ii) Not be a 50 ml that has a current, regular listing;

(iii) Be attached to a non-like product; and

(iv) Be attached only to bottles 750 ml in size or larger.

(3) Signs and displays must not contain:

(a) False or misleading information;

(b) Claims that the alcoholic beverage has curative or therapeutic effects;

(c) Claims that any government agency endorses or supports the alcoholic beverage;

(d) Materials so appealing to minors that it encourages them to purchase, possess or drink alcoholic beverages;

(e) A person appearing to be under 26 years of age displayed drinking an alcoholic beverage;

(f) Material that encourages the use of an alcoholic beverage because of its intoxicating effect;

(g) Statements or illustrations that an alcoholic beverage causes athletic or sexual or artistic success or sexual prowess;

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(h) Material that encourages excessive or rapid consumption.  
(4) In addition to the requirements and restrictions in sections (2) and (3) of this rule, the Commission may prohibit any sign it deems inappropriate for use in a retail liquor store.

(5) The Commission retains the right to remove point of sale material(s) the Commission finds objectionable.

(6) The Commission allows and must approve the sale and distribution of on-packs.

(7) For this rule:

(a) "Sweepstakes" means a contest for prizes not prohibited by law and offered by a distillery or its representative. A participant may pick up an entry blank at a retail liquor store, but any prize must be delivered to the winner at a location other than a retail liquor store.

(b) "Premium" means an item, offered to promote a product, which a person may order from the distillery or its representative. A person may pick up an order form at a retail liquor store, but the item must be delivered at a location other than a retail liquor store. Examples of a premium include t-shirts, watches, and cameras.

(c) "On-pack" means any item, including distilled spirits, attached to a distilled spirits product for sale in retail liquor stores.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(2)  
Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 13-1996, f. 9-30-96, cert. ef. 10-7-96; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0091; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03

## 845-015-0177

### Specific Requirements for Signs and Displays in a Retail Liquor Store

If a retail sales agent chooses to allow signs and displays in the retail liquor store, the agent must allow each distillery representative who wants to advertise his/her products in the store a reasonable opportunity to do so.

(1) The Commission allows signs that:

(a) Are made of paper or similar inexpensive material that function only to advertise or display the distillery's alcoholic beverage products in the retail liquor store. Some examples of signs include case cards, shelf talkers both price and informational, posters, pole toppers and low voltage lighted signs. Signs may not be placed in the window(s) of a retail liquor store;

(b) Are placed in front of or in close proximity to the product the sign advertises;

(c) Are not larger than 15 square feet in size.

(2) The Commission allows displays that:

(a) Contain a distillery's products and material that functions only to advertise or display the distillery's alcoholic beverage products in the retail liquor store. A cardboard product bin is an example of this material;

(b) Contain a distillery's products and material that has another function besides advertising or displaying a distillery's product. The Commission allows this material only under the following conditions:

(A) The distillery representative loans but does not give the material to the retail sales agent and clearly indicates on the display that it is the property of the distillery; and

(B) The retail sales agent uses the material only as a part of a promotional display for the distillery's products and not for the retail sales agent's personal use.

(c) Display the related items described in OAR 845-015-0143 that bear a distilled spirits brand name or trademark that are for sale in the retail liquor store.

(3) Nothing in this rule requires a retail sales agent to order distilled spirits for use in a display. Empty case boxes may be used, if necessary.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(2)  
Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 5-1994, f. 10-31-94, cert. ef. 11-1-94; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0092; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03

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**Adm. Order No.:** OLCC 11-2003(Temp)

**Filed with Sec. of State:** 8-15-2003

**Certified to be Effective:** 8-15-03 thru 2-10-04

**Notice Publication Date:**

**Rules Amended:** 845-003-0590

**Subject:** The Attorney General's Model rules have been amended, effective July 21, 2003. We must make a change to the above rule in order to continue our practice of requiring that exceptions or comments be received by the deadline in order to be timely filed. Because we have ongoing contested cases to which this rule applies,

we need to amend this rule on an emergency basis in order to operate in compliance while the permanent rulemaking process occurs.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-003-0590

### Exceptions

(1) Only parties and limited parties may file exceptions to a proposed order. Commission staff may file written comments on the proposed order.

(2) Exceptions and comments must be in writing and received by the Administrator of the Commission within 15 days of the mailing date of the proposed order to be considered by the Commissioners. If an interpreter is required to translate a proposed order for one participant, all participants shall have an additional 10 days to file exceptions or comments to the proposed order.

(3) The Administrator may grant a participant's written request to extend the period to file exceptions or comments for good cause shown. The request must be received within 15 days of the mailing date of the proposed order.

(4) Oral argument to the Commissioners on written exceptions or comments will be taken at a regularly scheduled meeting of the Commissioners. The participants shall be notified by the Commission of the date, time, and place of the meeting where such argument will be heard.

Stat. Auth.: ORS 183.341(2), ORS 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2), ORS 183.460

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 11-2003(Temp), f. & cert. ef. 8-15-03 thru 2-10-04

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## Oregon Public Employees Retirement System Chapter 459

**Adm. Order No.:** PERS 9-2003

**Filed with Sec. of State:** 8-4-2003

**Certified to be Effective:** 8-4-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 459-015-0030

**Subject:** This rule modification conforms the provisions of OAR 459-015-0030 with those of OAR 459-001-0035, *Contested Case Hearings*, and OAR 459-001-0040, *Petitions for Reconsideration*. Specifically, the time for filing objections has been extended from 30 to 45 days and petitions for reconsideration are no longer required to be filed with the Board prior to initiating judicial review of a final order.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-015-0030

### Hearings on Denial or Discontinuance of Disability Retirement Allowances

(1) A final denial of an application for disability benefits, or any decision discontinuing a previously granted disability retirement allowance may be reviewed in a contested case hearing.

(2) A contested case hearing may be requested by a member by filing with the Board a written request as provided for in OAR 459-001-0035.

(3) The contested case hearing shall be heard before a hearings officer designated by the Board and conducted in accordance with the Attorney General's Model Rules of Procedure as adopted by OAR 459-001-0005. The member may represent himself or be represented by legal counsel. An Assistant Attorney General will appear at the hearing to assist the staff in presenting its position, and to assist in the development of a complete hearing record.

(4) Following the hearing, the hearings officer shall prepare or direct one of the parties to prepare a Proposed Findings of Fact, Conclusions of Law and Order and serve it on the parties. The hearings officer's proposed order will become final 90 days following service upon the petitioner, the Director and the Board through the Director, unless objections are filed as provided in this rule. Objections may be filed by the Director or the petitioner within 45 days of service. If the Board determines additional time is necessary to review a proposed order and issue an amended order, the Board may extend the time after which the proposed order will become final in accordance with ORS 183.464(3).

(5) In accordance with OAR 459-001-0040, prior to initiating any judicial review of a final order, an applicant may file with the Board a petition for reconsideration.

(6) Any disputed claim concerning a disability retirement allowance or discontinuance of such allowance may be voluntarily settled on a lump-

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sum basis subject to recommendation of the assigned Assistant Attorney General and final approval of the Board. Settlements approved by the Board shall be paid upon receipt of a "Release and Covenant Not to Sue" signed by the applicant and his or her attorney, if any.

Stat. Auth.: ORS 183.310 - 183.550, & ORS 238.650  
Stats. Implemented: ORS 238.320 - 238.345  
Hist.: PER 6-1979(Temp), f. & ef. 11-21-79; PER 3-1980, f. & ef. 5-8-80; PER 2-1992, f. & cert. ef. 1-14-92; Renumbered from 459-001-0020; PERS 9-2003, f. & cert. ef. 8-4-03

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**Adm. Order No.:** PERS 10-2003

**Filed with Sec. of State:** 8-4-2003

**Certified to be Effective:** 8-4-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 459-045-0040

**Subject:** The amendment to this rule is necessary to assure compliance with the Oregon Rules of Civil Procedure.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-045-0040

### Requesting Information for Dividing PERS Benefits

(1) PERS shall provide estimates for divorce purposes only upon written request and receipt of a member release. The estimates may be generated by computer or by hand depending on what staff deems most appropriate.

(2) An estimate is not a guarantee or a promise of actual benefits that eventually may become due and payable, and PERS shall not be bound by any estimates it provides.

(3) PERS shall not prepare or provide present value studies.

(4) PERS may provide estimates of future payments due an alternate payee that were awarded to an alternate payee in a final court order only if PERS has received a written request and a signed release from the alternate payee.

(5) Any and all faxed documents or information requests that are sent to PERS shall be followed up by sending a hard copy to PERS, before PERS will provide or send out any information.

(6) In the event a subpoena is necessary for domestic relations purposes, it must be made out to the Oregon Public Employees Retirement System. PERS reserves the right to object to any subpoena on the ground that the subpoena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper. Faxed subpoenas are not acceptable even if they are followed up with a hard copy. To facilitate prompt processing, copies of subpoenas should be served at the PERS Headquarters office.

(7) PERS must receive a written release from the member or the alternate payee to provide any person including a representative of the member or the alternate payee, any information except as provided for in OAR 459-045-0020(5)(a) and (8).

Stat. Auth.: ORS 238.465(3) & ORS 238.650.  
Stats. Implemented: ORS 238.465  
Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 10-2003, f. & cert. ef. 8-4-03

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**Adm. Order No.:** PERS 11-2003

**Filed with Sec. of State:** 8-4-2003

**Certified to be Effective:** 8-4-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 459-050-0230

**Subject:** The amendment to this rule is necessary to assure compliance with the Oregon Rules of Civil Procedure.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-050-0230

### Release of Information

(1) **Written release.** The Deferred Compensation Program must receive a signed written release, as defined in OAR 459-050-0001, from the participant or the alternate payee before the Deferred Compensation Program may provide information pertaining to the participant's or alternate payee's Deferred Compensation account, beneficiary designations, distributions, or award information contained in any draft or final court order on record to any person other than the parties to the court order. A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

(2) **Subpoena.** A subpoena for information available from the Deferred Compensation Program must be made out to the State of Oregon, Deferred Compensation Program. The Deferred Compensation Program reserves the right to object to any subpoena on the grounds that the sub-

poena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper, in addition to any other basis legally available. To facilitate prompt processing, copies of subpoenas should be served at the Deferred Compensation Program office. Faxed subpoenas are not acceptable.

Stat. Auth.: ORS 243.470  
Stats. Implemented: ORS 243.401 - ORS 243.507  
Hist.: PERS 4-2002, f. & cert. ef. 3-26-02; PERS 11-2003, f. & cert. ef. 8-4-03

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**Oregon University System**

## Chapter 580

**Adm. Order No.:** OSSHE 1-2003(Temp)

**Filed with Sec. of State:** 7-25-2003

**Certified to be Effective:** 7-25-03 thru 1-18-04

**Notice Publication Date:**

**Rules Amended:** 580-010-0035

**Subject:** Relates to Residence Classification of Armed Forces Personnel. Modifies rule to conform to changes in state law resulting from the passage of Senate Bill 525.

**Rules Coordinator:** W. Alayne Switzer—(541) 346-5795

## 580-010-0035

### Residence Classification of Armed Forces Personnel

(1) For purposes of this rule, members of the armed forces means officers and enlisted personnel of:

(a) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(b) Reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(c) The National Guard of the United States and the Oregon National Guard.

(2) Notwithstanding OAR 580-010-0030, members of the armed forces and their spouses and dependent children shall be considered residents for purposes of the instructional fee if the members:

(a) Reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state;

(b) Reside in this state while serving as members of the crew of a ship that has an Oregon port of shore establishment as its home port or permanent station; or

(c) Reside in another state or a foreign country and file Oregon state income taxes no later than 12 months before leaving active duty.

(3) An Oregon resident entering the armed forces retains Oregon residence classification until it is voluntarily relinquished.

(4) An Oregon resident who has been in the armed forces and assigned on duty outside of Oregon, including a person who establishes residency under section (2)(c) of this rule, must return to Oregon within 60 days after completing service to retain classification as an Oregon resident.

(5) A person who continues to reside in Oregon after separation from the armed forces may count the time spent in the state while in the armed forces to support a claim for classification as an Oregon resident.

(6) The dependent child and spouse of a person who is a resident under section (2) of this rule shall be considered an Oregon resident. "Dependent child" includes any child of a member of the armed forces who:

(a) Is under 18 years of age and not married, otherwise emancipated or self-supporting; or

(b) Is under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the member for over one-half of his/her support.

Stat. Auth.: ORS 351.070, ORS 351.642  
Stats. Implemented: ORS 174.070 & ORS 351.070  
Hist.: HEB-3-1978, f. & ef. 6-5-78; HEB 10-1979, f. & ef. 8-22-79; HEB 8-1981, f. & ef. 9-30-81; HEB 4-1985, f. & ef. 7-30-85; HEB 4-1988, f. & cert. ef. 5-13-88; HEB 1-1990, f. 2-13-90, cert. ef. 7-1-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 3-2001(Temp), f. 6-15-01, cert. ef. 7-1-01 thru 12-27-01; OSSHE 5-2001, f. & cert. ef. 11-7-01; OSSHE 1-2003(Temp), f. & cert. ef. 7-25-03 thru 1-18-04

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

**Filed with Sec. of State:** 8-4-2003

**Certified to be Effective:** 8-4-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 580-040-0040

# ADMINISTRATIVE RULES

**Subject:** To establish tuition and fees for the 2002-03 Academic Year, including room and board rates.

**Rules Coordinator:** W. Alayne Switzer—(541) 346-5795

**580-040-0040**

## Academic Year Fee Book

The document entitled “**Academic Year Fee Book 2003-04**”, dated **July 18, 2003**, is hereby amended by reference as a permanent rule. All prior adoptions of academic year fee documents are hereby repealed except as to rights and obligations previously acquired or incurred thereunder.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 4-1978, f. & ef. 6-15-78; HEB 5-1979, f. & ef. 7-20-79; HEB 11-1979, f. & ef. 8-22-79; HEB 1-1980, f. & ef. 4-18-80; HEB 7-1980, f. & ef. 6-18-80; HEB 11-1980, f. & ef. 8-20-80; HEB 4-1981(Temp), f. 6-30-81, ef. 7-1-81; HEB 5-1981, f. & ef. 8-18-81; HEB 15-1981(Temp), f. & ef. 12-18-81; HEB 5-1982, f. & ef. 7-14-82; HEB 4-1983, f. & ef. 7-29-83; HEB 4-1984, f. & ef. 6-20-84; HEB 5-1985, f. & ef. 8-12-85; HEB 12-1986, f. & ef. 7-30-86; HEB 6-1987, f. & ef. 8-4-87; HEB 8-1988, f. & cert. ef. 8-5-88; HEB 10-1988, f. & cert. ef. 11-16-88; HEB 3-1989, f. & cert. ef. 11-27-89; HEB 6-1989, f. & cert. ef. 7-28-89; HEB 7-1990, f. & cert. ef. 6-4-90; HEB 8-1990(Temp), f. & cert. ef. 7-26-90; HEB 12-1990, f. & cert. ef. 10-3-90; HEB 5-1991, f. & cert. ef. 8-15-91; HEB 8-1992, f. & cert. ef. 7-31-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 5-1993, f. & cert. ef. 8-11-93; HEB 7-1994, f. & cert. ef. 8-4-94; HEB 3-1995, f. & cert. ef. 8-1-95; HEB 3-1996, f. & cert. ef. 8-8-96; HEB 5-1996, f. & cert. ef. 12-18-96; HEB 3-1997, f. & cert. ef. 7-24-97; OSSHE 4-1998, f. & cert. ef. 7-22-98; OSSHE 5-1998(Temp), f. & cert. ef. 8-21-98 thru 1-31-99; OSSHE 9-1998, f. & cert. ef. 12-23-98; OSSHE 3-1999(Temp), f. & cert. ef. 7-22-99 thru 1-14-00; OSSHE 4-1999, f. & cert. ef. 9-16-99; OSSHE 3-2000, f. & cert. ef. 7-26-00; OSSHE 4-2001, f. & cert. ef. 7-27-01; OSSHE 8-2002, f. & cert. ef. 8-14-02; OSSHE 2-2003, f. & cert. ef. 8-4-03

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## Oregon University System, Eastern Oregon University Chapter 579

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

**Filed with Sec. of State:** 7-31-2003

**Certified to be Effective:** 7-31-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 579-020-0006

**Subject:** Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

**Rules Coordinator:** LeeAnn Case—(541) 962-3773

**579-020-0006**

## Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2003-04 school year.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-2-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03

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## Oregon University System, Western Oregon University Chapter 574

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

**Filed with Sec. of State:** 8-1-2003

**Certified to be Effective:** 8-1-03

**Notice Publication Date:** 7-1-03

**Rules Amended:** 574-031-0000, 574-031-0010, 574-031-0020, 574-031-0030, 574-031-0040, 574-032-0000, 574-032-0010, 574-032-0020, 574-032-0030, 574-032-0060, 574-032-0070, 574-032-0080, 574-032-0100, 574-032-0120, 574-032-0130, 574-032-0150, 574-050-0005

**Subject:** Amendments will allow for increases, additions, and revisions of special course fees and general services fees, and updates to Division 31 and 32 for student conduct and the student judicial process.

**Rules Coordinator:** Debra L. Charlton—(503) 838-8175

**574-031-0000**

## Introduction

(1) Western Oregon University has a fundamental interest in the conduct and education of its students. The development of a student through his or her University experience involves a fusion of the learning process with the development of a coherent and consistent system of ethics, as well as adherence to standards of behavior created and accepted by the University community.

(2) All members of the University community have a responsibility to maintain a level of behavior that reflects favorably upon the person and the University. The University requires that all students be responsible for their own conduct. The University expects students who live on and off campus to abide by local, state, and federal laws as well as University policies, procedures, and regulations, including this Code of Student Responsibility.

(3) The Code of Student Responsibility will be applied impartially and without regard to age, disability, ethnic background, gender, race, religious or political affiliation, sexual or gender orientation.

(4) The application of the standards within this Code of Student Responsibility applies to individuals, clubs, educational activity groups (EAGs), other student groups, and any individual student who is registered for one or more credit hours, including on-line courses, is enrolled in a special non-credit program approved by the University, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by the University which requires student status.

(5) This Code of Student Responsibility was adopted on September 1, 2003, became effective September 1, 2003 and supersedes all other previous conduct codes.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0046; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

**574-031-0010**

## Definitions

(1) The term “**University**” means Western Oregon University, or any part or division within Western Oregon University.

(2) The term “**Adjudication**” means a method of resolving allegations of student misconduct which employs a fact-finding, impartial adjudicator, or judge, to render a binding decision in the matter.

(3) The terms “**Administration or Staff Person**” mean any person who holds a current non-academic appointment or classified position at the University.

(4) The term “**Advisor**” means any person who has elected to advise a charged student, witness, or complainant within a student conduct hearing.

(5) The term “**Appeals Body**” means any person or group charged with hearing appeals through this Code of Student Responsibility (e.g. the Vice President for Student Affairs).

(6) The term “**Business Visitor**” means any person on the University’s property who has a legitimate interest or focus of business with the University, and who is not a member of the University community.

(7) The term “**Campus**” means any property owned or controlled by the University.

(8) The term “**Charged Student**” means any student charged with a violation of this Code of Student Responsibility.

(9) The term “**Code**” means this Code of Student Responsibility.

(10) The term “**Committee**” means the University Student Conduct Committee.

(11) The term “**Complainant**” means any person whether a member of the University community or not, who has filed a complaint of alleged misconduct with Public Safety or with the Campus Judicial Program concerning a student.

(12) The term “**Coordinator**” means the Coordinator of Campus Judicial Affairs.

(13) The term “**Coordinator of Campus Judicial Affairs**” means that person designated by the Vice President for Student Affairs as the administrator of the University’s Campus Judicial Program.

(14) The term “**Disputant**” means any person who uses mediation within the Campus Judicial Program to resolve a conflict with another party or parties.

(15) The term “**Faculty**” means any person who holds a current academic appointment at the University.



# ADMINISTRATIVE RULES

(16) The term **"Mediation"** means a method of dispute resolution in which disputants utilize an impartial third party to assist the disputants to mutually resolve their conflict.

(17) The term **"Member of the University Community"** means any student, faculty, administration, or staff member at the University.

(18) The term **"Preponderance of the Evidence"** means that based on the information that is presented, the charged student has more likely than not, engaged in the charged misconduct.

(19) The term **"Student"** means a person who is enrolled at Western Oregon University or any person meeting the description in 574-031-0000(4).

(20) The term **"Student in Violation"** means any student found to be in violation of the Code of Student Responsibility through the Campus Judicial Program.

(21) The term **"University Sponsored On- or Off-Campus Event"** means any event in which at least one of the following applies:

- (a) The University plans the event;
- (b) The University pays all, or a part of, the cost of the event;
- (c) The University sponsors the event;
- (d) The University contributes any type of University owned or leased resources or equipment to the event;
- (e) A University student, faculty, or staff person represents the University at the event;
- (f) The event occurs within a University owned or leased property, or upon or within University owned or leased property, including any type of state vehicle; or
- (g) The event occurs during the time frame specified on an approved sponsorship form.

(22) The term **"Victim"** means any person not charged with a violation of the Code who has been harmed by the behavior of a student found in violation of the Code. When referring to situations in which a charged student has not been found in violation of the Code of Student Responsibility, this person is referred to as an alleged victim.

(23) The term **"Witness"** means any person who has information which pertains to a case of alleged student misconduct.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-031-0020

### Jurisdiction

The regulations contained in the Code of Student Responsibility will apply to all matters affecting the University, including, but not limited to, events occurring during the time the University is in session, events occurring between academic terms, at University sponsored off-campus events, and any illegal behavior on or off the campus by Western students. Allegations of student misconduct may be adjudicated within the University's administrative Campus Judicial Program as well as within any off-campus criminal justice system regardless of whether the alleged behavior occurred on- or off-campus. Adjudication of allegations of student misconduct will occur expediently and sometimes before or concurrently with adjudication within an off-campus system of justice.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0047; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-031-0030

### Specific Standards and Policies

The following list of prohibited forms of conduct is not all inclusive since it is not possible to list all potential violations. The University requires that all students behave in a manner congruent with established community standards and in a manner conducive to the development of the individual. Actions detrimental to the mission of the University and the legitimate activities of the academic community which constitute the University are in violation of this Code and may be subject to judicial procedures.

Judicial action may be initiated by the University and educational and/or punitive sanctions may be assigned to any student or recognized student organization found participating in, attempting to participate in, or assisting others in participating in any of the following prohibited forms of conduct:

- (1) Academic dishonesty, which includes but is not limited to:
  - (a) Cheating — intentional use, or attempted use of artifice, deception, fraud, and/or misrepresentation of one's academic work;

(b) Fabrication — unauthorized falsification and/or invention of any information or citation in any academic exercise;

(c) Facilitating dishonesty — helping or attempting to help another person commit an act of academic dishonesty. This includes students who substitute for other persons in examinations or represent as their own papers, reports, or any other academic work of others;

(d) Plagiarism — representing without giving credit the words, data, or ideas of another person as one's own work in any academic exercise. This includes submitting, in whole or in part, prewritten term papers of another or the research of another, including but not limited to the product of commercial vendors who sell or distribute such materials, and the appropriation and/or use of electronic data of another person or persons as one's own, or using such data without giving proper credit for it; or

(e) Any use or attempted use of electronic devices in gaining an illegal advantage in academic work in which the use of these devices is prohibited, and such devices include but are not limited to cell phones, PDAs, laptops, programmable calculators, etc.

(2) Disorderly, lewd, indecent, or any other form of conduct, including actions resulting from drunkenness or illegal drug usage, which interferes with:

- (a) The academic program of the University;
- (b) The health and safety of members or visitors of the University community;
- (c) The security of University owned or controlled property;
- (d) The conduct of non-classroom activities (e.g., lectures, concerts, athletic events, and social functions); or
- (e) Any other University activity or University sponsored activity or event.

(3) Harassment, which includes but is not limited to:

- (a) Physical attack upon or interference with a person which prevents the person from conducting his or her customary or usual affairs, puts the person in fear for his or her safety, or causes the person to suffer actual physical injury;

(b) Conduct less than a physical attack or interference with a person, such as hazing, harassing, or threatening action, which is intended to subject another person to offensive physical contact, physical injury, property damage, or cause physical impact, such as making threatening phone calls, sending or posting (electronically or otherwise) threatening letters, or the vandalism or misappropriation of a person's property, or vandalism of a person's room;

(c) Repeatedly contacting another person when:

- (A) The contacting person knows or should know that the contact is unwanted by the contacted person; and

(B) The contact causes the contacted person reasonable apprehension of imminent physical harm or the contacting person knows or should know that the contact causes the contacted person mental anguish or distress and/or substantial impairment of the contacted person's ability to perform the activities of daily life.

As used in this context, "contacting" includes but is not limited to communicating with or remaining in the physical presence of the contacted person; or

(d) Sexual Harassment, whether or not it be by direct physical attack, as defined below. Sexual harassment includes, but is not limited to, sexual advances, requests or suggestions to engage in sexual conduct, and other physical and expressive behavior of a sexual nature when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or

(B) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or

(C) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creates an intimidating or hostile employment or educational environment.

(4) Detention or physical abuse, or conduct which threatens imminent bodily harm, or endangers the physical or emotional health of any person.

(5) Sexual misconduct: Sexual misconduct is unwanted sexual contact of any kind or the attempt to have unwanted sexual contact or the threat of such contact. Sexual contact shall be considered unwanted if no clear consent is freely given. Sexual contact is considered unwanted if the person is substantially impaired by alcohol or drugs or the person is otherwise without the physical or mental capacity to give clear consent. Sexual contact for the purpose of this rule means the touching of any private body part, including, but not limited to: genitalia, anus, buttocks, or breasts of another or causing such person to touch the genitalia, anus, buttocks, or breasts of another.

# ADMINISTRATIVE RULES

(6) Specifically insulting another person in his or her immediate presence with abusive words or gestures in a manner intended and likely to provoke a disorderly or violent response, whether or not it actually does.

(7) Possession, consumption, manufacturing, or sale of illegal drugs, alcoholic beverages, or any other controlled substance on University owned or controlled property, including:

(a) The furnishing of any controlled substance to a minor; or

(b) Being a minor in possession of alcohol by consumption or otherwise.

(8) Possession, consumption, manufacturing, or sale of illegal drugs off University owned or controlled property.

(9) Possession, consumption, sale, or distribution of alcoholic beverages or illegal drugs during the official portion of a University sponsored off-campus event as defined by the faculty or staff advisor.

(10) Acts which violate federal, state, or local laws.

(11) Violation of residence hall rules and procedures as listed in official residence hall publications.

(12) Tampering with fire safety equipment, generating a false alarm, or engaging in behavior that constitutes a fire or safety hazard.

(13) Failure to evacuate a University building after a fire alarm has sounded or other notice to evacuate has been given by a person authorized to give such notice.

(14) Possession or use of firearms, fireworks, explosives, dangerous chemicals, or other weapons or dangerous instruments on institutionally owned or controlled property.

(15) Obstruction or disruption of teaching, research, administration, judicial procedures, or other institutional activities, including the institution's public service functions, other authorized activities, or University sponsored off-campus events.

(16) Malicious damage, misuse, or theft of institutionally owned property, or the property of any person where such property is located on institutionally owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(17) Failure by a person causing accidental damage to or removal of property to report to appropriate University staff or individual owner within a reasonable period of time following the accidental damage to or removal of University or personal property.

(18) Theft of property or services, or knowingly possessing or using stolen property or services.

(19) Unauthorized entry to or use of institutional facilities, including buildings and grounds. This includes non-residential students who are in the residence hall area without an expressed invitation and/or remain overnight in a residence hall without permission from the Office of University Residences.

(20) Disruption of campus activities, including, but not limited to: student government, club, residence hall, or student leadership activities.

(21) Use of campus computers and/or network resources that includes, but is not limited to:

(a) Unauthorized access to programs;

(b) Alteration of computer records or data;

(c) Theft or other abuse of computer time and/or overloading computing resources;

(d) Violation of copyright laws;

(e) Using a computer account not issued directly to the student; or

(f) Any violation of the Acceptable Use of Computing Resources Policy.

(22) Refusal while on institutionally owned or controlled property, or at University sponsored on- or off-campus events, to comply with reasonable requests or directions from authorized University officials, including Public Safety officers, Resident Assistants, faculty and administrators.

(23) Misrepresentation of Matters of Fact, when any of the following is intended to gain a University benefit improperly, misrepresent a student's academic performance, or avoid a University sanction, including:

(a) Knowingly furnishing false information to an authorized University official who is making an inquiry to carry out official University business;

(b) Representing one's self as another person with or without that person's permission;

(c) Altering, forging, improperly possessing, creating, distributing, or lending to another person a University identification card or instrument of identification unless authorized by the University or an authorized University official; or

(d) Intentionally furnishing false academic information or concealing previous academic information in University application materials, assist-

ing someone else in furnishing false information to the University, or using University documents for fraudulent purposes.

(24) Student groups representing themselves or an individual in the group representing him or herself as acting for or in behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University official or agency. This applies to all means of communication including, but not limited to, computer electronic mail, mail, telephone, facsimile, or other means.

(25) Violation of motor vehicle rules and regulations, or other policies adopted by the University or the State Board of Higher Education pertaining to the use of motor vehicles.

(26) Obstruction or disruption which interferes with the freedom of movement, either pedestrian or vehicular, on institutionally owned or controlled property.

(27) Publication, posting, or distribution on University property, or at authorized University activities, of material that violates copyright laws, postal regulations, University policies or rules, or any other law or statute.

(28) Hazing. Hazing includes initiation rites involving:

(a) Physical abuse, pain, harm, or risk; or

(b) Mental anguish, fear, or anxiety; or

(c) Required performance of unwanted activities including but not limited to pranks, servitude, and physical contests; or

(d) Any form of confinement or restraint.

(29) Contempt of adjudicative proceedings, which includes but is not limited to:

(a) Conduct that interrupts the due course of proceedings in the presence of any hearing body created under this Code;

(b) Violating the confidentiality of judicial proceedings administered under this Code;

(c) Knowingly giving false information at a judicial hearing or knowingly giving false information in a statement to be used as evidence at a judicial hearing, or knowingly giving false information to a campus judicial hearing officer;

(d) Failure by a witness to appear at a conduct hearing when requested to do so by a representative of the Campus Judicial Program;

(e) Knowingly and falsely initiating the judicial process, for instance, by filing a false complaint or report;

(f) Influencing or attempting to influence the impartiality of a hearing officer or a member of a campus judicial body or a witness;

(g) Harassment of a member of a campus judicial body or hearing officer prior to, during, and/or after a judicial proceeding; or

(h) Failure to comply with the terms of any judicial sanction imposed in accordance with the Code of Student Responsibility or mandated by the Residence Halls Judicial Board.

(30) Violation of published University policies, rules, or regulations.

(31) Inciting others to engage in any of the above prohibited forms of conduct or to perform any of the acts prohibited herein. Inciting means the advocacy of proscribed conduct which calls upon the person or persons addressed for imminent actions, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of its students, faculty, and officials, and the protection of its property.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0048; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-031-0040 Sanctions

The following order of sanctions implies neither degree of severity nor appropriateness of the sanction to the number of violations. Multiple sanctions may be assigned. Students will be responsible for any applicable costs for carrying out sanctions. The sanctions that may be assigned include, but are not limited to:

(1) Mediation: When charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the adjudicative process, the student may be assigned to participate in a mediated meeting with the victim.

(2) Counseling: A student may be assigned to participate in a counseling intake session and to follow the recommendations of the intake counselor for further counseling sessions.

(3) Alcohol/Drug Assessments: A student may be assigned to complete an alcohol and/or drug evaluation and to follow the recommendations of the alcohol/drug counselor for treatment and/or education.

# ADMINISTRATIVE RULES

(4) Warning: The student or group is given written or verbal warning that his/her/their acts violated specified University regulations or policies and is advised that further violations may result in the assigning of more severe sanctions.

(5) Loss of Privileges: The student or group is denied specific privileges normally associated with student or group status, such as participation in recognized activities, use of University facilities or services, or living in University owned student residences.

(6) Community Service: The student or group must perform a designated number of hours in service to the community affected by his or her behavior.

(7) Restitution: The student or group must replace, restore, or pay for damaged, stolen, or misappropriated property.

(8) Disciplinary Probation: The student or group is placed on a probationary status, with or without loss of designated privileges, which may include the following: restriction on an individual's participation in co-curricular activities (i.e., EAG's), receiving recognition through awards, and eligibility for scholarships and grants. Probation is a serious warning. Probation occurs for a specific period of time and/or prior to completion of certain specific activities.

(9) Negative Notation on Transcript: There may be an entry of information onto the student's permanent academic record regarding his or her violation of the Code of Student Responsibility. The entry may be permanent or for a specific period and must be noted as such on the transcript. After the expiration of the period of time specified, the notation will be removed upon written request by the student to the Coordinator of Campus Judicial Affairs.

(10) Suspension: The student or group is excluded from the University for a specific period and during that period may not enjoy academic privileges, participate in any University recognized function or group, or be allowed to reside in any University residence hall or building. If it is a group, the group may not function as a recognized group for a specific period of time.

(11) Expulsion: The student or group is permanently excluded from the University and may not enjoy academic privileges, participate in any University recognized function, or be allowed to reside in any University residence hall or building.

(12) Degree Revocation: The University may revoke a degree if a former student is found to have engaged in academic dishonesty in courses taken leading to the degree, or if the student is found to have engaged in actions that if known at the time the degree was awarded would have made the student unqualified for the degree.

(13) Deferred Sanction: The execution of any sanction authorized under this Code may be deferred. When deferring a sanction the following will apply:

(a) Assignment of a time limit for the deferred period;

(b) Notice given that subsequent violations of the Code or failure to comply with an existing sanction will terminate the deferment and result in automatic imposition of the original sanction. In the absence of such violation(s), the original sanction will be deemed completed at the end of the deferred period;

(c) The Coordinator of Campus Judicial Affairs or other hearing officer will hear allegations of a student's misconduct during the period of his or her deferred sanction within five business days during which the University is in session. The original sanction will take effect at the time the Coordinator of Campus Judicial Affairs or other hearing officer receives notice of the allegations pending this hearing. The Coordinator of Campus Judicial Affairs or other hearing officer may render a decision in the absence of the charged student. The original sanction will remain in effect unless the allegations are not upheld; or

(d) A student found in violation of the Code of Student Responsibility during his or her period of a deferred sanction may appeal the finding through this Code's normal appeal process. The sanction will remain in effect until resolution of the appeal.

(14) Sanction of Restraint: The student may not knowingly interact with another student or member of the University community specified by the sanctioning person or body. The restriction prohibits the restrained student from purposefully interacting with the protected person, over the phone, over any electronic source (e.g., e-mail), in person, and through the mail. Unless specifically stated otherwise in the sanction, the restriction does not prohibit the restrained student from unintentionally, or out of necessity, being in the same building or vicinity as the protected student (e.g., eating in the Dining Hall, attending the same class, etc.). The sanctioning person or body will determine the time limit for this sanction.

(15) Suspension of Student Status for Medical or Mental Health Reasons Pending Hearing Procedures: When evidence is received from an appropriate health professional which indicates that a student has a medical or mental health condition which creates a serious and imminent threat to the University community, to the student, or to the educational processes of the institution, the Vice President for Student Affairs will review that evidence and may suspend the student immediately pending a hearing. The hearing must occur within ten business days during which the University is in session. The student may be required to submit to psychological or physical assessment and to authorize release of such records to the Vice President for Student Affairs or other appropriate University officials in order to be re-enrolled in the University.

(16) Interim Sanction for Emergency Reasons: The Vice President for Student Affairs or the Coordinator of Campus Judicial Affairs can invoke an interim, pre-hearing sanction when it is deemed necessary for the health or safety of the individual, other students, or University staff or faculty. In such instances, the student will receive a hearing within ten working days, in which the University is in session, of the interim sanction. Only when it is not possible to schedule necessary witnesses or obtain information significant to the case will the hearing be held more than ten days in which the University is in session after assignment of the interim sanction. Interim sanctions include the following:

(a) Expulsion;

(b) Suspension;

(c) Restraint;

(d) Removal from Residence Halls; or

(e) Holding Records.

(17) Placement of Dean's Hold or Judicial Hold: A Dean's Hold prohibits the student from conducting most forms of business with the University, including receiving grades and sending or receiving transcripts. A Judicial Hold prohibits the student from registering for classes at the University. Holds are intended to be used with a time limit determined by the Coordinator of Campus Judicial Affairs or designee except in the case of expulsion when the Dean's Hold will be placed with no date of termination.

(18) Other Sanctions as assigned that are deemed appropriate to the educational/developmental nature of this Code and the student(s) involved. Failure by a student to complete the sanctions imposed can result in further judicial action and sanctions being assigned to the student. Appeals of sanctions can be made through the appeal process (see section 574-032-0120).

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0049; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0000

### Introduction

(1) Western Oregon University's Campus Judicial Program holds the education of the student at its philosophical heart. This educational philosophy defines a structure for the Judicial Program which gives the charged student choices for resolving allegations of misconduct.

(2) The current hearing structure includes three options which vary in their degree of formality and philosophy. In order from least to most formal, they are: Hearing with Mediators, Hearing with the Coordinator of Campus Judicial Affairs, and Hearing with the Student Conduct Committee.

(3) The charged student first meets with the Coordinator of Campus Judicial Affairs who in turn helps direct the student to the proper arena for resolution of the allegation(s). The charged student always has the right to request that the hearing be held with a different party within the system. The party (individual or group) which hears the allegation(s) will dictate the formality of the proceedings, and all parties of the system, except for mediators, will retain equality in their jurisdiction and ability to assign sanctions.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0010

### Coordinator of Campus Judicial Affairs

(1) The Vice President for Student Affairs will select a Coordinator of Campus Judicial Affairs who will have primary responsibility for administering the Campus Judicial Program. These duties will include, but not be limited to:

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(a) Acting as a first response by meeting with the charged student to explain his or her due process rights under this Code;

(b) Gathering information concerning the student's alleged violation of this Code for the purpose of referring the case to the proper action which includes:

- (A) Dropping the allegation(s),
- (B) Holding the allegation(s) for further information,
- (C) Sending the allegation(s) to a mediated meeting,
- (D) Hearing the allegation(s) in the role of the Coordinator of Campus Judicial Affairs,

(E) Referring the allegation(s) to the Student Conduct Committee;

(c) Making findings concerning allegations of student misconduct and assigning sanctions related to those findings;

(d) Convening and coordinating the activities of all conduct hearings;

(e) Advising the Student Conduct Committee, managing Student Conduct Committee hearings, and protecting the rights of the charged student, the victim(s), and the complainant(s);

(f) Advising University officials and any hearing committees formed on the campus; or

(g) Reporting statistics to the Department of Public Safety for the Campus Security Act.

(2) Maintaining records pertaining to the activities of the Campus Judicial Program and providing the Vice President for Student Affairs with quarterly and annual reports of all judicial cases heard by mediators, the Coordinator of Campus Judicial Affairs, and the Student Conduct Committee. These reports will include information on the hearing authority, the nature of the violations, and the sanctions assigned. Appendices to these reports will include a summary of the minutes of the Student Conduct Committee and a report of the disposition of each judicial case.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0050; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0020

### Student Conduct Committee

(1) The President of the University appoints the Student Conduct Committee which consists of no fewer than three faculty members, three professional unclassified staff members to serve on non-academic related cases, and no fewer than six student members. The faculty and staff members will serve for three years on a rotational basis so two experienced members of each classification serve each year.

(2) The Coordinator of Campus Judicial Affairs solicits nominations for faculty appointments from the Department or Division Chairs and the Faculty Senate President by the end of each Spring term to fill whatever faculty vacancies exist.

(3) The Coordinator of Campus Judicial Affairs solicits nominations for staff members from the Administrative Support Council and non-academic departments by the end of each Spring term to fill whatever staff vacancies exist.

(4) The Coordinator may nominate a faculty member to emeritus status when he or she leaves his or her rotation. This status recognizes outstanding service to the Committee by a faculty member. Members of this standing could still participate in Committee hearings, business meetings and social events, but would not be required to participate. Professors of this status also could serve the University and the Committee, including its advisor, in a counsel and historian role. Final appointment to this status is made by the President.

(5) The Coordinator of Campus Judicial Affairs solicits nomination for student appointments by the end of Spring term from the Residence Halls Association, the Associated Students of Western Oregon University (ASWOU), and the Vice President for Student Affairs. Each organization and the Vice President submit to the Coordinator a list of students willing to serve on the committee. The Coordinator interviews all nominees and then selects students for the Committee to fill any vacancies from the year before using the following quota: three students as on-campus, three students as off-campus, and (if numbers allow) two students as alternate representatives. The Coordinator then forwards the names to the President for approval. If the Coordinator does not receive nominations by the end of Spring term, he or she may, with the approval of the Vice President for Student Affairs, follow a different procedure for selecting student Committee members.

(6) The Coordinator convenes the Student Conduct Committee early in Fall term of each year for orientation and training. Faculty and student members of the Committee must attend training as a condition of their

membership. Faculty and students who do not attend training during the Fall and at other times during the year will be removed from the Student Conduct Committee.

(7) The Student Conduct Committee reviews and recommends to the Vice President for Student Affairs appropriate changes to the Code of Student Responsibility. However, the Vice President for Student Affairs, the Coordinator of Campus Judicial Affairs, or any other campus individual or group may also recommend changes at any time. The Vice President for Student Affairs coordinates proposed changes with appropriate campus groups and places a notice in the student newspaper inviting interested parties to review the revision. Upon completion of the review process the Vice President for Student Affairs will recommend the changes to the President for final approval. The revisions become effective when filed with the Oregon Secretary of State's Office.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0051; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0030

### Hearing Sub-Committee

(1) The Hearing Sub-Committee is a sub-committee of the Student Conduct Committee. This sub-committee will consist of a maximum of two faculty members and four student members. Selection of sub-committee members for each hearing sub-committee is made by the Coordinator for Campus Judicial Affairs. A minimum of one faculty member and two students is required for a quorum, and a quorum must always consist of at least one more student than faculty member. If a quorum cannot be obtained, a hearing will be postponed until a quorum is present, unless the student waives the requirement for a quorum in writing.

(2) The Hearing Sub-Committee will meet at the request of the Coordinator of Campus Judicial Affairs to hear judicial cases. The Hearing Sub-Committee will select a chair for each hearing and that chair will submit findings and sanctions to the Coordinator of Campus Judicial Affairs. A faculty or staff member must always serve as chair.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0052; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0060

### Complaint

(1) The judicial process at Western Oregon University begins with the receipt of one of the following by the Coordinator of Campus Judicial Affairs:

- (a) A Public Safety or Residence Halls incident report; or
- (b) Any other type of University incident report or complaint; or
- (c) A police report; or

(d) A signed and written complaint by any individual or group whether members of the University community or not. The complaint may be in the form of an incident report or in letter form.

(2) Upon receipt of the complaint or report, the Coordinator of Campus Judicial Affairs will evaluate the information presented and determine whether enough information exists to make allegations that the student(s) named in the complaint or report engaged in activities prohibited by the Code of Student Responsibility. The Coordinator will evaluate this information in addition to determine if the alleged violations may result in suspension, expulsion, or negative notation on the transcript.

(3) Within seven working days, not counting days when the University is not in session, from when the Coordinator determines that there is sufficient basis to charge the student named in the complaint or report (now called "the charged student"), the Coordinator will send the charged student a letter that includes the following:

(a) A notice for the student to meet with the Coordinator of Campus Judicial Affairs for a pre-hearing meeting;

(b) The alleged violations of the Code of Student Responsibility;

(c) The student's basic rights granted by the Code of Student Responsibility, including the right to have the case heard by the University Student Conduct Committee if sanctions of suspension, expulsion, or negative notation on the transcript could result;

(d) Notice that a copy of the Code of Student Responsibility can be found in the Vice President for Student Affairs' Office, on reserve at the Library, or at the Offices of the Associated Students of Western Oregon University; and

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(e) Notice that a decision affecting the student may be made even if the student fails to appear for a pre-hearing meeting.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0070

### Pre-hearing Meeting with the Coordinator of Campus Judicial Affairs

The purpose of a pre-hearing meeting with the Coordinator is to explain the conduct procedures to the charged student and to select the proper hearing body to resolve the allegations. The charged student may at this meeting request that the pre-hearing meeting serve as an actual hearing, thereby waiving his or her right to five days written notice prior to a hearing, and, in cases where suspension, expulsion, or negative notation may result, waiving his or her right to Student Conduct Committee hearing. If the charged student does not wish the pre-hearing meeting to be treated as the actual hearing, a hearing will be scheduled with the hearing body the charged student has chosen at a time that gives the charged student at least five working days notice prior to the hearing excluding days the University is not in session. If the student does not appear for a pre-hearing meeting, the Coordinator will set a time and place for a hearing. If the case has been determined by the Coordinator to possibly result in suspension, expulsion, or negative notation on the transcript, the Coordinator will set a University Student Conduct Committee hearing. In all other cases, the Coordinator will set an informal hearing. The time between the student's receipt of the notice and the hearing date must be at least five days. The Coordinator will notify the student that he or she may waive the hearing before the University Student Conduct Committee and elect to have the case heard by the Coordinator if such a hearing has been set.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0080

### Types of Hearings

All those considering evidence at all levels of the judicial structure at Western Oregon University will base their decisions on a preponderance of the evidence. A preponderance of the evidence means that based on the information that is presented, the charged student has more likely than not, engaged in the charged misconduct.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0100

### Hearing with the Hearing Sub-Committee

The Hearing Sub-Committee will be convened when requested by the Coordinator of Campus Judicial Affairs or the Charged Student. The Coordinator will present information pertinent to the case, which may include past conduct history of the charged student that is relevant to the case. The Coordinator, when appropriate, may present witnesses for both the charged student and the complainant, as requested by the Committee.

(1) For all hearings with the Student Conduct Hearing Sub-Committee, the student has the following rights:

(a) Five working days notice prior to the hearing excluding days in which the University is not in session unless the student waives this right in writing;

(b) To have knowledge of the charges and of those providing information supporting the charge;

(c) To have an advisor attend the hearing with the student. The advisor cannot speak for or represent the student. Failure of the advisor to comply with this stipulation will result in the removal of the advisor from the proceeding by the faculty chairperson of the Hearing Sub-Committee;

(d) To challenge the statements of the complainant(s) or victim(s) and those providing information supporting the charge;

(e) To have advance notification of the hearing process and procedures through the mail or in a meeting with the Coordinator. This meeting with the Coordinator is to be scheduled prior to the hearing. It is the student's responsibility to schedule this meeting;

(f) To not appear for a hearing, and not have that absence used against him or her;

(g) To remain silent during a hearing, and not have that silence used against him or her;

(h) To be notified in writing of the outcome of the hearing within five working days in which the University is in session; or

(i) To appeal to a University official, or hearing body.

(2) The student may present information on his or her own behalf and challenge the statements of complainants, witnesses, and statements read during the hearing. The student may be accompanied to the hearing by a person of the student's choosing (advisor) who may neither represent the student nor present the student's case. An advisor who fails to comply with the advisor role restrictions or who disrupts the hearing may be removed from the advisor role and excluded from the hearing.

(3) The members of the Hearing Sub-Committee may question the charged student, witnesses, and complainants to determine facts relevant to the case. The Hearing Sub-Committee, during deliberations, will resolve all issues of fact based on the evidence presented at the hearing. Based upon these findings the Hearing Sub-Committee renders a decision concerning whether to uphold or drop each separate allegation. While the Hearing Sub-Committee resolves the allegations only the Hearing Sub-Committee members are present.

(4) The findings will be announced to the charged student following deliberations and, at that time, the Coordinator will present information concerning the charged student's academic record and any previous judicial record. The charged student may also present information relevant to his/her/their previous record, as well as circumstances which may have a bearing on possible sanctions.

(5) For the determination of sanctions, only the Hearing Sub-Committee members are present. Following that determination, the Chair of the Committee will announce, with the charged student present, the sanctions the Hearing Sub-Committee assigned.

(6) The Coordinator of Campus Judicial Affairs will confirm in writing to the charged student the results of the hearing within five working days in which the University is in session.

Stat. Auth.: ORS 351.070 & ORS 351.072  
Stats. Implemented: ORS 351.070 & ORS 351.072  
Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0056; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0120

### Appeal of Hearing

(1) A student in violation may appeal decisions reached at a hearing. The appeal must be filed within five working days in which the University is in session following the date the student receives notice of the hearing results. Appeals must be delivered, in writing, to the Office of the Vice President for Student Affairs. An appeal form must include specific justification for the appeal as listed in (2) below.

(2) The Coordinator for Campus Judicial Affairs may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Coordinator believes the decision is not in compliance with University Standards.

(3) Except as required to explain the basis of new evidence, an appeal will be limited to review of the accurate record of the initial hearing and supporting documents for one or more of the following purposes:

(a) To determine whether the original hearing was conducted in conformity with the procedures described in the Code of Student Responsibility;

(b) To determine whether the decision reached regarding the charged student was based on a preponderance of the evidence; that is, whether the facts presented were sufficient to establish that a violation of the Code of Student Responsibility occurred;

(c) To determine whether the sanction(s) imposed were appropriate to the charged student's previous judicial history and to the present violation(s) of the Code of Student Responsibility; or

(d) To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

(4) The following decisions may be made by the Appeals Body:

(a) That evidence exists not available at the time of the hearing sufficient to alter the original decision. In this case the Appeals Body remands the case to the original hearing body for a supplemental hearing;

(b) The appeal is denied. In this case, the entire decision of the original hearing body, including sanctions, remains effective. New violations can never be found through the appeal process; or

(c) The appeal is upheld. In this case, the Appeals Body renders a new decision, including reducing or removing sanctions, and/or replacing the findings and sanctions of the original hearing body or officer.

(5) Procedure:

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(a) The Vice President for Student Affairs will hear appeals of hearings with the Student Conduct Hearing Sub-Committee and appeals of hearings with the Coordinator of Campus Judicial Affairs;

(b) An appeals sub-committee of the Student Conduct Committee will hear appeals of hearings with the Coordinator of Campus Judicial Affairs;

(c) The Provost will hear appeals of cases of academic dishonesty;

(d) The Coordinator of Campus Judicial Affairs will hear appeals of hearings with the Residence Halls Judicial Board;

(e) Upon receipt of the appeal, the Appeals Body may suspend any or all sanctions pending its decision;

(f) The Appeals Body must consider the appeal based on the record, with no new evidence considered. If new evidence becomes available, the Appeals Body must remand the case to a new hearing with the original hearing body. The Coordinator of Campus Judicial Affairs must provide a complete and accurate record of the original hearing to the Appeals Body. The Appeals Body may, but is not required to, meet with the student regarding his or her appeal; and

(g) Within ten days in which the University is in session following receipt of the appeal, the Appeals Body will notify the student in writing of the results of the appeal.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0058; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0130

### Hearing with Mediators

The Judicial Program at Western places confidence in the process of mediation as a preventative and educational method of intervention for student misconduct. When the Judicial Program makes use of mediation it does so with the primary goal of diverting students from the adjudicative and, in some cases, adversarial judicial hearing process. The anticipated outcome of this action is for participants in mediation to voluntarily create a resolution to their conflict that is confidential and non-binding. The Judicial program is primarily an adjudicative process which often must address allegations that a charged student's behavior harmed another person. In some of these cases, mediation may be used as a diversion or as a sanction in the form of victim/offender reconciliation. The nature of a case involving a victim and an offender necessitates a modification of the way mediation traditionally is structured. In victim/offender mediations, participation by the charged student may not be voluntary, the mediated agreement may not be confidential, and the mediated agreement may become binding for the charged student.

(1) Uses:

(a) Use of Mediation in the Absence of Charges. Disputants not charged with a violation of the Code of Student Responsibility may use mediation at any time by making a request for mediation services at the Office of the Vice President for Student Affairs or the Office of University Residences. This includes victim/offender mediation in which the victim declines to file a complaint and the Coordinator of Campus Judicial Affairs does not pursue the allegations;

(b) Use of Mediation after a Complaint is Made. When a victim files a complaint with the Campus Judicial Program alleging that the behavior of a charged student harmed him or her, or when judicial action is initiated by a report of harmful treatment to the person, mediation may be used in place of the adjudicative process, provided both victim and charged student agree to such mediation. All charges are suspended pending the victim's and the charged student's satisfaction with the outcome of the mediation. The victim has the right to return the complaint to the Coordinator for a formal judicial review if he or she is not satisfied with the outcome of mediation;

(c) Student Found In Violation and Victim Chooses Mediation. When a charged student has been found in violation of any section of the Code where that charged student's behavior victimized or harmed another member(s) of the University community, victim-offender mediation may be assigned as a sanction.

(2) Mediation Procedures A student(s) charged with a violation of the Code may request to use mediation at any time during the judicial process. A victim may request mediation without filing a complaint. Mediations of this type are non-binding and completely confidential.

(a) Victim/Charged Student, Voluntary Mediation

(A) Mediation between a victim and a charged student may occur at the request of either party and with the consent of and voluntary participation of both parties;

(B) Before or during a student conduct hearing, the Coordinator of Campus Judicial Affairs may offer mediation to a charged student in place of that hearing;

(C) When all parties agree to mediation, mediation will be used in place of the adjudicative process;

(D) Agreements reached when mediation is used in place of adjudication will be binding with the permission of the victim. Permission for a binding agreement will be given to the Coordinator of Campus Judicial Affairs by the victim prior to the mediation. In such a case, the binding agreement becomes a de facto sanction and will become part of the charged student's judicial file. The charged student must adhere to the agreement or face possible future judicial action;

(E) The victim may, at any time, withdraw permission for a binding agreement and/or withdraw his or her complaint. In this case, the mediation becomes confidential and non-binding;

(F) The victim may, at any time, withdraw his or her complaint and withdraw from the mediation process;

(G) The charged student may, at any time, withdraw from the mediation process. Such action by the charged student, however, may return the original charges to the adjudicative process;

(H) If the victim reports dissatisfaction with the outcome of the mediation he or she may return his or her complaint to the adjudicative process for a student conduct hearing; and

(I) The Coordinator of Campus Judicial Affairs will, in most cases, honor the victim's request to withdraw his or her complaint from the adjudicative process. The Coordinator may, however, adjudicate charges whenever he or she determines that it is in the best interest of the University community to do so.

(b) Mandated participation in mediation when charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the adjudicative process, participation in a victim/offender mediation may be assigned to the charged student as a sanction. When mediation is used as a sanction, the following will apply:

(A) The victim must agree to such a sanction in advance;

(B) The charged student must verify that he or she attempted mediation in order to fulfill the sanction of mediation; and

(C) Unless otherwise requested by the victim, agreements reached during sanctioned mediations will be submitted to the Coordinator of Campus Judicial Affairs. This agreement will serve as a part of the sanction which the charged student must complete. Failure to abide by the agreement may result in the charged student facing further judicial charges for failure to complete a sanction.

(c) Automatic Diversion from the Adjudicative Procedures

(A) When two or more students have been charged with violating the Code of Student Responsibility for the same event, the Coordinator of Campus Judicial Affairs may offer, or the students may request, to use mediation as a diversion from the adjudicative process. The Coordinator of Campus Judicial Affairs may assign interim sanctions pending the mediation. The following conditions must apply:

(i) Two or more students have been involved in the same incident,

(ii) The students have each been charged with violations of the Code based on the same incident,

(iii) The students are each victims of the other's behavior (e.g., by assault, vandalism, theft, etc.),

(iv) The students willingly agree to fully participate in mediation,

(v) The students agree to share the results of the mediation with the Coordinator of Campus Judicial Affairs, and

(vi) The mediated agreement becomes binding and must be adhered to by both parties as a sanction unless otherwise indicated by the Coordinator of Campus Judicial Affairs;

(B) The Coordinator of Campus Judicial Affairs may return the case to the adjudicative process for the following reasons:

(i) One or more of the students does not participate in the mediation,

(ii) Substantial evidence exists that one or more of the students poses a clear and present threat to him or herself or others, or

(iii) One or more of the students fails to adhere to the agreement.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-032-0150

### Rights of Victims

A fundamental aspect of the Code of Student Responsibility is to provide procedures that ensure the Constitutional rights of the charged student. However, the University also recognizes that the victims of misconduct

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should also have rights. Therefore, the following rights of victims must be guaranteed during judicial proceedings conducted by the University.

(1) A victim has the right to remain present during the entire judicial proceeding except when a hearing sub-committee is deliberating, announcing its decision, or imposing sanctions.

(2) A victim has the right to have a person of her or his own choice accompany her or him while in attendance at the judicial hearing.

(3) A victim has the right not to have her or his past history or behavior discussed during a hearing. This includes reference to past violations of the Code of Student Responsibility, past sexual history, and past indiscretions of any type.

(4) A victim may be identified as a witness and has the right to ask questions of other witnesses during a hearing.

(5) A victim has the right to make a victim impact statement during a hearing, to be used or considered for sanctioning purposes.

(6) A victim has the right to be shielded from face to face contact with the charged student.

(7) A victim has the right to be kept informed during the judicial process within legal guidelines; and

(8) A victim has the right to be informed immediately of the outcome of a hearing within legal guidelines.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0060; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03

## 574-050-0005

### Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

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

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03

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**Public Utility Commission  
Chapter 860**

**Adm. Order No.:** PUC 13-2003(Temp)

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-24-03 thru 1-20-04

**Notice Publication Date:**

**Rules Amended:** 860-038-0540

**Subject:** This rulemaking defines the procedure to enable electric companies to transfer propriety customer information to an Administrator (described in ORS 757.312(3)(b)(A) and (B)) following written notification to customers, pursuant to electric industry restructuring.

**Rules Coordinator:** Lauri Salisbury—(503) 378-4372

## 860-038-0540

### Consumer Information

(1) Except as provided in section (3) of this rule, an electric company shall implement adequate safeguards precluding employees of its competitive operation, electricity services suppliers (ESSs), or other entities from gaining access to information in a manner that would:

(a) Allow or provide a means to transfer proprietary consumer information from an electric company to its competitive operation, ESSs, or other entities, without the consent of the consumer expressed in writing, orally, or by electronic means except in the case of information provided under subpoena;

(b) Create an opportunity for preferential treatment or unfair competitive advantage;

(c) Lead to consumer confusion; or

(d) Create significant opportunities for cross-subsidization of its competitive operations.

(2) An electric company shall determine the types of proprietary consumer information that will be made available to its competitive operations, ESSs, and other entities. An electric company shall file the types of information, and the prices, terms, and conditions associated with the dissemination of such information, with the Commission for approval. An electric company shall disseminate proprietary consumer information only under tariff except for information shared under section (3) of this rule.

(3) Notwithstanding section (1) of this rule, an electric company shall disseminate proprietary consumer information to the entity that administers the conservation and renewable public purpose funds described in ORS 757.612 (3)(b)(A) and (B), hereafter "Administrator," as follows:

(a) Within 30 days of the approval of these rules by the Commission, an electric company shall execute an Information Transfer Agreement with the Administrator that provides for the transfer of consumer information, including proprietary consumer information, to the Administrator. This contract shall specify:

(A) The necessary database format and information that will be exchanged. This information may include proprietary consumer information except that under no circumstances shall phone numbers, social security numbers, billing and payment history, credit information, tax identification numbers, driver's license numbers, life support information, or other medical information be provided without the written consent of the consumer;

(B) An estimate of the electric company's incremental costs. Within 30 days of the completion of the transfer of consumer information, including proprietary consumer information, an electric company shall submit to the Administrator an itemization of the actual incremental costs for payment;

(C) A general non-disclosure statement as well as a specific non-disclosure agreement that each Administrator employee and contractor employee shall sign to have access to consumer information, including proprietary consumer information;

(D) The release of proprietary consumer information by the Administrator for any other purpose or to any other party shall not be made without written, oral or electronic consent of the consumer;

(E) The proprietary consumer information will be used by the Administrator to implement, administer, and evaluate energy efficiency and renewable energy programs and will not be used for telemarketing or direct mailings to consumers; and

(F) A statement of agreement if the Administrator and an electric company choose to amend the list of specific information described in subsection (3)(d) of this rule, or if the Administrator chooses not to receive proprietary information from the electric company.

(b) Within 45 days from the execution of the Information Transfer Agreements, described in subsections (3)(a)(A) through (F) of this rule, the electric company shall notify in writing consumers whose demand is less than one megawatt (1MW) in a time period determined by an electric company and whose proprietary information will be transferred to give consumers an opportunity to opt-out of the information transfer.

(c) The notification shall at a minimum:

(A) Identify and explain the role of the Administrator;

(B) Identify the type of proprietary consumer information to be transferred by an electric company;

(C) Describe the nature and use of the proprietary consumer information by the Administrator; and

(D) Provide consumers either by direct mail, company newsletter, or other annual notification acceptable to the Administrator and the electric company with the option to opt-out of the information transfer either annually, or on a program-by-program basis.

(d) Subject to subsection (3)(a)(F) of this rule, within 45 days after an electric company has notified consumers of an information transfer, the electric company shall, at a minimum, transfer to the Administrator proprietary consumer information such as: consumer name, service address, 18 months of the most recent historical usage data provided on a per month basis, point of delivery identification number, and rate schedule for each consumer unless the consumer has opted-out pursuant to subsection (3)(b) of this rule. If available in the electric company's records, the electric company shall provide the consumer's type of space heat and prior energy efficiency program participation. The electric company shall also:

# ADMINISTRATIVE RULES

(e) Subject to subsection (3)(a)(F) of this rule, within 45 days after completing the transfer of proprietary consumer information and the end of each quarter thereafter an electric company shall provide updates for the all of the usage data and revisions to the underlying database information to the Administrator, in accordance to subsection (3)(d) of this rule.

(f) Subject to subsection (3)(a)(F) of this rule, within 80 days after the execution of the Information Transfer Agreement described in subsection (3)(a) of this rule, an electric company shall notify in writing consumers whose demand is greater than 1MW (over 1MW consumer) based on a time period determined by an electric company (consumers without a 12-month usage history that may meet the 1MW requirement by having their annual demand estimated for the purpose of this provision) in accordance with the requirements set forth in subsection (3)(c)(A) through (C) of this rule. Consumers having multiple accounts may have their accounts treated as a group for the purpose of this rule and have the ability to include or exclude all accounts through one notification process. Such consumers shall opt-in before the sharing of their proprietary consumer information with the Administrator; and

(A) Within 45 days after completing the consumer notification described in subsection (3)(f) of this rule, provide proprietary consumer information related to the over 1MW consumers only for those companies that have chosen to opt-in annually, or on a program by program basis; and

(B) An electric company shall provide an annual opt-in notification for over 1MW consumers either as part of a standard consumer contact discussion or in writing.

(g) When an electric company has provided proprietary consumer information to the Administrator in accordance with this rule, the electric company shall not be charged with at-fault complaints filed with Commission's Consumer Services as long as the provision of proprietary consumer information is the only issue raised by the consumer and the electric company did not violate Tariff, Oregon Administrative Rules, Oregon Revised Statutes, or a Commission Order.

Stat. Auth.: ORS 183, ORS 756 & ORS 757  
Stats. Implemented: ORS 756.040 & ORS 757.600 - ORS 757.667  
Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 13-2003(Temp), f. & cert. ef. 7-24-03 thru 1-20-04

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**Adm. Order No.:** PUC 14-2003

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-24-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 860-022-0040, 860-022-0042, 860-034-0330, 860-036-0745

**Subject:** This rulemaking clarifies what public utilities may tell their customers regarding amounts of city fees and taxes that are included in their monthly charges.

**Rules Coordinator:** Lauri Salisbury—(503) 378-4372

## 860-022-0040

### Relating to City Fees, Taxes, and Other Assessments Imposed Upon Electric, Gas, and Steam Utilities

(1) The aggregate amount of all business or occupation taxes, license, franchise or operating permit fees, or other similar exactions or costs, excepting volumetric-based fees in section (3) of this rule, imposed upon gas, electric, or steam heat utilities by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, which does not exceed 3 percent for gas utilities or 3.5 percent for electric and steam heat utilities, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate-making purposes and shall not be itemized or billed separately. All other costs not allowed as operating expenses shall be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility operations within the city less related net uncollectibles. Gross revenues of a gas, electric, and steam heat utilities shall include revenues from the use, rental, or lease of the utility's operating facilities other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the utility purchasing the service is not the ultimate customer, or revenue from joint pole use.

(3) Each electric utility subject to volumetric-based privilege taxes or fees shall determine for each city imposing such volumetric charges a base volumetric rate for each customer class calculated as 3.5 percent of the class 1999 gross operating revenues within the city divided by the amount of electric energy in kilowatt-hours delivered to the class in 1999. In cases

where 1999 data is not available for a particular city and/or class, the utility's total 1999 Oregon revenues and kilowatt-hour deliveries for the customer class shall be used to calculate the base volumetric rate. An amount equal to the base volumetric rates multiplied by the corresponding amount of electric energy in kilowatt hours delivered in the 12-month period used to determine the utility's revenue requirement shall be allowed as operating expenses and shall not be itemized or billed separately. The privilege tax shall be allocated across an electric company's customer classes in the same proportional amounts as levied by cities against the electric company.

(4) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels set forth in sections (1) and (3) of this rule. Any such services may be continued within the same category or type of use. The value of any additional category of utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(5) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(6) Except as provided in section (5) of this rule, to the extent any city tax, fee, or other exaction referred to in sections (1) and (3) of this rule exceeds the percentage levels allowable as operating expenses in sections (1) and (3) of this rule, such excess amount shall be charged pro rata to utility customers within said city and shall be separately stated on the regular billings to such customers.

(7) The percentage levels in sections (1) and (3) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

(8) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the energy utility.

Stat. Auth.: ORS 183, ORS 756 & ORS 757  
Stats. Implemented: ORS 756.040 & ORS 757.600 - ORS 757.667  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1990, f. & cert. ef. 4-6-90 (Order No. 90-417); PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031); PUC 7-1998, f. & cert. ef. 4-8-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 17-2000, f. & cert. ef. 9-29-00; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 15-2002, f. & cert. ef. 6-14-02; PUC 14-2003, f. & cert. ef. 7-24-03

## 860-022-0042

### Relating to City Privilege Taxes, Fees, and Other Assessments Imposed Upon a Large Telecommunications Utility

(1) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a large telecommunications utility by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, whether applied to regulated revenues, net income, or other bases, shall be allowed as operating expenses of the large telecommunications utility for rate-making purposes, subject to sections (2) through (4) of this rule.

(2) As used in this rule:

(a) "Fees and other assessments" means business or occupation taxes or licenses; franchise or operating permit fees; sales, use, net income, gross receipts, and payroll taxes, levies, or charges; and other similar exactions imposed by cities, other than ad valorem taxes, upon revenues or income received from regulated telecommunications services by a large telecommunications utility;

(b) "Local access revenues" means those revenues derived from exchange access services within the city, as defined in ORS 401.710, less related net uncollectibles;

(c) "Privilege taxes" means taxes levied and collected by cities from a large telecommunications utility for use and occupancy of city streets, alleys, or highways, as provided under ORS 221.515;



# ADMINISTRATIVE RULES

(d) "Regulated revenues" means those revenues derived from regulated telecommunications services within the city less related net uncollectibles. Regulated revenues include, but are not limited to, local access revenues.

(3) Separate fees for street opening, installations, construction, and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in the exercise of its police powers shall be allowed as operating expenses of a large telecommunications utility for rate-making purposes. Such fees shall not be deducted in computing the percentage level set forth in section (4) of this rule.

(4) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a large telecommunications utility by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall be charged pro rata to users of local access services within the city, and the aggregate excess amount shall be separately itemized on customers' bills or billed separately.

(5) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the large telecommunications utility.

Stat. Auth.: ORS 183, ORS 756 & ORS 759  
Stats. Implemented: ORS 759.105  
Hist.: PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031); PUC 7-1998, f. & cert. ef. 4-8-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 14-2003, f. & cert. ef. 7-24-03

## 860-034-0330

### Relating to City Privilege Taxes, Fees, and Other Assessments Imposed Upon a Small Telecommunications Utility or Type 2 Cooperative

(1) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a company, as defined in section (2) of this rule, by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, whether applied to regulated revenues, net income, or other bases, shall be allowed as operating expenses of the company for rate-making purposes, subject to sections (2) through (4) of this rule.

(2) As used in this rule:

(a) "Company," as used in this rule, means a small telecommunications utility or Type 2 cooperative, as defined in OAR 860-034-0010;

(b) "Fees and other assessments" means business or occupation taxes or licenses; franchise or operating permit fees; sales, use, net income, gross receipts, and payroll taxes, levies, or charges; and other similar exactions imposed by cities, other than ad valorem taxes, upon revenues or income received from regulated telecommunications services by a company;

(c) "Local access revenues" means those revenues derived from exchange access services within the city, as defined in ORS 401.710, less related net uncollectibles;

(d) "Privilege taxes" means taxes levied and collected by cities from a company for use and occupancy of city streets, alleys, or highways, as provided under ORS 221.515;

(e) "Regulated revenues" means those revenues derived from regulated telecommunications services within the city less related net uncollectibles. Regulated revenues include, but are not limited to, local access revenues.

(3) Separate fees for street opening, installations, construction, and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in the exercise of its police powers shall be allowed as operating expenses of a company for rate-making purposes. Such fees shall not be deducted in computing the percentage level set forth in section (4) of this rule.

(4) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a small telecommunications utility by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall be charged pro rata to users of local access services within the city and the aggregate excess amount shall be separately itemized on customers' bills or billed separately.

(5) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a Type 2 cooperative by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating

expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall not be included in joint rates and rates for through services.

(6) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the company.

Stat. Auth.: ORS 183, ORS 756 & ORS 759  
Stats. Implemented: ORS 759.045  
Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 7-1998, f. & cert. ef. 4-8-98; PUC 17-2001, f. & cert. ef. 6-21-01; PUC 14-2003, f. & cert. ef. 7-24-03

## 860-036-0745

### Relating to City Fees, Taxes, and Other Assessments

(1) The aggregate amount of all business or occupation taxes, licenses, franchise or operating permit fees, or other similar exactions imposed upon water utilities by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, which does not exceed 3.5 percent, applied to gross revenues as defined herein, shall be allowed as operating expenses of such water utilities for rate-making purposes and shall not be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility operations within the city less related net uncollectibles. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the water utility purchasing the service is not the ultimate customer.

(3) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any water utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels herein set forth. Any such services may be continued within the same category or type of use. The value of any additional category of water utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(4) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a water utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected water utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(5) Except as provided in section (4) of this rule, to the extent any city tax, fee, or other exaction referred to in section (1) of this rule exceeds the percentage levels allowable as operating expenses in section (1) of this rule, such excess amount shall be charged pro rata to water utility customers within said city and shall be separately stated on the regular billings to such customers.

(6) The percentage levels in section (1) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

(7) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the water utility.

Stat. Auth.: ORS 183, ORS 756 & ORS 757  
Stats. Implemented: ORS 756.040  
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 14-2003, f. & cert. ef. 7-24-03

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**Adm. Order No.:** PUC 15-2003

**Filed with Sec. of State:** 7-24-2003

**Certified to be Effective:** 7-24-03

**Notice Publication Date:** 6-1-03

**Rules Adopted:** 860-036-0097, 860-037-0097

**Rules Amended:** 860-011-0022, 860-011-0023, 860-011-0024, 860-021-0034, 860-021-0037, 860-036-0095, 860-037-0095

**Subject:** These new rules and amendments make the collection and audit provisions for electric, gas, steam heat, wastewater and water

# ADMINISTRATIVE RULES

utilities (public utilities) consistent with the rules for telecommunications utilities and competitive telecommunications providers.

**Rules Coordinator:** Lauri Salsbury—(503) 378-4372

## 860-011-0022

### Annual Fees to be Paid by Electric Utilities

(1) In addition to all other fees payable, each electric utility as defined in ORS 756.310(8)(a) shall pay to the Commission an annual fee determined by orders entered on or after March 1 of each year. Each utility shall pay the annual fee on or before the date specified in a notice, which date shall be at least 15 days after the mailing of the notice.

(2) By September 1, 1998, the Commission shall determine the following for each electric utility:

(a) The gross revenue fees per kilowatt-hour delivered to retail electric customers paid by the utility in 1997 relative to the gross revenue fees per kilowatt-hour paid by all electric utilities; and

(b) The average gross revenue for each retail customer class designation, calculated using 1997 loads and revenues and expressed on a per kilowatt-hour basis.

(3) By February 1 of each year, each electric utility shall provide the Commission with the amount of kilowatt-hours delivered during the prior calendar year to each retail customer class designation.

(4) By March 1 of each year, the Commission shall determine the average rate per kilowatt-hour to be charged each electric utility. The determination shall maintain the same approximate fee relationships established in section (2)(a) of this rule between each electric utility. The average annual fee paid by each electric utility shall not exceed eighteen-hundredths of one mill per kilowatt-hour applied to kilowatt-hours delivered to retail electric customers in the preceding calendar year.

(5) Rate filings made by electric utilities pursuant to ORS 757.210 shall allocate the utility's total annual fees so that fees collected among different retail customer classes bear the same approximate relationship as the information developed by the Commission pursuant to section (2)(b) of this rule.

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.310 & ORS 756.320

Hist.: PUC 14-1998, f. & cert. ef. 7-15-98; PUC 11-1999, f. & cert. ef. 11-18-99; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-011-0023

### Annual Fees to be Paid by Telecommunications Utilities and Competitive Telecommunications Providers

(1) For payments due on or before April 1, 2000, each telecommunications utility shall pay to the Commission an annual fee equal to 25 hundredths of one percent (.25 percent) of gross operating revenues derived with Oregon.

(2) For payments due on and after April 1, 2001, each telecommunications utility and competitive telecommunications provider shall pay to the Commission an annual fee on gross retail intrastate revenue at a rate determined by Commission order. The Commission's order shall be entered by November 1 of the year prior to the calendar year upon which the annual fee is based.

(3) Each telecommunications utility and competitive provider shall pay the annual on or before April 1 of the year after the calendar year upon which the annual fee is based. The annual fee paid shall not exceed 25 hundredths of one percent (.25 percent) of the gross retail intrastate revenue during the calendar year upon which the annual fee is based.

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.310 & ORS 756.320

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-011-0024

### Annual Fees to be Paid by Other Public Utilities

(1) Each gas, steam heat, water, and wastewater public utility shall pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission order. The Commission's order shall be entered on or after March 1 of the year after to the calendar year upon which the annual fee is based.

(2) The annual fee shall be due on or before April 1 of the year after the calendar year upon which the annual fee is based. The annual fee rate shall not exceed 25 hundredths of one percent (.25 percent) of the Oregon revenue during the prior calendar year.

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.310 & ORS 756.320

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 14-2000, f. & cert. ef. 8-23-00; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-021-0034

### Annual Fees Payable to the Commission by an Energy Utility

(1) On statement forms prescribed by the Commission, each energy utility shall provide the requested information for the subject year.

(2) Each electric utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0022.

(3) Each gas utility and steam heat utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(4) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

(5) Each electric, gas, and steam heat utility shall pay:

(a) A minimum annual fee of \$10.

(b) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee of \$25 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(6) For any year in which an energy utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

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

Stats. Implemented: ORS 756.310, ORS 756.320 & 756.350

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-021-0037

### Estimated Annual Fees Payable to the Commission

(1) For any year in which an energy or large telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the energy or large telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the energy or large telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the energy or large telecommunications utility has not filed a petition by the end of the 30-day period, the Commission shall enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.

(5) During the 30-day period allowed for filing a petition, the energy or large telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

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

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

Hist.: PUC 8-2003, f. & cert. ef. 4-28-03; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-036-0095

### Annual Fees Payable to the Commission by a Water Utility

(1) On statement forms prescribed by the Commission, each water utility shall provide the requested information for the subject year.

(2) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

(3) Each water utility shall pay:

# ADMINISTRATIVE RULES

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(b) A minimum annual fee of \$10.

(c) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(d) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(e) A service fee of \$25 for each payment returned for non-sufficient funds.

(f) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) For any year in which a water utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.310, ORS 756.320 & 756.350

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-036-0097

### Estimated Annual Fees Payable to the Commission by a Water Utility

(1) For any year in which a water utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the water utility.

(3) Within 30 days after service of the notice of proposed annual fee, the water utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the water utility has not filed a petition by the end of the 30-day period, the Commission shall enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.

(5) During the 30-day period allowed for filing a petition, the water utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

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

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

Hist.: PUC 15-2003, f. & cert. ef. 7-24-03

## 860-037-0095

### Annual Fees Payable to the Commission by a Wastewater Utility

(1) On statement forms prescribed by the Commission, each wastewater utility shall provide the requested information for the subject year.

(2) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

(3) Each wastewater utility shall pay:

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(b) A minimum annual fee of \$10. The payment must be received by the Commission no later than 5 p.m. on the due date.

(c) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(d) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(e) A service fee of \$25 for each payment returned for non-sufficient funds.

(f) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) For any year in which a wastewater utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 14-2000, f. & cert. ef. 8-23-00; PUC 15-2003, f. & cert. ef. 7-24-03

## 860-037-0097

### Estimated Annual Fees Payable to the Commission by a Wastewater Utility

(1) For any year in which a wastewater utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the wastewater utility.

(3) Within 30 days after service of the notice of proposed annual fee, the wastewater utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the wastewater utility has not filed a petition by the end of the 30-day period, the Commission shall enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.

(5) During the 30-day period allowed for filing a petition, the wastewater utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

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

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

Hist.: PUC 15-2003, f. & cert. ef. 7-24-03

## Real Estate Agency Chapter 863

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

**Filed with Sec. of State:** 7-28-2003

**Certified to be Effective:** 8-1-03

**Notice Publication Date:** 6-1-03

**Rules Amended:** 863-001-0000, 863-001-0005, 863-015-0010, 863-015-0015, 863-015-0025, 863-015-0030, 863-015-0040, 863-015-0045, 863-015-0055, 863-015-0065, 863-015-0080, 863-015-0085, 863-015-0095, 863-015-0100, 863-015-0120, 863-015-0125, 863-015-0135, 863-015-0140, 863-015-0145, 863-015-0175, 863-015-0185, 863-015-0255, 863-015-0260, 863-025-0010, 863-025-0020, 863-025-0025, 863-025-0030, 863-025-0035, 863-025-0050, 863-025-0065

**Rules Repealed:** 863-015-0090

**Subject:** The 2001 legislature enacted Senate Bill 446 revising Oregon's licensing system for real estate professionals including real estate brokers and real property managers. The Real Estate Agency adopted rules to implement various provisions of Senate Bill 446. The Real Estate Agency then adopted temporary administrative rules (1) as required by the legislation, (2) required to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill 446, or (3) as required to further implement the policies and procedures contemplated in the legislation.

**Rules Coordinator:** Brian DeMarco—(503) 378-4170, ext. 237

# ADMINISTRATIVE RULES

## 863-001-0000

### Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Real Estate Commissioner shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) By mailing a copy of the notice at least twenty-eight (28) days before the effective date of the rule to persons on the Real Estate Commissioner's mailing list established pursuant to ORS 183.335(7) and all appropriate Legislators as designated by ORS 183.335(14).

(3) By mailing a copy of the notice to the following persons, organizations, or publications:

(a) For Real Estate Brokers rules:

(A) All local Boards or Associations of Realtors;

(B) The Associated Press and the Capitol Press Room;

(C) Oregon Association of Realtors;

(D) The Oregon Realtor, publication of the Oregon Association of Realtors;

(E) All multiple listing services;

(F) Oregon Land Title Association.

(b) For Oregon Subdivision and Series Partition Control Law rules, Oregon Condominium Act rules, rules for ORS 94.803 to 94.945, relating to timeshare estates, or rules for ORS 94.953 to 94.985 relating to the sale of membership camping contracts:

(A) Sawhorse, publication of the Oregon Building Industry Association;

(B) The Associated Press and the Capitol Press Room;

(C) Oregon Association of Realtors;

(D) The Oregon Realtor, publication of the Oregon Association of Realtors;

(E) Oregon Building Industry Association;

(F) Oregon County Courts and Boards of Commissioners.

(c) For Oregon Escrow Law rules:

(A) The Associated Press, and the Capitol Press Room;

(B) Oregon Escrow Council, Inc.;

(C) Oregon Escrow Council Educator, publication of the Oregon Escrow Council, Inc.;

(D) Licensed Escrow Agents;

(E) Oregon Land Title Association.

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

Stat. Auth.: ORS 183, ORS 192 & ORS 696

Stats. Implemented: ORS 183.385(3)

Hist.: REC 43, f. & ef. 11-6-75; REC 1-1982, f. & ef. 2-3-82; REC 2-1984, f. & ef. 6-18-84; REA 1-1987, f. 12-3-87, ef. 1-1-88; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 4-1997, f. 11-24-97, cert. ef. 12-1-97; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-001-0005

### Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Real Estate Agency adopts the Attorney General Model Rules of Procedure under the Administrative Procedure Act bearing the effective date of October 3, 2002.

Stat. Auth.: ORS 181, ORS 183.335, ORS 183.341, ORS 293 & ORS 696.385

Stats. Implemented: ORS 183.341

Hist.: REC 32, f. 11-2-71, ef. 11-15-71; REC 36, f. 1-15-74, ef. 2-11-74; REC 48, f. & ef. 7-19-76; REC 4-1978, f. & ef. 7-2-78; REC 1-1982, f. & ef. 2-3-82; REC 2-1983, f. & ef. 10-13-83; REC 1-1986, f. & ef. 2-11-86; REA 2-1988, f. & cert. ef. 9-9-88; REA 2-1989(Temp), f. & cert. ef. 9-22-89; REA 3-1990, f. 12-13-90, cert. ef. 2-1-90; REA 6-1992, f. 11-4-92, cert. ef. 1-1-93; REA 1-1996, f. 6-3-96, cert. ef. 6-10-96; REA 1-1998, f. & cert. ef. 4-3-98; REA 2-1998, f. 5-28-98, cert. ef. 6-1-98; REA 1-2000, f. & cert. ef. 1-28-00; REA 2-2000, f. 3-27-00, cert. ef. 3-31-00; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0010

### Application; License Application Form and Content

(1) All applicants for a real estate broker's license, principal real estate broker's license and real estate property manager's license shall submit a license application in writing on a form prescribed by the Commissioner with all information provided by the applicant and verified by the applicant.

(2) The license application shall contain:

(a) The name and mailing address of the applicant;

(b) If the applicant is to be associated with a principal real estate broker, the name of the principal real estate broker or brokers who will conduct and supervise the professional real estate activity and

(c) The place or places, including the street number, town, village or city, and county where the business is to be conducted.

(3) Every license application shall be accompanied by the license fee prescribed in ORS 696.270. At all periods of the year, the fee for all licenses issued shall be the same as prescribed in ORS 696.270.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0015

### Application; Background Check Application and Fingerprint Cards

(1) All applicants for real estate broker, principal real estate broker or real estate property manager licenses shall submit to a background check. The background check application shall be made in writing on a form prescribed by the Commissioner with all information provided by the applicant and verified by the applicant.

(2) The background check application shall include, but is not limited to, the following information:

(a) The name, residence address and telephone number for the applicant;

(b) The date and place of birth of the applicant;

(c) The Social Security Number of the applicant (for identification purposes only);

(d) Whether the applicant has ever been convicted of or is under arrest, investigation or indictment for a felony or misdemeanor; and

(e) Whether the applicant has ever been refused a real estate license or any other occupational or professional license in any other state or country, or whether any real estate license or other occupational or professional license held by the applicant has ever been revoked or suspended or the licensee fined or reprimanded; and

(f) Any other information considered necessary by the Commissioner to evaluate the applicant's trustworthiness and competency to engage in professional real estate activity in a manner that protects the public interest.

(3) As part of any application submitted under section (2) of this rule, the applicant shall submit two completed fingerprint cards on the form prescribed by the Oregon State Police and FBI and an additional fee sufficient to recover the costs of processing the applicant's fingerprint information and securing any criminal offender information pertaining to the applicant.

(4) The background check application, fingerprint cards and processing fee shall be submitted to the Agency prior to issuance of a license.

(5) At the request of an applicant, agency staff designated by the Commissioner may perform the fingerprinting process for such applicant during the Agency's posted hours at the Agency's office upon payment to the Agency of a \$10 fee.

(6) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The Commissioner shall keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(7) If the information developed by the Agency on an applicant indicates that additional information should be obtained from the applicant, it will be the duty of the applicant, upon notice and request by the Agency, to provide the requested information in order to complete the application. Failure to comply may result in a determination that the application is incomplete which will result in termination of the application.

(8) An applicant who has otherwise qualified for licensing, may not be considered for licensing as a real estate broker, principal real estate broker, or property manager until the background check process and review has been completed including but not limited to receipt by the Agency of criminal offender information from the Oregon State Police, other regulatory or law enforcement agencies, and the FBI. If an individual who has had a successfully completed background check process and review does not successfully complete the remaining portions of the entire licensing application process within twelve months from the date of the successfully completed background check process and review, the successfully completed background check process and review is no longer valid.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0025

### Licensing; Generally

(1) Licenses shall be granted only to individuals who are trustworthy and competent to engage in professional real estate activity in such manner as to safeguard the interests of the public and only after satisfactory proof has been presented to the Real Estate Commissioner. As used in this section, "satisfactory proof" includes but is not limited to the fingerprints and

# ADMINISTRATIVE RULES

the criminal offender information of the applicant. Every applicant for a license as a real estate licensee shall be of the age of 18 years or over.

(2) The Real Estate Commissioner may issue a real estate license to an individual in any one of the following categories for which the licensee is qualified and which authorizes the licensee to perform only the duties described for such category:

(a) **Real estate broker**, which authorizes such individual to engage in professional real estate activity:

(A) As the sole practitioner of a business operated under the licensed name of the individual or under a registered business name with supervision of and control over all clients' funds, clients' trust accounts and the maintenance of adequate records for all professional real estate activity conducted on the broker's behalf; or

(B) As a real estate broker licensed to and working only as the agent of a principal real estate broker; or

(C) With one or more other real estate brokers who engage in professional real estate activity under the same registered business name and who is solely responsible for their own professional real estate activity.

(b) **Principal real estate broker**, which authorizes such individual to engage in professional real estate activity:

(A) In the licensee's own name or under a business name registered with the Commissioner; and

(B) With supervision of and control over all clients' funds, clients' trust accounts and the maintenance of adequate records for all professional real estate activity conducted on the broker's behalf; and

(C) With one or more real estate brokers associated with such individual and acting only as the agent(s) of such individual and who are subject to such individual's close supervision and training; or

(D) With one or more principal real estate brokers under a written agreement detailing the supervision and control of the principal real estate brokers and real estate brokers associated with each principal real estate broker(s); or

(E) Conducting property management activity with one or more real estate property managers associated with such individual who supervises and controls the property management activity.

(c) **Real estate property manager**, which authorizes such individual to engage only in the management of rental real estate:

(A) In such individual's own name or under a registered business name; and

(B) Either as the sole practitioner of a business or associated with a principal real estate broker and acting only as the agent of such broker.

(3) A real estate broker who is operating as an administrative or managerial supervisor for one or more other real estate brokers must be licensed as a principal real estate broker.

(4) Every real estate broker shall either designate the principal real estate broker the real estate broker will be "associated with" as defined in ORS 696.010(2); or designate and register a place of business and/or a business name under which the real estate broker will be conducting professional real estate activity as a sole practitioner. A real estate broker cannot be "associated with" more than one principal broker or real estate business during the same period of time. Whether or not an individual is designated a "real estate broker" or "principal real estate broker" in a real estate business with more than one licensee shall be a business decision made by the owners of the real estate business.

(5) A principal real estate broker may operate two or more affiliated or subsidiary entities registered at the same time, allowing the principal real estate broker to operate separately through each such affiliated or subsidiary entity. The principal real estate broker must control and supervise the professional real estate activity conducted through each affiliated and subsidiary entity.

(6) A real estate broker associated with a principal real estate broker may have an ownership interest in any real estate business through which the principal real estate broker engages in professional real estate activity, but may not control or supervise the professional real estate activity of any real estate broker in such real estate business.

(7) A nonlicensed person may have an ownership interest in any real estate business. However, a real estate licensee shall not allow a nonlicensed person to control or supervise the professional real estate activity of the licensee.

(8) A real estate business may have two or more principal real estate brokers who share responsibility for the supervision and control of the professional real estate activity conducted through the real estate business, if the principal real estate brokers enter into a written agreement and adopt written office policies identifying the supervisory responsibilities of each principal real estate broker.

(9) An individual shall not act as a real estate broker, principal real estate broker or real estate property manager, or advertise or assume to act as such, without first being licensed. Nothing contained in this chapter shall be construed as authorizing a licensee to perform any service constituting the practice of law.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0030

### Licensing; Issuance, Terms, Form and Display

(1) Upon satisfactorily passing the examination and upon complying with all other applicable provisions of law and conditions of ORS 696.022 and OAR 863-015-0005 to 863-015-0060, the Commissioner shall grant a license to the successful applicant. The applicant, upon being granted the license, is authorized to conduct the business of a real estate broker, principal real estate broker or real estate property manager, as the case may be, between the issue date of the license and the expiration date of the license, unless the license is inactive or is revoked, surrendered or suspended. No more than one license shall be issued to any licensee at any one time.

(2) A new license or renewal issued on or after July 1, 2002, shall be for the term of not more than 24 months plus the number of days between the actual license issuance date or renewal date and the end of the month of the birth date of the licensee and expires at the end of the licensee's birth month.

(3) The license shall show the name of the licensee, the name in which the licensee conducts business or the registered business name, and the business address. Each license shall have imprinted thereon the seal of the Real Estate Agency and shall contain such other matter as shall be prescribed by the Commissioner.

(4) Each license shall be available for inspection in the licensee's principal place of business. Principal real estate brokers shall make available for inspection in the principal real estate broker's principal place of business the licenses of the real estate licensees who are associated with the principal real estate broker or in the branch office location for real estate licensees who are working at a branch office location.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0040

### Licensing; Principal Real Estate Broker

(1) To be eligible for issuance of a principal real estate broker's license, an individual shall:

(a) Be capable of entering into lawful contracts;

(b) Be trustworthy and competent to engage in professional real estate activity to safeguard the interests of the public;

(c) Furnish proof of compliance with the application requirements of OAR 863-0015-0010 and 863-015-0015;

(d) Pay the licensing fees required under ORS 696.270;

(e) Demonstrate satisfactory evidence of competence in and shall have successfully completed the required course of study for principal real estate broker licensing as prescribed by the Commissioner; and

(f) Furnish proof satisfactory to the Commissioner that the applicant has acquired at least three years of active experience as a real estate licensee prior to the date of the application for issuance of the license; or

(g) Upon petition to the Real Estate Board and at the discretion of the Real Estate Board, furnish proof of compliance that the applicant has real estate related experience equivalent to the requirements of subsection (f) of this section, and details the nature of such experience.

(2) Notwithstanding subsections (a) to (g) of section (1), an applicant for a principal real estate broker's license who has graduated from a four-year college or university with a degree in real estate, in a curriculum approved by the Commissioner, who has held an active license as a real estate broker for a period of at least one year may, upon petition to the Real Estate Board, and approval by the Real Estate Board, be issued a principal real estate broker's license.

(3) Notwithstanding subsections (a) to (g) of section (1), an applicant for a principal real estate broker's license who has a two-year community college associate degree in real estate in a curriculum approved by the Commissioner, who has held an active license as a real estate broker for a period of at least two years, who has completed the course of study for principal real estate brokers as required by subsection (1)(e), upon petition to the Real Estate Board, and approval by the Real Estate Board, may be issued a principal real estate broker's license.

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(4) If an individual requests that the Real Estate Board exercise its lawful discretion relating to the individual meeting the experience requirement for a principal real estate broker's license under sections (1)(g), (2) or (3), the request must be filed with the Agency no later than the fifth day of the month in which the Real Estate Board meeting is scheduled..

(5) If the qualifications of an applicant for a principal real estate broker's license are based wholly or partially upon an active real estate license held in another state, the applicant shall furnish with the application a certification of active licensing from the licensing agency of the other state.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0045

### Licensing; Property Manager

(1) To be eligible for issuance of a real estate property manager's license, an individual shall:

(a) Be capable of entering into lawful contracts;

(b) Be trustworthy and competent to engage in professional real estate activity to safeguard the interests of the public;

(c) Furnish proof of compliance with the requirements of OAR 863-15-010 and 863-015-0015;

(d) Successfully complete the licensing examination prescribed by the Commissioner under OAR 863-015-0020;

(e) Pay the licensing fees required under ORS 696.270; and

(f) Demonstrate satisfactory evidence of competence in and shall have successfully completed the course of study for real estate property manager licensing as prescribed by the Commissioner.

(2) A real estate property manager's license may not be issued to an individual holding an outstanding real estate license unless the individual first surrenders all rights to the outstanding real estate license.

(3) An individual licensed as a real estate property manager may engage only in real estate property management activity. The individual may not offer to, negotiate, attempt to, or engage in the sale, purchase, lease-option, appraisal or exchange of real estate for another individual for compensation. The individual may not charge, pay, receive or accept a referral fee, finder's fee or compensation from or share in a commission paid to a real estate broker for any activity involving the sale, purchase, lease-option, appraisal or exchange of real estate. However, the individual may charge, pay, receive and accept a referral fee or finder's fee from or to a real estate broker or another real estate property manager for finding or referring an owner, renter or lessee in real estate property management activity.

(4) A real estate property manager licensed as a sole practitioner in the individual's own name or under a business name registered with the Commissioner, is responsible for all property management activity conducted under the property manager's license and for the actions of the property manager's nonlicensed property management employees. A licensed real estate property manager may not authorize an unlicensed individual to supervise that property manager's licensed activity in the manager's absence. Except as provided for in OAR 863-015-0085(1), a property manager may not authorize another real estate licensee to supervise that property manager's licensed activity in the property manager's absence.

(5) A real estate property manager may be associated with another real estate property manager in property management activity, if the property manager applicant submits, as part of the application for licensing, an agreement that the applicant will engage in property management activity only as the agent of another real estate property manager with whom the applicant intends to be associated. The applicant and the real estate property manager with whom the applicant will be associated shall sign the agreement.

(6) A real estate property manager may be associated with a principal real estate broker to engage in property management activity on behalf of the principal real estate broker and under the supervision of that principal real estate broker. However, a principal real estate broker may not authorize a real estate property manager licensee to act in the broker's absence under OAR 863-015-0090.

(7) A temporary real estate property manager licensee qualified under the provisions of Section 3, subsection (1), Chapter 300 Oregon Laws 2001 must complete the prescribed designated property manager course prior to July 1, 2004, pursuant to the provisions of Section 3, subsection (2), Chapter 300 Oregon Laws 2001.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stat. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0055

### Licensing; Continuing Education

(1) Generally. To renew an active license, a licensee shall provide evidence of completion during the preceding two license years of at least 30 clock hours of real estate oriented continuing education.

(a) A licensee shall complete fifteen clock-hours of continuing education courses in at least one of the following required topics:

(A) Trust Accounts;

(B) Misrepresentation;

(C) Anti-Trust;

(D) Rule and Law Update;

(E) Property Management;

(F) Commercial Brokerage and Leasing;

(G) Real Estate Taxation: Federal, State and Local;

(H) Agency;

(I) Fair Housing;

(J) Contracts;

(K) Evaluation of Property;

(L) Brokerage Management; or

(M) Land;

(N) Business Ethics.

(b) A licensee shall complete the remaining fifteen hours in any of the above required course topics or in other elective real estate oriented continuing education courses.

(c) Courses related to personal skills such as time management, and routine meetings and luncheons shall not be considered real estate oriented continuing education courses.

(d) Courses shall be a minimum of one clock hour in length. A clock-hour is measured in sixty-minute increments, exclusive of meal breaks or rest breaks.

(e) Credit shall not be given for repeating a continuing education course with the same content during a two-year renewal period.

(2) Certification Generally. "Certifying licensee" means a principal real estate broker or real estate property manager who certifies on the Agency's license renewal form that a licensee completed the continuing education requirements. "Evidence of completion" as used in ORS 696.174(4) and this rule means the certification on the Agency license renewal form, supplemented by a standard Certificate of Attendance developed by the Real Estate Agency for each course completed by a licensee.

(a) In completing the standard Certificate of Attendance, the certifying licensee shall decide:

(A) Whether a continuing education course meets the continuing education requirements; and

(B) What category in which to classify the course: required topic or elective topic.

(b) A certifying licensee may approve continuing education courses completed outside of Oregon. The number of approved credit hours shall reflect the clock hours of course content related to the practice of real estate in Oregon. Credit hours shall not be approved for courses with content specific to another state or jurisdiction.

(c) The certifying licensee shall retain the Certificate of Attendance in their records as prescribed in OAR 863-015-0260. The certifying licensee shall produce a copy of the Certificate of Attendance upon request by the associated licensee or upon request of the Agency.

(d) Principal real estate brokers, real estate property managers and sole practitioner real estate brokers who are sole practitioners shall self-certify completion of their continuing education requirements, shall retain their Certificate of Attendance as prescribed in OAR 863-015-0260 and shall produce a copy of the Certificate of Attendance upon request of the Agency.

(e) Filing a false Agency license renewal form or Certificate of Attendance shall be prima facie evidence of a violation of ORS 696.301(1), (6), (12), (25), (27), (28) and (31).

(3) Certification Criteria. In certifying a continuing education course, the certifying licensee shall consider the totality of the information provided and the content of the class, and may consider additional criteria including, but not limited to:

(a) Evidence of instructor qualifications to teach the course;

(b) A review of the course content to assure it is current and accurate, the learning objectives for the course, and whether the course content fulfills the learning objectives;

(c) Whether means of measuring learning outcome, such as a final examination, are included; and

(d) Whether students have a means of evaluating the course and instructor.

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(4) Advanced Real Estate Practices. A real estate broker first licensed after July 1, 2002 shall complete a Commissioner-approved course entitled "Advanced Real Estate Practices" prior to the first renewal of the real estate broker's license. A certifying licensee may accept Advanced Real Estate Practices as satisfying the continuing education requirements for a licensee's renewal. The Advanced Real Estate Practices course requirement does not apply to principal brokers, sole practitioner real estate brokers or property managers.

(5) Alternative Delivery. "Alternative delivery" means presentation of continuing education material in a method other than classroom lecture, including but not limited to correspondence, and electronic means such as satellite broadcast, videotape, computer disc, and Internet.

(a) Certifying licensees may approve continuing education courses completed through alternative delivery methods.

(b) In addition to the certification criteria in section (3), in determining whether to certify an alternative delivery method course, the certifying licensee may consider:

(A) Whether the course offers operational or electronic security measures;

(B) The ability of the student to interact with an instructor or access other resources to support their learning;

(C) Whether the learning environment and technical requirements are explained to students in advance of the course; and

(D) Whether the course includes a proctored final examination.

(c) In determining the number of credit hours to approve for an alternative delivery course, the certifying licensee may consider:

(A) The number of questions in the examination, with a minimum standard of 10 questions per hour of credit;

(B) The number of pages for Internet, Computer-Based Training, CD-ROM and book courses, with a minimum standard of 10 pages per hour of credit; and

(C) The clock hours elapsed for videocassette, audiotape or teleconference courses.

(6) Course Sponsors. Sponsors of continuing education courses may:

(a) State in their advertising that continuing education requirements; e.g., course content, topics and hours, shall be approved by the licensee's principal broker; and

(b) Complete the following information on a Certificate of Attendance:

(A) Real estate licensee's name;

(B) Continuing education course title and date of completion;

(C) Instructor's name and location of course; and

(D) Method of course delivery and whether a final examination was administered.

Stat. Auth. 696.385 & ORS 183.335

Stats. Implemented: ORS 696.174 & ORS 696.301

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0065

### Return of License; Inactive License

(1) Under ORS 696.221, an active real estate license remains outstanding and on active status until received by the Agency. Except as provided in section (2) of this rule, the principal real estate broker with whom the licensee is associated, remains responsible for the professional real estate activity of the licensee until the licensee's real estate license is received in the Agency's office. If a principal real estate broker voluntarily gives the license to the individual named in the license to return the license to the Agency's office or for any other purpose, the principal real estate broker remains responsible for any subsequent professional real estate activity of the licensee until the license is received in the Agency's office.

(2) If a real estate license has been lost or if the individual named in the license has removed the license from the principal real estate broker's possession without permission from the principal real estate broker, the principal real estate broker may terminate the relationship with the licensee by certifying in writing to the Commissioner that the license has been lost or has been removed without authority. The certification is effective for licensing purposes on the date the certification is received in the Agency's office.

(3) Upon receipt by the Commissioner of the returned license, the license is placed on inactive status. For a period of thirty calendar days following such receipt the licensee may reactivate with the same principal real estate broker, become associated with another principal real estate broker or, if qualified, become licensed as a sole practitioner real estate broker or as a principal real estate broker. During such 30-day period, the licensee may reactivate the license by completing the forms prepared by the

Commissioner and paying the transfer fee specified in ORS 696.270. After the 30-day period has elapsed, the license may only be reactivated subject to subsection (5)(b) below.

(4) When a real estate license is returned to the Commissioner for any reason, the license is held by the Commissioner as an inactive real estate license. While the licensee's license is on inactive status with the Commissioner, the licensee may not engage in any professional real estate activity.

(5) Inactive licenses may be:

(a) Renewed upon payment to the Commissioner of the renewal fee specified in ORS 696.270; or

(b) Reactivated upon application for reactivation and payment to the Commissioner of the fee specified in ORS 696.270; or

(c) Revoked or suspended by the Commissioner for reasons on which the Commissioner would have been authorized to revoke or suspend the licenses if they were active.

(6) The examination required to reactivate a license under ORS 696.235(2)(b) may be taken in the Agency's office during business hours by appointment. Reactivation examinations may also be taken on the same day license examinations are administered following the same procedures required of license examination applicants described in OAR 863-015-0020.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-1991, f. & cert. ef. 11-4-91; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0081; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0080

### Nonresident License Recognition

(1) As used in ORS 696.265 and this rule, unless the context requires otherwise:

(a) "Nonresident real estate broker" means an individual residing in another state or country who is licensed by that state or country to transact professional real estate activity and whose license authorizes that individual to employ, engage or otherwise supervise other real estate brokers or salespersons.

(b) "Nonresident real estate salesperson" means an individual residing in another state or country who is licensed by that state or country to transact professional real estate activity.

(c) "Nonresident licensee" means either a nonresident real estate broker or a nonresident real estate salesperson.

(d) "State or country of residence" means, presumptively, the state or country where an individual's resident license is located.

(2) Nonresident License Recognition. An individual who is not a resident of Oregon, is actively engaged in professional real estate activity in his or her state or country of residence and has been duly licensed by that state or regulatory agency within that country, may be issued an Oregon nonresident license if:

(a) The state or country of residence of the applicant allows an Oregon real estate broker to be licensed in that state or country under terms and conditions similar to those prescribed in ORS 696.255, 696.265 and OAR; and

(b) The state or country of residence of the applicant is capable of assisting and does assist the Commissioner in the Commissioner's review of real estate transactions and management of rental real estate for enforcement to protect Oregon consumers affected by the professional real estate activity of nonresident licensees.

(3) An applicant for a nonresident license must provide fingerprints and criminal offender information in the same manner as required of a resident licensee under ORS 696.020(5)(b). The nonresident license application must be accompanied by a background check application, fingerprint cards and processing fees as prescribed by OAR 863-015-0015. The applicant must furnish with the nonresident license application proof that the applicant holds a current and valid license issued by the state or country of residence.

(4) An applicant for a nonresident license must sign and file with the Real Estate Agency an affidavit stating that the applicant has reviewed and is familiar with the Oregon Real Estate License Law and the rules and regulations of the Agency and agrees to be bound by those laws, rules and regulations.

(5) For a nonresident real estate salesperson who is a resident of a state requiring salespersons to work under licensed real estate brokers, the license issued by the Real Estate Agency must contain the business name and business address of the broker under whose license the salesperson works. The license issued to such a nonresident real estate salesperson will be mailed to the broker at the broker's business address.

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(6) A nonresident real estate licensee who deposits or maintains funds, whether in Oregon or in the state or country of residence, shall assure that trust funds are deposited and maintained in client trust accounts in accordance with ORS 696.241, 696.243, 696.245 and OAR 863-015-0260 and 863-015-0265.

(7) Upon request of the Real Estate Agency, nonresident licensees shall produce in the Agency's office any and all records of professional real estate activity conducted in Oregon. The nonresident licensee, by applying for and accepting the nonresident license, authorizes the Real Estate Agency to inspect and examine any transaction escrow records, trust account records, and other records of professional real estate activity, wherever maintained.

(8) With respect to nonresident real estate salespersons who are residents of a state or country requiring salespersons to work under licensed real estate brokers, all advertising (including business signs, business cards, agreements and other documents) used by those salespersons must contain the name and business address of the nonresident real estate broker.

(9) The Commissioner may suspend or revoke, reprimand, deny a license to or refuse to renew a license to a nonresident real estate licensee upon any of the grounds in ORS 696.301, or upon the ground that the state or country of residence has suspended, revoked, denied or refused to renew the person's license, or has limited the license in any way.

(10) Except as otherwise provided herein, the application for nonresident licenses, fees prescribed by statute and rule, the terms of the licenses, the processing of the license application and renewal, the transfer of the licenses, and all other conditions and requirements of licensure shall be as provided for by the Oregon Real Estate License Law.

(11) Reciprocity Agreements. The Commissioner may enter into reciprocity agreements with other states or countries where necessary to permit Oregon real estate licensees to obtain licenses in such other states or countries.

(12) The Commissioner may include in such agreements the terms and conditions prescribed in OAR 863-015-0080, as the Commissioner finds necessary to promote the following:

(13) Nonresident licenses granted under reciprocity agreements shall remain in force, unless suspended or revoked by the Commissioner or for failure to pay the biennial renewal fees, only so long as the reciprocity agreement remains in effect between Oregon and the other state or country. In the event the non-resident licensee subsequently becomes a resident of Oregon, such person shall be able to obtain, upon filing of the proper application and other requisite documents together with the applicable fees, the equivalent resident license in Oregon. Application must be made within one year after becoming a resident.

Stat. Auth.: ORS 696.265, 696.385 & ORS 183.335  
Stats. Implemented: ORS 696.255 & ORS 696.265  
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0085

### Authorization to Control Broker's Business

(1) A sole practitioner real estate broker, property manager or principal real estate broker, for a period not to exceed 90 days, may authorize another sole practitioner real estate broker, property manager or principal real estate broker to control and supervise the professional real estate activity conducted by or through the authorizing licensee during the absence of the authorizing licensee. Both the authorizing sole practitioner real estate broker, property manager or principal real estate broker and the licensee authorized to act in the absence of the authorizing sole practitioner real estate broker, property manager or principal real estate broker shall have joint responsibility for all professional real estate activity and property management activity conducted during the authorizing sole practitioner real estate broker, property manager or principal real estate broker's absence.

(2) A copy of the written authorization, signed by the authorizing sole practitioner real estate broker, property manager or principal real estate broker and the licensee accepting supervisory responsibility under section (1), shall be filed with the Commissioner prior to the effective date of such authorization. The Commissioner may allow a later filing for good cause shown.

(3) Except as authorized under sections (1) and (2) to cover an absence of a sole practitioner real estate broker, property manager or principal real estate broker, a licensee shall not control or supervise the professional real estate activities of any licensee.

Stat. Auth.: ORS 696.385 & ORS 183.335  
Stats. Implemented: ORS 696.026  
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0095

### Business Name Registration

(1) Before conducting business in a name other than the real estate licensee's legal name, the principal real estate broker or sole practitioner real estate broker or property manager shall register the business name. For the purposes of this rule, "business name" includes, but is not limited to, an assumed name or the name of a business entity such as a corporation, partnership, limited liability company, or other business entity recognized by law.

(2) To use or register a business name, the real estate licensee shall provide the Commissioner with all of the following:

(a) The business name in which the licensee wishes to conduct business, or  
(b) Written authority by which the licensee is authorized to use the business name.

(c) A statement from the Oregon Secretary of State that the business name, if an assumed name, is distinguishable from all other registered names on the active records of the Secretary of State Business Registry.

(3) Business names registered with the Agency do not expire and need not be renewed by the licensee. Any change in the business name registered with the Agency shall be treated as the registration of a new business name and the change in business name shall be registered with the Agency together with the fee prescribed in ORS 696.270.

(4) Upon the transfer of the right to use a business name that is registered with the Agency, the licensee acquiring the right to use the name shall file a change of business name registration with the Agency together with the fee prescribed in ORS 696.270. A licensee shall notify the Agency in writing of the termination of the use of a business name by the licensee.

(5) A business name registration shall be void upon receipt at the Agency of the notice of termination of the use of a business name. A business name registration shall be void when no licensees are affiliated with the registered business name. A business name registration may be reactivated within one year from the voiding of a registration without paying the fee set forth in ORS 696.270.

Stat. Auth.: ORS 696.026, ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.026

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0100

### Branch Office Registration

(1) Before a principal real estate broker, property manager or a sole practitioner real estate broker engages in professional real estate activity from a branch office, the principal real estate broker, property manager or sole practitioner real estate broker must register the branch office location with the Commissioner by supplying the street and mailing addresses of the branch office location to the Commissioner, together with the fee prescribed in ORS 696.270. In addition, and where applicable, the principal real estate broker shall provide a statement to the Commissioner in a form acceptable to the Commissioner that the principal real estate broker will supervise and control the professional real estate activity conducted from the registered branch office location.

(2) For the purposes of ORS 696.270, a branch office location is not subject to renewal.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.026 & ORS 696.200

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0120

### Definitions

As used in OAR 863-015-005 to 863-015-275 and 863-025-005 to 863-025-0070 unless the context requires otherwise:

(1) "Affiliated with" means "associated with" as defined in Sec. (2) of ORS 696.010.

(2) "Agency" means the Real Estate Agency.

(3) "Agency relationship" means a relationship in which a real estate licensee represents another individual in a real estate listing agreement or a real estate transaction.

(4) "Clients' Trust Account" or "Client Trust Account" means an account in any 'bank' as defined in ORS 696.010(3) and which is subject to the provisions of ORS 696.241.

(5) "Commissioner" means the Real Estate Commissioner.

(6) "Day" or "days" means each calendar day, including Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, Sundays and legal holidays under ORS 187.010. The term "banking day" means each day a



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financial institution is required to be open for the normal conduct of its business, but does not include Saturday, Sunday, or any legal holiday.

(7) "First contact with a represented party" means contacts in-person, by telephone, over the Internet or the World Wide Web, or by electronic mail, electronic bulletin board or similar electronic method with an individual who is represented by a real estate licensee or can reasonably be assumed from the circumstances to be represented or seeking representation.

(8) "Licensed Name" means the name of a real estate licensee as it appears on the current, valid real estate license issued to the licensee pursuant to ORS 696.020.

(9) "Real Estate Activity", "Professional Real Estate Activity" and "Real Estate Business" mean "professional real estate activity" as defined in section (13) of ORS 696.010.

(10) "Real Estate Broker" means a "real estate broker," as defined in ORS 696.010(15) and includes a temporary associate broker as defined in section (13) of this rule, real estate property manager as defined in ORS 696.010(17), and a principal real estate broker as defined in ORS 696.010(12), unless the context requires otherwise.

(11) "Real Estate Licensee" and "Licensee" mean a "real estate licensee", as defined in section (16) of ORS 696.010 and includes a temporary associate broker as defined in section (13) of this rule, unless the context requires otherwise.

(12) "Sole Practitioner" means a real estate broker who is not associated with a principal real estate broker, who does not employ other real estate brokers and who engages in professional real estate activity under the licensed name of the individual or under a registered business name.

(13) "Temporary Associate Broker" means a former real estate salesperson engaged in professional real estate activity as a licensee working as the agent of and associated with a principal real estate broker until such time as that individual holds or is qualified to hold a real estate broker license.

(14) "Timely" means as soon as is practical under the particular circumstances.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.010

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0125

### Advertising

(1) As used in this rule, "advertising" and "advertisement" includes all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication for any purpose related to professional real estate activity, including, without limitation, advertising activity conducted by mail, telephone, the Internet, the World Wide Web, E-mail, electronic bulletin board or other similar electronic common carrier systems, business cards, signs, billboards and telephonic greetings or answering machine messages.

(2) A real estate property manager as defined in OAR 863-025-0010(3), and any attorney, engineer or member of another profession who also holds a real estate broker's license, shall comply with ORS 696.200(4) and this rule

(3) Except as authorized under section (10) of this rule, all advertising must be done in the principal real estate broker's, sole practitioner real estate broker's or property manager's licensed or registered business name.

(4) If a real estate broker or property manager is associated with a principal real estate broker:

(a) Advertising may include the name of the real estate broker or property manager associated with the principal real estate broker. However, in no case shall the advertising imply that the real estate broker or property manager associated with the principal real estate broker is the person responsible for the operation of the real estate brokerage;

(b) Advertising may contain the direct telephone numbers or other contact information of the real estate broker or property manager associated with the principal real estate broker. However, the advertising shall also include the name and telephone number of the principal real estate broker's company or firm;

(c) The principal real estate broker may delegate direct supervisory authority over advertising originating in a branch office to the branch office manager under ORS 696.200(3). However, the principal real estate broker remains responsible for all advertising done under the broker's real estate license;

(d) All advertising shall be under the direct supervision of the principal real estate broker or branch office manager and the principal real estate

broker or branch office manager shall review and approve all advertising prior to use; and

(e) Real estate brokers and property managers associated with a principal real estate broker shall make the advertising immediately available to the principal real estate broker or branch office manager prior to use.

(5) **Content.** Advertising by a licensee:

(a) Shall identify the licensee as a real estate broker or property manager. The advertising may include additional designations such as "agent," "broker" or a trade association name which serves clearly to identify the advertiser as a real estate licensee.;

(b) Shall be truthful and not deceptive or misleading

(c) Shall not use any words that state or imply that he or she is qualified or has a level of expertise other than as currently maintained by the licensee;

(6) A licensee shall only advertise, display and distribute, electronically or otherwise, information about properties that are listed for sale, lease, or exchange with the real estate broker or with the licensee's principal real estate broker, unless the licensee has first secured written permission of the owner(s)' authorized agent. Authorization pursuant to this subsection may be written or, if participating in a cooperative service, may be set forth in the rules of the cooperative service agreement and the advertising must be in accordance with the terms of the permission granted. The licensee shall not alter any informational part of a listing of any property that is not listed for sale, lease, or exchange with the real estate broker or with the licensee's principal real estate broker. However, this is not intended to restrict the format of display or modifications where the modified information is not inaccurate or misleading.

(7) **Private Transactions Advertising.** Advertising by real estate licensees for the rental or lease of property owned by the licensee or for the sale, exchange, lease option or purchase of real estate in their personal transactions is subject to this rule. However, sections (3) and (4) of this rule do not apply to advertising by a real estate licensee, if:

(a) Such property is not listed with the licensee's principal real estate broker; and

(b) The licensee's principal real estate broker does not require said advertising to be conducted in the name of the principal real estate broker's company or firm.

(8) **Signage.** A licensee shall comply with ORS 696.200 and the following:

(a) The business sign required under ORS 696.200 at the designated main office or each branch office shall be located:

(i) On or near the main entrance of the office location, or on a wall or window immediately adjacent to the entrance; or

(ii) If the broker designates an office location within a general office not engaged principally in professional real estate activity, on the individual office door, on the desk, or prominently displayed within the space or area designated as the broker's office.

(b) Nothing in this section shall be construed to authorize the maintenance of an office or office sign, in conflict with local zoning regulations, local ordinances or state laws.

(c) Upon ceasing to engage in professional real estate activity at a main office or branch office location, the principal real estate broker in the case of the main office and the branch office manager in the case of the branch office, shall remove all signs or other identifying information that would show the location as a business location for a real estate broker.

(9) **Internet Advertising.** All Internet advertising by a licensee shall comply with sections (3), (4), (5) and (6) and the following:

(a) When engaged in ongoing electronic exchange of information with a client or customer who has already been given the information required by section (5), a licensee need not provide the information in each exchange;

(b) A licensee may provide the real estate business information required by section (5) by providing a clearly identified link to their real estate business's homepage;

(c) Licensee entities, advertising or marketing real property on a site on the Internet that is either owned or controlled by the licensee, shall periodically review the advertising and marketing information on the site to assure that it is current and not misleading. Whether information is current within the meaning of this rule shall depend upon whether more current information was reasonably available to the advertising entity;

(d) Visual enhancement of photographs shall be considered misleading if the enhancement materially changes the appearance of the property or changes or deletes significant features thereof;

(e) Whenever information on properties listed by other licensees is displayed or distributed on a licensee's site, the site shall disclose when the

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information was downloaded, or how often, or that information displayed or distributed is information currently available from another identified source.

(f) A licensee may not use any "meta-tag" or other coding or programming means to intentionally misdirect Internet traffic from another licensee's site to their own site.

(g) A licensee providing virtual tours featuring the inside of homes shall have the express written permission of the owner and shall have a virtual tour policy designed to protect, to the extent possible, the privacy of the client and prevent misuse of the information by the general public.

(h) Licensees operating Virtual Office Websites shall only display those listings for which they have obtained authorization pursuant to section (6).

(10) A real estate licensee may use the letters "P.C." as a Professional Corporation designation in their advertising, even though their licensed name does not include the "P.C." designation, if:

(a) The professional corporation is only for the professional real estate activity of a real estate licensee; and

(b) The professional corporation for the real estate licensee has been duly created under ORS Chapter 58.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020, ORS 696.200 & ORS 696.301(1), (6)

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0135

### Offers to Purchase

(1) A real estate licensee at the time of obtaining an offer to purchase real property or counter-offer to the offer shall give the individual signing the offer or counter-offer a true, legible copy thereof.

(2) A real estate licensee shall promptly tender to the offeror or offer-ee every written offer or counter-offer obtained by the licensee.

(3) A written record of the date and time of each tender described in section (2) of this rule and of the response of the seller to the written offer or counter-offer signed by the seller or his designee, shall be maintained by the licensee in the file created under OAR 863-015-0255 for the offer or transaction and if the offer is rejected by the seller, a true copy shall be provided to the purchaser.

(4) Upon obtaining a written acceptance of an offer or counter-offer to purchase real property, a real estate licensee shall promptly deliver true, legible copies of the offer or counter-offer, signed by the seller and purchaser, to both purchaser and seller.

(5) Real estate licensees shall include all of the terms and conditions of the real estate transaction in the offer to purchase, or directly or by reference in the counter-offer, including but not limited to whether the transaction is to be accomplished by way of deed or land sales contract and whether and at what time evidence of title is to be furnished to the prospective purchaser. The type of earnest money received in any real estate transaction, whether in the form of cash, check or promissory note, shall be specifically stated in the document serving as an earnest money receipt. In preparing a promissory note for use as earnest money, a licensee shall make the note payable on acceptance of the offer by the seller or payable within a stated time subsequent to seller's acceptance. In absence of a written agreement to the contrary, the note should be made payable to the seller.

(6) An earnest money agreement signed by a prospective purchaser is an offer to purchase.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.280

Hist.: REC 10, f. 8-27-59; REC 3-1978, f. 6-15-78, ef. 7-1-78; REC 3-1980, f. 10-20-80, ef. 11-1-80; REC 1-1981, f. 10-30-81, ef. 11-1-81; REC 5-1984, f. 6-18-84, ef. 7-1-84; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0020; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0140

### Broker's Supervision

(1) Except as authorized by a principal real estate broker under OAR 863-015-0085 to cover an absence of the principal real estate broker, no real estate broker shall control or supervise the professional real estate activities of any real estate broker.

(2) A principal real estate broker shall not permit the use of the broker's license to enable other real estate licensees to engage in any professional real estate activity where the broker's only interest is the receipt of a fee for use of the broker's license by others, or where the broker has no or only nominal supervision of the professional real estate activity conducted under the broker's license.

(3) A principal real estate broker shall not state or imply to current or prospective licensees or to the public that the licensees associated with the

principal real estate broker are not fully subject to the supervision of the principal real estate broker or are not acting as agents of the principal real estate broker.

(4) Any branch office of a real estate broker shall be registered only with the approval of the Commissioner after the licensee has given satisfactory proof to the Commissioner that the professional real estate activity at the branch office will be conducted and supervised by a sole practitioner real estate broker or principal real estate broker licensee under ORS 696.200(3).

(5) For purposes of ORS 696.200, principal place of business shall include any branch office registered by a principal real estate broker to the extent that the license of any real estate broker acting as agent for the principal real estate broker will be displayed in the branch office to which the real estate broker is assigned.

(6) The principal real estate broker shall directly supervise the licensees associated with the brokerage in the fulfillment of their duties and obligations to their respective clients, under a written company policy established pursuant to OAR 863-015-0220. The principal real estate broker shall review each document of agreement generated in a transaction within seven (7) banking days after it has been accepted, rejected or withdrawn. If the document or agreement originates in a branch office, it may be reviewed by the real estate broker who is the manager of the branch office under ORS 696.200(3). At the time of review, the principal real estate broker or branch office manager shall initial and date the document in writing.

(7) For those real estate brokers affiliated with a principal real estate broker who have acquired at least three years of active experience as a real estate broker, a principal real estate broker may delineate by written company policy the degree of direct principal broker supervision over the affiliated real estate broker. However, the principal real estate broker shall still review agreements pursuant to section (6).

Stat. Auth.: ORS 696

Stats. Implemented: ORS 696.301(29) & ORS 696.200,

Hist.: REC 17, f. 3-1-63; REC 3-1978, f. 6-15-78, ef. 7-1-78; REC 1-1980, f. 2-1-80, ef. 3-1-80; REC 3-1980, f. 10-20-80, ef. 11-1-80; REC 1-1981, f. 10-30-81, ef. 11-1-81; REC 5-1984, f. 6-18-84, ef. 7-1-84; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0043; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0145

### Private Transactions by Licensees

(1) A real estate licensee, active or inactive, shall not, directly or indirectly, offer or negotiate for the sale, exchange, lease option, or purchase of real estate on the licensee's own behalf, without disclosing to the other party to the offer or transaction that the individual is a real estate licensee. The disclosure shall be made by the licensee in any advertising or display signs and shall appear in writing on at least the first written document of agreement concerning the offer or transaction. The disclosure set forth on the first written document of agreement shall also set forth that the real estate licensee is representing himself or herself as either buyer or seller in the transaction. Any advertising by the licensee shall comply with OAR 863-015-0125(7).

(2) Transactions described in section (1) of this rule of a principal real estate broker shall be handled as other professional real estate activity of the licensee.

(3) Each transaction described in section (1) of this rule of a real estate broker associated with a principal real estate broker must be conducted under the supervision of and all documents and funds transmitted through the licensee's principal real estate broker.

(4) If at any time during the period an offer or transaction described in section (1) of this rule is being effected, the licensee holds an inactive license:

(a) All funds received in or necessary to effect the offer or transaction shall be placed into a neutral escrow depository within the state; and

(b) The inactive licensee shall maintain documents concerning the matter in the manner required of a real estate broker under OAR 863-015-0255.

(5) This section shall apply to offers and transactions entered into by corporations, partnerships, limited partnerships, or other legal entities in which any real estate licensee, active or inactive, is an owner and where the licensee is, at any time, an active participant in or participates in negotiations concerning the offer or transaction on behalf of the entity. As used in this rule, "owner" means an individual having an ownership interest equaling more than five percent of the total ownership interest in the legal entity.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.015, ORS 696.020(2), ORS 696.241, ORS 696.280 & 696.301(1)(6)(29)

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Hist.: REC 3-1978, f. 6-15-78, ef. 7-1-78; REC 1-1981, f. 10-30-81, ef. 11-1-81; REA 1-1992, f. 1-13-92, cert. ef. 2-1-92; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0046; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0175

### Report of Litigation Involving Licensees

(1) A real estate licensee shall notify the Commissioner of any adverse decision, judgment or award resulting from any suit or action or arbitration proceeding, civil or criminal, in which the licensee was named as a party and against whom allegations concerning conduct or professional real estate activity on the licensee's own account or on behalf of others is asserted including but not limited to those activities which reflect adversely on the trustworthy and competent requirements of ORS Chapter 696 and OAR Chapter 863. Any adverse decision, judgment or award or any settlement accepted by the Small Claims Department of any Circuit Court is not subject to the notification requirements of this section.

(2) The notification required by section (1) of this rule shall be in writing and shall include a brief description of the real estate transaction involved, the names of the parties and a copy of the adverse decision, judgment or award and, in the case of a criminal conviction, a copy of the sentencing order. If any such judgment, award or decision is appealed, each subsequent decision of any appellate court is subject to the notification requirements of this section.

(3) The notification required by section (1) of this rule shall be made within twenty days after receipt of written notification of an adverse judgment, award, decision or settlement described in section (1) of this rule. Notification shall be made under this rule whether or not the decision is appealed.

(4) Arbitration proceedings between licensees concerning the resolution of a commission payment dispute are not subject to the notification required by section (1) of this rule.

Stat. Auth.: ORS 696

Stats. Implemented: ORS 696.30(26), (31)

Hist.: REC 23, f. 7-3-69, ef. 9-1-69; REC 3-1978, f. 6-15-78, ef. 7-1-78; REC 1-1981, f. 10-30-81, ef. 11-1-81; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0120; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0185

### Earnest Money Disbursement - Revocation - Buyer's Property Condition Disclosure

(1) In carrying out the provisions of ORS 105.465 to 105.490, a real estate broker holding any deposits or other consideration in a real estate transaction shall return such deposits and consideration to the buyer upon the written request of the buyer without the consent of the seller if:

(a) The buyer in writing asserts that the buyer is revoking the buyer's outstanding offer pursuant to ORS 105.475 and makes demand for the return of any deposits and other consideration held by the broker in the transaction; and

(b) The broker does not have from any one buyer a waiver of the right of revocation executed by any one buyer; and

(c) If the broker is closing the transaction, the buyer has not provided the broker with executed written instructions and executed documents necessary to close the transaction; and

(d) The buyer has provided the broker with a written release form and may provide indemnification against all liability arising from the return of all deposits and other consideration held by the broker in the transaction.

(2) In carrying out section (6) of ORS 105.475, a real estate broker shall not disburse to a buyer described in section (1) of this rule any funds or other consideration provided to the broker by the buyer unless the client's trust funds deposited into the broker's client trust account and credited to the buyer have been collected and are available for disbursement by the broker. The broker may not use any client trust account funds deposited and credited to any other person in making such a disbursement to the buyer.

(3) For the purposes of ORS 105.475 under section (4), a buyer is considered to have closed a transaction when the buyer has executed any necessary written instructions and all documents necessary to close the transaction.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 105.465 - ORS 105.490

Hist.: REA 1-1993, f. 12-1-93, cert. ef. 1-1-94; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0250; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0255

### Records: Client Trust Account Requirements

(1) The retention and storage of records described in this rule shall comply with OAR 863-015-0250, 863-015-0260 and 863-015-0270. However, where separate general business and/or trust accounts are maintained at branch offices, the financial records described in this rule may be maintained and located either at the main office of the real estate broker or, if the principal real estate broker or branch office manager conducts the real estate business from that branch office, at that branch office. For the purposes of this rule, real estate broker shall include a sole practitioner real estate broker or principal real estate broker.

(2) A real estate broker who is not a sole practitioner, shall promptly transmit to the real estate broker's principal real estate broker any money, checks, drafts, warrants, promissory notes or other consideration and any documents received by the licensee in any professional real estate activity in which the licensee is engaged. In the absence of specific written company policy or written agreement of the parties to the contrary, the affiliated broker shall promptly tender to the principal real estate broker all earnest monies and not deposit the earnest money directly with escrow.

(3) If a real estate broker receives a check as earnest money in a transaction, the real estate broker may hold the check undeposited until the offer is accepted or rejected, provided that the written sale agreement states that the check is being held undeposited by the real estate broker and further states where and when the check will be deposited upon acceptance of the offer. A check so held shall be deposited into a Clients' Trust Account established by the real estate broker under ORS 696.241 or shall be transmitted to a neutral escrow depository located within this state prior to the close of the third banking day following mutual acceptance of the offer or a subsequent counter offer. The real estate broker shall track the earnest money deposit from the buyer to the real estate broker to the escrow depository.

(4) All other funds, whether in the form of money, checks, drafts, or warrants belonging to others and accepted by any real estate broker while engaged in professional real estate activity shall be deposited prior to the close of business of the third banking day following the date of the receipt of the funds into a neutral escrow depository located within this state or into a Clients' Trust Account established by the licensee's broker under ORS 696.241. The real estate broker shall retain a copy of each executed Client Trust Account Deposit Agreement. The real estate broker shall account for all funds received.

(5) All funds received under sections (2) and (3) are subject to the following:

(a) The real estate broker shall account for all funds received;

(b) The real estate broker shall maintain a copy of any check received; and

(c) The real estate broker shall maintain a dated, acknowledged receipt for any check returned to the offeror.

(6) A real estate broker shall not commingle funds received under this rule with personal funds of the real estate broker.

(7) Every deposit made under ORS 696.241, shall be made with deposit slips identifying each offer or transaction by a written notation of the file number assigned to the offer or transaction.

(8) A real estate broker shall maintain a complete ledger account and record all funds received in the broker's professional real estate activity. This ledger account shall show from whom the funds were received, the date of the receipt, the place of deposit, and, when the transaction has been completed or the offer has failed, the final disposition of the funds.

(9) If a real estate licensee is a principal in an offer or transaction, all earnest money or other deposits shall be handled as provided in OAR 863-015-0145.

(10) Checks used to disburse funds from a Clients' Trust Account shall be prenumbered and bear the words "Clients' Trust Account" upon the face thereof. A real estate broker shall account for all checks, including voided checks, as a part of the records maintained by the broker.

(11) A real estate broker shall record and track the transfer of promissory notes and other forms of consideration by a ledger account or by other means including, but not limited to, written proof of transmittal or receipt retained in the real estate broker's offer or transaction file. The real estate broker shall record the transfer of other documents by written proof of transmittal or receipt retained in the real estate broker's offer or transaction file.

(12) If a real estate broker accepts a credit card payment as funds in a real estate transaction:

(a) The face amount of the credit card payment, without reducing the face amount by any merchant's discount and processing fee charged to the

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broker, is the amount the broker shall maintain, use, and refund as necessary; or

(b) The face amount of the credit card payment, reduced by any merchant's discount and processing fee, may be maintained and used by the real estate broker when the broker has a separate written agreement signed by the credit card user authorizing this reduction. The face amount, including any merchant's discount and processing fees paid by the credit card user, must be refunded to the credit card user when a refund is necessary;

(c) The real estate broker may not benefit from any of the merchant's discounts or processing fees generated by the use of a credit card;

(d) The deposit by a real estate broker into the real estate broker's clients' trust account of an amount equal to any merchant's discount and processing fees incurred shall be considered an operating expense of the real estate broker and not commingling of real estate broker's funds with clients' trust funds;

(e) A real estate broker's clients' trust account may not be charged or debited for any merchant's discount or processing fees for use of the credit card in such transaction.

(13) All funds deposited into a clients' trust account established under ORS 696.241 and not disbursed or transferred to a neutral escrow depository pursuant to the sale agreement may only be disbursed:

(a) To individuals, as directed by order of court of competent jurisdiction;

(b) To individuals, as directed in writing by one or more principals; or

(c) To the court, upon filing by the real estate broker of an interpleader action for disputed earnest money funds.

(14) Any funds being held as specified in the rule and not disbursed pursuant to paragraph (13) of this rule, shall be subject to ORS 98.302 to 98.436.

(15) A real estate broker shall not utilize any form of debit card issued by financial institutions on Client Trust Accounts.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.221, ORS 696.241, ORS 696.280 & ORS 696.301(10)

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-015-0260

### Records: Records Retention

(1) Real estate brokers shall maintain and store complete and accurate records of professional real estate activity pursuant to ORS 696.280 and as follows:

(a) Records, including any items generated through E-mail or other electronic means, shall be maintained and stored at the broker's office for a period of two years following the date of the creation of the record;

(b) Pursuant to written company policy, real estate brokers associated with a principal real estate broker may maintain and store records of professional real estate activity at the main office of the principal real estate broker.

(c) Pursuant to written company policy, records of professional real estate activity originating at a branch office may be maintained and stored at either that branch office or at the main office of the principal real estate broker.

(d) A real estate broker may store records of professional real estate activity that were created at least two years prior to transfer to off-site storage in a single location other than the broker's office, main office of the principal real estate broker or branch office, for a period of six years following the date of the creation of the record, if the real estate broker first:

(A) Notifies the Commissioner in writing of the intended removal of such records, includes the address of the new location for such records, and

(B) Gives written authorization to the Commissioner to inspect such records at the new location. Such authorization shall include the name of any necessary contact and the means of gaining access to the records for an inspection. The real estate broker shall notify the Commissioner of any change in the contact or means of access within ten days after such change occurs.

(2) A real estate broker shall maintain at the broker's office a means of viewing copies of documents or records. A real estate broker shall provide, at the real estate broker's expense, a paper copy of any document or record requested by the Agency.

(3) A real estate broker or property manager may use electronic image storage media to retain and store copies of all listings, deposit receipts, canceled checks, client trust account records and other documents executed by him or her or obtained by him or her in connection with any professional real estate activity transaction, when the following requirements are satisfied:

(a) The electronic image storage shall be nonerasable "write once, read many" ("WORM") that does not allow changes to the stored document or record.

(b) The stored document or record is made or preserved as part of and in the regular course of business.

(c) The original record from which the stored document or record was copied was made or prepared by the broker or property manager or the broker's or property manager's employees at or near the time of the act, condition or event reflected in the record.

(d) The custodian of the record is able to identify the stored document or record, the mode of its preparation, and the mode of storing it on the electronic image storage.

(e) The electronic image storage media contains a reliable indexing system that provides ready access to a desired document or record, appropriate quality control of the storage process to ensure the quality of imaged documents or records, and date ordered arrangement of stored documents or records to assure a consistent and logical flow of paperwork to preclude unnecessary search time.

(f) At least once each month, the real estate broker shall back up any data that is stored in the computerized system necessary to produce the records. The back up data shall be retained for no less than 60 days and shall be made available to the Commissioner or to the Commissioner's authorized representatives on demand.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.280

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0010

### Definitions

In addition to the definitions used in ORS 696.010 and 863-015-0120, as used in OAR 863-025-0015 to 863-025-0070, unless the context requires otherwise:

(1) "Clients' Trust Account" means an account in any 'bank' as defined in ORS 696.010(3) and which is subject to the provisions of ORS 696.241.

(2) "Identifying Code" means a code assigned by the property manager to the property management agreement at the time of signing. The identifying code may contain letters and/or numbers.

(3) "Property Manager" means a real estate broker engaged in the management of rental real estate associated with and under the supervision of a principal real estate broker, a sole practitioner real estate broker engaged in the management of rental real estate, a principal real estate broker engaged in the management of rental real estate and a real estate property manager described in ORS 696.010(17). Unless the context requires otherwise, any reference to "property manager" also includes nonlicensed employees engaging in the management of rental real estate under the supervision and control of a principal real estate broker and nonlicensed employees engaging in the management of rental real estate under the supervision and control of a real estate property manager described in ORS 696.010(17).

(4) "Property Management Activity" means the "management of rental real estate" as defined in ORS 696.010(11).

(5) "Records" and "property management records" mean a complete and adequate documentation of property management activities.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0020

### Property Management Agreements

(1) All property management activity conducted by a property manager shall be done in the actual licensed name or actual registered business name of the property manager.

(2) A property manager shall not engage in property management activity for any real estate without a prior, written, dated and signed property management agreement with the owner of the real estate. The agreement shall clearly and fully specify:

(a) The duties and responsibilities of the property manager and the owner of the real estate, including but not limited to the period of the agreement; the method for termination;

(b) The terms and conditions of the agreement;

(c) The management fees, rebates, discounts, overrides and any other form of compensation to be received by the property manager for property management activity;

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(d) The disposition of the required records of the property management for the owner after compliance with OAR 863-025-0070;

(e) The authority and powers given by the owner to the property manager under the agreement;

(f) The disclosures required pursuant to OAR 863-025-0015(1)(e); and

(g) An Identifying Code .

(3) The property manager shall promptly deliver a legible copy of the fully executed property management agreement to the owner of the real estate described in the agreement.

(4) If a principal real estate broker engaging in property management activity authorizes in writing one of the principal real estate broker's licensees to negotiate and sign a property management agreement with an owner on behalf of the principal real estate broker, the principal real estate broker must review the agreement within seven days after execution of the agreement by the owner for compliance with applicable property management laws and rules. The principal real estate broker shall initial and date the broker's agreement to memorialize the broker's approval and acceptance of the agreement.

(5) Only a property manager or a real estate broker may negotiate and sign a property management agreement made in the course of the property manager's property management activity.

(6) An employee of a property manager acting for the property manager as a resident manager or otherwise, may not negotiate or sign a property management agreement with a property owner.

(7) The original, executed copy of a property management agreement shall be filed and maintained by the property manager pursuant to ORS 696.280 and OAR 863-025-0035.

(8) If a real estate broker engaging in property management activity for an owner is authorized to represent an owner for the purchase, sale, lease-option or exchange of the real property managed by the broker, the authorization shall be signed and dated by the owner and disclose the compensation to be paid by the owner for that professional real estate activity. The authorization may be part of a property management agreement document but shall be distinguishable from the agreement and shall be signed and dated separately by the owner.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.361 & ORS 696.280

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

### 863-025-0025

#### Property Management Client Trust Account Requirements

(1) A property manager shall open and maintain at least one clients' trust account under ORS 696.241 for the deposit of funds received on behalf of owners of property managed under property management agreements, labeled "Clients' Trust Account — Property Management". All funds accepted by any property manager by or on behalf of tenants under a property management agreement shall be placed in a clients' trust account. A property manager shall be an authorized signer on each client's trust account utilized in the manager's licensed activity and shall control the receipts and disbursements on each account. Preprinted checks used to disburse funds from a clients' trust account shall be pre-numbered and bear the words "Clients' Trust Account — Property Management" upon the face of the checks. Checks generated or filled in by a computer in use by the property manager shall be printed on prenumbered check blanks or shall be numbered consecutively as they are generated or filled in by the computer. A property manager shall account for all checks, including but not limited to voided checks, as part of the records maintained by the property manager.

(2) A property manager accepting security deposits on behalf of an owner shall establish a separate clients' trust account labeled "Clients' Trust Account — Property Management — Security Deposits". When the Property Management Agreement and the applicable lease or rental agreement provide that the security deposit shall be transferred to the owner, the funds may be deposited in the Clients' Trust Account — Property Management for the property (instead of the Clients' Trust Account — Property Management — Security Deposits), and then disbursed to the owner in the accounting period in which they are received.

(3) Financial dealings by a property manager under a property management agreement shall comply with the following:

(a) A property manager shall not execute or issue a check from the clients' trust account prior to the existence of a sufficient credit balance to cover the check in the owner's ledger or tenant's ledger account against which the check is executed or issued.

(b) When the computer fills in or generates checks and check copies, all check stock and check copies must be consecutively pre-numbered or, if unnumbered check stock is used, the computer must continually and consecutively number the checks as generated. The account number shall appear in the magnetic coding on the check face to identify the account number for reading by the bank's computerized accounting system.

(c) A property manager may transfer funds between the owners' ledger account of two or more different owners only with a prior written and dated agreement signed by the affected owners who are authorizing the transfer. The agreement shall be separate from the property management agreements of the owners and include the terms of repayment and collection and any interest to be paid by the borrowing owner. The property manager shall have a separate agreement for each transfer between owners. The transfer shall be accomplished by the writing of billings and receipts as evidence of the charging and crediting of the appropriate owners' ledger accounts. The property manager shall give to each owner a separate monthly accounting on the transfer or include the accounting in the regular monthly report to the owner. At the time of the transfer the property manager must enter the transfer information on each affected owners' ledger account, including but not limited to the amount of the transfer, date of the transfer and the source of the transferred funds;

(d) A property manager may only transfer funds between two or more ledger accounts maintained for the same owner with the prior written approval of the owner. The owner's prior approval may be granted as a part of the property management agreement. At the time of the transfer the property manager shall enter the transfer information in each affected owners' ledger account, including but not limited to the amount of the transfer, date of the transfer and the source of the transferred funds;

(e) A property manager shall not withdraw, pay or transfer funds for payment of generally authorized expenses from an owners' ledger account in excess of the actual credit balance of the account. This credit balance shall not include the amount of the tenant's conditionally refundable deposits being held at the time of the withdrawal, payment or transfer of funds.

(f) If sufficient funds are available, a property manager shall withdraw earned management fees from the appropriate client's trust account at least once each month, unless otherwise provided in the owner's property management agreement. The records journal or register and ledger entries for payment of fees from the client trust account shall include the date, the amount of the management fees withdrawn, the check number, the owners ledger account number or identifying owner code. Property management fees are considered earned and may be withdrawn when the monthly or other periodic cycle represented by the fees being withdrawn has been completed. The monthly cycle can begin and end on a stipulated date every month, as long as the date is consistent from month to month.

(g) No disbursement from a clients' trust account shall be made by a property manager based upon a wire or electronic transfer deposited into the clients' trust account, until the deposit has been verified by the property manager. The property manager shall arrange with the account depository and other entities for written verification of when funds are received or disbursed by wire or electronic transfer. A property manager shall post receipt and disbursement of funds by wire or electronic transfer in the same manner as other receipts and disbursements;

(h) Upon request by the Commissioner or an authorized representative of the Commissioner, a property manager shall demonstrate that a sufficient credit balance existed in an owner's ledger account at the time of executing or issuing a check on behalf of the owner by producing financial records showing that the disbursement of these funds did not involve the use of any other client's trust funds deposited into a clients' trust account and credited to any other owner's ledger account.

(i) A property manager shall not utilize any form of debit card issued by financial institutions on Client Trust Accounts.

(4) If a property manager maintains a separate clients' trust account for a property management agreement involving one owner only, the property manager may maintain either a receipts and disbursement journal or an owner's ledger, rather than both such journal and ledger.

(5) **Reconciliation — Property Management.** A property manager shall prepare and reconcile all property management clients' trust accounts at least once each month. The property manager shall preserve the bank statements and monthly reconciliations and file the bank statements and monthly reconciliations in monthly sequence. The total of the balances of the individual owners' ledgers shall equal the balance as shown in the check register or record of receipts and disbursements and shall also equal the reconciled bank balance of the property management client trust account. The

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property manager must date and sign the reconciliation upon its' completion.

(6) **Reconciliation — Security Deposits.** A property manager shall reconcile all tenant security deposit client trust accounts at least once each month, as of the last day of the month. The property manager shall preserve the bank statements and monthly reconciliations and file the bank statements and monthly reconciliations in monthly sequence. The total of the balances of the individual tenant security deposit liabilities shall equal the balance as shown in the check register or record of receipts and disbursements and shall also equal the reconciled bank balance of the security deposit client trust account. The property manager must date and sign the reconciliation upon its' completion.

(7) **Reconciliation — Authority.** A principal real estate broker may authorize, in writing, another licensee associated with the principal real estate broker and who is employed in a supervisory capacity by the principal real estate broker to review and approve the reconciliation of the Clients' Trust Account and to sign checks authorizing disbursements from the Clients' Trust Account. In case of such authorization, the property manager or principal real estate broker remains responsible for the Clients' Trust Account. The property manager or principal real estate broker shall produce the written authorization at the request of the Commissioner or the Commissioner's authorized representative.

(8) **Interest Bearing Accounts.** Funds received by a property manager may be placed by the property manager in a federally insured interest-bearing client trust bank account, but only with the prior written approval of all parties having an interest in the trust funds. The earnings of such interest-bearing account shall not inure to the benefit of the property manager, unless expressly approved in writing before deposit of the trust funds by all parties having an interest in the trust funds. The written approval necessary to establish an interest-bearing account shall specify to whom and under what circumstances the interest earnings from the account will accrue and be paid. The property manager's interest in or receipt of any of the interest earnings is not a commingling of trust funds with a licensee's personal funds under ORS 696.301(10). Use of interest-bearing Clients' Trust Accounts for the deposit of funds received under a property management agreement is subject to ORS 696.241(5).

(9) Checks used to disburse funds from a Clients' Trust Account — Property Management shall comply with OAR 863-025-0025(3)(b) and bear the words "Clients' Trust Account — Property Management" upon the face thereof. A property manager shall account for all checks, including voided checks, as a part of the records maintained by the property manager.

(10) A property manager shall record the transfer of any funds from a clients trust account by a Clients' Trust Account check or by written proof of transmittal or receipt retained in the property manager's records. The property manager shall record the transfer of other documents by written proof of transmittal or receipt retained in the property manager's records. With the written consent of an owner, a property manager may transfer funds electronically via the Internet or ACH software from a client's trust account to a bank account maintained by the owner and a property manager may make payments electronically to a vendor's account for expenses relating to the owner's property. If the software program used for the transfer does not automatically update the owner's ledger, the property manager shall manually record the transfer in the owner's ledger. At the time the transfer is made, the property manager shall print and preserve a hard copy of the electronic record of the transfer.

(11) With the written consent of an owner, a property manager may use a bank lockbox process in which the bank collects payments from tenants, creates an electronic record of the transaction and deposits the payments into the appropriate account following the instructions of the property manager. The property manager is responsible for determining that the lockbox process and lockbox software program provide controls adequate to ensure the security of the funds and to provide an accurate accounting for them. For the purposes of this section, the bank will be considered an agent of the property manager. The software program for the lockbox process must permit monthly reconciliations of the accounts into which the deposits are made and printing of daily deposit records for the period of time required for retention of other records.

Stat. Auth.: ORS 183.335 & ORS 696.385  
Stats. Implemented: ORS 696.241, ORS 696.280 & ORS 696.361  
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0030

### Tenant Security Deposits

(1) Except as provided in OAR 863-025-0025, all tenants' security deposits received by a property manager shall be deposited and maintained in one or more clients' trust accounts labeled "Clients' Trust Account — Property Management — Security Deposits". All tenants' security deposits shall be maintained until:

(a) The refund of any deposit to the tenant according to the terms of the tenant's rental or lease agreement or the property management agreement; or

(b) The expenditure of the tenant's security deposit for purposes authorized by the tenant's rental or lease agreement and the applicable property management agreement; or

(c) The forwarding of the tenant's security deposit by the property manager to the owner of the property according to the terms of the tenant's rental or lease agreement and the property management agreement; or

(d) The transfer of the tenant's deposit to another property manager or to an escrow agent upon the termination of the property management agreement, based upon the prior written instructions by the owner to the terminating property manager authorizing the transfer.

(2) If such security deposits are received as part of a larger check containing funds other than security deposits, the property manager may deposit the check into a non-interest bearing clients' trust account of the property manager. However, the portion of the funds constituting security deposits shall be deposited into the "Clients' Trust Account — Property Management — Security Deposits" account within three (3) banking days after receipt of the check by the property manager.

(3) When a Clients' Trust Account — Property Management is established for a single property and the Property Management Agreement and the applicable lease or rental agreement provide that the security deposit shall be transferred to the owner, the funds may be deposited in the Clients' Trust Account for the property (instead of the Clients' Trust Account — Property Management — Security Deposits), and then disbursed to the owner in the accounting period in which they are received.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.241, ORS 696.280 & ORS 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0035

### Records; Generally

(1) A property manager shall maintain within this state records of all property management activity. A record of property management activity will be considered complete and adequate if it contains, at least, the following:

(a) An original, executed Property Management Agreement maintained for each owner which shall comply with all provisions of OAR 863-025-0020.

(b) Client Trust Account records maintained for all funds handled by a property manager on behalf of an owner or owners. The Client Trust Account shall comply with ORS 696.241, OAR 863-025-0025 and 863-025-0030.

(c) An Owner's Ledger maintained for each property management agreement. The Owner's Ledger shall comply with OAR 863-025-0055.

(d) A Record of Receipts and Disbursements maintained for each property management agreement. The Record of Receipts and Disbursements shall comply with OAR 863-025-0040.

(e) Tenant Agreements maintained for each property management agreement. Tenant Agreements shall comply with OAR 863-025-0045.

(f) A Tenant's Ledger maintained for each tenant of real property managed by the property manager. A Tenant's Ledger shall comply with all provisions of OAR 863-025-0050.

(g) A record of cash receipts. The record of cash receipts shall comply with OAR 863-025-0060.

(h) Records of the reconciliation of each client's trust account. The record of monthly reconciliations shall comply with OAR 863-025-0025.

(i) A record of deposits. The record of deposits shall comply with OAR 863-025-0065.

(2) When a property manager uses a computerized system for the production and maintenance of records and reports required in the property manager's licensed activity:

(a) The computerized system shall, at a minimum, be capable of printing out any record or report required. At the time of any required reconciliation, the property manager shall print out the Record of Receipts and Disbursements, owner's and tenant's ledgers and all supporting data. The

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property manager shall preserve and file such printed documents pursuant to section (3) below.

(b) At least once each month, the property manager shall back up any data that is stored in the computerized system that was not printed out and preserved under subsection (a) of this section. The back up data shall be made available to the Commissioner or to the Commissioner's authorized representatives on demand;

(c) Posting of owner ledgers, record of receipts and disbursements, tenant ledgers and manipulation of information and documents shall be maintained in a format that will readily enable tracing and reconciliation.

(3) A property manager shall maintain and store required records of property management activity pursuant to ORS 696.280 and as follows:

(a) Legible copies of all agreements, records and supporting data shall be filed and maintained by the property manager in the property manager's licensed business location for a period of six years following the date on which such agreement or document is superseded, is terminated or has expired.

(b) A property manager may store inactive records required to be maintained under OAR 863-025-0020 to 863-025-0065 in a single location other than the property manager's licensed business location if the property manager first:

(A) Notifies the Commissioner in writing of the intended removal of such records from the property manager's licensed business location, including the address of the new location for such records; and

(B) Gives written authorization to the Commissioner to inspect such records at the new location. Such authorization shall include the name of any necessary contact and the means of gaining access to the records for an inspection. The property manager shall notify the Commissioner of any change in the contact or means of access within ten days after such change occurs.

(c) As used in this rule, "inactive records" means:

(A) Materials that were received or created at least two years prior to transfer to off-site storage; and

(B) Agreements that were superseded, terminated or had expired at least two years prior to the transfer to off-site storage.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.280 & ORS 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0050 Tenant's Ledger

(1) Except as provided in section (3), a property manager shall prepare and maintain at least one tenant's ledger for each tenant or individual from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of the payment of funds to the property manager. A tenant's ledger shall be identified by tenant and the property including, but not limited to, the mailing address of the rental unit or the applicable unit number or designation.

(2) The balances of tenant's security deposits in individual tenant's ledgers shall be used in the monthly reconciliation of the Clients' Trust Account — Property Management — Security Deposits as described in OAR 863-025-0025.

(3) To record the receipt of funds from prospective tenants who are not tenants at the time of paying the funds to the property manager, who do not pay the funds for a particular rental unit and who do not become tenants after such payment, a property manager shall prepare and maintain a separate tenants' ledger.

(4) The property manager shall post a tenant's ledger with an entry for each receipt of the funds from the tenant and for each disbursement of a tenant's conditionally refundable deposits. Each entry shall contain the amount of the funds received, the amount and designation of any tenant's security deposits received, the date of receipt of the funds and the number of the receipt prepared for cash funds received. Each entry for a disbursement shall contain the date of disbursement, the payee of the check, the check number and the amount of the disbursement;

(5) If a property manager receives a check from a prospective tenant for rent, tenant's security deposits or fees and the prospective tenancy fails for any reason within three banking days following receipt of the check, the property manager may return the check to the prospective tenant without first depositing and processing the check through the property manager's client trust account. The property manager shall retain a photocopy of the check and a dated receipt for the check in the required records of property management activity. The property manager shall note the amount of the

check, the dates of receipt and return of the check on the ledger set up for the prospective tenant giving the check to the property manager.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.280 & ORS 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

## 863-025-0065

### Deposits

(1) All funds, whether in the form of money, checks, or money orders belonging to others and accepted by any property manager while engaged in property management activity shall be deposited prior to the close of business of the third banking day following the date of the receipt of the funds into a Clients' Trust Account established by the property manager under ORS 696.241. The property manager shall account for all funds received.

(2) Any person employed by the property manager shall promptly transmit to the property manager any money, checks, money orders, or other consideration and any documents received while engaged in property management activity.

(3) A property manager shall not deposit any funds received from others in the property manager's personal account or commingle the funds received from others with personal funds of the property manager.

(4) Except as provided in 863-025-0050 and 863-025-0025(g), every deposit made under ORS 696.241, shall be made with deposit slips identifying each entry by a written notation of the owner's identifying code assigned to the property management agreement.

(5) A property manager shall maintain in the licensed business location a complete record of all funds or other consideration received in the property manager's property management activity. This record shall show from whom the funds or other consideration was received, the date of the receipt, the place and date of deposit, and, the final disposition of the funds or other consideration.

Stat. Auth.: ORS 183.335 & ORS 696.385

Stats. Implemented: ORS 696.280 & ORS 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

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

**Adm. Order No.:** ELECT 5-2003(Temp)

**Filed with Sec. of State:** 7-18-2003

**Certified to be Effective:** 7-18-03 thru 9-17-03

**Notice Publication Date:**

**Rules Adopted:** 165-007-1070

**Subject:** The 72nd Legislative Assembly adopted HB 2651 calling for a special statewide election, to be held on September 16, 2003, to refer HJR 18 to the voters. HB 2651 directs the Secretary of State of adopt timelines for this election by administrative rule. This rule provides timelines for the preparation necessary to conduct the statewide election on September 16, 2003. The rule contains deadlines for all events related to the election.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-007-1070

### Timelines for the September 16, 2003, Special Election

(1) This rule adopts necessary timelines for the Secretary of State and county election officials to conduct a statewide vote-by-mail election and produce a state voters' pamphlet for one measure (House Joint Resolution 18) referred to the people by the 72nd Legislative Assembly. The special election will be held on September 16, 2003.

(2) Except where otherwise indicated, "filed" or "file" means 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.

(3) The following deadlines apply to the specified event:

(A) July 18, 2003, last day for Legislature to provide enrolled measure to Secretary of State. (60 days before election);

(B) July 23, 2003,

(i) Last day to file measure arguments to be included in the state voters' pamphlet;

(ii) Secretary of State certifies ballot to county clerks;

(iii) Last day for county election officials to notify Secretary of State or the intent to produce joint voters' pamphlet.

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(iiii) Last day for Legislative Assembly to submit argument in support of measure, as provided in ORS 251.245.

(C) July 29, 2003, measure arguments become available for public inspection, (four business days after deadline to file arguments).

(D) August 2, 2003, (45 days before election), last day for county election officials to mail ballots to long-term absent electors (overseas and military).

(E) August 18, 2003, first day for county election officials to mail out-of-state ballots (29 days before election).

(F) Not sooner than August 29th and not later than September 2, 2003, (18th-14th day before election), county election officials shall mail ballots to electors other than long-term and out-of-state absent electors.

(G) September 6, 2003, last day to distribute state voters' pamphlet to every post office mailing address in Oregon.

Stat. Auth.: ORS 246.150, other auth: Ch. 592, OL 2003(HB2651), HJR 18, 72nd Legislative Assembly

Stats. Implemented: HB 2651(2003)

Hist.: ELECT 5-2003(Temp), f. & cert. ef. 7-18-03 thru 9-17-03



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123-020-0050	3-4-03	Suspend	4-1-03	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
123-065-3360	3-21-03	Amend	5-1-03	123-087-0020	3-26-03	Amend	5-1-03
123-065-3400	3-21-03	Amend	5-1-03	123-087-0030	3-26-03	Amend	5-1-03
123-065-3430	3-21-03	Amend	5-1-03	123-087-0040	3-26-03	Amend	5-1-03
123-065-3460	3-21-03	Amend	5-1-03	123-096-0000	3-26-03	Repeal	5-1-03
123-065-3480	3-21-03	Amend	5-1-03	123-096-0010	3-26-03	Repeal	5-1-03
123-065-3500	3-21-03	Amend	5-1-03	123-096-0020	3-26-03	Repeal	5-1-03
123-065-3530	3-21-03	Amend	5-1-03	123-096-0030	3-26-03	Repeal	5-1-03
123-065-3560	3-21-03	Amend	5-1-03	123-096-0040	3-26-03	Repeal	5-1-03
123-065-3600	3-21-03	Amend	5-1-03	123-096-0050	3-26-03	Repeal	5-1-03
123-065-3800	3-21-03	Adopt	5-1-03	123-096-0060	3-26-03	Repeal	5-1-03

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123-135-0000	12-10-02	Amend	1-1-03	137-003-0573	4-1-03	Adopt	5-1-03
123-135-0010	12-10-02	Amend	1-1-03	137-003-0575	7-21-03	Amend	8-1-03
123-135-0020	12-10-02	Amend	1-1-03	137-003-0580	7-21-03	Amend	8-1-03
123-135-0030	12-10-02	Amend	1-1-03	137-003-0595	7-21-03	Amend	8-1-03
123-135-0040	12-10-02	Amend	1-1-03	137-003-0600	7-21-03	Amend	8-1-03
123-135-0050	12-10-02	Amend	1-1-03	137-003-0650	7-21-03	Amend	8-1-03
123-135-0060	12-10-02	Amend	1-1-03	137-003-0655	7-21-03	Amend	8-1-03
123-135-0070	12-10-02	Amend	1-1-03	137-008-0000	3-1-03	Amend	4-1-03
123-135-0080	12-10-02	Amend	1-1-03	137-009-0000	12-12-02	Amend(T)	1-1-03
123-135-0087	12-10-02	Adopt	1-1-03	137-009-0000	6-11-03	Amend	7-1-03
123-135-0090	12-10-02	Amend	1-1-03	137-009-0005	12-12-02	Amend(T)	1-1-03
123-135-0100	12-10-02	Amend	1-1-03	137-009-0005	6-11-03	Amend	7-1-03
123-135-0110	12-10-02	Amend	1-1-03	137-009-0010	12-12-02	Amend(T)	1-1-03
123-155-0000	12-2-02	Adopt	1-1-03	137-009-0010	6-11-03	Amend	7-1-03
123-155-0100	12-2-02	Adopt	1-1-03	137-009-0015	12-12-02	Suspend	1-1-03
123-155-0150	12-2-02	Adopt	1-1-03	137-009-0015	6-11-03	Repeal	7-1-03
123-155-0200	12-2-02	Adopt	1-1-03	137-009-0020	12-12-02	Suspend	1-1-03
123-155-0250	12-2-02	Adopt	1-1-03	137-009-0020	6-11-03	Repeal	7-1-03
123-155-0270	12-2-02	Adopt	1-1-03	137-009-0025	12-12-02	Suspend	1-1-03
123-155-0300	12-2-02	Adopt	1-1-03	137-009-0025	6-11-03	Repeal	7-1-03
123-155-0400	12-2-02	Adopt	1-1-03	137-009-0030	12-12-02	Suspend	1-1-03
125-020-0610	2-24-03	Amend	4-1-03	137-009-0030	6-11-03	Repeal	7-1-03
125-045-0100	12-27-02	Amend	2-1-03	137-009-0035	12-12-02	Suspend	1-1-03
125-045-0105	12-27-02	Amend	2-1-03	137-009-0035	6-11-03	Repeal	7-1-03
125-045-0110	12-27-02	Amend	2-1-03	137-009-0040	12-12-02	Suspend	1-1-03
125-045-0120	12-27-02	Amend	2-1-03	137-009-0040	6-11-03	Repeal	7-1-03
125-045-0130	12-27-02	Amend	2-1-03	137-009-0045	12-12-02	Amend(T)	1-1-03
125-045-0140	12-27-02	Amend	2-1-03	137-009-0045	6-11-03	Amend	7-1-03
125-045-0150	12-27-02	Amend	2-1-03	137-009-0055	12-12-02	Suspend	1-1-03
125-045-0160	12-27-02	Amend	2-1-03	137-009-0055	6-11-03	Repeal	7-1-03
125-045-0160	4-7-03	Amend	5-1-03	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
125-055-0110	12-31-02	Adopt(T)	2-1-03	137-009-0100	6-11-03	Adopt	7-1-03
125-055-0110	6-27-03	Adopt	8-1-03	137-009-0120	12-12-02	Adopt(T)	1-1-03
125-055-0115	12-31-02	Adopt(T)	2-1-03	137-009-0120	6-11-03	Adopt	7-1-03
125-055-0115	6-27-03	Adopt	8-1-03	137-040-0017	8-1-03	Amend(T)	9-1-03
125-055-0120	12-31-02	Adopt(T)	2-1-03	137-050-0320	5-12-03	Amend	5-1-03
125-055-0120	6-27-03	Adopt	8-1-03	137-050-0330	5-12-03	Amend	5-1-03
125-055-0125	12-31-02	Adopt(T)	2-1-03	137-050-0333	5-12-03	Adopt	5-1-03
125-055-0125	6-27-03	Adopt	8-1-03	137-050-0335	5-12-03	Amend	5-1-03
125-055-0130	12-31-02	Adopt(T)	2-1-03	137-050-0335	6-5-03	Amend(T)	7-1-03
125-055-0130	6-27-03	Adopt	8-1-03	137-050-0340	5-12-03	Amend	5-1-03
125-500-0000	12-27-02	Amend	2-1-03	137-050-0350	5-12-03	Amend	5-1-03
125-500-0005	12-27-02	Amend	2-1-03	137-050-0360	5-12-03	Amend	5-1-03
125-500-0010	12-27-02	Amend	2-1-03	137-050-0365	5-12-03	Repeal	5-1-03
137-003-0036	4-1-03	Adopt	5-1-03	137-050-0390	5-12-03	Amend	5-1-03
137-003-0515	7-21-03	Amend	8-1-03	137-050-0400	5-12-03	Amend	5-1-03
137-003-0520	7-21-03	Amend	8-1-03	137-050-0405	5-12-03	Amend	5-1-03
137-003-0528	7-21-03	Amend	8-1-03	137-050-0410	5-12-03	Amend	5-1-03
137-003-0530	7-21-03	Amend	8-1-03	137-050-0420	5-12-03	Amend	5-1-03
137-003-0535	7-21-03	Amend	8-1-03	137-050-0430	5-12-03	Amend	5-1-03
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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
141-035-0055	1-1-03	Amend	2-1-03	141-085-0025	7-10-03	Amend	8-1-03
141-035-0060	1-1-03	Amend	2-1-03	141-085-0027	1-15-03	Adopt	1-1-03
141-035-0065	1-1-03	Amend	2-1-03	141-085-0028	1-15-03	Adopt	1-1-03
141-035-0070	1-1-03	Amend	2-1-03	141-085-0028	7-10-03	Amend	8-1-03
141-040-0005	1-1-03	Amend	2-1-03	141-085-0029	1-15-03	Adopt	1-1-03
141-040-0010	1-1-03	Amend	2-1-03	141-085-0029	7-10-03	Amend	8-1-03
141-040-0020	1-1-03	Amend	2-1-03	141-085-0030	1-15-03	Repeal	1-1-03
141-040-0030	1-1-03	Amend	2-1-03	141-085-0031	1-15-03	Adopt	1-1-03
141-040-0035	1-1-03	Amend	2-1-03	141-085-0031	7-10-03	Amend	8-1-03
141-040-0040	1-1-03	Amend	2-1-03	141-085-0032	1-15-03	Repeal	1-1-03
141-040-0200	1-1-03	Amend	2-1-03	141-085-0034	1-15-03	Adopt	1-1-03
141-040-0210	1-1-03	Repeal	2-1-03	141-085-0035	1-15-03	Repeal	1-1-03
141-040-0211	1-1-03	Amend	2-1-03	141-085-0036	1-15-03	Adopt	1-1-03
141-040-0212	1-1-03	Amend	2-1-03	141-085-0036	7-10-03	Amend	8-1-03
141-040-0214	1-1-03	Amend	2-1-03	141-085-0040	1-15-03	Repeal	1-1-03
141-040-0220	1-1-03	Amend	2-1-03	141-085-0050	1-15-03	Repeal	1-1-03
141-045-0005	1-1-03	Amend	2-1-03	141-085-0055	1-15-03	Repeal	1-1-03
141-045-0010	1-1-03	Amend	2-1-03	141-085-0060	1-15-03	Repeal	1-1-03
141-045-0015	1-1-03	Adopt	2-1-03	141-085-0064	1-15-03	Adopt	1-1-03
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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
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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
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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
141-085-0155	1-15-03	Repeal	1-1-03	141-085-0620	1-15-03	Amend	1-1-03
141-085-0156	1-15-03	Adopt	1-1-03	141-085-0630	1-15-03	Amend	1-1-03
141-085-0160	1-15-03	Repeal	1-1-03	141-085-0640	1-15-03	Amend	1-1-03
141-085-0161	1-15-03	Adopt	1-1-03	141-085-0650	1-15-03	Amend	1-1-03
141-085-0165	1-15-03	Repeal	1-1-03	141-085-0660	1-15-03	Amend	1-1-03
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141-085-0176	7-10-03	Amend	8-1-03	141-089-0050	1-15-03	Repeal	1-1-03
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141-085-0244	1-15-03	Amend	1-1-03	141-089-0075	1-15-03	Repeal	1-1-03
141-085-0244	7-10-03	Amend	8-1-03	141-089-0081	1-15-03	Repeal	1-1-03
141-085-0246	1-15-03	Amend	1-1-03	141-089-0086	1-15-03	Repeal	1-1-03
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141-089-0110	7-10-03	Amend	8-1-03	141-089-0400	7-10-03	Adopt	8-1-03
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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
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177-010-0060	11-25-02	Repeal	1-1-03	177-046-0130	11-25-02	Adopt	1-1-03
177-010-0065	11-25-02	Repeal	1-1-03	177-046-0140	11-25-02	Adopt	1-1-03
177-010-0070	11-25-02	Repeal	1-1-03	177-046-0150	11-25-02	Adopt	1-1-03
177-010-0080	11-25-02	Amend	1-1-03	177-046-0160	11-25-02	Adopt	1-1-03
177-010-0085	11-25-02	Amend	1-1-03	177-046-0170	11-25-02	Adopt	1-1-03
177-010-0096	11-25-02	Repeal	1-1-03	177-050-0000	11-25-02	Repeal	1-1-03
177-010-0100	11-25-02	Amend	1-1-03	177-050-0002	11-25-02	Amend	1-1-03
177-010-0110	11-25-02	Amend	1-1-03	177-050-0010	11-25-02	Repeal	1-1-03
177-010-0120	11-25-02	Amend	1-1-03	177-050-0020	11-25-02	Amend	1-1-03
177-010-0300	11-25-02	Repeal	1-1-03	177-050-0021	11-25-02	Repeal	1-1-03
177-040-0000	11-25-02	Amend	1-1-03	177-050-0023	11-25-02	Repeal	1-1-03
177-040-0001	11-25-02	Amend	1-1-03	177-050-0025	11-25-02	Amend	1-1-03
177-040-0003	11-25-02	Amend	1-1-03	177-050-0027	11-25-02	Amend	1-1-03
177-040-0005	11-25-02	Amend	1-1-03	177-050-0037	11-25-02	Amend	1-1-03
177-040-0010	11-25-02	Amend	1-1-03	177-050-0045	11-25-02	Repeal	1-1-03
177-040-0012	11-25-02	Repeal	1-1-03	177-050-0051	11-25-02	Repeal	1-1-03
177-040-0025	11-25-02	Amend	1-1-03	177-050-0055	11-25-02	Repeal	1-1-03
177-040-0030	3-14-03	Amend	4-1-03	177-050-0065	11-25-02	Repeal	1-1-03
177-040-0030	6-30-03	Amend	8-1-03	177-050-0075	11-25-02	Repeal	1-1-03
177-040-0040	11-25-02	Amend	1-1-03	177-051-0000	5-28-03	Adopt(T)	7-1-03
177-040-0050	11-25-02	Amend	1-1-03	177-051-0010	5-28-03	Adopt(T)	7-1-03
177-040-0051	11-25-02	Adopt	1-1-03	177-051-0020	5-28-03	Adopt(T)	7-1-03
177-040-0051	3-14-03	Amend	4-1-03	177-051-0030	5-28-03	Adopt(T)	7-1-03
177-040-0051	6-30-03	Amend	8-1-03	177-051-0040	5-28-03	Adopt(T)	7-1-03
177-040-0052	11-25-02	Adopt	1-1-03	177-051-0050	5-28-03	Adopt(T)	7-1-03
177-040-0055	11-25-02	Amend	1-1-03	177-051-0060	5-28-03	Adopt(T)	7-1-03
177-040-0070	6-30-03	Amend	8-1-03	177-051-0070	5-28-03	Adopt(T)	7-1-03
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
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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



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177-065-0075	11-25-02	Amend	1-1-03	177-094-0040	11-25-02	Amend	1-1-03
177-065-0080	11-25-02	Amend	1-1-03	177-094-0050	11-25-02	Amend	1-1-03
177-065-0100	11-25-02	Repeal	1-1-03	177-094-0060	11-25-02	Amend	1-1-03
177-070-0000	11-25-02	Repeal	1-1-03	177-094-0085	11-25-02	Amend	1-1-03
177-070-0005	11-25-02	Amend	1-1-03	177-094-0090	11-25-02	Repeal	1-1-03
177-070-0010	11-25-02	Repeal	1-1-03	177-094-0095	11-25-02	Repeal	1-1-03
177-070-0015	11-25-02	Repeal	1-1-03	177-099-0000	11-25-02	Amend	1-1-03
177-070-0025	11-25-02	Amend	1-1-03	177-099-0000	4-7-03	Amend(T)	5-1-03
177-070-0035	11-25-02	Amend	1-1-03	177-099-0000	6-30-03	Amend	8-1-03
177-070-0055	11-25-02	Repeal	1-1-03	177-099-0010	11-25-02	Amend	1-1-03
177-070-0060	11-25-02	Repeal	1-1-03	177-099-0020	11-25-02	Amend	1-1-03
177-070-0065	11-25-02	Repeal	1-1-03	177-099-0020	4-7-03	Amend(T)	5-1-03
177-070-0070	11-25-02	Repeal	1-1-03	177-099-0020	6-30-03	Amend	8-1-03
177-070-0075	11-25-02	Repeal	1-1-03	177-099-0030	11-25-02	Amend	1-1-03
177-070-0080	11-25-02	Amend	1-1-03	177-099-0030	4-7-03	Amend(T)	5-1-03
177-075-0000	11-25-02	Amend	1-1-03	177-099-0030	6-30-03	Amend	8-1-03
177-075-0005	11-25-02	Amend	1-1-03	177-099-0035	11-25-02	Repeal	1-1-03
177-075-0010	11-25-02	Amend	1-1-03	177-099-0040	11-25-02	Amend	1-1-03
177-075-0015	11-25-02	Amend	1-1-03	177-099-0040	4-7-03	Amend(T)	5-1-03
177-075-0020	11-25-02	Amend	1-1-03	177-099-0040	6-30-03	Amend	8-1-03
177-075-0027	11-25-02	Amend	1-1-03	177-099-0050	11-25-02	Amend	1-1-03
177-075-0030	11-25-02	Amend	1-1-03	177-099-0050	4-7-03	Amend(T)	5-1-03
177-075-0035	11-25-02	Amend	1-1-03	177-099-0050	6-30-03	Amend	8-1-03
177-075-0045	11-25-02	Repeal	1-1-03	177-099-0060	11-25-02	Amend	1-1-03
177-075-0050	11-25-02	Repeal	1-1-03	177-099-0080	11-25-02	Amend	1-1-03
177-081-0000	11-25-02	Amend	1-1-03	177-099-0080	4-7-03	Amend(T)	5-1-03
177-081-0010	11-25-02	Amend	1-1-03	177-099-0080	6-30-03	Amend	8-1-03
177-081-0020	11-25-02	Amend	1-1-03	177-099-0090	11-25-02	Amend	1-1-03
177-081-0030	11-25-02	Amend	1-1-03	177-099-0090	4-7-03	Amend(T)	5-1-03
177-081-0035	11-25-02	Repeal	1-1-03	177-099-0090	6-30-03	Amend	8-1-03
177-081-0040	11-25-02	Amend	1-1-03	177-099-0095	4-7-03	Adopt(T)	5-1-03
177-081-0050	11-25-02	Amend	1-1-03	177-099-0095	6-30-03	Adopt	8-1-03
177-081-0060	11-25-02	Amend	1-1-03	177-099-0100	11-25-02	Amend	1-1-03
177-081-0080	11-25-02	Amend	1-1-03	177-099-0100	4-7-03	Amend(T)	5-1-03
177-081-0090	11-25-02	Repeal	1-1-03	177-099-0100	6-30-03	Amend	8-1-03
177-085-0005	2-3-03	Amend	3-1-03	177-099-0110	11-25-02	Repeal	1-1-03
177-085-0005	4-15-03	Amend(T)	5-1-03	177-100-0000	6-5-03	Amend(T)	7-1-03
177-085-0005	6-30-03	Amend	8-1-03	177-100-0010	6-5-03	Amend(T)	7-1-03
177-085-0010	2-3-03	Amend	3-1-03	177-100-0070	6-5-03	Suspend	7-1-03
177-085-0015	2-3-03	Amend	3-1-03	177-100-0080	6-5-03	Amend(T)	7-1-03
177-085-0020	2-3-03	Amend	3-1-03	177-100-0090	6-5-03	Amend(T)	7-1-03
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177-085-0035	2-3-03	Amend	3-1-03	177-100-0160	6-5-03	Amend(T)	7-1-03
177-085-0035	4-15-03	Amend(T)	5-1-03	177-100-0170	6-5-03	Suspend	7-1-03
177-085-0035	6-30-03	Amend	8-1-03	177-100-0180	6-5-03	Amend(T)	7-1-03
177-085-0040	2-3-03	Amend	3-1-03	177-100-0185	6-5-03	Amend(T)	7-1-03
177-085-0045	2-3-03	Amend	3-1-03	177-200-0000	6-5-03	Amend(T)	7-1-03
177-085-0050	2-3-03	Amend	3-1-03	177-200-0005	6-5-03	Adopt(T)	7-1-03
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177-094-0000	11-25-02	Amend	1-1-03	177-200-0012	6-5-03	Adopt(T)	7-1-03
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177-200-0040	6-5-03	Suspend	7-1-03	220-050-0110	7-1-03	Amend	7-1-03
177-200-0050	6-5-03	Amend(T)	7-1-03	220-050-0120	7-1-03	Repeal	7-1-03
177-200-0055	6-5-03	Adopt(T)	7-1-03	220-050-0140	7-1-03	Amend	7-1-03
177-200-0060	6-5-03	Amend(T)	7-1-03	220-050-0150	7-1-03	Amend	7-1-03
177-200-0065	6-5-03	Adopt(T)	7-1-03	220-050-0200	7-1-03	Repeal	7-1-03
177-200-0070	6-5-03	Amend(T)	7-1-03	220-050-0300	7-1-03	Adopt	7-1-03
177-200-0080	6-5-03	Adopt(T)	7-1-03	250-001-0020	1-14-03	Amend	2-1-03
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191-010-0000	8-1-03	Amend	8-1-03	250-018-0060	3-31-03	Amend	5-1-03
213-050-0045	7-1-03	Adopt	8-1-03	250-018-0080	3-31-03	Amend	5-1-03
213-050-0050	7-1-03	Adopt	8-1-03	250-020-0082	7-1-03	Amend(T)	7-1-03
213-050-0055	7-1-03	Adopt	8-1-03	250-020-0171	7-7-03	Amend	8-1-03
213-050-0060	7-1-03	Adopt	8-1-03	250-020-0204	6-12-03	Amend	7-1-03
213-050-0065	7-1-03	Adopt	8-1-03	250-020-0380	1-14-03	Repeal	2-1-03
213-050-0070	7-1-03	Adopt	8-1-03	255-032-0005	5-13-03	Amend	6-1-03
213-050-0075	7-1-03	Adopt	8-1-03	255-032-0010	5-13-03	Amend	6-1-03
213-050-0080	7-1-03	Adopt	8-1-03	255-032-0015	5-13-03	Amend	6-1-03
220-005-0005	7-1-03	Amend	7-1-03	255-060-0009	6-13-03	Amend(T)	7-1-03
220-005-0010	1-1-03	Amend	1-1-03	255-070-0001	6-13-03	Amend(T)	7-1-03
220-005-0010	7-1-03	Amend	7-1-03	255-075-0067	5-13-03	Amend	6-1-03
220-005-0015	7-1-03	Amend	7-1-03	255-075-0079	5-13-03	Amend	6-1-03
220-005-0110	7-1-03	Amend	7-1-03	259-006-0000	4-11-03	Amend	5-1-03
220-005-0115	7-1-03	Amend	7-1-03	259-008-0000	11-18-02	Amend	1-1-03
220-005-0120	7-1-03	Amend	7-1-03	259-008-0005	11-18-02	Amend	1-1-03
220-005-0130	7-1-03	Amend	7-1-03	259-008-0010	11-21-02	Amend	1-1-03
220-005-0135	7-1-03	Amend	7-1-03	259-008-0010	1-22-03	Amend	3-1-03
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
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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
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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
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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
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259-009-0087	11-18-02	Adopt	1-1-03	291-031-0120	2-21-03	Adopt(T)	4-1-03
259-009-0090	11-18-02	Adopt	1-1-03	291-031-0130	2-21-03	Adopt(T)	4-1-03
259-009-0100	11-18-02	Adopt	1-1-03	291-031-0140	2-21-03	Adopt(T)	4-1-03
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259-020-0010	1-21-03	Amend	3-1-03	291-062-0030	7-7-03	Amend	8-1-03
259-020-0015	1-21-03	Amend	3-1-03	291-063-0005	4-17-03	Amend(T)	6-1-03
259-020-0025	1-21-03	Amend	3-1-03	291-063-0010	4-17-03	Amend(T)	6-1-03
259-025-0000	11-21-02	Amend	1-1-03	291-063-0015	4-17-03	Suspend	6-1-03
259-060-0010	1-22-03	Amend	3-1-03	291-063-0016	4-17-03	Adopt(T)	6-1-03
259-060-0015	1-22-03	Amend	3-1-03	291-063-0020	4-17-03	Suspend	6-1-03
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259-060-0020	7-24-03	Amend	9-1-03	291-063-0030	4-17-03	Amend(T)	6-1-03
259-060-0070	1-22-03	Amend	3-1-03	291-063-0034	4-17-03	Adopt(T)	6-1-03
259-060-0120	1-22-03	Amend	3-1-03	291-063-0035	4-17-03	Suspend	6-1-03
259-060-0130	1-22-03	Amend	3-1-03	291-063-0036	4-17-03	Adopt(T)	6-1-03
259-060-0300	1-22-03	Amend	3-1-03	291-063-0040	4-17-03	Amend(T)	6-1-03
259-060-0300	6-16-03	Amend(T)	8-1-03	291-063-0060	4-17-03	Adopt(T)	6-1-03
259-060-0300	7-24-03	Amend	9-1-03	291-064-0060	5-19-03	Amend(T)	7-1-03
259-060-0450	1-22-03	Amend	3-1-03	291-077-0030	2-28-03	Amend(T)	4-1-03
259-060-0500	7-24-03	Amend	9-1-03	291-109-0005	3-1-03	Repeal	3-1-03
274-020-0340	4-7-03	Amend(T)	5-1-03	291-109-0015	3-1-03	Repeal	3-1-03
274-020-0341	1-21-03	Amend(T)	3-1-03	291-109-0020	3-1-03	Repeal	3-1-03
274-020-0341	3-24-03	Amend	5-1-03	291-109-0030	3-1-03	Repeal	3-1-03
274-020-0341	4-21-03	Amend(T)	6-1-03	291-109-0040	3-1-03	Repeal	3-1-03
274-020-0341	7-25-03	Amend(T)	9-1-03	291-109-0050	3-1-03	Repeal	3-1-03
274-020-0341	8-1-03	Amend(T)	9-1-03	291-109-0060	3-1-03	Repeal	3-1-03
274-020-0341	8-15-03	Amend(T)	9-1-03	291-109-0100	3-1-03	Adopt	3-1-03
274-020-0341(T)	1-21-03	Suspend	3-1-03	291-109-0120	3-1-03	Adopt	3-1-03
274-020-0341(T)	3-24-03	Repeal	5-1-03	291-109-0130	3-1-03	Adopt	3-1-03
274-020-0341(T)	7-25-03	Suspend	9-1-03	291-109-0140	3-1-03	Adopt	3-1-03
274-020-0341(T)	8-1-03	Suspend	9-1-03	291-113-0005	4-2-03	Amend	5-1-03
274-020-0341(T)	8-15-03	Suspend	9-1-03	291-113-0010	4-2-03	Amend	5-1-03
274-020-0445	4-7-03	Amend(T)	5-1-03	291-113-0015	4-2-03	Amend	5-1-03
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274-040-0030	1-1-03	Amend(T)	2-1-03	291-113-0030	4-2-03	Amend	5-1-03
274-045-0060	4-7-03	Amend(T)	5-1-03	291-113-0035	4-2-03	Amend	5-1-03
274-045-0441	4-7-03	Amend(T)	5-1-03	291-203-0010	2-7-03	Adopt(T)	3-1-03
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291-024-0005	2-5-03	Amend	3-1-03	291-203-0020	2-7-03	Adopt(T)	3-1-03
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291-024-0070	2-5-03	Am. & Ren.	3-1-03	291-203-0090	8-6-03	Adopt	9-1-03
291-024-0080	2-5-03	Amend	3-1-03	291-203-0100	8-6-03	Adopt	9-1-03
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291-031-0085	2-21-03	Adopt(T)	4-1-03	309-018-0130	3-10-03	Amend(T)	3-1-03
291-031-0095	2-21-03	Adopt(T)	4-1-03	309-018-0180	3-10-03	Amend(T)	3-1-03
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309-036-0120	9-1-03	Adopt	9-1-03	330-130-0030	1-10-03	Amend	2-1-03
309-036-0125	9-1-03	Adopt	9-1-03	330-130-0040	1-10-03	Amend	2-1-03
309-041-1110	7-1-03	Amend(T)	8-1-03	330-130-0050	1-10-03	Amend	2-1-03
309-041-1115	7-1-03	Amend(T)	8-1-03	330-130-0060	1-10-03	Amend	2-1-03
309-041-1120	7-1-03	Amend(T)	8-1-03	330-130-0080	1-10-03	Amend	2-1-03
309-041-1125	7-1-03	Amend(T)	8-1-03	331-205-0030	5-15-03	Amend	6-1-03
309-041-1130	7-1-03	Amend(T)	8-1-03	331-400-0010	2-1-03	Amend	3-1-03
309-041-1135	7-1-03	Amend(T)	8-1-03	331-405-0020	2-1-03	Amend	3-1-03
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
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309-041-2090	7-1-03	Amend(T)	8-1-03	333-054-0090	12-24-02	Repeal	2-1-03
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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
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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
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309-041-2150	7-1-03	Adopt	8-1-03	333-061-0050	8-15-03	Amend	9-1-03
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333-061-0260	3-28-03	Amend	5-1-03	333-102-0285	3-27-03	Amend	5-1-03
333-064-0025	7-1-03	Amend	6-1-03	333-102-0287	3-27-03	Repeal	5-1-03
333-069-0005	6-20-03	Amend	8-1-03	333-102-0290	3-27-03	Amend	5-1-03
333-069-0015	6-20-03	Amend	8-1-03	333-102-0293	3-27-03	Amend	5-1-03
333-069-0020	6-20-03	Amend	8-1-03	333-102-0295	3-27-03	Repeal	5-1-03
333-069-0030	6-20-03	Amend	8-1-03	333-102-0300	3-27-03	Amend	5-1-03
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333-069-0060	6-20-03	Amend	8-1-03	333-102-0315	3-27-03	Amend	5-1-03
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333-069-0075	6-20-03	Adopt	8-1-03	333-102-0330	3-27-03	Amend	5-1-03
333-069-0080	6-20-03	Amend	8-1-03	333-102-0335	3-27-03	Amend	5-1-03
333-069-0085	6-20-03	Adopt	8-1-03	333-102-0340	3-27-03	Amend	5-1-03
333-069-0090	6-20-03	Amend	8-1-03	333-102-0350	3-27-03	Adopt	5-1-03
333-100-0001	3-27-03	Amend	5-1-03	333-102-0355	3-27-03	Adopt	5-1-03
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333-100-0060	3-27-03	Amend	5-1-03	333-103-0015	3-27-03	Amend	5-1-03
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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
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333-101-0003	3-27-03	Adopt	5-1-03	333-105-0075	3-27-03	Adopt	5-1-03
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333-102-0005	3-27-03	Amend	5-1-03	333-105-0110	3-27-03	Repeal	5-1-03
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333-105-0530	3-27-03	Adopt	5-1-03	333-116-0125	3-27-03	Amend	5-1-03
333-105-0540	3-27-03	Adopt	5-1-03	333-116-0140	3-27-03	Amend	5-1-03
333-105-0550	3-27-03	Adopt	5-1-03	333-116-0150	3-27-03	Amend	5-1-03
333-105-0560	3-27-03	Adopt	5-1-03	333-116-0160	3-27-03	Amend	5-1-03
333-105-0570	3-27-03	Adopt	5-1-03	333-116-0165	3-27-03	Adopt	5-1-03
333-105-0580	3-27-03	Adopt	5-1-03	333-116-0170	3-27-03	Amend	5-1-03
333-105-0590	3-27-03	Adopt	5-1-03	333-116-0180	3-27-03	Amend	5-1-03
333-105-0600	3-27-03	Adopt	5-1-03	333-116-0190	3-27-03	Amend	5-1-03
333-105-0610	3-27-03	Adopt	5-1-03	333-116-0200	3-27-03	Amend	5-1-03
333-105-0620	3-27-03	Adopt	5-1-03	333-116-0250	3-27-03	Amend	5-1-03
333-105-0630	3-27-03	Adopt	5-1-03	333-116-0260	3-27-03	Amend	5-1-03
333-105-0640	3-27-03	Adopt	5-1-03	333-116-0265	3-27-03	Adopt	5-1-03
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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

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333-116-0830	3-27-03	Amend	5-1-03	333-120-0640	3-27-03	Amend	5-1-03
333-116-0905	3-27-03	Adopt	5-1-03	333-120-0650	3-27-03	Amend	5-1-03
333-116-0910	3-27-03	Adopt	5-1-03	333-120-0660	3-27-03	Amend	5-1-03
333-116-0915	3-27-03	Adopt	5-1-03	333-120-0670	3-27-03	Amend	5-1-03
333-118-0020	3-27-03	Amend	5-1-03	333-120-0680	3-27-03	Amend	5-1-03
333-118-0040	3-27-03	Amend	5-1-03	333-120-0700	3-27-03	Amend	5-1-03
333-118-0050	3-27-03	Amend	5-1-03	333-120-0710	3-27-03	Amend	5-1-03
333-118-0060	3-27-03	Amend	5-1-03	333-120-0720	3-27-03	Amend	5-1-03
333-118-0070	3-27-03	Amend	5-1-03	333-157-0045	1-1-03	Amend	1-1-03
333-118-0080	3-27-03	Amend	5-1-03	333-162-1005	1-1-03	Adopt	1-1-03
333-118-0090	3-27-03	Amend	5-1-03	333-500-0010	12-10-02	Amend	1-1-03
333-118-0100	3-27-03	Amend	5-1-03	333-500-0050	12-10-02	Amend	1-1-03
333-118-0110	3-27-03	Amend	5-1-03	333-500-0056	12-10-02	Adopt	1-1-03
333-118-0120	3-27-03	Amend	5-1-03	333-500-0057	12-10-02	Adopt	1-1-03
333-118-0130	3-27-03	Amend	5-1-03	333-505-0005	12-10-02	Amend	1-1-03
333-118-0140	3-27-03	Amend	5-1-03	333-510-0045	12-10-02	Amend	1-1-03
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
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333-700-0060	6-6-03	Adopt	7-1-03	340-012-0069	1-31-03	Repeal	3-1-03
333-700-0065	6-6-03	Adopt	7-1-03	340-012-0081	1-31-03	Adopt	3-1-03
333-700-0070	6-6-03	Adopt	7-1-03	340-012-0081	4-21-03	Amend	6-1-03
333-700-0075	6-6-03	Adopt	7-1-03	340-012-0082	1-31-03	Adopt	3-1-03
333-700-0080	6-6-03	Adopt	7-1-03	340-012-0083	1-31-03	Adopt	3-1-03
333-700-0085	6-6-03	Adopt	7-1-03	340-012-0090	1-31-03	Amend	3-1-03
333-700-0090	6-6-03	Adopt	7-1-03	340-015-0005	5-27-03	Repeal	7-1-03
333-700-0095	6-6-03	Adopt	7-1-03	340-015-0010	5-27-03	Repeal	7-1-03
333-700-0100	6-6-03	Adopt	7-1-03	340-015-0015	5-27-03	Repeal	7-1-03
333-700-0105	6-6-03	Adopt	7-1-03	340-015-0020	5-27-03	Repeal	7-1-03
333-700-0110	6-6-03	Adopt	7-1-03	340-015-0025	5-27-03	Repeal	7-1-03
333-700-0115	6-6-03	Adopt	7-1-03	340-015-0030	5-27-03	Repeal	7-1-03
333-700-0120	6-6-03	Adopt	7-1-03	340-015-0035	5-27-03	Repeal	7-1-03
333-700-0125	6-6-03	Adopt	7-1-03	340-018-0020	5-27-03	Amend	7-1-03
333-700-0130	6-6-03	Adopt	7-1-03	340-018-0030	5-27-03	Amend	7-1-03
334-001-0012	6-17-03	Amend	8-1-03	340-042-0025	12-20-02	Adopt	2-1-03
334-001-0060	1-24-03	Amend	3-1-03	340-042-0030	12-20-02	Adopt	2-1-03
334-010-0005	1-24-03	Amend	3-1-03	340-042-0040	12-20-02	Adopt	2-1-03
334-010-0010	1-24-03	Amend	3-1-03	340-042-0050	12-20-02	Adopt	2-1-03
334-010-0015	1-24-03	Amend	3-1-03	340-042-0060	12-20-02	Adopt	2-1-03
334-010-0016	1-24-03	Amend	3-1-03	340-042-0070	12-20-02	Adopt	2-1-03
334-010-0017	1-24-03	Amend	3-1-03	340-042-0080	12-20-02	Adopt	2-1-03
334-010-0025	1-24-03	Amend	3-1-03	340-047-0005	1-31-03	Repeal	3-1-03
334-010-0033	1-24-03	Amend	3-1-03	340-047-0010	1-31-03	Repeal	3-1-03
334-010-0050	1-24-03	Amend	3-1-03	340-047-0015	1-31-03	Repeal	3-1-03
335-060-0005	5-7-03	Amend	6-1-03	340-047-0020	1-31-03	Repeal	3-1-03
335-060-0010	5-7-03	Amend	6-1-03	340-047-0025	1-31-03	Repeal	3-1-03
335-060-0030	5-7-03	Amend	6-1-03	340-047-0035	1-31-03	Repeal	3-1-03
335-070-0010	5-7-03	Amend	6-1-03	340-047-0040	1-31-03	Repeal	3-1-03
335-070-0020	5-7-03	Amend	6-1-03	340-047-0100	1-31-03	Repeal	3-1-03
335-070-0060	5-7-03	Amend	6-1-03	340-047-0110	1-31-03	Repeal	3-1-03
335-070-0065	5-7-03	Amend	6-1-03	340-047-0120	1-31-03	Repeal	3-1-03
335-070-0075	5-7-03	Adopt	6-1-03	340-047-0130	1-31-03	Repeal	3-1-03
335-095-0010	5-7-03	Adopt	6-1-03	340-047-0140	1-31-03	Repeal	3-1-03
335-095-0020	5-7-03	Adopt	6-1-03	340-047-0150	1-31-03	Repeal	3-1-03
335-095-0030	5-7-03	Adopt	6-1-03	340-047-0160	1-31-03	Repeal	3-1-03
335-095-0040	5-7-03	Adopt	6-1-03	340-047-0170	1-31-03	Repeal	3-1-03
335-095-0050	5-7-03	Adopt	6-1-03	340-047-0180	1-31-03	Repeal	3-1-03
335-095-0060	5-7-03	Adopt	6-1-03	340-047-0190	1-31-03	Repeal	3-1-03
335-095-0065	5-7-03	Adopt	6-1-03	340-047-0200	1-31-03	Repeal	3-1-03
337-001-0025	8-15-03	Adopt	9-1-03	340-047-0210	1-31-03	Repeal	3-1-03
337-010-0006	8-15-03	Amend	9-1-03	340-047-0220	1-31-03	Repeal	3-1-03
337-010-0025	8-15-03	Amend	9-1-03	340-047-0230	1-31-03	Repeal	3-1-03
337-010-0030	11-18-02	Amend	1-1-03	340-047-0240	1-31-03	Repeal	3-1-03
337-010-0060	11-18-02	Amend	1-1-03	340-053-0005	5-27-03	Repeal	7-1-03
337-020-0000	8-15-03	Repeal	9-1-03	340-053-0010	5-27-03	Repeal	7-1-03
337-020-0015	8-15-03	Adopt	9-1-03	340-053-0015	5-27-03	Repeal	7-1-03
337-020-0020	8-15-03	Repeal	9-1-03	340-053-0020	5-27-03	Repeal	7-1-03
337-021-0040	11-18-02	Amend	1-1-03	340-053-0025	5-27-03	Repeal	7-1-03
337-021-0070	11-18-02	Adopt	1-1-03	340-053-0027	5-27-03	Repeal	7-1-03
337-021-0080	11-18-02	Adopt	1-1-03	340-053-0030	5-27-03	Repeal	7-1-03
338-010-0030	4-25-03	Amend(T)	6-1-03	340-053-0035	5-27-03	Repeal	7-1-03
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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
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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
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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
340-142-0001	1-31-03	Adopt	3-1-03	340-150-0325	2-14-03	Adopt	3-1-03
340-142-0005	1-31-03	Adopt	3-1-03	340-150-0350	2-14-03	Adopt	3-1-03
340-142-0030	1-31-03	Adopt	3-1-03	340-150-0352	2-14-03	Adopt	3-1-03
340-142-0040	1-31-03	Adopt	3-1-03	340-150-0354	2-14-03	Adopt	3-1-03
340-142-0050	1-31-03	Adopt	3-1-03	340-150-0360	2-14-03	Adopt	3-1-03
340-142-0060	1-31-03	Adopt	3-1-03	340-150-0400	2-14-03	Adopt	3-1-03
340-142-0070	1-31-03	Adopt	3-1-03	340-150-0410	2-14-03	Adopt	3-1-03
340-142-0080	1-31-03	Adopt	3-1-03	340-150-0420	2-14-03	Adopt	3-1-03
340-142-0090	1-31-03	Adopt	3-1-03	340-150-0430	2-14-03	Adopt	3-1-03
340-142-0100	1-31-03	Adopt	3-1-03	340-150-0435	2-14-03	Adopt	3-1-03
340-142-0120	1-31-03	Adopt	3-1-03	340-150-0440	2-14-03	Adopt	3-1-03
340-142-0130	1-31-03	Adopt	3-1-03	340-150-0445	2-14-03	Adopt	3-1-03
340-150-0001	2-14-03	Amend	3-1-03	340-150-0450	2-14-03	Adopt	3-1-03

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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	345-026-0390	12-3-02	Amend	1-1-03
340-230-0350	2-6-03	Amend	3-1-03	350-060-0020	8-1-03	Amend	8-1-03
340-230-0360	2-6-03	Repeal	3-1-03	350-060-0040	8-1-03	Amend	8-1-03
340-230-0365	2-6-03	Adopt	3-1-03	350-060-0042	8-1-03	Adopt	8-1-03
340-230-0370	2-6-03	Adopt	3-1-03	350-060-0045	8-1-03	Adopt	8-1-03
340-230-0373	2-6-03	Adopt	3-1-03	350-060-0050	8-1-03	Amend	8-1-03
340-230-0375	2-6-03	Adopt	3-1-03	350-060-0055	8-1-03	Adopt	8-1-03
340-230-0377	2-6-03	Adopt	3-1-03	350-060-0060	8-1-03	Amend	8-1-03
340-230-0380	2-6-03	Adopt	3-1-03	350-060-0070	8-1-03	Amend	8-1-03
340-230-0383	2-6-03	Adopt	3-1-03	350-060-0075	8-1-03	Adopt	8-1-03
340-230-0385	2-6-03	Adopt	3-1-03	350-060-0080	8-1-03	Amend	8-1-03
340-230-0387	2-6-03	Adopt	3-1-03	350-060-0090	8-1-03	Amend	8-1-03
340-230-0390	2-6-03	Adopt	3-1-03	350-060-0100	8-1-03	Amend	8-1-03
340-230-0395	2-6-03	Adopt	3-1-03	350-060-0120	8-1-03	Amend	8-1-03
340-238-0040	2-6-03	Amend	3-1-03	350-060-0130	8-1-03	Amend	8-1-03
340-238-0050	2-6-03	Amend	3-1-03	350-060-0140	8-1-03	Repeal	8-1-03
340-238-0060	2-6-03	Amend	3-1-03	350-060-0150	8-1-03	Amend	8-1-03
340-244-0200	2-6-03	Amend	3-1-03	350-060-0160	8-1-03	Amend	8-1-03
340-244-0210	2-6-03	Amend	3-1-03	350-060-0170	8-1-03	Amend	8-1-03

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350-060-0190	8-1-03	Amend	8-1-03	410-120-1195	4-1-03	Adopt(T)	5-1-03
350-060-0200	8-1-03	Amend	8-1-03	410-120-1195	6-30-03	Adopt	8-1-03
350-060-0205	8-1-03	Adopt	8-1-03	410-120-1195	7-1-03	Amend(T)	8-1-03
350-060-0210	8-1-03	Amend	8-1-03	410-120-1200	2-1-03	Amend	3-1-03
350-060-0220	8-1-03	Amend	8-1-03	410-120-1200	3-1-03	Amend	4-1-03
350-060-0240	8-1-03	Adopt	8-1-03	410-120-1200	3-14-03	Amend(T)	4-1-03
350-070-0000	8-1-03	Amend	8-1-03	410-120-1200	7-1-03	Amend(T)	8-1-03
350-070-0020	8-1-03	Amend	8-1-03	410-120-1200(T)	7-1-03	Suspend	8-1-03
350-070-0040	8-1-03	Amend	8-1-03	410-120-1210	7-1-03	Adopt	8-1-03
350-070-0042	8-1-03	Adopt	8-1-03	410-120-1230	1-1-03	Adopt	2-1-03
350-070-0045	8-1-03	Adopt	8-1-03	410-120-1235	2-1-03	Adopt	3-1-03
350-070-0047	8-1-03	Adopt	8-1-03	410-120-1280	1-1-03	Amend	2-1-03
350-070-0050	8-1-03	Amend	8-1-03	410-120-1280	2-1-03	Amend	3-1-03
350-070-0060	8-1-03	Amend	8-1-03	410-120-1340	2-1-03	Amend	3-1-03
350-070-0070	8-1-03	Amend	8-1-03	410-120-1360	4-1-03	Amend	5-1-03
350-070-0080	8-1-03	Amend	8-1-03	410-120-1520	4-1-03	Amend	5-1-03
350-070-0085	8-1-03	Adopt	8-1-03	410-120-1540	4-1-03	Amend	5-1-03
350-070-0090	8-1-03	Amend	8-1-03	410-120-1560	4-1-03	Amend	5-1-03
350-070-0100	8-1-03	Repeal	8-1-03	410-120-1570	4-1-03	Adopt	5-1-03
350-070-0110	8-1-03	Amend	8-1-03	410-120-1580	4-1-03	Amend	5-1-03
350-070-0120	8-1-03	Amend	8-1-03	410-120-1600	4-1-03	Amend	5-1-03
350-070-0130	8-1-03	Amend	8-1-03	410-120-1620	4-1-03	Renumber	5-1-03
350-070-0140	8-1-03	Amend	8-1-03	410-120-1640	4-1-03	Amend	5-1-03
350-070-0150	8-1-03	Amend	8-1-03	410-120-1660	4-1-03	Amend	5-1-03
350-070-0160	8-1-03	Amend	8-1-03	410-120-1680	4-1-03	Amend	5-1-03
350-070-0170	8-1-03	Amend	8-1-03	410-120-1685	4-1-03	Adopt	5-1-03
350-070-0180	8-1-03	Repeal	8-1-03	410-120-1875	5-1-03	Amend	6-1-03
350-070-0190	8-1-03	Amend	8-1-03	410-121-0000	2-1-03	Amend	3-1-03
350-070-0200	8-1-03	Amend	8-1-03	410-121-0030	4-1-03	Amend	5-1-03
350-070-0210	8-1-03	Amend	8-1-03	410-121-0030	5-1-03	Amend	6-1-03
350-070-0220	8-1-03	Amend	8-1-03	410-121-0030	7-1-03	Adopt	8-1-03
350-070-0225	8-1-03	Adopt	8-1-03	410-121-0040	4-1-03	Amend	5-1-03
350-070-0230	8-1-03	Amend	8-1-03	410-121-0040	6-1-03	Amend	7-1-03
350-070-0240	8-1-03	Adopt	8-1-03	410-121-0040	7-1-03	Amend(T)	7-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-121-0040	8-1-03	Amend	9-1-03
410-001-0100	3-21-03	Adopt(T)	5-1-03	410-121-0060	4-1-03	Amend	5-1-03
410-001-0110	3-21-03	Adopt(T)	5-1-03	410-121-0061	6-1-03	Amend	7-1-03
410-001-0120	3-21-03	Adopt(T)	5-1-03	410-121-0140	3-1-03	Amend	4-1-03
410-001-0130	3-21-03	Adopt(T)	5-1-03	410-121-0140	4-1-03	Amend(T)	4-1-03
410-001-0140	3-21-03	Adopt(T)	5-1-03	410-121-0140	4-15-03	Amend(T)	5-1-03
410-001-0150	3-21-03	Adopt(T)	5-1-03	410-121-0140	6-1-03	Amend(T)	7-1-03
410-001-0160	3-21-03	Adopt(T)	5-1-03	410-121-0140	8-1-03	Amend	9-1-03
410-001-0170	3-21-03	Adopt(T)	5-1-03	410-121-0140(T)	4-1-03	Suspend	5-1-03
410-001-0180	3-21-03	Adopt(T)	5-1-03	410-121-0140(T)	4-15-03	Suspend	5-1-03
410-001-0190	3-21-03	Adopt(T)	5-1-03	410-121-0140(T)	6-1-03	Suspend	7-1-03
410-001-0200	3-21-03	Adopt(T)	5-1-03	410-121-0146	1-1-03	Amend	2-1-03
410-014-0000	4-1-03	Adopt	5-1-03	410-121-0150	6-1-03	Amend	7-1-03
410-014-0010	4-1-03	Adopt	5-1-03	410-121-0150	7-1-03	Amend(T)	7-1-03
410-014-0020	4-1-03	Adopt	5-1-03	410-121-0150	8-1-03	Amend	9-1-03
410-014-0030	4-1-03	Adopt	5-1-03	410-121-0153	2-1-03	Adopt	3-1-03
410-014-0040	4-1-03	Adopt	5-1-03	410-121-0153	3-1-03	Repeal	4-1-03
410-014-0050	4-1-03	Adopt	5-1-03	410-121-0154	1-1-03	Adopt	2-1-03
410-014-0060	4-1-03	Adopt	5-1-03	410-121-0155	6-1-03	Amend	7-1-03
410-014-0070	4-1-03	Adopt	5-1-03	410-121-0157	2-14-03	Amend(T)	3-1-03
410-120-0000	2-1-03	Amend	3-1-03	410-121-0157	5-9-03	Amend	6-1-03

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410-121-0157	7-7-03	Amend	8-1-03	410-122-0675	4-1-03	Repeal	5-1-03
410-121-0157(T)	2-14-03	Suspend	3-1-03	410-122-0678	4-1-03	Amend	5-1-03
410-121-0160	4-15-03	Amend(T)	5-1-03	410-122-0680	4-1-03	Amend	5-1-03
410-121-0190	4-1-03	Amend	5-1-03	410-122-0701	2-1-03	Adopt	3-1-03
410-121-0190	6-1-03	Amend	7-1-03	410-122-0701	3-1-03	Repeal	4-1-03
410-121-0200	4-1-03	Amend	5-1-03	410-122-0720	4-1-03	Adopt	5-1-03
410-121-0200	6-1-03	Amend	7-1-03	410-123-1085	1-1-03	Adopt	2-1-03
410-121-0220	6-1-03	Amend	7-1-03	410-123-1085	2-1-03	Amend	3-1-03
410-121-0300	12-1-02	Amend(T)	1-1-03	410-123-1220	2-1-03	Amend	3-1-03
410-121-0300	2-28-03	Amend	4-1-03	410-123-1240	1-1-03	Amend	2-1-03
410-121-0300	3-1-03	Amend(T)	4-1-03	410-123-1260	2-1-03	Amend	3-1-03
410-121-0300	5-29-03	Amend	7-1-03	410-123-1280	2-1-03	Repeal	3-1-03
410-121-0300	8-5-03	Amend	9-1-03	410-123-1290	2-1-03	Repeal	3-1-03
410-121-0300	8-15-03	Amend(T)	9-1-03	410-123-1300	2-1-03	Repeal	3-1-03
410-121-0300(T)	12-1-02	Suspend	1-1-03	410-123-1310	2-1-03	Repeal	3-1-03
410-121-0300(T)	2-28-03	Repeal	4-1-03	410-123-1320	2-1-03	Repeal	3-1-03
410-121-0320	2-14-03	Amend(T)	3-1-03	410-123-1330	2-1-03	Repeal	3-1-03
410-121-0320	8-5-03	Amend	9-1-03	410-123-1340	2-1-03	Repeal	3-1-03
410-121-0320(T)	2-14-03	Suspend	3-1-03	410-123-1360	2-1-03	Repeal	3-1-03
410-122-0020	12-24-02	Amend(T)	2-1-03	410-123-1380	2-1-03	Repeal	3-1-03
410-122-0020	5-1-03	Amend	6-1-03	410-123-1400	2-1-03	Repeal	3-1-03
410-122-0030	5-1-03	Amend	6-1-03	410-123-1420	2-1-03	Repeal	3-1-03
410-122-0180	4-1-03	Amend	5-1-03	410-123-1440	2-1-03	Repeal	3-1-03
410-122-0190	4-1-03	Amend	5-1-03	410-123-1460	2-1-03	Repeal	3-1-03
410-122-0200	4-1-03	Amend	5-1-03	410-123-1480	2-1-03	Repeal	3-1-03
410-122-0202	4-1-03	Amend	5-1-03	410-123-1500	2-1-03	Repeal	3-1-03
410-122-0203	4-1-03	Amend	5-1-03	410-124-0000	2-1-03	Amend	3-1-03
410-122-0205	4-1-03	Amend	5-1-03	410-124-0020	2-1-03	Amend	3-1-03
410-122-0207	4-1-03	Amend	5-1-03	410-124-0040	2-1-03	Amend	3-1-03
410-122-0208	4-1-03	Amend	5-1-03	410-124-0140	2-1-03	Amend	3-1-03
410-122-0209	4-1-03	Amend	5-1-03	410-124-0160	2-1-03	Amend	3-1-03
410-122-0210	4-1-03	Amend	5-1-03	410-125-0050	1-1-03	Adopt	2-1-03
410-122-0240	4-1-03	Amend	5-1-03	410-125-0055	2-1-03	Adopt	3-1-03
410-122-0300	4-1-03	Amend	5-1-03	410-125-0080	4-1-03	Amend	5-1-03
410-122-0320	4-1-03	Amend	5-1-03	410-125-0141	3-1-03	Amend	4-1-03
410-122-0340	4-1-03	Amend	5-1-03	410-125-0141	3-10-03	Amend(T)	4-1-03
410-122-0360	4-1-03	Amend	5-1-03	410-125-0141	5-1-03	Amend	6-1-03
410-122-0365	4-1-03	Amend	5-1-03	410-125-0181	3-1-03	Amend	4-1-03
410-122-0370	4-1-03	Repeal	5-1-03	410-125-0195	3-1-03	Amend	4-1-03
410-122-0375	4-1-03	Amend	5-1-03	410-125-0195	3-10-03	Amend(T)	4-1-03
410-122-0420	4-1-03	Amend	5-1-03	410-125-0195	5-1-03	Amend	6-1-03
410-122-0460	4-1-03	Repeal	5-1-03	410-125-0680	1-1-03	Amend	2-1-03
410-122-0470	4-1-03	Amend	5-1-03	410-125-0700	1-1-03	Amend	2-1-03
410-122-0500	4-1-03	Amend	5-1-03	410-127-0000	2-1-03	Amend	3-1-03
410-122-0510	4-1-03	Amend	5-1-03	410-127-0020	2-1-03	Amend	3-1-03
410-122-0525	4-1-03	Amend	5-1-03	410-127-0050	1-1-03	Adopt	2-1-03
410-122-0540	4-1-03	Amend	5-1-03	410-127-0055	2-1-03	Adopt	3-1-03
410-122-0560	4-1-03	Amend	5-1-03	410-127-0080	2-1-03	Amend	3-1-03
410-122-0580	4-1-03	Amend	5-1-03	410-127-0120	1-1-03	Amend	2-1-03
410-122-0600	4-1-03	Amend	5-1-03	410-129-0120	1-1-03	Amend	2-1-03
410-122-0620	4-1-03	Amend	5-1-03	410-129-0140	1-1-03	Amend	2-1-03
410-122-0625	4-1-03	Amend	5-1-03	410-129-0190	1-1-03	Adopt	2-1-03
410-122-0630	4-1-03	Amend	5-1-03	410-129-0195	2-1-03	Adopt	3-1-03
410-122-0660	4-1-03	Amend	5-1-03	410-129-0200	4-1-03	Amend	5-1-03
410-122-0665	4-1-03	Repeal	5-1-03	410-129-0240	4-1-03	Amend	5-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-129-0260	2-1-03	Amend	3-1-03	410-140-0115	2-1-03	Adopt	3-1-03
410-129-0260	4-1-03	Amend	5-1-03	410-141-0000	2-1-03	Amend	3-1-03
410-130-0010	1-1-03	Amend	2-1-03	410-141-0000	3-1-03	Amend	4-1-03
410-130-0040	1-1-03	Amend	2-1-03	410-141-0000	8-1-03	Amend	9-1-03
410-130-0100	4-1-03	Amend	5-1-03	410-141-0080	2-1-03	Amend	3-1-03
410-130-0160	4-1-03	Amend	5-1-03	410-141-0080	4-1-03	Amend	5-1-03
410-130-0180	4-1-03	Amend	5-1-03	410-141-0120	8-1-03	Amend	9-1-03
410-130-0200	4-1-03	Amend	5-1-03	410-141-0160	8-1-03	Amend	9-1-03
410-130-0240	4-1-03	Amend	5-1-03	410-141-0200	8-1-03	Amend	9-1-03
410-130-0250	4-1-03	Amend	5-1-03	410-141-0260	4-1-03	Amend	5-1-03
410-130-0400	4-1-03	Amend	5-1-03	410-141-0260	8-1-03	Amend	9-1-03
410-130-0540	4-1-03	Amend	5-1-03	410-141-0261	4-1-03	Amend	5-1-03
410-130-0562	4-1-03	Amend	5-1-03	410-141-0261	8-1-03	Amend	9-1-03
410-130-0580	4-1-03	Amend	5-1-03	410-141-0262	8-1-03	Amend	9-1-03
410-130-0585	4-1-03	Amend	5-1-03	410-141-0263	8-1-03	Amend	9-1-03
410-130-0660	4-1-03	Amend	5-1-03	410-141-0264	4-1-03	Amend	5-1-03
410-130-0680	4-1-03	Amend	5-1-03	410-141-0264	8-1-03	Amend	9-1-03
410-130-0700	4-1-03	Amend	5-1-03	410-141-0265	8-1-03	Amend	9-1-03
410-130-0760	4-1-03	Amend	5-1-03	410-141-0300	8-1-03	Amend	9-1-03
410-130-0780	4-1-03	Amend	5-1-03	410-141-0420	2-1-03	Amend	3-1-03
410-130-0800	4-1-03	Amend	5-1-03	410-141-0480	1-1-03	Amend	2-1-03
410-130-0940	4-1-03	Amend	5-1-03	410-141-0500	1-1-03	Amend	2-1-03
410-130-0960	1-1-03	Adopt	2-1-03	410-141-0500	2-1-03	Amend	3-1-03
410-130-0965	2-1-03	Adopt	3-1-03	410-141-0500	4-15-03	Amend	5-1-03
410-131-0220	1-1-03	Amend	2-1-03	410-141-0520	1-1-03	Amend	2-1-03
410-131-0240	1-1-03	Amend	2-1-03	410-141-0520	3-1-03	Amend	4-1-03
410-131-0270	1-1-03	Adopt	2-1-03	410-141-0520	4-1-03	Amend	5-1-03
410-131-0275	2-1-03	Adopt	3-1-03	410-141-0520(T)	1-1-03	Repeal	2-1-03
410-132-0050	1-1-03	Adopt	2-1-03	410-142-0080	2-1-03	Amend	3-1-03
410-132-0055	2-1-03	Adopt	3-1-03	410-142-0100	2-1-03	Amend	3-1-03
410-132-0140	1-1-03	Amend	2-1-03	410-142-0200	2-1-03	Amend	3-1-03
410-132-0180	4-1-03	Amend	5-1-03	410-142-0240	2-1-03	Amend	3-1-03
410-133-0000	4-1-03	Amend	5-1-03	410-142-0300	2-28-03	Amend	4-1-03
410-133-0020	4-1-03	Repeal	5-1-03	410-142-0320	2-1-03	Amend	3-1-03
410-133-0040	4-1-03	Amend	5-1-03	410-146-0075	1-1-03	Adopt	2-1-03
410-133-0040	9-1-03	Amend	9-1-03	410-146-0075	2-1-03	Amend	3-1-03
410-133-0080	4-1-03	Amend	5-1-03	410-146-0080	2-1-03	Amend	3-1-03
410-133-0080	9-1-03	Amend	9-1-03	410-146-0320	1-1-03	Amend	2-1-03
410-133-0100	9-1-03	Amend	9-1-03	410-147-0085	1-1-03	Adopt	2-1-03
410-133-0120	4-1-03	Amend	5-1-03	410-147-0085	2-1-03	Amend	3-1-03
410-133-0120	9-1-03	Amend	9-1-03	410-147-0120	2-1-03	Amend	3-1-03
410-133-0140	9-1-03	Amend	9-1-03	410-147-0600	1-1-03	Amend	2-1-03
410-133-0200	4-1-03	Amend	5-1-03	410-148-0020	4-1-03	Amend	5-1-03
410-133-0200	9-1-03	Amend	9-1-03	410-148-0040	4-1-03	Amend	5-1-03
410-133-0220	4-1-03	Amend	5-1-03	410-148-0060	4-1-03	Amend	5-1-03
410-133-0220	9-1-03	Amend	9-1-03	410-148-0090	2-1-03	Adopt	3-1-03
410-133-0240	4-1-03	Repeal	5-1-03	410-148-0095	1-1-03	Adopt	2-1-03
410-133-0280	9-1-03	Amend	9-1-03	410-148-0100	2-1-03	Amend	3-1-03
410-133-0300	4-1-03	Amend	5-1-03	410-148-0100	4-1-03	Amend	5-1-03
410-133-0300	9-1-03	Amend	9-1-03	410-148-0180	1-1-03	Amend	2-1-03
410-133-0320	4-1-03	Amend	5-1-03	410-148-0200	1-1-03	Amend	2-1-03
410-133-0320	9-1-03	Amend	9-1-03	410-148-0260	4-1-03	Amend	5-1-03
410-136-0045	2-1-03	Adopt	3-1-03	410-148-0280	4-1-03	Amend	5-1-03
410-136-0300	4-1-03	Amend	5-1-03	410-148-0300	4-1-03	Amend	5-1-03
410-140-0060	1-1-03	Amend	2-1-03	410-149-0000	2-1-03	Adopt	3-1-03
410-140-0110	1-1-03	Adopt	2-1-03	410-149-0020	2-1-03	Adopt	3-1-03

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410-149-0040	2-1-03	Adopt	3-1-03	411-300-0180	12-28-02	Adopt	2-1-03
410-149-0060	2-1-03	Adopt	3-1-03	411-300-0190	12-28-02	Adopt	2-1-03
410-149-0080	2-1-03	Adopt	3-1-03	411-300-0200	12-28-02	Adopt	2-1-03
410-150-0040	4-1-03	Amend	5-1-03	411-300-0210	12-28-02	Adopt	2-1-03
410-150-0080	4-1-03	Amend	5-1-03	411-300-0220	12-28-02	Adopt	2-1-03
410-150-0100	4-1-03	Amend	5-1-03	411-310-0010	4-1-03	Adopt	5-1-03
410-150-0120	4-1-03	Amend	5-1-03	411-310-0020	4-1-03	Adopt	5-1-03
410-150-0160	4-1-03	Amend	5-1-03	411-310-0030	4-1-03	Adopt	5-1-03
410-150-0200	4-1-03	Amend	5-1-03	411-310-0040	4-1-03	Adopt	5-1-03
410-150-0220	4-1-03	Amend	5-1-03	411-310-0050	4-1-03	Adopt	5-1-03
410-150-0260	4-1-03	Amend	5-1-03	411-310-0060	4-1-03	Adopt	5-1-03
410-150-0280	4-1-03	Amend	5-1-03	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

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413-010-0745	1-7-03	Amend	2-1-03	413-020-0210	1-7-03	Amend	2-1-03
413-010-0746	1-7-03	Amend	2-1-03	413-020-0220	1-7-03	Amend	2-1-03
413-010-0750	1-7-03	Amend	2-1-03	413-020-0230	1-7-03	Amend	2-1-03
413-015-0100	7-1-03	Adopt	8-1-03	413-020-0240	1-7-03	Amend	2-1-03
413-015-0105	7-1-03	Adopt	8-1-03	413-020-0250	1-7-03	Amend	2-1-03
413-015-0110	7-1-03	Adopt	8-1-03	413-020-0260	1-7-03	Amend	2-1-03
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

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413-040-0400	1-7-03	Amend	2-1-03	413-070-0915	1-9-03	Amend	2-1-03
413-040-0410	1-7-03	Amend	2-1-03	413-070-0915	7-31-03	Amend	9-1-03
413-040-0420	1-7-03	Amend	2-1-03	413-070-0917	7-31-03	Amend	9-1-03
413-040-0430	1-7-03	Amend	2-1-03	413-070-0920	1-9-03	Amend	2-1-03
413-040-0440	1-7-03	Amend	2-1-03	413-070-0920	7-31-03	Amend	9-1-03
413-040-0450	1-7-03	Amend	2-1-03	413-070-0925	7-31-03	Amend	9-1-03
413-050-0000	1-7-03	Amend	2-1-03	413-070-0930	1-9-03	Amend	2-1-03
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



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413-090-0405	1-7-03	Adopt	2-1-03	416-430-0050	1-16-03	Amend	3-1-03
413-090-0410	1-7-03	Amend	2-1-03	436-009-0004	7-1-03	Amend	7-1-03
413-090-0420	1-7-03	Amend	2-1-03	436-009-0005	7-1-03	Amend	7-1-03
413-090-0430	1-7-03	Amend	2-1-03	436-009-0008	7-1-03	Amend	7-1-03
413-120-0400	3-13-03	Amend	4-1-03	436-009-0010	7-1-03	Amend	7-1-03
413-120-0410	3-13-03	Amend	4-1-03	436-009-0015	7-1-03	Amend	7-1-03
413-120-0420	3-13-03	Amend	4-1-03	436-009-0020	7-1-03	Amend	7-1-03
413-120-0430	3-13-03	Amend	4-1-03	436-009-0022	7-1-03	Amend	7-1-03
413-120-0440	3-13-03	Amend	4-1-03	436-009-0030	7-1-03	Amend	7-1-03
413-120-0450	3-13-03	Amend	4-1-03	436-009-0040	7-1-03	Amend	7-1-03
413-120-0455	3-13-03	Adopt	4-1-03	436-009-0050	7-1-03	Amend	7-1-03
413-120-0460	3-13-03	Amend	4-1-03	436-009-0060	7-1-03	Amend	7-1-03
413-120-0470	3-13-03	Amend	4-1-03	436-009-0070	7-1-03	Amend	7-1-03
413-130-0120	2-1-03	Amend	3-1-03	436-009-0090	7-1-03	Amend	7-1-03
413-130-0125	2-1-03	Adopt	3-1-03	436-035-0001	2-1-03	Amend	2-1-03
413-130-0126	2-1-03	Adopt(T)	3-1-03	436-035-0003	2-1-03	Amend	2-1-03
413-200-0371	12-19-02	Amend(T)	2-1-03	436-035-0005	2-1-03	Amend	2-1-03
413-200-0371	8-1-03	Amend	9-1-03	436-035-0007	2-1-03	Amend	2-1-03
414-001-0000	4-27-03	Repeal	6-1-03	436-035-0010	2-1-03	Amend	2-1-03
414-600-0000	11-24-02	Adopt	1-1-03	436-035-0030	2-1-03	Amend	2-1-03
414-600-0010	11-24-02	Adopt	1-1-03	436-035-0040	2-1-03	Amend	2-1-03
414-600-0020	11-24-02	Adopt	1-1-03	436-035-0050	2-1-03	Amend	2-1-03
414-600-0030	11-24-02	Adopt	1-1-03	436-035-0060	2-1-03	Amend	2-1-03
414-600-0040	11-24-02	Adopt	1-1-03	436-035-0070	2-1-03	Amend	2-1-03
414-600-0050	11-24-02	Adopt	1-1-03	436-035-0075	2-1-03	Amend	2-1-03
414-600-0060	11-24-02	Adopt	1-1-03	436-035-0080	2-1-03	Amend	2-1-03
414-600-0070	11-24-02	Adopt	1-1-03	436-035-0100	2-1-03	Amend	2-1-03
414-600-0080	11-24-02	Adopt	1-1-03	436-035-0110	2-1-03	Amend	2-1-03
414-600-0090	11-24-02	Adopt	1-1-03	436-035-0150	2-1-03	Amend	2-1-03
414-600-0100	11-24-02	Adopt	1-1-03	436-035-0160	2-1-03	Amend	2-1-03
415-020-0000	7-1-03	Amend	7-1-03	436-035-0170	2-1-03	Amend	2-1-03
415-020-0005	7-1-03	Amend	7-1-03	436-035-0190	2-1-03	Amend	2-1-03
415-020-0010	7-1-03	Amend	7-1-03	436-035-0200	2-1-03	Amend	2-1-03
415-020-0015	7-1-03	Amend	7-1-03	436-035-0220	2-1-03	Amend	2-1-03
415-020-0020	7-1-03	Amend	7-1-03	436-035-0230	2-1-03	Amend	2-1-03
415-020-0025	7-1-03	Amend	7-1-03	436-035-0250	2-1-03	Amend	2-1-03
415-020-0030	7-1-03	Amend	7-1-03	436-035-0260	2-1-03	Amend	2-1-03
415-020-0035	7-1-03	Amend	7-1-03	436-035-0270	2-1-03	Amend	2-1-03
415-020-0040	7-1-03	Amend	7-1-03	436-035-0280	2-1-03	Amend	2-1-03
415-020-0045	7-1-03	Repeal	7-1-03	436-035-0300	2-1-03	Amend	2-1-03
415-020-0045	9-1-03	Repeal	8-1-03	436-035-0310	2-1-03	Amend	2-1-03
415-020-0050	7-1-03	Amend	7-1-03	436-035-0320	2-1-03	Amend	2-1-03
415-020-0053	7-1-03	Adopt	7-1-03	436-035-0330	2-1-03	Amend	2-1-03
415-020-0054	7-1-03	Adopt	7-1-03	436-035-0340	2-1-03	Amend	2-1-03
415-020-0055	7-1-03	Repeal	7-1-03	436-035-0360	2-1-03	Amend	2-1-03
415-020-0055	9-1-03	Repeal	8-1-03	436-035-0370	2-1-03	Amend	2-1-03
415-020-0060	7-1-03	Amend	7-1-03	436-035-0390	2-1-03	Amend	2-1-03
415-020-0065	7-1-03	Amend	7-1-03	436-035-0395	2-1-03	Amend	2-1-03
415-020-0070	7-1-03	Amend	7-1-03	436-035-0420	2-1-03	Amend	2-1-03
415-020-0075	7-1-03	Amend	7-1-03	436-035-0430	2-1-03	Amend	2-1-03
415-020-0080	7-1-03	Amend	7-1-03	436-035-0440	2-1-03	Amend	2-1-03
415-020-0085	7-1-03	Amend	7-1-03	436-035-0500	1-15-03	Amend(T)	2-1-03
415-051-0015	9-1-03	Amend	8-1-03	436-035-0500	2-1-03	Amend	2-1-03
415-051-0055	9-1-03	Amend	8-1-03	436-035-0500	4-15-03	Amend(T)	5-1-03
415-051-0057	9-1-03	Amend	8-1-03	436-035-0500	7-15-03	Amend(T)	8-1-03

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436-050-0150	7-18-03	Amend(T)	9-1-03	437-006-0035	12-1-03	Repeal	7-1-03
436-050-0160	7-18-03	Amend(T)	9-1-03	437-006-0040	12-1-03	Repeal	7-1-03
436-050-0165	7-18-03	Adopt(T)	9-1-03	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
436-105-0003	6-8-03	Amend	7-1-03	437-006-0055	12-1-03	Repeal	7-1-03
436-105-0008	6-8-03	Amend	7-1-03	437-006-0060	12-1-03	Repeal	7-1-03
436-105-0500	12-11-02	Amend(T)	1-1-03	437-006-0065	12-1-03	Repeal	7-1-03
436-105-0500	6-8-03	Amend	7-1-03	437-006-0068	12-1-03	Repeal	7-1-03
436-105-0510	12-11-02	Amend(T)	1-1-03	437-006-0080	12-1-03	Repeal	7-1-03
436-105-0510	6-8-03	Amend	7-1-03	437-006-0082	12-1-03	Repeal	7-1-03
436-105-0520	6-8-03	Amend	7-1-03	437-006-0084	12-1-03	Repeal	7-1-03
436-105-0530	6-8-03	Amend	7-1-03	437-006-0086	12-1-03	Repeal	7-1-03
436-160-0001	4-1-03	Adopt	5-1-03	437-006-0088	12-1-03	Repeal	7-1-03
436-160-0002	4-1-03	Adopt	5-1-03	437-006-0090	12-1-03	Repeal	7-1-03
436-160-0003	4-1-03	Adopt	5-1-03	437-006-0091	12-1-03	Repeal	7-1-03
436-160-0004	4-1-03	Adopt	5-1-03	437-006-0095	12-1-03	Repeal	7-1-03
436-160-0005	4-1-03	Adopt	5-1-03	437-006-0100	12-1-03	Repeal	7-1-03
436-160-0006	4-1-03	Adopt	5-1-03	437-006-0105	12-1-03	Repeal	7-1-03
436-160-0010	4-1-03	Adopt	5-1-03	437-006-0110	12-1-03	Repeal	7-1-03
436-160-0020	4-1-03	Adopt	5-1-03	437-006-0120	12-1-03	Repeal	7-1-03
436-160-0030	4-1-03	Adopt	5-1-03	437-006-0125	12-1-03	Repeal	7-1-03
436-160-0040	4-1-03	Adopt	5-1-03	437-006-0130	12-1-03	Repeal	7-1-03
436-160-0050	4-1-03	Adopt	5-1-03	437-006-0135	12-1-03	Repeal	7-1-03
436-160-0060	4-1-03	Adopt	5-1-03	437-006-0140	12-1-03	Repeal	7-1-03
436-160-0070	4-1-03	Adopt	5-1-03	437-006-0145	12-1-03	Repeal	7-1-03
436-160-0080	4-1-03	Adopt	5-1-03	437-006-0150	12-1-03	Repeal	7-1-03
436-160-0090	4-1-03	Adopt	5-1-03	437-006-0155	12-1-03	Repeal	7-1-03
436-160-0300	4-1-03	Adopt	5-1-03	437-006-0160	12-1-03	Repeal	7-1-03
436-160-0310	4-1-03	Adopt	5-1-03	437-006-0162	12-1-03	Repeal	7-1-03
436-160-0320	4-1-03	Adopt	5-1-03	437-006-0165	12-1-03	Repeal	7-1-03
436-160-0330	4-1-03	Adopt	5-1-03	437-006-0170	12-1-03	Repeal	7-1-03
436-160-0340	4-1-03	Adopt	5-1-03	437-006-0175	12-1-03	Repeal	7-1-03
436-160-0350	4-1-03	Adopt	5-1-03	437-006-0205	12-1-03	Repeal	7-1-03
436-160-0360	4-1-03	Adopt	5-1-03	437-006-0210	12-1-03	Repeal	7-1-03
437-002-0080	4-21-03	Amend	6-1-03	437-006-0215	12-1-03	Repeal	7-1-03
437-002-0100	4-21-03	Amend	6-1-03	437-006-0220	12-1-03	Repeal	7-1-03
437-002-0107	4-21-03	Amend	6-1-03	437-006-0225	12-1-03	Repeal	7-1-03
437-002-0223	1-30-03	Amend	3-1-03	437-006-0230	12-1-03	Repeal	7-1-03
437-003-0001	1-30-03	Amend	3-1-03	437-006-0235	12-1-03	Repeal	7-1-03
437-003-0001	4-30-03	Amend	3-1-03	437-006-0240	12-1-03	Repeal	7-1-03
437-003-0017	4-30-03	Adopt	3-1-03	437-006-0245	12-1-03	Repeal	7-1-03
437-003-0420	1-30-03	Amend	3-1-03	437-006-0260	12-1-03	Repeal	7-1-03
437-003-0706	4-30-03	Adopt	3-1-03	437-006-0265	12-1-03	Repeal	7-1-03
437-005-0001	5-6-03	Amend	6-1-03	437-006-0270	12-1-03	Repeal	7-1-03
437-006-0001	12-1-03	Repeal	7-1-03	437-006-0275	12-1-03	Repeal	7-1-03
437-006-0003	12-1-03	Repeal	7-1-03	437-006-0280	12-1-03	Repeal	7-1-03
437-006-0004	12-1-03	Repeal	7-1-03	437-006-0285	12-1-03	Repeal	7-1-03
437-006-0005	12-1-03	Repeal	7-1-03	437-006-0290	12-1-03	Repeal	7-1-03
437-006-0007	12-1-03	Repeal	7-1-03	437-006-0295	12-1-03	Repeal	7-1-03
437-006-0008	12-1-03	Repeal	7-1-03	437-006-0300	12-1-03	Repeal	7-1-03
437-006-0015	12-1-03	Repeal	7-1-03	437-006-0310	12-1-03	Repeal	7-1-03
437-006-0020	12-1-03	Repeal	7-1-03	437-006-0350	12-1-03	Repeal	7-1-03
437-006-0023	12-1-03	Repeal	7-1-03	437-006-0355	12-1-03	Repeal	7-1-03
437-006-0025	12-1-03	Repeal	7-1-03	437-006-0360	12-1-03	Repeal	7-1-03
437-006-0028	12-1-03	Repeal	7-1-03	437-006-0365	12-1-03	Repeal	7-1-03

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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
437-006-0410	12-1-03	Repeal	7-1-03	437-007-0300	12-1-03	Adopt	7-1-03
437-006-0415	12-1-03	Repeal	7-1-03	437-007-0305	12-1-03	Adopt	7-1-03
437-006-0420	12-1-03	Repeal	7-1-03	437-007-0310	12-1-03	Adopt	7-1-03
437-006-0425	12-1-03	Repeal	7-1-03	437-007-0315	12-1-03	Adopt	7-1-03
437-006-0427	12-1-03	Repeal	7-1-03	437-007-0320	12-1-03	Adopt	7-1-03
437-006-0430	12-1-03	Repeal	7-1-03	437-007-0325	12-1-03	Adopt	7-1-03
437-006-0435	12-1-03	Repeal	7-1-03	437-007-0330	12-1-03	Adopt	7-1-03
437-006-0440	12-1-03	Repeal	7-1-03	437-007-0335	12-1-03	Adopt	7-1-03
437-006-0460	12-1-03	Repeal	7-1-03	437-007-0340	12-1-03	Adopt	7-1-03
437-006-0465	12-1-03	Repeal	7-1-03	437-007-0345	12-1-03	Adopt	7-1-03
437-006-0470	12-1-03	Repeal	7-1-03	437-007-0350	12-1-03	Adopt	7-1-03
437-006-0475	12-1-03	Repeal	7-1-03	437-007-0400	12-1-03	Adopt	7-1-03
437-006-0480	12-1-03	Repeal	7-1-03	437-007-0405	12-1-03	Adopt	7-1-03
437-006-0485	12-1-03	Repeal	7-1-03	437-007-0410	12-1-03	Adopt	7-1-03
437-006-0490	12-1-03	Repeal	7-1-03	437-007-0415	12-1-03	Adopt	7-1-03
437-006-0495	12-1-03	Repeal	7-1-03	437-007-0500	12-1-03	Adopt	7-1-03
437-006-0500	12-1-03	Repeal	7-1-03	437-007-0505	12-1-03	Adopt	7-1-03
437-006-0505	12-1-03	Repeal	7-1-03	437-007-0510	12-1-03	Adopt	7-1-03
437-006-0510	12-1-03	Repeal	7-1-03	437-007-0515	12-1-03	Adopt	7-1-03
437-006-0515	12-1-03	Repeal	7-1-03	437-007-0520	12-1-03	Adopt	7-1-03
437-006-0530	12-1-03	Repeal	7-1-03	437-007-0525	12-1-03	Adopt	7-1-03
437-006-0535	12-1-03	Repeal	7-1-03	437-007-0530	12-1-03	Adopt	7-1-03
437-006-0540	12-1-03	Repeal	7-1-03	437-007-0535	12-1-03	Adopt	7-1-03
437-006-0545	12-1-03	Repeal	7-1-03	437-007-0540	12-1-03	Adopt	7-1-03
437-006-0550	12-1-03	Repeal	7-1-03	437-007-0545	12-1-03	Adopt	7-1-03
437-006-0555	12-1-03	Repeal	7-1-03	437-007-0550	12-1-03	Adopt	7-1-03
437-006-0565	12-1-03	Repeal	7-1-03	437-007-0555	12-1-03	Adopt	7-1-03
437-006-0570	12-1-03	Repeal	7-1-03	437-007-0560	12-1-03	Adopt	7-1-03
437-006-0575	12-1-03	Repeal	7-1-03	437-007-0565	12-1-03	Adopt	7-1-03
437-006-0580	12-1-03	Repeal	7-1-03	437-007-0570	12-1-03	Adopt	7-1-03
437-006-0585	12-1-03	Repeal	7-1-03	437-007-0575	12-1-03	Adopt	7-1-03
437-006-0590	12-1-03	Repeal	7-1-03	437-007-0580	12-1-03	Adopt	7-1-03
437-007-0001	12-1-03	Adopt	7-1-03	437-007-0600	12-1-03	Adopt	7-1-03
437-007-0002	12-1-03	Adopt	7-1-03	437-007-0605	12-1-03	Adopt	7-1-03
437-007-0003	12-1-03	Adopt	7-1-03	437-007-0610	12-1-03	Adopt	7-1-03
437-007-0004	12-1-03	Adopt	7-1-03	437-007-0615	12-1-03	Adopt	7-1-03
437-007-0010	12-1-03	Adopt	7-1-03	437-007-0620	12-1-03	Adopt	7-1-03
437-007-0025	12-1-03	Adopt	7-1-03	437-007-0625	12-1-03	Adopt	7-1-03
437-007-0100	12-1-03	Adopt	7-1-03	437-007-0630	12-1-03	Adopt	7-1-03
437-007-0105	12-1-03	Adopt	7-1-03	437-007-0635	12-1-03	Adopt	7-1-03
437-007-0110	12-1-03	Adopt	7-1-03	437-007-0640	12-1-03	Adopt	7-1-03
437-007-0125	12-1-03	Adopt	7-1-03	437-007-0645	12-1-03	Adopt	7-1-03
437-007-0130	12-1-03	Adopt	7-1-03	437-007-0650	12-1-03	Adopt	7-1-03
437-007-0135	12-1-03	Adopt	7-1-03	437-007-0655	12-1-03	Adopt	7-1-03
437-007-0140	12-1-03	Adopt	7-1-03	437-007-0660	12-1-03	Adopt	7-1-03
437-007-0145	12-1-03	Adopt	7-1-03	437-007-0665	12-1-03	Adopt	7-1-03
437-007-0200	12-1-03	Adopt	7-1-03	437-007-0670	12-1-03	Adopt	7-1-03
437-007-0205	12-1-03	Adopt	7-1-03	437-007-0675	12-1-03	Adopt	7-1-03
437-007-0210	12-1-03	Adopt	7-1-03	437-007-0680	12-1-03	Adopt	7-1-03
437-007-0215	12-1-03	Adopt	7-1-03	437-007-0685	12-1-03	Adopt	7-1-03
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437-007-0705	12-1-03	Adopt	7-1-03	437-007-1140	12-1-03	Adopt	7-1-03
437-007-0710	12-1-03	Adopt	7-1-03	437-007-1145	12-1-03	Adopt	7-1-03
437-007-0715	12-1-03	Adopt	7-1-03	437-007-1150	12-1-03	Adopt	7-1-03
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437-007-0725	12-1-03	Adopt	7-1-03	437-007-1160	12-1-03	Adopt	7-1-03
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437-007-0740	12-1-03	Adopt	7-1-03	437-007-1205	12-1-03	Adopt	7-1-03
437-007-0745	12-1-03	Adopt	7-1-03	437-007-1391	12-1-03	Adopt	7-1-03
437-007-0750	12-1-03	Adopt	7-1-03	437-007-1392	12-1-03	Adopt	7-1-03
437-007-0755	12-1-03	Adopt	7-1-03	437-007-1393	12-1-03	Adopt	7-1-03
437-007-0760	12-1-03	Adopt	7-1-03	437-007-1394	12-1-03	Adopt	7-1-03
437-007-0765	12-1-03	Adopt	7-1-03	437-007-1395	12-1-03	Adopt	7-1-03
437-007-0770	12-1-03	Adopt	7-1-03	437-007-1396	12-1-03	Adopt	7-1-03
437-007-0775	12-1-03	Adopt	7-1-03	437-007-1397	12-1-03	Adopt	7-1-03
437-007-0780	12-1-03	Adopt	7-1-03	437-007-1398	12-1-03	Adopt	7-1-03
437-007-0800	12-1-03	Adopt	7-1-03	437-007-1399	12-1-03	Adopt	7-1-03
437-007-0805	12-1-03	Adopt	7-1-03	437-007-1400	12-1-03	Adopt	7-1-03
437-007-0810	12-1-03	Adopt	7-1-03	437-007-1405	12-1-03	Adopt	7-1-03
437-007-0815	12-1-03	Adopt	7-1-03	438-005-0011	5-1-03	Amend	4-1-03
437-007-0820	12-1-03	Adopt	7-1-03	438-005-0015	5-1-03	Amend	4-1-03
437-007-0825	12-1-03	Adopt	7-1-03	438-005-0016	5-1-03	Repeal	4-1-03
437-007-0830	12-1-03	Adopt	7-1-03	438-005-0040	5-1-03	Amend	4-1-03
437-007-0900	12-1-03	Adopt	7-1-03	438-006-0031	5-1-03	Amend	4-1-03
437-007-0905	12-1-03	Adopt	7-1-03	438-006-0036	5-1-03	Amend	4-1-03
437-007-0910	12-1-03	Adopt	7-1-03	438-006-0075	5-1-03	Amend	4-1-03
437-007-0915	12-1-03	Adopt	7-1-03	438-006-0081	5-1-03	Amend	4-1-03
437-007-0920	12-1-03	Adopt	7-1-03	438-006-0091	5-1-03	Amend	4-1-03
437-007-0925	12-1-03	Adopt	7-1-03	438-006-0095	5-1-03	Amend	4-1-03
437-007-0927	12-1-03	Adopt	7-1-03	438-006-0099	5-1-03	Adopt	4-1-03
437-007-0930	12-1-03	Adopt	7-1-03	438-007-0015	5-1-03	Amend	4-1-03
437-007-0935	12-1-03	Adopt	7-1-03	438-007-0018	5-1-03	Amend	4-1-03
437-007-0940	12-1-03	Adopt	7-1-03	438-007-0020	5-1-03	Amend	4-1-03
437-007-0945	12-1-03	Adopt	7-1-03	438-007-0024	5-1-03	Adopt	4-1-03
437-007-0950	12-1-03	Adopt	7-1-03	438-007-0027	5-1-03	Adopt	4-1-03
437-007-1000	12-1-03	Adopt	7-1-03	438-012-0001	9-1-03	Amend	8-1-03
437-007-1005	12-1-03	Adopt	7-1-03	438-012-0018	9-1-03	Amend	8-1-03
437-007-1010	12-1-03	Adopt	7-1-03	438-012-0020	9-1-03	Amend	8-1-03
437-007-1015	12-1-03	Adopt	7-1-03	438-012-0024	9-1-03	Adopt	8-1-03
437-007-1020	12-1-03	Adopt	7-1-03	438-012-0030	9-1-03	Amend	8-1-03
437-007-1025	12-1-03	Adopt	7-1-03	438-012-0035	9-1-03	Amend	8-1-03
437-007-1030	12-1-03	Adopt	7-1-03	438-012-0050	9-1-03	Amend	8-1-03
437-007-1035	12-1-03	Adopt	7-1-03	438-012-0060	9-1-03	Amend	8-1-03
437-007-1040	12-1-03	Adopt	7-1-03	438-012-0061	9-1-03	Amend	8-1-03
437-007-1045	12-1-03	Adopt	7-1-03	438-012-0062	9-1-03	Amend	8-1-03
437-007-1050	12-1-03	Adopt	7-1-03	438-012-0070	9-1-03	Adopt	8-1-03
437-007-1055	12-1-03	Adopt	7-1-03	438-012-0075	9-1-03	Adopt	8-1-03
437-007-1060	12-1-03	Adopt	7-1-03	438-012-0080	9-1-03	Adopt	8-1-03
437-007-1100	12-1-03	Adopt	7-1-03	438-012-0085	9-1-03	Adopt	8-1-03
437-007-1105	12-1-03	Adopt	7-1-03	438-012-0090	9-1-03	Adopt	8-1-03
437-007-1110	12-1-03	Adopt	7-1-03	438-012-0095	9-1-03	Adopt	8-1-03
437-007-1115	12-1-03	Adopt	7-1-03	438-012-0100	9-1-03	Adopt	8-1-03
437-007-1120	12-1-03	Adopt	7-1-03	438-015-0080	9-1-03	Amend	8-1-03
437-007-1125	12-1-03	Adopt	7-1-03	438-022-0005	5-1-03	Adopt	4-1-03
437-007-1130	12-1-03	Adopt	7-1-03	438-022-0010	5-1-03	Adopt	4-1-03

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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
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442-004-0010	6-16-03	Amend	8-1-03	461-120-0125	4-1-03	Amend	5-1-03
459-005-0001	7-1-03	Amend(T)	7-1-03	461-120-0125	7-1-03	Amend	8-1-03
459-005-0058	6-13-03	Adopt	7-1-03	461-120-0210	2-1-03	Amend	3-1-03
459-005-0060	6-13-03	Adopt	7-1-03	461-120-0345	2-1-03	Amend	3-1-03
459-005-0180	7-2-03	Adopt	8-1-03	461-120-0345	7-1-03	Amend	8-1-03
459-005-0320	7-1-03	Amend(T)	7-1-03	461-120-0630	4-1-03	Amend	5-1-03
459-007-0001	7-1-03	Amend(T)	7-1-03	461-125-0370	4-11-03	Amend(T)	5-1-03
459-007-0025	7-1-03	Amend(T)	7-1-03	461-125-0370	7-1-03	Amend	8-1-03
459-007-0040	7-1-03	Amend(T)	7-1-03	461-125-0600	1-1-03	Amend	2-1-03
459-007-0050	7-1-03	Amend(T)	7-1-03	461-130-0305	4-1-03	Amend	5-1-03
459-007-0060	7-1-03	Amend(T)	7-1-03	461-130-0315	4-1-03	Amend	5-1-03
459-007-0110	7-1-03	Amend(T)	7-1-03	461-130-0330	4-1-03	Amend	5-1-03
459-007-0530	7-1-03	Amend(T)	7-1-03	461-135-0010	2-1-03	Amend	3-1-03
459-007-0900	7-1-03	Amend(T)	7-1-03	461-135-0082	4-1-03	Amend	5-1-03
459-009-0105	7-1-03	Adopt(T)	7-1-03	461-135-0301	1-1-03	Adopt(T)	2-1-03
459-009-0350	1-15-03	Adopt	2-1-03	461-135-0301	7-1-03	Adopt	8-1-03
459-013-0300	7-1-03	Adopt(T)	7-1-03	461-135-0400	4-1-03	Amend	5-1-03
459-013-0300	7-1-03	Suspend	8-1-03	461-135-0401	1-1-03	Adopt	2-1-03
459-015-0030	8-4-03	Amend	9-1-03	461-135-0401(T)	1-1-03	Repeal	2-1-03
459-035-0000	11-18-02	Amend	1-1-03	461-135-0415	4-1-03	Amend	5-1-03
459-035-0001	11-18-02	Amend	1-1-03	461-135-0505	2-7-03	Amend(T)	3-1-03
459-035-0010	11-18-02	Amend	1-1-03	461-135-0505	7-1-03	Amend	8-1-03
459-035-0020	11-18-02	Amend	1-1-03	461-135-0506	6-16-03	Adopt	7-1-03
459-035-0030	11-18-02	Amend	1-1-03	461-135-0530	4-1-03	Amend	5-1-03
459-035-0040	11-18-02	Amend	1-1-03	461-135-0701	12-30-02	Adopt(T)	2-1-03
459-035-0050	11-18-02	Amend	1-1-03	461-135-0701	6-1-03	Adopt	7-1-03
459-035-0070	11-18-02	Amend	1-1-03	461-135-0701(T)	6-1-03	Repeal	7-1-03
459-035-0080	11-18-02	Amend	1-1-03	461-135-0721	1-1-03	Adopt(T)	2-1-03
459-035-0090	11-18-02	Amend	1-1-03	461-135-0721	7-1-03	Adopt	8-1-03
459-035-0200	11-18-02	Amend	1-1-03	461-135-0725	5-1-03	Amend(T)	6-1-03
459-035-0210	11-18-02	Repeal	1-1-03	461-135-0725	7-1-03	Amend	8-1-03
459-035-0220	11-18-02	Adopt	1-1-03	461-135-0725(T)	7-1-03	Repeal	8-1-03
459-045-0001	7-1-03	Amend(T)	7-1-03	461-135-0730	1-1-03	Amend	2-1-03
459-045-0040	8-4-03	Amend	9-1-03	461-135-0730	1-1-03	Amend(T)	1-1-03
459-050-0230	8-4-03	Amend	9-1-03	461-135-0730(T)	1-1-03	Repeal	2-1-03
461-006-0452	1-1-03	Amend	2-1-03	461-135-0780	6-18-03	Amend(T)	8-1-03
461-025-0310	1-1-03	Amend(T)	2-1-03	461-135-0832	7-1-03	Amend	8-1-03
461-025-0310	7-1-03	Amend	8-1-03	461-135-0835	7-1-03	Amend	8-1-03
461-025-0315	1-1-03	Amend	2-1-03	461-135-0900	1-1-03	Amend	2-1-03
461-025-0315	1-1-03	Amend(T)	2-1-03	461-135-0990	2-1-03	Amend	3-1-03
461-025-0315	7-1-03	Amend	8-1-03	461-135-1070	2-1-03	Amend	3-1-03
461-101-0010	2-1-03	Amend	3-1-03	461-135-1100	2-1-03	Amend	3-1-03
461-101-0010	4-1-03	Amend	5-1-03	461-135-1110	2-1-03	Amend	3-1-03
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461-115-0450	6-16-03	Amend	7-1-03	461-135-1130	2-1-03	Amend	3-1-03
461-115-0530	2-1-03	Amend	3-1-03	461-135-1180	2-1-03	Adopt	3-1-03
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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
461-145-0460	7-1-03	Amend	8-1-03	461-160-0700	2-1-03	Amend	3-1-03
461-145-0540	11-19-02	Amend(T)	1-1-03	461-160-0810	1-1-03	Amend	2-1-03
461-145-0540	5-1-03	Amend	6-1-03	461-165-0030	2-1-03	Amend	3-1-03
461-145-0540	7-1-03	Amend	8-1-03	461-165-0030	4-1-03	Amend	5-1-03
461-145-0540(T)	5-1-03	Repeal	6-1-03	461-165-0160	4-1-03	Amend	5-1-03
461-145-0820	4-1-03	Amend(T)	5-1-03	461-165-0171	4-1-03	Adopt	5-1-03
461-145-0820	7-1-03	Amend	8-1-03	461-165-0180	1-1-03	Amend	2-1-03
461-145-0830	4-1-03	Amend(T)	5-1-03	461-165-0190	4-1-03	Amend	5-1-03
461-145-0830	7-1-03	Amend	8-1-03	461-170-0010	8-15-03	Amend	9-1-03
461-150-0047	8-15-03	Adopt	9-1-03	461-170-0015	1-1-03	Amend(T)	2-1-03
461-150-0050	5-1-03	Amend(T)	6-1-03	461-170-0015	4-1-03	Amend	5-1-03
461-150-0055	2-1-03	Amend	3-1-03	461-170-0015(T)	4-1-03	Repeal	5-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03	461-170-0020	1-1-03	Amend(T)	2-1-03
461-155-0035	7-1-03	Amend	8-1-03	461-170-0020	4-1-03	Amend	5-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03	461-170-0020	6-16-03	Amend	7-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03	461-170-0020	8-15-03	Amend	9-1-03
461-155-0150	7-1-03	Amend	8-1-03	461-170-0020(T)	4-1-03	Repeal	5-1-03
461-155-0150(T)	2-7-03	Suspend	3-1-03	461-170-0030	1-1-03	Amend(T)	2-1-03
461-155-0225	2-1-03	Amend	3-1-03	461-170-0030	4-1-03	Amend	5-1-03
461-155-0225	2-7-03	Amend(T)	3-1-03	461-170-0030(T)	4-1-03	Repeal	5-1-03
461-155-0225	4-1-03	Amend	5-1-03	461-170-0035	2-1-03	Amend	3-1-03
461-155-0225(T)	4-1-03	Repeal	5-1-03	461-170-0101	8-15-03	Adopt	9-1-03
461-155-0235	2-1-03	Amend	3-1-03	461-170-0102	8-15-03	Adopt	9-1-03
461-155-0235	3-1-03	Amend(T)	4-1-03	461-170-0103	8-15-03	Adopt	9-1-03
461-155-0235	4-1-03	Amend	5-1-03	461-170-0104	8-15-03	Adopt	9-1-03
461-155-0235(T)	4-1-03	Repeal	5-1-03	461-175-0010	1-1-03	Amend(T)	2-1-03
461-155-0250	1-1-03	Amend	2-1-03	461-175-0010	7-1-03	Amend	8-1-03
461-155-0250	4-1-03	Amend	5-1-03	461-175-0207	4-1-03	Amend	5-1-03
461-155-0250	5-1-03	Amend(T)	6-1-03	461-175-0220	8-15-03	Amend	9-1-03
461-155-0270	1-1-03	Amend	2-1-03	461-175-0240	8-15-03	Amend	9-1-03
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461-155-0291	4-1-03	Amend	5-1-03	461-175-0270	8-15-03	Amend	9-1-03
461-155-0295	1-1-03	Amend	2-1-03	461-175-0280	8-15-03	Amend	9-1-03
461-155-0295	1-1-03	Amend(T)	1-1-03	461-175-0305	8-15-03	Amend	9-1-03
461-155-0295	4-1-03	Amend	5-1-03	461-180-0006	8-15-03	Adopt	9-1-03
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461-155-0360	2-1-03	Amend	3-1-03	461-180-0030	8-15-03	Amend	9-1-03
461-155-0500	5-1-03	Amend	6-1-03	461-180-0070	4-1-03	Amend	5-1-03
461-155-0526	5-1-03	Adopt	6-1-03	461-180-0081	6-16-03	Adopt	7-1-03
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461-155-0560	5-1-03	Repeal	6-1-03	461-180-0097	2-1-03	Amend	3-1-03
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461-155-0610	5-1-03	Amend	6-1-03	461-190-0360	4-1-03	Amend	5-1-03
461-155-0680	1-1-03	Amend	2-1-03	461-193-0246	7-1-03	Amend	8-1-03
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461-160-0193	4-1-03	Amend	5-1-03	461-195-0521	1-1-03	Amend	2-1-03
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461-200-6260	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0036	4-13-03	Amend	5-1-03
461-200-6280	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0050	2-9-03	Amend	3-1-03
461-200-7020	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0052	7-27-03	Amend	9-1-03
461-200-7040	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0076	2-9-03	Amend	3-1-03
461-200-7060	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0080	11-24-02	Amend	1-1-03
461-200-7080	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0080	7-27-03	Amend	9-1-03
461-200-7100	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0010	2-9-03	Amend	3-1-03
461-200-7120	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0035	2-9-03	Amend	3-1-03
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461-200-7140	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0055	2-9-03	Amend	3-1-03
461-200-7160	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0075	2-9-03	Amend	3-1-03
461-200-7180	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0095	2-9-03	Amend	3-1-03
462-110-0010	1-1-03	Amend	1-1-03	471-040-0005	4-27-03	Amend	6-1-03
462-110-0010	4-23-03	Amend	6-1-03	471-040-0021	5-25-03	Amend	7-1-03
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462-110-0030	4-1-03	Amend(T)	5-1-03	571-060-0005	7-1-03	Amend	8-1-03
462-120-0020	1-1-03	Amend	1-1-03	571-060-0005	7-1-03	Amend	8-1-03
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462-120-0050	1-1-03	Amend	1-1-03	573-070-0011	12-30-02	Amend	2-1-03
462-120-0100	1-1-03	Amend	1-1-03	573-071-0005	4-16-03	Amend	6-1-03
462-130-0010	1-1-03	Amend	1-1-03	573-071-0030	4-16-03	Repeal	6-1-03
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462-140-0040	1-1-03	Amend	1-1-03	574-031-0020	8-1-03	Amend	9-1-03
462-140-0100	1-1-03	Amend	1-1-03	574-031-0030	8-1-03	Amend	9-1-03
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462-140-0400	4-1-03	Amend(T)	5-1-03	574-032-0030	8-1-03	Amend	9-1-03
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462-150-0010	1-1-03	Amend	1-1-03	574-032-0080	8-1-03	Amend	9-1-03
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462-150-0070	1-1-03	Amend	1-1-03	574-032-0120	8-1-03	Amend	9-1-03
462-150-0080	1-1-03	Amend	1-1-03	574-032-0130	8-1-03	Amend	9-1-03
462-160-0010	1-1-03	Amend	1-1-03	574-032-0150	8-1-03	Amend	9-1-03
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581-015-0005	3-10-03	Amend	4-1-03	581-015-0607	3-10-03	Adopt	4-1-03
581-015-0016	3-10-03	Amend	4-1-03	581-015-0608	3-10-03	Adopt	4-1-03
581-015-0017	3-10-03	Amend	4-1-03	581-015-0704	4-30-03	Amend	6-1-03
581-015-0017	4-30-03	Amend	6-1-03	581-015-0705	4-30-03	Amend	6-1-03
581-015-0035	3-10-03	Amend	4-1-03	581-015-0706	4-30-03	Amend	6-1-03
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581-015-0039	3-10-03	Amend	4-1-03	581-015-0811	3-10-03	Amend	4-1-03
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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
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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
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581-015-0075	3-10-03	Amend	4-1-03	581-015-0968	3-10-03	Amend	4-1-03
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583-030-0015	4-16-03	Amend	6-1-03	589-008-0100	1-9-03	Amend	2-1-03
583-030-0020	4-16-03	Amend	6-1-03	589-008-0200	1-9-03	Amend	2-1-03
583-030-0021	4-16-03	Amend	6-1-03	589-009-0100	1-9-03	Amend	2-1-03
583-030-0025	4-16-03	Amend	6-1-03	589-020-0270	12-4-02	Adopt(T)	1-1-03
583-030-0030	4-16-03	Amend	6-1-03	589-020-0270	5-14-03	Adopt	6-1-03
583-030-0035	4-16-03	Amend	6-1-03	603-001-0005	1-7-03	Amend	2-1-03
583-030-0036	4-16-03	Amend	6-1-03	603-011-0265	3-17-03	Amend(T)	5-1-03
583-030-0040	4-16-03	Amend	6-1-03	603-011-0376	1-17-03	Adopt(T)	3-1-03
583-030-0042	4-16-03	Amend	6-1-03	603-011-0376	3-27-03	Amend(T)	5-1-03
583-030-0045	4-16-03	Amend	6-1-03	603-011-0376	6-20-03	Adopt	8-1-03
583-030-0046	4-16-03	Amend	6-1-03	603-011-0376(T)	3-27-03	Suspend	5-1-03
583-030-0049	4-16-03	Amend	6-1-03	603-014-0045	8-4-03	Amend(T)	9-1-03
584-005-0005	5-15-03	Amend	6-1-03	603-014-0046	8-4-03	Adopt(T)	9-1-03
584-017-0041	3-10-03	Adopt(T)	4-1-03	603-014-0047	8-4-03	Adopt(T)	9-1-03
584-017-0150	5-15-03	Amend	6-1-03	603-014-0048	8-4-03	Adopt(T)	9-1-03
584-017-0170	1-13-03	Amend	2-1-03	603-014-0095	1-15-03	Amend	2-1-03
584-036-0055	1-13-03	Amend	2-1-03	603-025-0010	1-1-03	Amend	2-1-03
584-060-0061	1-13-03	Amend	2-1-03	603-025-0020	1-1-03	Amend	2-1-03
584-060-0071	5-15-03	Amend	6-1-03	603-025-0030	1-1-03	Amend	2-1-03
584-060-0210	5-15-03	Adopt	6-1-03	603-025-0180	1-1-03	Amend	2-1-03
584-065-0050	1-13-03	Adopt	2-1-03	603-025-0190	1-1-03	Amend	2-1-03
584-065-0050	5-15-03	Amend	6-1-03	603-025-0220	1-1-03	Repeal	2-1-03
589-001-0000	1-9-03	Amend	2-1-03	603-052-1025	4-18-03	Amend	6-1-03
589-002-0100	12-16-02	Amend(T)	2-1-03	603-052-1150	1-14-03	Adopt	2-1-03
589-002-0100	5-14-03	Amend	6-1-03	603-052-1200	12-10-02	Amend	1-1-03
589-002-0200	1-9-03	Amend	2-1-03	603-053-0200	12-23-02	Amend	2-1-03
589-002-0300	1-9-03	Amend	2-1-03	603-054-0016	1-7-03	Amend	2-1-03
589-002-0400	1-9-03	Repeal	2-1-03	603-054-0017	1-7-03	Amend	2-1-03
589-002-0500	1-9-03	Amend	2-1-03	603-054-0018	1-7-03	Amend	2-1-03
589-002-0600	1-9-03	Amend	2-1-03	603-054-0020	1-7-03	Adopt	2-1-03
589-002-0700	1-9-03	Amend	2-1-03	603-054-0024	1-7-03	Adopt	2-1-03
589-002-0800	1-9-03	Amend	2-1-03	603-054-0026	8-17-03	Adopt(T)	9-1-03
589-003-0100	1-9-03	Amend	2-1-03	603-054-0030	1-7-03	Amend	2-1-03
589-005-0100	1-9-03	Amend	2-1-03	603-054-0080	1-7-03	Adopt	2-1-03
589-005-0200	1-9-03	Amend	2-1-03	603-056-0165	1-14-03	Amend	2-1-03
589-005-0300	1-9-03	Amend	2-1-03	603-057-0378	3-28-03	Adopt(T)	5-1-03
589-005-0400	1-9-03	Amend	2-1-03	603-057-0378	7-15-03	Adopt	8-1-03
589-005-0500	1-9-03	Amend	2-1-03	603-057-0378(T)	7-15-03	Repeal	8-1-03
589-006-0050	1-9-03	Adopt	2-1-03	603-057-0410	12-4-02	Amend(T)	1-1-03
589-006-0100	1-9-03	Amend	2-1-03	603-057-0410	4-22-03	Amend(T)	6-1-03
589-006-0150	1-9-03	Adopt	2-1-03	603-059-0055	1-1-03	Adopt	1-1-03
589-006-0200	1-9-03	Amend	2-1-03	603-059-0070	1-1-03	Adopt	1-1-03
589-006-0300	1-9-03	Amend	2-1-03	603-059-0080	1-1-03	Adopt	1-1-03
589-006-0350	1-9-03	Adopt	2-1-03	603-059-0100	1-1-03	Adopt	1-1-03
589-006-0400	1-9-03	Amend	2-1-03	603-073-0070	6-11-03	Amend	7-1-03
589-007-0100	3-10-03	Amend	4-1-03	603-077-0101	5-15-03	Amend	6-1-03
589-007-0110	3-10-03	Adopt	4-1-03	603-077-0105	5-15-03	Amend	6-1-03
589-007-0120	3-10-03	Adopt	4-1-03	603-077-0110	5-15-03	Amend	6-1-03
589-007-0130	3-10-03	Adopt	4-1-03	603-077-0112	5-15-03	Amend	6-1-03
589-007-0140	3-10-03	Adopt	4-1-03	603-077-0115	5-15-03	Amend	6-1-03
589-007-0150	3-10-03	Adopt	4-1-03	603-077-0125	5-15-03	Amend	6-1-03
589-007-0160	3-10-03	Adopt	4-1-03	603-077-0131	5-15-03	Amend	6-1-03
589-007-0170	3-10-03	Adopt	4-1-03	603-077-0133	5-15-03	Amend	6-1-03
589-007-0180	3-10-03	Adopt	4-1-03	603-077-0137	5-15-03	Amend	6-1-03
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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
603-095-2360	1-7-03	Adopt	2-1-03	622-045-0019	1-16-03	Amend	2-1-03
603-095-2400	1-7-03	Adopt	2-1-03	622-050-0000	1-16-03	Repeal	2-1-03
603-095-2420	1-7-03	Adopt	2-1-03	622-050-0010	1-16-03	Repeal	2-1-03
603-095-2440	1-7-03	Adopt	2-1-03	622-050-0020	1-16-03	Repeal	2-1-03
603-095-2460	1-7-03	Adopt	2-1-03	622-050-0030	1-16-03	Repeal	2-1-03
603-095-2500	7-8-03	Adopt	8-1-03	622-050-0040	1-16-03	Repeal	2-1-03
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603-095-2560	7-8-03	Adopt	8-1-03	622-055-0003	1-16-03	Adopt	2-1-03
603-095-2600	7-8-03	Adopt	8-1-03	622-055-0005	1-16-03	Amend	2-1-03
603-095-2620	7-8-03	Adopt	8-1-03	622-055-0010	1-16-03	Adopt	2-1-03
603-095-2640	7-8-03	Adopt	8-1-03	622-055-0015	1-16-03	Adopt	2-1-03
603-095-2660	7-8-03	Adopt	8-1-03	622-055-0020	1-16-03	Adopt	2-1-03
603-095-2700	7-8-03	Adopt	8-1-03	622-055-0025	1-16-03	Adopt	2-1-03
603-095-2720	7-8-03	Adopt	8-1-03	622-065-0001	1-16-03	Amend	2-1-03
603-095-2740	7-8-03	Adopt	8-1-03	622-065-0002	1-16-03	Amend	2-1-03
603-095-2760	7-8-03	Adopt	8-1-03	622-065-0003	1-16-03	Amend	2-1-03
603-095-3000	7-8-03	Adopt	8-1-03	622-065-0004	1-16-03	Repeal	2-1-03
603-095-3020	7-8-03	Adopt	8-1-03	622-065-0010	1-16-03	Amend	2-1-03
603-095-3040	7-8-03	Adopt	8-1-03	622-065-0011	1-16-03	Amend	2-1-03
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603-095-3100	7-8-03	Adopt	8-1-03	629-600-0100	1-1-03	Amend	1-1-03
603-095-3120	7-8-03	Adopt	8-1-03	629-605-0100	7-1-03	Amend	8-1-03
603-095-3140	7-8-03	Adopt	8-1-03	629-605-0105	7-1-03	Adopt	8-1-03
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603-095-3220	8-4-03	Adopt	9-1-03	629-623-0000	1-1-03	Adopt	1-1-03
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629-623-0250	1-1-03	Adopt	1-1-03	635-006-0210	7-17-03	Amend	9-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-006-0211	7-17-03	Amend	9-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-006-0212	7-17-03	Amend	9-1-03
629-623-0450	1-1-03	Adopt	1-1-03	635-006-0213	7-17-03	Amend	9-1-03
629-623-0500	1-1-03	Adopt	1-1-03	635-006-0232	2-1-03	Amend	3-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-006-0850	1-1-03	Amend	2-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-006-0850	3-26-03	Amend	5-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-006-0850	5-12-03	Amend(T)	6-1-03
629-623-0800	1-1-03	Adopt	1-1-03	635-006-1010	2-10-03	Amend(T)	3-1-03
629-625-0100	1-1-03	Amend	1-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
629-625-0200	1-1-03	Amend	1-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
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629-625-0330	1-1-03	Amend	1-1-03	635-007-0501	7-17-03	Amend	9-1-03
629-625-0600	1-1-03	Amend	1-1-03	635-007-0502	11-22-02	Adopt	1-1-03
629-625-0700	1-1-03	Adopt	1-1-03	635-007-0503	11-22-02	Adopt	1-1-03
629-630-0100	1-1-03	Amend	1-1-03	635-007-0504	11-22-02	Adopt	1-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-007-0505	11-22-02	Adopt	1-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-007-0506	11-22-02	Adopt	1-1-03
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629-630-0500	7-1-03	Amend	8-1-03	635-007-0541	7-17-03	Repeal	9-1-03
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632-007-0000	1-1-03	Suspend	2-1-03	635-007-0543	7-17-03	Adopt	9-1-03
632-007-0000	6-29-03	Amend	8-1-03	635-007-0544	7-17-03	Adopt	9-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-007-0545	7-17-03	Adopt	9-1-03
632-007-0010	1-1-03	Suspend	2-1-03	635-007-0547	7-17-03	Adopt	9-1-03
632-007-0010	6-29-03	Amend	8-1-03	635-007-0548	7-17-03	Adopt	9-1-03
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632-007-0020	6-29-03	Amend	8-1-03	635-011-0101	8-3-03	Amend(T)	9-1-03
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632-007-0030	1-1-03	Suspend	2-1-03	635-013-0003	5-1-03	Amend	6-1-03
632-007-0030	6-29-03	Amend	8-1-03	635-013-0004	1-1-03	Amend	1-1-03
635-003-0003	5-1-03	Amend	6-1-03	635-013-0004	3-1-03	Amend(T)	4-1-03
635-003-0004	3-1-03	Amend(T)	4-1-03	635-013-0004	5-1-03	Amend	6-1-03
635-003-0004	5-1-03	Amend	6-1-03	635-013-0004	7-25-03	Amend(T)	9-1-03
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635-004-0027	2-10-03	Amend(T)	3-1-03	635-014-0090	3-1-03	Amend(T)	4-1-03
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635-004-0033	3-26-03	Amend	5-1-03	635-016-0090	1-1-03	Amend	1-1-03
635-004-0033	7-16-03	Amend(T)	8-1-03	635-017-0080	1-1-03	Amend	1-1-03
635-004-0050	1-1-03	Amend	2-1-03	635-017-0090	1-1-03	Amend	1-1-03
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635-005-0045	11-25-02	Amend(T)	1-1-03	635-017-0090	5-16-03	Amend	7-1-03
635-005-0045	12-6-02	Amend(T)	1-1-03	635-017-0090	6-18-03	Amend(T)	8-1-03
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635-018-0090	8-1-03	Amend(T)	9-1-03	635-042-0160	5-1-03	Amend(T)	6-1-03
635-019-0080	1-1-03	Amend	1-1-03	635-042-0160	8-1-03	Amend(T)	9-1-03
635-019-0090	1-1-03	Amend	1-1-03	635-042-0170	2-14-03	Amend	3-1-03
635-019-0090	5-28-03	Amend(T)	7-1-03	635-042-0170	4-24-03	Amend(T)	6-1-03
635-019-0090	6-5-03	Amend(T)	7-1-03	635-042-0170	5-1-03	Amend(T)	6-1-03
635-021-0080	1-1-03	Amend	1-1-03	635-042-0170	8-1-03	Amend(T)	9-1-03
635-021-0090	1-1-03	Amend	1-1-03	635-042-0180	4-17-03	Amend(T)	4-1-03
635-021-0100	1-1-03	Repeal	1-1-03	635-042-0180	4-24-03	Amend(T)	6-1-03
635-023-0080	1-1-03	Amend	1-1-03	635-042-0180	5-1-03	Amend(T)	6-1-03
635-023-0090	1-1-03	Amend	1-1-03	635-042-0180	8-1-03	Amend(T)	9-1-03
635-023-0090	2-14-03	Amend	3-1-03	635-042-0190	8-1-03	Amend(T)	9-1-03
635-023-0090	3-1-03	Amend(T)	4-1-03	635-043-0056	1-14-03	Adopt(T)	2-1-03
635-023-0090	4-3-03	Amend(T)	5-1-03	635-043-0056	4-15-03	Adopt(T)	5-1-03
635-023-0090	5-1-03	Amend	6-1-03	635-043-0056	4-17-03	Adopt	6-1-03
635-023-0090	5-1-03	Amend(T)	6-1-03	635-043-0056	5-12-03	Amend(T)	6-1-03
635-023-0090	5-30-03	Amend(T)	7-1-03	635-045-0000	1-17-02	Amend	3-1-03
635-023-0090	6-21-03	Amend(T)	7-1-03	635-045-0000	8-13-03	Amend	9-1-03
635-023-0090	6-28-03	Amend(T)	8-1-03	635-045-0002	1-17-02	Amend	3-1-03
635-023-0090	6-30-03	Amend(T)	8-1-03	635-047-0010	7-30-03	Amend(T)	9-1-03
635-023-0090	7-28-03	Amend(T)	9-1-03	635-051-0000	8-13-03	Amend	9-1-03
635-039-0080	1-1-03	Amend	1-1-03	635-052-0000	8-13-03	Amend	9-1-03
635-039-0090	1-1-03	Amend	1-1-03	635-053-0000	8-13-03	Amend	9-1-03
635-039-0090	5-1-03	Amend	6-1-03	635-053-0100	5-13-03	Amend	6-1-03
635-041-0030	3-25-03	Amend(T)	5-1-03	635-053-0105	5-13-03	Amend	6-1-03
635-041-0040	4-24-03	Amend(T)	6-1-03	635-053-0125	5-13-03	Amend	6-1-03
635-041-0063	6-5-03	Amend(T)	7-1-03	635-054-0000	8-13-03	Amend	9-1-03
635-041-0063	7-9-03	Amend(T)	8-1-03	635-056-0075	7-17-03	Amend	9-1-03
635-041-0063	7-21-03	Amend(T)	9-1-03	635-060-0000	1-17-02	Amend	3-1-03
635-041-0065	12-19-02	Amend(T)	2-1-03	635-060-0000	8-13-03	Amend	9-1-03
635-041-0065	3-13-03	Amend(T)	4-1-03	635-060-0046	4-9-03	Amend(T)	5-1-03
635-041-0067	4-24-03	Amend(T)	6-1-03	635-060-0055	4-1-03	Amend	3-1-03
635-041-0067	5-22-03	Amend(T)	7-1-03	635-065-0001	1-17-02	Amend	3-1-03
635-041-0067	5-29-03	Amend(T)	7-1-03	635-065-0001	1-28-03	Amend(T)	3-1-03
635-041-0073	7-3-03	Adopt(T)	8-1-03	635-065-0015	1-17-02	Amend	3-1-03
635-041-0073	7-9-03	Amend(T)	8-1-03	635-065-0090	1-17-02	Amend	3-1-03
635-041-0073	7-21-03	Amend(T)	9-1-03	635-065-0101	1-17-02	Amend	3-1-03
635-041-0075	8-13-03	Amend(T)	9-1-03	635-065-0301	1-17-02	Amend	3-1-03
635-042-0020	2-14-03	Amend	3-1-03	635-065-0401	1-17-02	Amend	3-1-03
635-042-0020	2-20-03	Amend(T)	4-1-03	635-065-0625	1-17-02	Amend	3-1-03
635-042-0021	3-21-03	Adopt(T)	5-1-03	635-065-0625	1-28-03	Amend(T)	3-1-03
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635-042-0031	8-13-03	Amend(T)	9-1-03	635-065-0740	1-17-02	Amend	3-1-03
635-042-0110	2-14-03	Amend	3-1-03	635-065-0760	7-1-03	Amend	3-1-03
635-042-0130	12-19-02	Amend(T)	2-1-03	635-065-0765	1-17-02	Amend	3-1-03
635-042-0135	12-19-02	Amend(T)	2-1-03	635-065-0765	6-13-03	Amend	7-1-03
635-042-0135	1-28-03	Amend(T)	3-1-03	635-065-0765	7-16-03	Amend	9-1-03
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635-042-0145	3-1-03	Amend(T)	4-1-03	635-067-0000	1-17-02	Amend	3-1-03
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635-069-0000	6-13-03	Amend	7-1-03	690-015-0050	5-1-03	Am. & Ren.	6-1-03
635-069-0010	1-17-02	Amend	3-1-03	690-015-0057	5-1-03	Am. & Ren.	6-1-03
635-069-0010	6-13-03	Amend	7-1-03	690-015-0060	5-1-03	Am. & Ren.	6-1-03
635-070-0000	1-17-02	Amend	3-1-03	690-015-0070	5-1-03	Am. & Ren.	6-1-03
635-070-0000	1-28-03	Amend(T)	3-1-03	690-015-0073	5-1-03	Am. & Ren.	6-1-03
635-070-0000	6-13-03	Amend	7-1-03	690-015-0075	5-1-03	Renumber	6-1-03
635-071-0000	1-17-02	Amend	3-1-03	690-015-0080	5-1-03	Am. & Ren.	6-1-03
635-071-0000	1-28-03	Amend(T)	3-1-03	690-015-0085	5-1-03	Am. & Ren.	6-1-03
635-071-0000	6-13-03	Amend	7-1-03	690-015-0087	5-1-03	Am. & Ren.	6-1-03
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635-073-0000	1-20-03	Amend	3-1-03	690-015-0110	5-1-03	Am. & Ren.	6-1-03
635-073-0000	6-13-03	Amend	7-1-03	690-015-0120	5-1-03	Renumber	6-1-03
635-073-0001	1-17-02	Amend	3-1-03	690-015-0125	5-1-03	Am. & Ren.	6-1-03
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635-090-0170	7-16-03	Amend	9-1-03	690-015-0400	5-1-03	Renumber	6-1-03
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635-160-0010	2-14-03	Amend	3-1-03	690-205-0020	3-14-03	Amend	4-1-03
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635-160-0030	2-14-03	Amend	3-1-03	690-205-0035	3-14-03	Adopt	4-1-03
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690-240-0118	3-14-03	Am. & Ren.	4-1-03	718-010-0055	4-1-03	Repeal	5-1-03
690-240-0120	3-14-03	Renumber	4-1-03	718-010-0060	4-1-03	Repeal	5-1-03
690-240-0126	3-14-03	Am. & Ren.	4-1-03	718-010-0070	4-1-03	Repeal	5-1-03
690-240-0130	3-14-03	Renumber	4-1-03	718-010-0080	4-1-03	Repeal	5-1-03
690-240-0131	3-14-03	Renumber	4-1-03	718-010-0085	4-1-03	Amend	5-1-03
690-240-0132	3-14-03	Am. & Ren.	4-1-03	718-010-0090	4-1-03	Amend	5-1-03
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690-240-0145	3-14-03	Renumber	4-1-03	718-020-0050	4-1-03	Amend	5-1-03
690-240-0150	3-14-03	Renumber	4-1-03	718-020-0080	4-1-03	Amend	5-1-03
690-240-0155	3-14-03	Am. & Ren.	4-1-03	718-020-0110	4-1-03	Amend	5-1-03
690-240-0160	3-14-03	Renumber	4-1-03	718-020-0120	4-1-03	Amend	5-1-03
690-240-0165	3-14-03	Renumber	4-1-03	718-020-0130	4-1-03	Amend	5-1-03
690-240-0170	3-14-03	Renumber	4-1-03	718-020-0140	4-1-03	Amend	5-1-03
690-240-0175	3-14-03	Am. & Ren.	4-1-03	718-020-0150	4-1-03	Amend	5-1-03
690-240-0180	3-14-03	Am. & Ren.	4-1-03	718-040-0030	4-1-03	Amend	5-1-03
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735-074-0090	6-1-03	Adopt	6-1-03	736-100-0060	2-1-03	Adopt	3-1-03
735-074-0100	6-1-03	Adopt	6-1-03	736-100-0070	2-1-03	Adopt	3-1-03
735-074-0110	6-1-03	Adopt	6-1-03	736-100-0080	2-1-03	Adopt	3-1-03
735-074-0120	6-1-03	Adopt	6-1-03	738-001-0035	12-1-02	Amend	1-1-03
735-074-0130	6-1-03	Adopt	6-1-03	738-010-0025	12-1-02	Amend	1-1-03
735-074-0140	6-1-03	Adopt	6-1-03	738-010-0025	4-3-03	Amend	5-1-03
735-074-0150	6-1-03	Adopt	6-1-03	738-020-0020	12-1-02	Amend	1-1-03
735-074-0160	6-1-03	Adopt	6-1-03	738-020-0025	12-1-02	Amend	1-1-03
735-074-0190	6-1-03	Adopt	6-1-03	738-020-0030	12-1-02	Amend	1-1-03
735-074-0200	6-1-03	Adopt	6-1-03	738-020-0040	12-1-02	Amend	1-1-03
735-074-0210	6-1-03	Adopt	6-1-03	738-020-0045	12-1-02	Amend	1-1-03
735-074-0220	6-1-03	Adopt	6-1-03	738-030-0015	12-1-02	Amend	1-1-03
735-076-0000	6-1-03	Amend	6-1-03	738-030-0020	12-1-02	Amend	1-1-03
735-076-0005	6-1-03	Adopt	6-1-03	738-030-0025	12-1-02	Amend	1-1-03
735-076-0010	6-1-03	Amend	6-1-03	738-035-0005	3-1-03	Adopt	4-1-03
735-076-0020	6-1-03	Amend	6-1-03	738-035-0010	3-1-03	Adopt	4-1-03
735-076-0030	6-1-03	Amend	6-1-03	738-035-0015	3-1-03	Adopt	4-1-03
735-076-0040	6-1-03	Amend	6-1-03	738-035-0020	3-1-03	Adopt	4-1-03
735-076-0050	6-1-03	Amend	6-1-03	738-035-0025	3-1-03	Adopt	4-1-03
735-076-0060	6-1-03	Amend	6-1-03	738-035-0030	3-1-03	Adopt	4-1-03
735-090-0000	11-18-02	Amend	1-1-03	738-035-0035	3-1-03	Adopt	4-1-03
735-090-0010	11-18-02	Repeal	1-1-03	738-035-0040	3-1-03	Adopt	4-1-03
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



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738-070-0210	12-1-02	Amend	1-1-03	801-010-0080	1-1-03	Amend	2-1-03
738-070-0230	12-1-02	Amend	1-1-03	801-010-0085	1-1-03	Amend	2-1-03
738-080-0030	12-1-02	Amend	1-1-03	801-010-0100	1-1-03	Amend	2-1-03
738-090-0030	12-1-02	Amend	1-1-03	801-010-0110	1-1-03	Amend	2-1-03
738-090-0040	12-1-02	Amend	1-1-03	801-010-0115	1-1-03	Amend	2-1-03
738-090-0050	12-1-02	Amend	1-1-03	801-010-0340	1-1-03	Amend	2-1-03
738-100-0010	12-1-02	Amend	1-1-03	801-020-0620	1-1-03	Amend	2-1-03
738-100-0035	12-1-02	Amend	1-1-03	801-020-0690	1-1-03	Amend	2-1-03
740-020-0010	7-17-03	Adopt	9-1-03	801-020-0710	1-1-03	Amend	2-1-03
740-020-0020	7-17-03	Adopt	9-1-03	801-020-0720	1-1-03	Amend	2-1-03
740-035-0200	11-18-02	Amend	1-1-03	801-030-0020	1-1-03	Amend	2-1-03
740-035-0210	11-18-02	Repeal	1-1-03	801-040-0010	1-1-03	Amend	2-1-03
740-035-0220	11-18-02	Repeal	1-1-03	801-040-0030	1-1-03	Amend	2-1-03
740-035-0230	11-18-02	Repeal	1-1-03	801-040-0050	1-1-03	Amend	2-1-03
740-035-0240	11-18-02	Repeal	1-1-03	806-001-0003	7-1-03	Amend	5-1-03
740-035-0250	11-18-02	Amend	1-1-03	806-010-0020	8-14-03	Amend	9-1-03
740-035-0260	11-18-02	Amend	1-1-03	806-010-0035	8-14-03	Amend	9-1-03
740-055-0120	2-13-03	Amend	3-1-03	806-010-0080	4-11-03	Amend	5-1-03
740-100-0010	4-21-03	Amend	6-1-03	806-010-0090	1-15-03	Amend	2-1-03
740-100-0070	4-21-03	Amend	6-1-03	806-010-0095	12-12-02	Amend	1-1-03
740-100-0080	4-21-03	Amend	6-1-03	806-010-0105	1-15-03	Amend	2-1-03
740-100-0090	4-21-03	Amend	6-1-03	806-010-0110	4-11-03	Amend	5-1-03
740-110-0010	4-21-03	Amend	6-1-03	806-010-0145	1-15-03	Amend	2-1-03
740-200-0010	11-18-02	Amend	1-1-03	808-001-0000	2-1-03	Amend	3-1-03
740-200-0020	11-18-02	Amend	1-1-03	808-001-0005	2-1-03	Amend	3-1-03
740-200-0040	11-18-02	Adopt	1-1-03	808-001-0008	6-1-03	Adopt	7-1-03
741-060-0010	7-17-03	Amend	9-1-03	808-001-0020	12-4-02	Amend	1-1-03
741-060-0020	7-17-03	Amend	9-1-03	808-001-0020	2-1-03	Amend	3-1-03
741-060-0030	7-17-03	Amend	9-1-03	808-001-0030	12-4-02	Amend	1-1-03
741-060-0040	7-17-03	Amend	9-1-03	808-001-0040	2-1-03	Repeal	3-1-03
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	6-1-03	Amend	7-1-03
801-001-0020	1-1-03	Amend	2-1-03	808-003-0050	6-1-03	Amend	7-1-03
801-001-0030	1-1-03	Adopt	2-1-03	808-003-0055	12-4-02	Amend	1-1-03
801-005-0010	1-1-03	Amend	2-1-03	808-003-0060	2-1-03	Amend	3-1-03
801-010-0010	1-1-03	Amend	2-1-03	808-003-0065	2-1-03	Amend	3-1-03
801-010-0045	1-1-03	Amend	2-1-03	808-003-0070	12-4-02	Amend	1-1-03
801-010-0050	1-1-03	Amend	2-1-03	808-003-0075	12-4-02	Amend	1-1-03
801-010-0060	1-1-03	Amend	2-1-03	808-003-0081	12-4-02	Adopt	1-1-03
801-010-0065	1-1-03	Amend	2-1-03	808-003-0085	12-4-02	Adopt	1-1-03
801-010-0075	1-1-03	Amend	2-1-03	808-003-0090	8-1-03	Amend	9-1-03
801-010-0078	1-1-03	Amend	2-1-03	808-003-0095	2-1-03	Amend	3-1-03

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808-003-0100	12-4-02	Amend	1-1-03	808-008-0430	2-1-03	Adopt	3-1-03
808-003-0100	8-1-03	Amend	9-1-03	808-008-0440	2-1-03	Amend	3-1-03
808-003-0105	2-1-03	Amend	3-1-03	808-008-0460	2-1-03	Amend	3-1-03
808-003-0130	2-1-03	Amend	3-1-03	808-008-0480	2-1-03	Amend	3-1-03
808-003-0210	8-1-03	Adopt	9-1-03	808-009-0020	12-4-02	Amend	1-1-03
808-004-0120	12-4-02	Adopt	1-1-03	808-009-0020	2-1-03	Amend	3-1-03
808-004-0180	12-4-02	Amend	1-1-03	808-009-0070	12-4-02	Amend	1-1-03
808-004-0200	12-4-02	Am. & Ren.	1-1-03	808-009-0100	12-4-02	Amend	1-1-03
808-004-0250	12-4-02	Amend	1-1-03	808-009-0120	12-4-02	Amend	1-1-03
808-004-0260	12-4-02	Adopt	1-1-03	808-009-0140	12-18-02	Amend	2-1-03
808-004-0300	8-1-03	Amend	9-1-03	808-009-0160	12-4-02	Amend	1-1-03
808-004-0320	12-4-02	Amend	1-1-03	808-009-0160	2-1-03	Amend	3-1-03
808-004-0340	12-4-02	Amend	1-1-03	808-009-0160	8-1-03	Amend	9-1-03
808-004-0340	8-1-03	Amend	9-1-03	808-009-0200	2-1-03	Adopt	3-1-03
808-004-0350	8-1-03	Adopt	9-1-03	808-009-0220	12-4-02	Amend	1-1-03
808-004-0400	8-1-03	Amend	9-1-03	808-009-0400	12-4-02	Amend	1-1-03
808-004-0420	8-1-03	Adopt	9-1-03	808-009-0400	2-1-03	Amend	3-1-03
808-004-0440	12-4-02	Amend	1-1-03	808-009-0420	12-4-02	Amend	1-1-03
808-004-0440	2-1-03	Amend	3-1-03	808-009-0420	2-1-03	Amend	3-1-03
808-004-0450	12-4-02	Adopt	1-1-03	808-009-0430	12-4-02	Adopt	1-1-03
808-004-0460	12-4-02	Amend	1-1-03	808-009-0440	12-4-02	Amend	1-1-03
808-004-0480	12-4-02	Amend	1-1-03	809-010-0025	7-1-03	Amend	7-1-03
808-004-0500	12-4-02	Amend	1-1-03	809-050-0030	12-2-02	Suspend	1-1-03
808-004-0520	12-4-02	Amend	1-1-03	809-050-0030	4-4-03	Repeal	5-1-03
808-004-0540	12-4-02	Amend	1-1-03	812-001-0020	12-23-02	Amend	2-1-03
808-004-0550	12-4-02	Amend	1-1-03	812-001-0020	3-11-03	Amend(T)	4-1-03
808-004-0550	8-1-03	Amend	9-1-03	812-001-0020	6-3-03	Amend	7-1-03
808-004-0560	12-4-02	Amend	1-1-03	812-001-0020(T)	6-3-03	Repeal	7-1-03
808-004-0560	2-1-03	Amend	3-1-03	812-002-0011	8-8-03	Adopt	9-1-03
808-004-0560	8-1-03	Amend	9-1-03	812-002-0100	6-3-03	Amend	7-1-03
808-004-0580	12-4-02	Am. & Ren.	1-1-03	812-002-0260	6-3-03	Amend	7-1-03
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

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812-004-0520	3-4-03	Amend	4-1-03	812-010-0100	8-8-03	Amend	9-1-03
812-004-0520	8-8-03	Amend	9-1-03	812-010-0100(T)	11-20-02	Repeal	1-1-03
812-004-0535	3-4-03	Adopt	4-1-03	812-010-0110	11-20-02	Amend	1-1-03
812-004-0535	8-8-03	Amend	9-1-03	812-010-0110(T)	11-20-02	Repeal	1-1-03
812-004-0540	11-20-02	Amend	1-1-03	812-010-0120	11-20-02	Amend	1-1-03
812-004-0540	3-4-03	Amend	4-1-03	812-010-0120	8-8-03	Amend	9-1-03
812-004-0540	8-8-03	Amend	9-1-03	812-010-0120(T)	11-20-02	Repeal	1-1-03
812-004-0550	3-4-03	Amend	4-1-03	812-010-0160	8-8-03	Amend	9-1-03
812-004-0550	8-8-03	Amend	9-1-03	812-010-0220	11-20-02	Amend	1-1-03
812-004-0560	11-20-02	Amend	1-1-03	812-010-0400	8-8-03	Amend	9-1-03
812-004-0560	3-4-03	Amend	4-1-03	812-010-0420	11-20-02	Amend	1-1-03
812-004-0560	8-8-03	Amend	9-1-03	812-010-0420	8-8-03	Amend	9-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03	812-010-0425	8-8-03	Amend	9-1-03
812-004-0590	8-8-03	Amend	9-1-03	812-010-0440	11-20-02	Amend	1-1-03
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812-006-0012	8-8-03	Amend	9-1-03	813-008-0005	12-5-02	Amend	1-1-03
812-006-0030	6-3-03	Amend	7-1-03	813-008-0010	12-5-02	Amend	1-1-03
812-006-0050	3-4-03	Amend	4-1-03	813-008-0015	12-5-02	Amend	1-1-03
812-008-0050	6-3-03	Amend	7-1-03	813-008-0020	12-5-02	Amend	1-1-03
812-008-0060	6-3-03	Amend	7-1-03	813-008-0025	12-5-02	Amend	1-1-03
812-008-0070	3-4-03	Amend	4-1-03	813-008-0030	12-5-02	Amend	1-1-03
812-008-0072	11-20-02	Amend	1-1-03	813-008-0040	12-5-02	Adopt	1-1-03
812-008-0072	6-3-03	Amend	7-1-03	813-047-0001	11-20-02	Amend(T)	1-1-03
812-008-0074	6-3-03	Amend	7-1-03	813-047-0001	5-16-03	Amend	7-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03	813-047-0001(T)	5-16-03	Repeal	7-1-03
812-008-0110	6-3-03	Amend	7-1-03	813-047-0005	11-20-02	Amend(T)	1-1-03
812-008-0110(T)	6-3-03	Repeal	7-1-03	813-047-0005	5-16-03	Amend	7-1-03
812-009-0020	11-20-02	Amend	1-1-03	813-047-0005(T)	5-16-03	Repeal	7-1-03
812-009-0020	8-8-03	Amend	9-1-03	813-047-0006	11-20-02	Adopt(T)	1-1-03
812-009-0050	8-8-03	Amend	9-1-03	813-047-0006	5-16-03	Adopt	7-1-03
812-009-0070	3-4-03	Amend	4-1-03	813-047-0006(T)	5-16-03	Repeal	7-1-03
812-009-0070	8-8-03	Amend	9-1-03	813-047-0010	11-20-02	Amend(T)	1-1-03
812-009-0090	8-8-03	Amend	9-1-03	813-047-0010	5-16-03	Amend	7-1-03
812-009-0100	3-4-03	Amend	4-1-03	813-047-0010(T)	5-16-03	Repeal	7-1-03
812-009-0100	8-8-03	Amend	9-1-03	813-047-0015	11-20-02	Amend(T)	1-1-03
812-009-0120	3-4-03	Amend	4-1-03	813-047-0015	5-16-03	Amend	7-1-03
812-009-0120	8-8-03	Amend	9-1-03	813-047-0015(T)	5-16-03	Repeal	7-1-03
812-009-0140	8-8-03	Amend	9-1-03	813-047-0020	11-20-02	Amend(T)	1-1-03
812-009-0160	11-20-02	Amend	1-1-03	813-047-0020	5-16-03	Amend	7-1-03
812-009-0160	8-8-03	Amend	9-1-03	813-047-0020(T)	5-16-03	Repeal	7-1-03
812-009-0200	8-8-03	Amend	9-1-03	813-047-0025	11-20-02	Amend(T)	1-1-03
812-009-0220	8-8-03	Amend	9-1-03	813-047-0025	5-16-03	Amend	7-1-03
812-009-0300	8-8-03	Amend	9-1-03	813-047-0025(T)	5-16-03	Repeal	7-1-03
812-009-0320	8-8-03	Amend	9-1-03	813-140-0000	11-25-02	Adopt	1-1-03
812-009-0400	3-4-03	Amend	4-1-03	813-140-0000(T)	11-25-02	Repeal	1-1-03
812-009-0400	8-8-03	Amend	9-1-03	813-140-0010	11-25-02	Adopt	1-1-03
812-009-0430	8-8-03	Amend	9-1-03	813-140-0010(T)	11-25-02	Repeal	1-1-03
812-009-0440	3-4-03	Amend	4-1-03	813-140-0020	11-25-02	Adopt	1-1-03
812-009-0440	8-8-03	Amend	9-1-03	813-140-0020(T)	11-25-02	Repeal	1-1-03
812-010-0020	8-8-03	Amend	9-1-03	813-140-0030	11-25-02	Adopt	1-1-03
812-010-0030	8-8-03	Amend	9-1-03	813-140-0030(T)	11-25-02	Repeal	1-1-03
812-010-0060	8-8-03	Amend	9-1-03	813-140-0040	11-25-02	Adopt	1-1-03
812-010-0080	8-8-03	Amend	9-1-03	813-140-0040(T)	11-25-02	Repeal	1-1-03
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813-140-0060(T)	11-25-02	Repeal	1-1-03	813-205-0060	12-13-02	Adopt	1-1-03
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813-140-0070(T)	11-25-02	Repeal	1-1-03	813-205-0070	12-13-02	Adopt	1-1-03
813-140-0080	11-25-02	Adopt	1-1-03	813-205-0070(T)	12-13-02	Repeal	1-1-03
813-140-0080(T)	11-25-02	Repeal	1-1-03	813-205-0080	12-13-02	Adopt	1-1-03
813-140-0090	11-25-02	Adopt	1-1-03	813-205-0080(T)	12-13-02	Repeal	1-1-03
813-140-0090(T)	11-25-02	Repeal	1-1-03	813-205-0090	12-13-02	Adopt	1-1-03
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813-200-0000	5-15-03	Am. & Ren.	6-1-03	813-220-0020	5-12-03	Amend	6-1-03
813-200-0001	11-20-02	Adopt(T)	1-1-03	813-220-0030	5-12-03	Amend	6-1-03
813-200-0001	5-15-03	Adopt	6-1-03	813-220-0040	5-12-03	Repeal	6-1-03
813-200-0001	5-15-03	Repeal	6-1-03	813-220-0050	5-12-03	Amend	6-1-03
813-200-0005	5-15-03	Repeal	6-1-03	813-220-0060	5-12-03	Amend	6-1-03
813-200-0010	11-20-02	Amend(T)	1-1-03	813-220-0070	5-12-03	Adopt	6-1-03
813-200-0010	5-15-03	Amend	6-1-03	813-250-0000	5-12-03	Amend	6-1-03
813-200-0010	5-15-03	Repeal	6-1-03	813-250-0010	5-12-03	Amend	6-1-03
813-200-0020	11-20-02	Amend(T)	1-1-03	813-250-0020	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Amend	6-1-03	813-250-0030	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Repeal	6-1-03	813-250-0040	5-12-03	Amend	6-1-03
813-200-0030	11-20-02	Amend(T)	1-1-03	813-250-0050	5-12-03	Adopt	6-1-03
813-200-0030	5-15-03	Amend	6-1-03	813-280-0000	12-13-02	Adopt	1-1-03
813-200-0030	5-15-03	Repeal	6-1-03	813-280-0000(T)	12-13-02	Repeal	1-1-03
813-200-0040	11-20-02	Amend(T)	1-1-03	813-280-0010	12-13-02	Adopt	1-1-03
813-200-0040	5-15-03	Amend	6-1-03	813-280-0010(T)	12-13-02	Repeal	1-1-03
813-200-0040	5-15-03	Repeal	6-1-03	813-280-0020	12-13-02	Adopt	1-1-03
813-200-0050	11-20-02	Amend(T)	1-1-03	813-280-0020(T)	12-13-02	Repeal	1-1-03
813-200-0050	5-15-03	Amend	6-1-03	813-280-0030	12-13-02	Adopt	1-1-03
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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
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813-202-0060	5-15-03	Adopt	6-1-03	813-300-0010	4-4-03	Adopt	5-1-03
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813-300-0080	4-4-03	Adopt	5-1-03	833-020-0111	4-28-03	Amend	6-1-03
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813-300-0090	4-4-03	Adopt	5-1-03	833-020-0130	12-16-02	Suspend	1-1-03
813-300-0090(T)	4-4-03	Repeal	5-1-03	833-020-0130	4-28-03	Repeal	6-1-03
813-300-0100	4-4-03	Adopt	5-1-03	833-025-0001	12-16-02	Amend(T)	1-1-03
813-300-0100(T)	4-4-03	Repeal	5-1-03	833-025-0001	4-28-03	Amend	6-1-03
813-300-0110	4-4-03	Adopt	5-1-03	833-025-0001(T)	4-28-03	Repeal	6-1-03
813-300-0110(T)	4-4-03	Repeal	5-1-03	833-025-0005	12-16-02	Amend(T)	1-1-03
813-300-0120	4-4-03	Adopt	5-1-03	833-025-0005	4-28-03	Amend	6-1-03
813-300-0120(T)	4-4-03	Repeal	5-1-03	833-025-0005(T)	4-28-03	Repeal	6-1-03
813-300-0130	4-4-03	Adopt	5-1-03	833-025-0006	12-16-02	Amend(T)	1-1-03
813-300-0130(T)	4-4-03	Repeal	5-1-03	833-025-0006	4-28-03	Amend	6-1-03
813-300-0140	4-4-03	Adopt	5-1-03	833-025-0006(T)	4-28-03	Repeal	6-1-03
813-300-0140(T)	4-4-03	Repeal	5-1-03	833-040-0001	12-16-02	Amend(T)	1-1-03
813-300-0150	4-4-03	Adopt	5-1-03	833-040-0001	4-28-03	Amend	6-1-03
813-300-0150(T)	4-4-03	Repeal	5-1-03	833-040-0001(T)	4-28-03	Repeal	6-1-03
813-300-0160	4-4-03	Adopt	5-1-03	833-040-0010	12-16-02	Amend(T)	1-1-03
813-300-0160(T)	4-4-03	Repeal	5-1-03	833-040-0010	4-28-03	Amend	6-1-03
813-300-0170	4-4-03	Adopt	5-1-03	833-040-0010(T)	4-28-03	Repeal	6-1-03
813-300-0170(T)	4-4-03	Repeal	5-1-03	836-009-0007	7-1-03	Amend(T)	8-1-03
813-300-0180	4-4-03	Adopt	5-1-03	836-011-0100	11-27-02	Amend	1-1-03
813-300-0180(T)	4-4-03	Repeal	5-1-03	836-011-0110	11-27-02	Amend	1-1-03
813-350-0005	5-1-03	Adopt	6-1-03	836-011-0120	11-27-02	Amend	1-1-03
813-350-0010	5-1-03	Adopt	6-1-03	836-011-0130	11-27-02	Amend	1-1-03
813-350-0020	5-1-03	Adopt	6-1-03	836-011-0140	11-27-02	Amend	1-1-03
813-350-0030	5-1-03	Adopt	6-1-03	836-011-0150	11-27-02	Amend	1-1-03
813-350-0040	5-1-03	Adopt	6-1-03	836-011-0160	11-27-02	Amend	1-1-03
813-350-0050	5-1-03	Adopt	6-1-03	836-011-0170	11-27-02	Amend	1-1-03
813-350-0060	5-1-03	Adopt	6-1-03	836-011-0180	11-27-02	Amend	1-1-03
813-350-0070	5-1-03	Adopt	6-1-03	836-011-0190	11-27-02	Amend	1-1-03
818-021-0011	4-18-03	Amend	6-1-03	836-011-0200	11-27-02	Amend	1-1-03
818-021-0025	4-18-03	Amend	6-1-03	836-011-0210	11-27-02	Amend	1-1-03
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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
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833-020-0015	4-28-03	Amend	6-1-03	836-011-0550	11-27-02	Adopt	1-1-03
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833-020-0040	4-28-03	Amend	6-1-03	836-012-0021	11-27-02	Amend	1-1-03
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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
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836-020-0900	11-27-02	Am. & Ren.	1-1-03	839-016-0750	3-28-03	Amend(T)	5-1-03
836-043-0024	1-17-03	Amend	3-1-03	845-003-0270	7-1-03	Amend	8-1-03
836-043-0044	1-17-03	Amend	3-1-03	845-003-0590	8-15-03	Amend(T)	9-1-03
836-052-0142	12-13-02	Amend	1-1-03	845-003-0670	7-1-03	Amend	8-1-03
836-053-0005	7-1-03	Adopt	5-1-03	845-004-0005	2-1-03	Amend	3-1-03
836-053-0021	11-27-02	Amend	1-1-03	845-004-0100	5-1-03	Amend	6-1-03
836-053-0430	11-27-02	Amend	1-1-03	845-005-0327	4-1-03	Adopt	5-1-03
836-053-0440	11-27-02	Amend	1-1-03	845-005-0415	5-20-03	Amend(T)	7-1-03
836-054-0300	11-27-02	Amend	1-1-03	845-005-0422	5-20-03	Amend(T)	7-1-03
836-071-0180	7-1-03	Amend(T)	8-1-03	845-005-0423	5-20-03	Amend(T)	7-1-03
836-080-0425	6-1-03	Adopt	2-1-03	845-005-0427	5-20-03	Amend(T)	7-1-03
836-080-0430	6-1-03	Adopt	2-1-03	845-006-0345	4-1-03	Amend	5-1-03
836-080-0432	6-1-03	Adopt	2-1-03	845-006-0390	5-20-03	Amend(T)	7-1-03
836-080-0435	6-1-03	Adopt	2-1-03	845-006-0395	5-20-03	Amend(T)	7-1-03
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

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845-015-0078	2-1-03	Am. & Ren.	3-1-03	851-031-0010	3-6-03	Amend	4-1-03
845-015-0080	2-1-03	Am. & Ren.	3-1-03	851-031-0025	3-6-03	Repeal	4-1-03
845-015-0085	2-1-03	Repeal	3-1-03	851-031-0030	3-6-03	Amend	4-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03	851-031-0040	3-6-03	Amend	4-1-03
845-015-0090	2-1-03	Renumber	3-1-03	851-031-0045	3-6-03	Amend	4-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03	851-031-0060	3-6-03	Amend	4-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03	851-031-0070	3-6-03	Amend	4-1-03
845-015-0093	2-1-03	Renumber	3-1-03	851-031-0080	3-6-03	Amend	4-1-03
845-015-0095	2-1-03	Renumber	3-1-03	851-031-0085	3-6-03	Adopt	4-1-03
845-015-0096	2-1-03	Renumber	3-1-03	851-031-0086	3-6-03	Amend	4-1-03
845-015-0100	2-1-03	Renumber	3-1-03	851-031-0090	3-6-03	Amend	4-1-03
845-015-0130	9-1-03	Amend	9-1-03	851-050-0131	12-17-02	Amend	2-1-03
845-015-0165	9-1-03	Amend	9-1-03	851-050-0131	3-6-03	Amend	4-1-03
845-015-0175	9-1-03	Amend	9-1-03	851-050-0131	4-23-03	Amend	6-1-03
845-015-0177	9-1-03	Amend	9-1-03	851-050-0131	7-7-03	Amend	8-1-03
845-015-0178	9-1-03	Repeal	9-1-03	851-063-0060	4-23-03	Amend	6-1-03
845-016-0020	5-1-03	Amend	6-1-03	852-005-0005	7-1-03	Amend	7-1-03
847-001-0010	1-27-03	Amend	3-1-03	852-010-0025	7-1-03	Amend	7-1-03
847-005-0005	4-24-03	Amend	6-1-03	852-010-0027	12-18-02	Amend	2-1-03
847-008-0005	1-27-03	Amend	3-1-03	852-010-0051	12-18-02	Amend	2-1-03
847-010-0051	1-27-03	Amend	3-1-03	852-010-0080	7-1-03	Amend	7-1-03
847-010-0052	1-27-03	Amend	3-1-03	852-050-0005	12-18-02	Amend	2-1-03
847-010-0056	1-27-03	Amend	3-1-03	852-050-0005	7-1-03	Amend	7-1-03
847-010-0070	5-2-03	Amend	6-1-03	852-050-0006	7-1-03	Amend	7-1-03
847-020-0170	1-27-03	Amend	3-1-03	852-050-0012	7-1-03	Amend	7-1-03
847-020-0170	5-2-03	Amend	6-1-03	852-050-0014	7-1-03	Amend	7-1-03
847-020-0180	5-2-03	Amend	6-1-03	852-050-0018	12-18-02	Adopt	2-1-03
847-020-0190	7-15-03	Amend	8-1-03	852-070-0040	7-1-03	Amend	7-1-03
847-030-0041	7-15-03	Amend	8-1-03	855-041-0065	1-14-03	Amend	2-1-03
847-035-0030	1-27-03	Amend	3-1-03	855-041-0205	3-1-03	Amend	2-1-03
847-035-0030	7-15-03	Amend	8-1-03	855-080-0021	1-14-03	Amend	2-1-03
847-050-0005	7-15-03	Amend	8-1-03	855-110-0005	1-14-03	Amend	2-1-03
847-050-0010	7-15-03	Amend	8-1-03	856-010-0010	2-26-03	Amend	4-1-03
847-050-0020	1-27-03	Amend	3-1-03	856-010-0028	3-21-03	Adopt	5-1-03
847-050-0023	7-15-03	Amend	8-1-03	856-030-0000	5-23-03	Amend	7-1-03
847-050-0025	7-15-03	Amend	8-1-03	856-030-0001	5-23-03	Adopt	7-1-03
847-050-0027	7-15-03	Amend	8-1-03	856-030-0002	5-23-03	Adopt	7-1-03
847-050-0029	1-27-03	Amend	3-1-03	856-030-0010	5-23-03	Amend	7-1-03
847-050-0042	1-27-03	Amend	3-1-03	856-030-0015	5-23-03	Amend	7-1-03
847-080-0022	1-27-03	Amend	3-1-03	856-030-0020	5-23-03	Amend	7-1-03
848-010-0105	7-1-03	Amend	8-1-03	860-011-0010	7-3-03	Amend	8-1-03
848-030-0000	2-6-03	Amend	3-1-03	860-011-0022	7-24-03	Amend	9-1-03
850-010-0055	12-6-02	Adopt(T)	1-1-03	860-011-0023	7-24-03	Amend	9-1-03
850-010-0055	4-11-03	Adopt	5-1-03	860-011-0024	7-24-03	Amend	9-1-03
850-010-0195	2-14-03	Adopt	3-1-03	860-012-0010	12-9-02	Amend	1-1-03
850-010-0210	12-10-02	Amend	1-1-03	860-012-0035	3-11-03	Amend	4-1-03
850-010-0225	6-9-03	Amend	7-1-03	860-012-0040	4-28-03	Adopt	6-1-03
850-010-0226	6-9-03	Amend	7-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
851-001-0020	12-17-02	Adopt	2-1-03	860-014-0023	3-11-03	Adopt	4-1-03
851-002-0010	7-7-03	Amend	8-1-03	860-016-0015	6-10-03	Adopt	7-1-03
851-002-0040	7-7-03	Amend	8-1-03	860-016-0050	12-9-02	Amend	1-1-03
851-021-0010	7-7-03	Amend	8-1-03	860-017-0050	7-9-03	Adopt(T)	8-1-03
851-021-0040	7-7-03	Amend	8-1-03	860-017-0100	7-9-03	Adopt(T)	8-1-03
851-021-0120	4-23-03	Amend	6-1-03	860-021-0015	7-3-03	Amend	8-1-03
851-031-0005	3-6-03	Amend	4-1-03	860-021-0034	7-24-03	Amend	9-1-03
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860-021-0037	7-24-03	Amend	9-1-03	863-015-0055	8-1-03	Amend	9-1-03
860-021-0335	12-9-02	Amend	1-1-03	863-015-0065	2-28-03	Amend(T)	4-1-03
860-022-0040	7-24-03	Amend	9-1-03	863-015-0065	8-1-03	Amend	9-1-03
860-022-0042	7-24-03	Amend	9-1-03	863-015-0080	2-28-03	Amend(T)	4-1-03
860-022-0070	4-14-03	Amend	5-1-03	863-015-0080	8-1-03	Amend	9-1-03
860-027-0052	12-20-02	Amend	2-1-03	863-015-0085	2-28-03	Amend(T)	4-1-03
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
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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
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918-225-0240	3-14-03	Amend	4-1-03	918-306-0700	5-5-03	Amend(T)	6-1-03
918-225-0315	3-14-03	Adopt	4-1-03	918-306-0700	6-24-03	Suspend	8-1-03
918-225-0560	3-14-03	Amend	4-1-03	918-306-0700(T)	6-24-03	Suspend	8-1-03
918-225-0562	7-1-03	Adopt	4-1-03	918-306-0705	5-5-03	Amend(T)	6-1-03
918-225-0610	1-1-03	Amend	2-1-03	918-306-0705	6-24-03	Suspend	8-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03	918-306-0705(T)	6-24-03	Suspend	8-1-03
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

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-400-0360	1-1-03	Repeal	2-1-03	918-400-0630	3-1-03	Amend	4-1-03
918-400-0365	1-1-03	Repeal	2-1-03	918-400-0740	3-1-03	Amend	4-1-03
918-400-0370	1-1-03	Repeal	2-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-400-0375	1-1-03	Repeal	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-400-0380	1-1-03	Adopt	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-400-0380(T)	1-1-03	Repeal	2-1-03	918-460-0015	10-1-03	Amend	9-1-03
918-400-0385	1-1-03	Adopt	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-400-0385(T)	1-1-03	Repeal	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-400-0390	1-1-03	Adopt	2-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-400-0390(T)	1-1-03	Repeal	2-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-400-0395	1-1-03	Adopt	2-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-400-0395(T)	1-1-03	Repeal	2-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-400-0455	3-1-03	Amend	4-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-400-0465	3-1-03	Amend	4-1-03	918-785-0030	1-1-03	Repeal	2-1-03
918-400-0525	3-1-03	Amend	4-1-03				