

OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

Volume 42, No. 4
April 1, 2003

For February 16, 2003–March 14, 2003



Published by
BILL BRADBURY
Secretary of State
Copyright 2003 Oregon Secretary of State

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.

© January 1, 2003 Oregon Secretary of State. All rights reserved. Reproduction in whole or in part without written permission is prohibited.

TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Executive Orders	4, 5
Other Notices	6-9
 Matters of Public Interest	
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.	
 Notices of Periodic Review of Rules	
Oregon Housing and Community Services, Chapter 813	10
 Notices of Proposed Rulemaking Hearings/Notices	
Appraiser Certification and Licensure Board, Chapter 161	10
Board of Examiners for Engineering and Land Survey, Chapter 820	10, 11
Board of Examiners for Speech Pathology and Audiology, Chapter 335	11
Department of Administrative Services, Human Resource Services Division, Chapter 105	11, 12
Department of Agriculture, Chapter 603	12
Department of Agriculture, Oregon Processed Vegetable Commission, Chapter 647	12
Department of Consumer and Business Services, Building Codes Division, Chapter 918	12
Oregon Occupational Safety and Health Division, Chapter 437	12, 13
Workers' Compensation Board, Chapter 438	13
Workers' Compensation Division, Chapter 436	13, 14
Department of Corrections, Chapter 291	14
Department of Fish and Wildlife, Chapter 635	14, 15
Department of Human Services, Addiction Services, Chapter 415	15
Departmental Administration and Medical Assistance Programs, Chapter 410	15, 16
Public Health, Chapter 333	16, 17
Department of Veterans' Affairs, Chapter 274	18
Division of State Lands, Chapter 141	18
Employment Department, Chapter 471	18
Employment Department, Child Care Division, Chapter 414	18
Landscape Contractors Board, Chapter 808	18, 19
Oregon Criminal Justice Commission, Chapter 213	19
Oregon Department of Education, Chapter 581	19, 20
Oregon Housing and Community Services, Chapter 813	20, 21
Oregon State Lottery, Chapter 177	21
Oregon University System, Eastern Oregon University, Chapter 579	21, 22
University of Oregon, Chapter 571	22
 Oregon Youth Authority, Chapter 416	
Parks and Recreation Department, Chapter 736	22
Public Utility Commission, Chapter 860	22
Racing Commission, Chapter 462	22
Secretary of State, Elections Division, Chapter 165	22, 23
Teacher Standards and Practices Commission, Chapter 584	23
Travel Information Council, Chapter 733	23
 Administrative Rules	
Board of Examiners for Engineering and Land Survey, Chapter 820	24
Board of Nursing, Chapter 851	24-31
Construction Contractors Board, Chapter 812	31-36
Department of Administrative Services, Chapter 125	36, 37
Department of Agriculture, Chapter 603	37-39
Department of Community Colleges and Workforce Development, Chapter 589	39-44
Department of Consumer and Business Services, Building Codes Division, Chapter 918	44-50
Workers' Compensation Board, Chapter 438	50-53
Department of Corrections, Chapter 291	53-56
Department of Fish and Wildlife, Chapter 635	56-61
Department of Human Services, Child Welfare Programs, Chapter 413	61-66
Departmental Administration and Medical Assistance Programs, Chapter 410	66-82
Public Health, Chapter 333	82-84
Self-Sufficiency Programs, Chapter 461	84-92
Seniors and People with Disabilities, Chapter 411	92-94
Department of Justice, Chapter 137	94-96
Department of Transportation, Board of Maritime Pilots, Chapter 856	96, 97
Occupational Therapy Licensing Board, Chapter 339	97, 98
Oregon Department of Aviation, Chapter 738	98-104
Oregon Department of Education, Chapter 581	104-135
Oregon Economic and Community Development Department, Chapter 123	135-138
Oregon State Lottery, Chapter 177	138, 139
Parks and Recreation Department, Chapter 736	139-141
Public Utility Commission, Chapter 860	141, 142
Real Estate Agency, Chapter 863	142-154
Secretary of State, Corporation Division, Chapter 160	154-157
Elections Division, Chapter 165	157
Teacher Standards and Practices Commission, Chapter 584	157
Water Resources Department, Chapter 690	157-175
 OAR Revision Cumulative Index	176-198

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. EO 03-01

REGULATORY STREAMLINING

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

Oregon's economy is in distress. To meet this challenge, it is my highest priority over the next four years to facilitate the growth of jobs and stimulate the economy. The private sector is the engine of growth for the economy. As such, my economic development agenda seeks to create a stable climate for investment and a secure environment for business.

Governmental regulatory programs serve important goals in protecting Oregon citizens and making our state a better place to live. But, over time, regulatory processes can become outdated and inflexible. When this happens, those regulations impose unnecessary burdens on those who are regulated. Moreover, overlapping regulations and those which are inconsistently applied can result in confusion, wasted time, and duplication of effort.

The state must become more efficient and accountable to facilitate the growth of jobs and create a business suitable environment as well as to appropriately protect its citizens and our quality of life. To enable the private sector to more easily do business, and to encourage economic investment and opportunity in Oregon, state government must streamline its regulatory processes and eliminate duplicative practices. To continue protecting Oregon and our quality of life, streamlining must be accomplished without compromising necessary standards in areas such as environmental protection, land use, consumer rights, and health and safety.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. All state agencies that regulate business activities in Oregon shall review their regulations and regulatory processes and identify opportunities to streamline those processes to reduce regulatory burdens without compromising regulatory standards. A reviewing agency shall look for ways to achieve:

- a. Consistency in interpretation and predictability in application of regulations on a statewide basis;
- b. Flexible and problem-solving approaches in applying regulatory requirements, while maintaining compliance with underlying standards;
- c. Better coordination and communication where government agencies have overlapping regulatory authority;
- d. Faster resolution of conflicting standards;
- e. More timely, understandable and fair permit and approval processes;
- f. Elimination of any unnecessary paperwork, reporting or review requirements;
- g. "User-friendly" processes, including increased use of technology to facilitate doing business with government; and
- h. Rapid implementation of necessary changes to regulations and processes that achieve the purpose of this Executive Order.

2. All state agencies that regulate business activities in Oregon shall review and evaluate their delivery of customer service and customer satisfaction. Upon completion of review, each state agency shall develop and submit a plan to address any identified weakness and improve customer service. Agencies shall design customer surveys and other means of measuring customer satis-

faction to ensure open, honest and constructive feedback. Each agency's plan shall be submitted to the Office of Regulatory Streamlining for inclusion in its annual report to the Governor as set forth in paragraph 6 of this Executive Order.

3. There is established an Office of Regulatory Streamlining, reporting to the Director of the Department of Consumer and Business Services. The Office of Regulatory Streamlining shall work with state agencies and other public and private sector stakeholders to oversee the development and execution of actions to carry out this Executive Order. The Office of Regulatory Streamlining shall:

- a. Assist agencies in identifying opportunities for streamlining regulations and regulatory processes;
- b. Assist agencies to execute appropriate changes to reduce regulatory burdens;
- c. Collect and share information concerning streamlining efforts and best practices;
- d. Work with agencies to clarify and streamline regulatory and permitting processes that may benefit from a coordinated approach, including processes that cross agency lines, processes that involve other levels of government, or those that have been identified as creating significant and recurring barriers to economic development;
- e. Investigate possible changes to administrative procedure laws to increase flexibility in administering regulations;
- f. Assist each agency in establishing its customer surveys and reports to be provided to the Office of Regulatory Streamlining under paragraph 2 of this Executive Order; and
- g. Take all other necessary actions within the statutory authority of the Department of Consumer and Business Services to fulfill the purpose of this Executive Order.

4. The Community Solutions Office is directed to work with and provide assistance to the Office of Regulatory Streamlining in carrying out this Executive Order.

5. To fulfill the purposes of this Executive Order, the Office of Regulatory Streamlining and state agencies shall seek input from regulated entities, other stakeholders, and citizens regarding the impact of current regulatory processes and the impact of making changes.

6. All state agencies that regulate business activities in Oregon shall make regulatory streamlining efforts a priority, and shall periodically report to the Office of Regulatory Streamlining, as requested and in a form to be established by that Office, concerning regulatory streamlining activities and results achieved. The Office of Regulatory Streamlining shall report to the Governor, annually or as requested, concerning regulatory streamlining activities and accomplishments in accordance with the intent of this Executive Order.

7. By separate Executive Order ("EO 03-02"), a Blue Ribbon Commission, to be known as the Industrial Lands Taskforce is established to address issues relating to the permitting of industrial lands. The focus of the Office of Regulatory Streamlining will be on permitting and regulatory streamlining in areas not addressed by EO 03-02.

Done at Salem, Oregon this 20th day of February, 2003

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

EXECUTIVE ORDERS

ATTEST:

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 03-02

INDUSTRIAL LANDS

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

Oregon's economy is in distress. To meet this challenge, my highest priority over the next four years is to facilitate the growth of jobs and stimulate the economy. The private sector is the engine of growth for the economy. Accordingly, my economic development agenda seeks to create a stable climate for investment and a secure environment for business. I intend to position this state for a quick recovery from the downturn by actively promoting and aggressively working to retain, expand and recruit business to Oregon.

Under Sec. 1, Ch. 812, OR Laws 2001 (HB 3557), the Legislature appointed a special committee to investigate problems with the state's commercial and industrial land supply. That committee provided the legislature with recommendations to improve the land supply. Further, the Oregon Economic and Community Development Department, the Community Solutions Team, and the Department of Land Conservation and Development have each identified problems with the industrial land supply. Finally, the Oregon Business Plan for Growing Quality Jobs and Statewide Prosperity identifies critical land shortages for traded-sector industries that sell products and services outside the state, both in the near-term and for market ready sites.

We must continue to protect our natural resource base and a quality of life that is tied to our environment. But a strong economy is essential to assure the long-term sustainability and protection of Oregon's environment and its communities. It is critical that we sustain our local economies and communities to help move our economy forward again. Our efforts to date have raised valid questions as to whether our current supply of industrial land and our ways of preserving and developing it are suited to the needs of today's economy. It is time to act on recommendations and to tackle the questions raised. To respond to recommendations, questions and the needs of business so we can continue protecting our environment as well as our local economies and communities, we must take steps to create a ready supply of land for a variety of industrial uses.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. An Industrial Lands Taskforce ("Taskforce") is established, chaired by the Governor or a designee. The Taskforce shall be comprised of not more than 13 members. The Director of the Governor's Natural Resources Office shall identify and recommend individuals to the Taskforce that are knowledgeable about the issues faced by cities, counties, economic development organizations and businesses in providing an adequate supply of industrial lands.

a. The Taskforce may take action at any meeting in which a quorum of the members on the Taskforce are present. A quorum shall exist if a majority of the Taskforce is present at a meeting. An affirmative vote of a majority of members present at a meeting in which a quorum is present shall be required to take any action, including a recommendation to the Governor.

b. The Taskforce shall evaluate concerns and proposals for developing, identifying and protecting our short and long-term indus-

trial land supply. As part of that evaluation, the Taskforce shall call and conduct statewide regional meetings to solicit views regarding these matters. It shall also solicit and review correspondence concerning these matters from Oregon communities, economic development and land use experts, citizens, and business people. After conducting all necessary meetings and reviewing the solicited comments, the Taskforce shall present its findings to the Governor as soon as is reasonably practicable.

2. The Community Solutions Team ("CST"), with the assistance of the Community Solutions Office, shall:

a. Designate, as its first priority, the Shovel Ready Industrial Sites Initiative, designed to identify and prepare sites to make ready for immediate development opportunities. To meet this directive, it shall:

i. Complete an inventory of initial sites and identify the issues to resolve in order to make each such site shovel-ready;

ii. Coordinate with local governments, state agencies, and other involved parties to resolve the issues identified to make these sites shovel-ready; and

iii. Complete development of a Site Certification Process.

b. Provide staff support to the Taskforce.

c. Develop legislative concepts to resolve industrial land problems and deliver the concepts to the Governor as soon as is reasonably practicable.

d. Submit a schedule to the Governor within 30 days of this Executive Order, that identifies a proposed timeline and dates upon which CST's actions required under this Executive Order shall be completed.

e. CST shall coordinate the efforts of those state agencies represented in CST to review each such agency's authority to modify economic development grant and loan programs to assist industrial job creation.

f. CST shall deliver a report to the Governor, annually or as requested, regarding the actions taken and results achieved under this Executive Order.

3. The Director of the Division of State Lands shall implement the pilot wetlands and industrials lands project to the extent federal and state law permits. At the completion of this pilot project, DSL shall provide written recommendations to CST about the potential for extending the pilot project to other appropriate locations in the state. If appropriate, CST will include DSL's recommendations in its annual report to the Governor.

4. CST shall ensure that the actions taken and results achieved from the tasks required by this Executive Order shall compliment and be consistent with the actions taken and results achieved under Executive Order No. 03-01 regarding Regulatory Streamlining.

Done at Salem, Oregon this 20th of February, 2003.

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

ATTEST:

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

A CHANCE TO COMMENT ON... PROPOSED INTERIM CLEANUP ACTION AT THE GUNDERSON, INC. FACILITY

COMMENTS DUE: May 1, 2003

PROJECT LOCATION: The Gunderson, Inc. facility is located at 4350 N.W. Front Avenue in Portland.

PROPOSAL: DEQ and Gunderson, Inc. are proposing to implement interim source control measures at the Gunderson, Inc. facility to limit the migration of groundwater contaminated with the solvent 1,1,1-trichloroethane (TCA) to the Willamette River and to remove TCA from soil and groundwater in the source area where the originating spill occurred.

DEQ seeks public comment on the proposed interim source control measures and proposed discharge limits and monitoring requirements for discharge of treated groundwater under the permit exemption provision of ORS 465.315(3).

HIGHLIGHTS: Gunderson and DEQ entered into a Voluntary Cleanup Agreement (Agreement) in 1994 to complete a Remedial Investigation and Feasibility Study (RI/FS) of the northern third of the site. The Agreement was amended in 2000 to expand the scope of work to include the entire facility and requires Gunderson to evaluate, develop and implement source control measures for unpermitted discharge or migration of contaminants to the Willamette River.

The RI determined the nature and extent of a TCA groundwater plume originating from an above-ground dip tank previously used to degrease rail car axles. The plume extends beyond the Gunderson site beneath the Lakeside Industries site. Combined levels of TCA and associated chemicals in monitoring wells near the river bank exceed DEQ screening level values for ecological receptors in surface water and ambient water quality criteria.

Gunderson conducted an evaluation of possible source control technologies. The evaluation recommended two interim cleanup actions.

1. Limit the migration of the TCA-contaminated groundwater toward the Willamette River by extracting the groundwater at the property boundary.

2. Decrease the amount of TCA in the spill area via an air sparging and soil vapor extraction system.

Gunderson subsequently conducted a series of pilot tests for the interim action to evaluate the potential effectiveness of the proposed source control measures.

HOW TO COMMENT: The DEQ staff memorandum and supporting documents recommending the proposed interim source control actions and the proposed associated discharge and monitoring requirements for treated groundwater may be reviewed, by appointment, at DEQ's Northwest Region office, 2020 SW Fourth Ave., Suite 400, Portland, OR 97201. To schedule an appointment, call Gerald Gamolo at (503) 229-6729.

Send written comments by May 1, 2003 to Matt McClincy, DEQ's Project manager, at the address above or by e-mail to mcclincy.matt@deq.state.or.us. Direct questions to Mr. McClincy at (503) 229-5538.

Upon written request by ten or more persons, or by a group having ten or more members, DEQ will hold a public meeting to receive oral comments.

THE NEXT STEPS: DEQ will consider all comments received. DEQ will then decide whether or not to amend the proposed interim source control actions or approve them. DEQ intends to approve the proposed interim actions if no adverse comments are received. A final site cleanup decision will be made after completion of the site investigation, risk assessment and evaluation of final cleanup methods.

PROPOSED APPROVAL OF SOIL CLEANUP AT THE WACHLIN PROPERTY, MILWAUKIE, OREGON

COMMENTS DUE: May 1, 2003

PROJECT LOCATION: Southeast of the intersection of Vernie Road and Lake Road, bounded to the east by Weedman Court and Somewhere Drive, Milwaukie, Oregon

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

HIGHLIGHTS: The Wachlin Property site is approximately 5 acres and currently has a residence and associated manicured grounds on the northern 2.8 acres. The southern 2 acres, which is wooded and contains a small wetland, was formerly used as a vehicle maintenance and storage area for a construction business, and included a machine shop. The site investigation showed elevated lead levels in soil where site operations were conducted. A total of 726 tons of lead-contaminated soil was removed. Confirmation soil samples showed that residual lead levels were below risk-based concentrations for residential use soil. In addition, eight samples were collected from the wetland soil to assess potential impacts to wildlife. Lead concentrations detected in wetland soil were above ecological screening levels for sediment. Based on site-specific considerations, such as the relatively small-size of the wetland and likely limited associated fauna, and planned site development, DEQ determined that residual lead concentrations at the site do not pose a significant risk either to ecological receptors in the wetland, or to future residents at the site.

HOW TO COMMENT: The staff memorandum and other files will be available for public review beginning Tuesday April 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 Thursday, May 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.

PROPOSED APPROVAL OF SOIL CLEANUP AT THE RADKE AUTO PARTS SITE GLADSTONE, OREGON

COMMENTS DUE: May 1, 2003

PROJECT LOCATION: 19315 SE McLoughlin, Gladstone, Oregon

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

HIGHLIGHTS: The Radke Auto Parts site is approximately 0.5 acres and contains a building formerly used as an automobile repair facility. The building is currently used for equipment storage, and the outside area is used for vehicle storage. An underground storage tank (UST) that contained waste oil was removed from the site in 1996. Approximately 65 cubic yards of petroleum contaminated soil was removed from near the bay door of the shop following the UST closure. Additional sampling was conducted in September 2002 under an agreement with DEQ to determine if other contaminants related to the waste oil UST were present, and to determine whether the soil removal in 1996 adequately addressed potential risks to human health and the environment. Soil samples were analyzed for total petroleum hydrocarbon (TPH), polychlorinated biphenyls (PCBs), volatile organic compounds (VOCs), and metals. No TPH, PCBs or VOCs were detected, and metals, when detected, were at expected naturally occurring concentrations.

HOW TO COMMENT: The staff memorandum and other files will be available for public review beginning Tuesday April 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)

OTHER NOTICES

229-5587. Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 by Thursday, May 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.

PROPOSED ON-SITE REMEDIAL ACTION AT THE FORMER HORSE BARN SITE

COMMENTS DUE: April 30, 2003

PROJECT LOCATION: Northeast corner of 9th Avenue and Lovejoy Street, Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on remedial actions proposed for the on-site portion of the Union Station-Parcel 1 (Former Horse Barn) site located in Portland.

HIGHLIGHTS: The 7.1-acre site is currently vacant. From the late 1800s to 1970s the site was used as a rail yard. The Portland Development Commission purchased the property in 1987, and initiated site investigation work through DEQ's Voluntary Cleanup Program in 1999. Soil and groundwater were subsequently determined to contain elevated metals and polynuclear aromatic hydrocarbons. Petroleum contamination from an adjacent former manufactured gas plant, including free product, was also found in the southwest site corner. Contaminants were determined to pose a risk to potential on-site receptors. Hot spot soil (780 cubic yards) was removed in 2001 and 2003 actions; no groundwater hot spots are present. The proposed soil remedy is site-wide capping with 2 feet of clean soil or equivalent where site development is pending; temporary capping, fencing, and erosion control in site areas where development is not imminent; and institutional controls requiring maintenance of capping materials. The proposed groundwater remedy is monitoring to confirm that contamination is not migrating to the Willamette River, installation of a vapor mitigation system in the southwest site corner to prevent vapor accumulation in buildings, and institutional controls requiring maintenance of engineering controls and prohibiting site groundwater use. Engineering controls will be constructed during site redevelopment, scheduled to begin in Spring 2003. An evaluation of the potential for site contaminants to impact off-site receptors will be completed later in 2003. The proposed remedy is consistent with OAR 340-122-090 with respect to on-site receptors.

HOW TO COMMENT: To schedule an appointment for reviewing the project file at DEQ, contact Gerald Gamolo at (503) 229-6729. The DEQ project manager is Dan Hafley (503-229-5417). Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by April 30, 2002. 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 comments received and the Northwest Region Administrator will make a final decision after consideration of these comments.

PROPOSED REMEDIAL ACTION FOR UNION PACIFIC WYE TRACK — BUNKER C AREA CRESCENT LAKE, OR

COMMENTS DUE: April 30, 2003

PROJECT LOCATION: Crescent Lake Hwy. and Umlı Road, Crescent Lake, OR

PROPOSAL: The Department of Environmental Quality is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of an investigation conducted to

date and a proposed remedy. Public notification is required by ORS 465.320.

HIGHLIGHTS: The subject property has had confirmed releases of petroleum related hazardous substances from historical practices that require cleanup under OAR 340-122. The facility is on the Deschutes National Forest and was historically used by the railroad for refueling, maintenance and crew housing. The current lessee, Union Pacific Railroad (UP) has performed an investigation at the site to determine the nature and extent of contaminants at the site and has decommissioned underground storage tanks and a large bunker c sump at the site.

The Bunker C Area consists of bunker c product interspersed with the native soil from the surface to a depth of 5 feet below ground surface located at the northern end of the wye track. The area is approximately 3 acres in size and there is an estimated 7500 cubic yards of impacted material. The bunker c contains poly-nuclear aromatic hydrocarbons (PAHs), some of which are known to be carcinogenic. In addition, the bunker c exposed at the surface poses a potential physical hazard to wildlife and is considered a nuisance. Due to the nature and extent of the bunker c product, the soil and groundwater adjacent to the bunker c product is not impacted. Nearby Crescent Creek has not been affected by the bunker c or by other past practices at the site. A range of remedies were considered for the bunker c product, including reuse and stabilization alternatives. However, the only alternative that has long term effectiveness and is protective is the proposed remedy, excavation and offsite disposal at a permitted solid waste landfill. As part of the remedy, adjacent soils will be tested prior to reuse at the site for backfill. The remaining portion of the site continues to be evaluated for soil and groundwater contamination and will be the subject of a future decision document for the entire site.

COMMENT: The staff report recommending the proposed remedial actions may be reviewed by appointment at DEQ's Office in Bend, 2146 NE Fourth Street, Suite 104, Bend, OR 97701. To schedule an appointment, contact Toby Scott at (541) 388-6146, ext. 246.

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

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

DEQ RECOMMENDS NO FURTHER ACTION AT THE PROPOSED COMMUNITY HEALTH CENTER SITE IN WHITE CITY, OREGON

PROJECT: Proposed Community Health Center Site (part of the former Camp White Military Facility)

PROJECT LOCATION: 1-acre Site at the corner of Division Road and Avenue H, White City, Jackson County, Oregon

PROJECT ACTION: Oregon Department of Environmental Quality (DEQ) invites public comments from April 1, 2003 through April 30, 2003. DEQ will consider all comments before issuing a no further action determination (NFA). Upon written request by ten or more persons or by a group with a membership of ten or more, a public meeting will be held to receive verbal comments.

HIGHLIGHTS: The proposed Community Health Center (CHC) Site was part of the former Camp White Military Facility. In 1949, Tom Hornecker purchased several acres of land from the U.S Government, which included the 1-acre Site. The current property owner is the Hornecker Trust. The Hornecker Trust agreed to donate a 1-acre parcel to CHC pending an NFA determination by DEQ.

The 1-acre parcel was part of the Camp White Motor Park facilities. The military used the facility to refuel and service vehicles. Underground tanks may have been associated with the Motor Park. After Tom Hornecker purchased the property, his tenants used the Motor Park facilities for various types of storage and shop space.

OTHER NOTICES

The Hornecker Trust hired a consultant to complete an environmental assessment of the Site. The assessment documented a petroleum release from the former Motor Park vehicle maintenance building. In December 2001, the consultant did a soil removal with limited soil and groundwater sampling during excavation. DEQ determined additional sampling was necessary to evaluate if residual petroleum and associated constituents were present at the Site, and if residual contamination poses a risk to the future CHC.

In January 2003, the United States Environmental Protection Agency (EPA) approved DEQ's request to conduct a Targeted Brownfield Assessment at the Site. DEQ performed the fieldwork and sampling at the end of January 2003. DEQ collected seven soil samples and four groundwater samples to evaluate contaminant levels at the Site. Samples were analyzed for the following constituents: volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), and metals.

Several VOCs, SVOCs and metals were detected in the soil and groundwater samples. DEQ compared sample results to health-based screening criteria. The only compound detected above screening levels in soil was arsenic. Arsenic concentrations ranged from 1.5 to 3.7 parts per million (ppm). However, the arsenic results were below the region background value of 7 ppm, and probably not related to past operations.

The following eight compounds detected were above screening levels in groundwater: bis(2-ethylhexyl) phthalate, aluminum, arsenic, chromium, iron, lead, manganese, and thallium. Although groundwater contaminants were detected above screening levels, DEQ has concluded that these levels do not threaten human health because the Site and surrounding area are provided with city water and shallow groundwater is not used as a water source. In addition, the metals detected are likely associated with naturally occurring background levels.

DEQ has concluded that there is no threat to human health and the environment because the soil removal has been effective in reducing contaminants in soil below screening levels and because shallow groundwater is not used as a water source and does not have significant contamination.

MORE INFORMATION: Project files containing detailed information for the site is available for review in DEQ's Eugene office located at 1102 Lincoln St., Suite 210, Eugene, Oregon 97401. Questions concerning this site should be directed to Bryn Thoms at DEQ's Eugene office or by calling him at 541-686-7838, extension 254 or toll-free in Oregon at 1-800-844-8467 extension 254.

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

PROPOSAL TO ISSUE A NO FURTHER ACTION DETERMINATION FOR CLEANUP OF GASOLINE SPILL AT PHIL SMITH RESIDENCE IN SHERWOOD, OREGON

COMMENTS DUE: May 1, 2003

PROJECT LOCATION: 27795 SW Heater Road, Sherwood, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposal to issue a no further action determination (NFA) and to certify completion of the investigation and cleanup activities performed under a Letter Agreement between DEQ and Phil Smith in order to address the release of approximately 150 gallons of gasoline from an above-ground storage tank (AST) located at the residence of Mr. Smith.

HIGHLIGHTS: DEQ has concluded its evaluation of environmental conditions at the Smith residence following the completion of human health and ecological risk assessments, which were performed in order to evaluate the risk from residual contamination

related to a gasoline release. The gasoline release occurred in March 2001. Interim remedial measures (IRMs) were conducted to address contaminated soils and groundwater. IRMs included soil excavation, soil vapor extraction and the extraction and treatment of shallow and deep groundwater. Subsurface investigations, which included confirmation soil sampling, groundwater sampling and the installation of monitoring wells, were conducted to further assess the nature and extent of impacts beneath the site, and to assess the effectiveness of interim cleanup measures. An evaluation was performed to assess the risk from residual gasoline constituents detected in soils and groundwater. This evaluation indicated that residual contamination will not adversely impact soils or groundwater beneath the site and, therefore, does not pose an unacceptable level of risk to human health or the environment. Based on these findings, DEQ proposes to certify completion of work required under the Letter Agreement and to issue an NFA determination.

HOW TO COMMENT: Documents describing the investigation and cleanup are on file at the DEQ's NW Region Office. To schedule an appointment to view the documents, contact Bill Robertson, the project manager, at 503-229-6843. Written comments should be sent by May 1, 2003, to Bill Robertson at DEQ-NW Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201 or e-mailed to robertson.bill@deq.state.or.us. A public meeting will be held to receive verbal comments, if a public meeting is requested by 10 or more people or by a group with membership of 10 or more people. **THE NEXT STEP:** DEQ will consider all public comments received by May 1, 2003, before taking final action on this matter. In the absence of any comments, DEQ will issue the NFA determination.

NOTICE OF PROPOSED NO FURTHER ACTION DETERMINATION, PORT OF PORTLAND TERMINAL 1 SOUTH — PARCEL 3 2100 NW FRONT AVENUE, PORTLAND, OREGON

COMMENT PERIOD: April 1 to April 30, 2003

COMMENTS DUE: April 30, 2003

PROJECT LOCATION: 2100 NW Front Avenue, Portland, Oregon.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) invites public comment on the proposed approval of the soil cleanup of polycyclic aromatic hydrocarbons (PAHs) and total petroleum hydrocarbons (TPH) of Parcel 3 (Area A) and DEQ's proposal to issue a no further action determination for this parcel. In December 2002 and January 2003, the Port of Portland excavated about 27,350 tons of PAH and TPH contaminated soil from Parcel 3. Soil above urban residential cleanup levels was removed from 0-3 feet below ground surface (bgs) and soil above concentrations protective of future excavation workers or construction workers was removed from 3- 15 feet bgs. Contaminated soil was disposed of off-site at a DEQ permitted landfill.

Contaminated soil below 15 feet and residual soil contamination below selected cleanup levels between 0 and 15 feet bgs will be managed in place using institutional controls. Institutional controls to assure proper long-term management of contaminated soil remaining on-site will be recorded with Multnomah County.

DEQ recommends the cleanup be approved and that no further action be required for Parcel 3. Development of a mixed residential/commercial complex is scheduled to begin on Parcel 3 in 2003.

HOW TO COMMENT: As required by ORS 465.320, DEQ invites public comment on the proposed approval of the cleanup action for Parcel 3 of T1S. Written comments should be sent to Rod Struck, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by April 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.

OTHER NOTICES

INFORMATION: The administrative record for the site is available for public review by appointment at DEQ's Northwest Region Office. To schedule an appointment call (503) 229-6729. For additional information regarding the cleanup at the site, contact DEQ Project Manager, Rod Struck at (503) 229-5562 or by email at rodney.struck@deq.state.or.us. Additional information is also available at <http://www.deq.state.or.us/news/publicnotices/>.

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

**NO FURTHER ACTION REQUIRED
ENVIRONMENTAL CLEANUP AT THE PRICEBORO
ROAD PIPELINE RELEASE SITE COMPLETE**

PROJECT LOCATION: Corner of Priceboro Road and Weatherford Lane, 31696 Priceboro Road, Harrisburg, Oregon

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

HIGHLIGHTS: The site is in an agricultural field with a below-ground petroleum products pipeline. In 1989, approximately 10,080 gallons of unleaded gasoline was spilled when the pipeline was damaged during installation of agricultural drain tile. Immediately after the spill, about 550 gallons of standing gasoline was removed. In 1997, 3,350 cubic yards of gasoline contaminated soil was excavated and treated. The final cleanup action consisted of institutional controls to warn future excavation workers of the residual contamination and health risks, assure the site remains in agricultural use, and prevent the installation of groundwater supply wells and buildings in the contaminated area.

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

THE NEXT STEP: DEQ issued a No Further Action Letter for this site on March 10, 2003.

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.

.....
Oregon Housing and Community Services
Chapter 813

Rules to be Reviewed: Ch. 813

<u>Division</u>	<u>Title</u>
047	Community Development Corporation Program

Last Date for Comment: 5-9-03

Rules Coordinator: Sandy McDonnell

Comments: These rules implement the Community Development Corporation Program. The Program assists qualified nonprofit Community-Based Organizations (CBOs) to establish Community Development Corporations (CDCs). This objective expands the capacity of Community-Based Organizations to meet the housing and community development needs of their respective service areas by building, rehabilitating and managing low and moderate income housing and provides Community-Based Social Services which provide training and/or employment for low and moderate income residents within targeted areas.

Telephone: (503) 986-2012

.....
Rules to be Reviewed: Ch. 813

<u>Division</u>	<u>Title</u>
200	Low-Income Energy Assistance Program (LIEAP)

Last Date for Comment: 5-9-03

Rules Coordinator: Sandy McDonnell

Comments: The rules implement the Low Income Energy Assistance Program. The Program operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Telephone: (503) 986-2012

.....
Rules to be Reviewed: Ch. 813

<u>Division</u>	<u>Title</u>
220	Emergency Food Assistance Program

Last Date for Comment: 5-5-03

Rules Coordinator: Sandy McDonnell

Comments: The rules implement the Emergency Food Assistance Program. The Program operates through a network of service-provider agencies at the local level to produce lower income households with food for home use.

Telephone: (503) 986-2012

.....
Rules to be Reviewed: Ch. 813

<u>Division</u>	<u>Title</u>
250	Food Assistance Fund Program

Last Date for Comment: 5-9-03

Rules Coordinator: Sandy McDonnell

Comments: The rules implement the Food Assistance Fund Program. The Program allocates funds to a statewide network of emergency food programs in the forms of grants to develop and imple-

ment linkage activities and to demonstrate the benefits of local control of commodity purchasing.

Telephone: (503) 986-2012

.....
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:	Time:	Location:
4-21-03	9 a.m.	West Coast Bank 2nd Flr. Community Conf. Rm. 301 Church Street 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: 161-001-0010, 161-006-0025, 161-006-0175, 161-010-0020, 161-010-0025, 161-010-0035, 161-010-0045, 161-010-0055, 161-010-0080, 161-015-0000, 161-020-0045, 161-020-0055, 161-020-0110, 161-020-0120, 161-020-0150, 161-050-0050

Last Date for Comment: 4-21-03

Summary: Proposed changes to Oregon Administrative Rules 161, Division 1 regarding notice of proposed rulemaking; Division 6 regarding amendment of budget dollar amount, and enforcement guidelines; Division 10 regarding qualifying appraiser experience, education and experience requirements; Division 15 regarding application process; Division 20 regarding education courses and requirements; and Division 50 regarding reciprocity.

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

Rules Coordinator: Karen Turnbow

Address: Department of Consumer and Business Services, Appraiser Certification and Licensure Board, 530 Center St. NE, Suite 305, Salem, OR 97301

Telephone: (503) 485-2555

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

Date:	Time:	Location:
5-13-03	1 p.m.	OSBEELS Office 728 Hawthorne Ave Salem, OR

Hearing Officer: Stuart Albright, Brd. President

Stat. Auth.: ORS 670.310 & 182.462

Stats. Implemented:

Proposed Amendments: 820-010-0325

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 5-9-03

Summary: The Board will consider comments and testimony related to the proposed budget for operating revenue and expenditures and examination revenue and expenditures for the 2003-2005 biennium.

Rules Coordinator: Edward B. Graham

Address: Board of Examiners for Engineering and Land Surveying, 728 Hawthorne Ave. NE, Salem, OR 97301

Telephone: (503) 362-2666, ext. 26

Board of Examiners for Speech Pathology and Audiology Chapter 335

Date:	Time:	Location:
5-1-03	1:30-2:30 p.m.	Portland State Office Bldg. Rm. 445 800 NE Oregon St. Portland, OR

Hearing Officer: Joanna Burk, Chair

Stat. Auth.: ORS 681.205, 681.340, 681.360, 681.370, 681.375, 681.420(5) & 681.460

Stats. Implemented: ORS 681.250(1), 681.320, 681.340, 681.360, 681.370, 681.375 & 681.460

Proposed Adoptions: 335-095-0010, 335-095-0020, 335-095-0030, 335-095-0040, 335-095-0050, 335-095-0060, 335-095-0065

Proposed Amendments: 335-060-0005, 335-060-0010, 335-060-0030, 335-070-0010, 335-070-0020, 335-070-0060, 335-070-0065, 335-070-0075

Last Date for Comment: 4-28-03

Summary: Amended rules define the fees and continuing education requirements for certified speech-language pathology assistants. Other changes in Division 70 delete expired continuing education requirements for other licensees.

New rules under Division 95 provide definitions related to certification of speech-language pathology assistants. They also define grandparenting requirements and certification requirements of speech-language pathology assistants after the grandparenting allowance expires 1/104. Other rules in this division define the requirements for the supervising speech-language pathologist, the duties a speech-language pathology assistants and educational assistant and educational assistant to the speech-language pathology may and may not perform.

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

Rules Coordinator: Brenda Felber

Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162

Telephone: (503) 731-4050

Department of Administrative Services, Human Resource Services Division Chapter 105

Date:	Time:	Location:
4-15-03	1:30 p.m.	Conference Rm. B

Hearing Officer: Shelli Honeywell

Stat. Auth.: ORS 184.340, 240.145 & 240.250

Stats. Implemented: ORS 240.306, 659A.052, 659A043 & 659A046

Proposed Amendments: 105-040-0020

Last Date for Comment: 4-25-03

Summary: 105-040-0020: Minor housekeeping changes were needed to clarify the rule. The applicability statement is being removed because the rule should not be limited in its scope. The rule stands alone in its applicability. 105-040-0020(1)(b): Revisions of this section are necessary to clarify that only employees that have passed trial service are allowed to be placed on the Agency Layoff List. 105-040-0020(1)(b)(A): Revisions to this section were made to conform the rule with HRSD State Policy. The policy allows for one right of

refusal before being removed off the Agency Layoff List. 105-040-0020(1)(c): Revisions of this rule are needed to clarify that only employees that have passed trial service are allowed to be placed on the Statewide Reemployment Layoff List. 105-040-0020(1)(c)(A): Revisions to this rule are needed to afford the same rights of one right of refusal to management service as provided to classified unrepresented employees. 105-040-0020(1)(d)(D): Revisions to this rule are needed to clarify that current state employees that have gained regular status in a classification is deemed qualified and can be on the Open Competitive List. 105-040-0020(2): The rule clarification needs to be deleted. The information is referenced within the body of the rule. Documentation Retention language was added to clarify the requirements of this rule under record retention.

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

Rules Coordinator: Mary Unger

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

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

Date:	Time:	Location:
4-15-03	1:30 p.m.	Conference Rm. B

Hearing Officer: Shelli Honeywell

Stat. Auth.: ORS 240.145 & 240.350

Stats. Implemented: ORS 240.306, 240.309, 240.321 & 240.425

Proposed Amendments: 105-040-0040

Last Date for Comment: 4-25-03

Summary: 105-040-0040: Housekeeping changes were needed to clarify language. The applicability statement is being removed because the rule should not be limited in its scope. The rule stands alone in its applicability. 105-040-0040(1)(d) and 105-040-0040(1)(d)(C): Revisions were needed to allow limited duration appointment to be made based on workload needs. 105-040-0040(2): A revision of the rule was needed to remove the rule clarification. The definition referred to is in the definition rule. Documentation Retention language was added to clarify the requirements of this rule under record retention.

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

Rules Coordinator: Mary Unger

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

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

Stat. Auth.: ORS 183.335, 183.341, 183.340, 240.250 & 240.145(3)

Stats. Implemented: ORS 183.335 & 183.341

Proposed Amendments: 105-001-0000

Last Date for Comment: 4-21-03

Summary: 105-001-0000 - Delete the word "Rule:" as a housekeeping change to create consistency throughout OAR chapter 105.

Rules Coordinator: Mary Unger

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

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

Stat. Auth.: ORS 184.340 & 240.145(3)

Stats. Implemented: ORS 192.502

Proposed Amendments: 105-010-0011

Last Date for Comment: 4-21-03

Summary: 105-010-0011 - Delete "Applicability" statement as a housekeeping change to create consistency throughout OAR chapter 105. 105-010-0011(1)(a)(C) - Language added to clarify intent of the section. 105-010-0011(1)(a)(D) - Language added to clarify intent of the section. 105-010-0011(1)(a)(E) - Language added to clarify intent of the section.

Rules Coordinator: Mary Unger

NOTICES OF PROPOSED RULEMAKING

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

Stat. Auth.: ORS 184.340 & 240.145(3)
Stats. Implemented: Executive Order 78-10
Proposed Amendments: 105-010-0016
Last Date for Comment: 4-21-03

Summary: 105.010.0016 - Delete "Applicability" statement as a housekeeping change to create consistency throughout OAR chapter 105. 105-010-0016(1) - A minor housekeeping change. 105-010-0016(4) - Delete "Rule Clarification:" as a housekeeping change to create consistency throughout OAR chapter 105.

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

Stat. Auth.: ORS 184.340, 240.145, 240.240, 240.245 & 240.250
Stats. Implemented: ORS 240.190 & 240.235
Proposed Amendments: 105-020-0001
Last Date for Comment: 4-21-03

Summary: 105-020-0001(1) - A housekeeping change, capitalize "evaluation." 105-020-0001(2) Language updated to accurately reflect what the Hay Method of Job Evaluation measures.

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

Stat. Auth.: ORS 183.340, 240.145(3) & 240.250
Stats. Implemented: ORS 240.135, 240.250 & 240.321(2)
Proposed Amendments: 105-040-0004
Last Date for Comment: 4-21-03

Summary: 105-040-0004(1)(a), (1)(b), (1)(b)(A), (1)(b)(B), (1)(e), (1)(f) language was changed from plural to singular. 105-040-0004(1)(a) - Language was deleted from section (2)(b) and moved to section (1)(a) for clarification. 105-050-0004(1)(g) - Housekeeping change to correct a spelling error. 105-050-0004(2) - Delete "Clarification:" as a housekeeping change to create consistency throughout OAR chapter 105. 105-050-0004(4) - Add the word "opiates" to conform with HRSD State Policy.

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

Department of Agriculture Chapter 603

Date: 4-29-03 **Time:** 7 p.m. **Location:** St. Patrick's Parish Hall
560 NW Jones St.
Heppner, OR 97836

Hearing Officer: Lynda Horst
Stat. Auth.: ORS 561.190, 561.191, 561.400 & 568.900 - 568.933;
Other Auth.: OAR 603-090
Stats. Implemented: ORS 568-900 - 568.933
Proposed Adoptions: 603-095-2800, 603-095-2820, 603-095-2840, 603-095-2860
Last Date for Comment: 5-15-03

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

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

Department of Agriculture, Oregon Processed Vegetable Commission Chapter 647

Date: 4-24-03 **Time:** 7:30 p.m. **Location:** 3415 Commercial St. SE
Salem, OR

Hearing Officer: Mark Lewis
Stat. Auth.: ORS 576

Stats. Implemented: ORS 576
Proposed Amendments: 647-010-0010
Last Date for Comment: 4-24-03

Summary: The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the commission. *Auxiliary aids for persons with disabilities are available upon advance request.

Rules Coordinator: John McCulley
Address: Department of Agriculture, Processed Vegetable Commission, PO Box 2042, Salem, OR 97308-2042
Telephone: (503) 370-7019

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

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.730
Proposed Adoptions: 918-309-xxxx
Proposed Amendments: 918-311-0020
Last Date for Comment: 4-21-03, 5 p.m.

Summary: Allows a partial or phased permit to be issued for electrical work to begin while plan review is being completed.

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

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Proposed Amendments: 437-005-0001
Last Date for Comment: 4-24-03

Summary: Oregon OSHA proposes to adopt federal OSHA changes by reference to 29 CFR 1915 Occupational Safety and Health for Shipyard Employment/Division 5, Maritime. Federal OSHA published these technical amendments in the July 3, 2002 Federal Register. These standards contain a number of minor typographical, grammatical and other errors. The Federal Register document, which we are adopting, corrects those errors, as well as several inaccurate cross-references. The cross-references are being changed because the referenced section numbers have changed or been removed as a result of prior revisions to OSHA's Shipyard Employment rules. The technical amendments and corrections are not substantive in nature; they will not impose additional compliance obligations on employers or reduce the protections provided to workers by these standards.

Oregon OSHA's adoption of these amendments ensures the requirement is met for OR-OSHA standards to be at least as effective as Federal OSHA.

As a reminder: Since 1999, Oregon OSHA no longer prints Division 5, Maritime. The cost of printing and updating did not match the need in Oregon. Most employers in these industries in Oregon are under Federal jurisdiction. We urge people wanting a complete volume of the federal OSHA standards to contact the United States Printing Office to obtain a copy, or to visit the U.S. Department of Labor, Occupational Safety and Health Administration web site at:

NOTICES OF PROPOSED RULEMAKING

www.osha.gov. Oregon OSHA's web site for standards also links to federal OSHA for Division 5.

Visit Oregon OSHA's web site for proposed and final rules: www.orosha.org.

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

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

Date:	Time:	Location:
6-13-03	9:30 a.m.	WCB Salem Office 2601 25th St. SE, Ste 150 Salem, OR 97302

Hearing Officer: Roger C. Pearson

Stat. Auth.: ORS 656.726(5) & 656.278

Stats. Implemented: ORS 656, 656.005(30), 656.262(4), 656.267(1), 656.267(3), 656.268(4), 656.278, 656.278(1), 656.278(1)(b), 656.278(2), 656.278(5), 656.278(6), 656.386(2), 656.388(3) & 656.726(5)

Proposed Adoptions: 438-012-0024, 438-012-0070, 438-012-0075, 438-012-0080, 438-012-0085, 428-012-0090, 438-012-0095, 438-012-0100

Proposed Amendments: 438-012-0001, 438-012-0018, 438-012-0020, 438-012-0030, 438-012-0035, 438-012-0050, 438-012-0060, 438-012-0061, 438-012-0062, 438-015-0080

Last Date for Comment: 6-13-03

Summary: Permanent amendments to Rules of Practice and Procedures under the Workers' Compensation Law related to the Board's "Own Motion" authority under OAR 438, Division 012, and OAR 438-015-0080 (Attorney Fees in Own Motion cases) to provide an efficient, effective, and expeditious method for the processing and resolution of "post-aggravation rights" new or omitted medical condition claims, for prescribing procedures for the payment of and suspension of temporary disability benefits, for the referral of certain Own Motion requests for an evidentiary hearing (OAR 438-012-0060(6) and 438-012-0061(4)), for prescribing procedures regarding Board review of insurer closure (OAR 438-012-0060(3) and (4)), and for awarding attorney fees for legal services performed regarding certain Own Motion claims.

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

Rules Coordinator: Vicky Scott

Address: Department of Consumer and Business Services, Workers' Compensation Board, 2250 McGilchrist St. SE, Salem, OR 97310

Telephone: (503) 378-3308

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

Date:	Time:	Location:
4-22-03	10 a.m.	Room B (basement) Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

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

Stats. Implemented: ORS 656

Proposed Amendments: 436-009-0004, 436-009-0005, 436-009-0008, 436-009-0010, 436-009-0015, 436-009-0020, 436-009-0022, 436-009-0030, 436-009-0040, 436-009-0050, 436-009-0060, 436-009-0070, 436-009-0090, 436-050-0003, 436-050-0400, 436-050-0410, 436-050-0420, 436-050-0440, 436-050-0450, 436-050-0460,

436-050-0470, 436-105-0003, 436-105-0008, 436-105-0500, 436-105-0510, 436-105-0520, 436-105-0530

Proposed Repeals: 436-050-0430

Last Date for Comment: 4-25-03, 5 p.m.

Summary: Amendment of OAR 436-009 (Medical Fee and Payment Rules) is proposed to include several substantive changes. These proposed rules:

- Adopt the Centers for Medicare & Medicaid Services 2003 Medicare Resource-Based Relative Value Scale, Addendum B "Relative Value Units (RVUs) and Related Information" except the "status indicators," and Addendum C "Codes with Interim RVUs," 67 *Federal Register* No. 251 December 31, 2002 as the fee schedule for payment of medical service providers except as otherwise provided in these rules.

- Adopt the *American Society of Anesthesiologists (ASA), Relative Value Guide 2003* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

- Adopt *Current Procedural Terminology (CPT® 2003)*, Fourth Edition Revised, 2002 for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

- Provide that if a current Form 2552 (form published by the Centers for Medicare & Medicaid Services) is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio (CCR) is determined from estimated data, the hospital will receive the lower ratio of (1) the hospital's last published CCR or, (2) the hospital's CCR based on estimated data.

- Provide that rural hospitals which are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio (in addition to those determined exempt pursuant to OAR 436-009-0020(3)(k)).

- Eliminate the requirement that the Workers' Compensation Division publish adjusted cost/charge ratios for Oregon hospitals on or before March 20th and September 20th of each year.

- Adjust the conversion factors to be applied to medical service categories of evaluation/management (from \$55.70 to \$66.84), anesthesiology (from \$45.42 to \$2.23), radiology (from \$78.17 to \$66.45), lab & pathology (from \$89.43 to \$58.63), medicine (from \$89.43 to \$73.33), physical medicine and rehabilitation (from \$66.42 to \$62.43), and multidisciplinary and other Oregon-specific codes (from \$9.53 to \$58.63). Factors were adjusted following input from a medical fee advisory committee and the Workers' Compensation Division estimates the net effect of the changes will be essentially "revenue-neutral."

- Reduce the relative value units used for multidisciplinary and other Oregon-specific codes to exactly offset the increase in the conversion factors for these Oregon-specific codes, in order to achieve a "revenue-neutral" result.

- Provide that insurers and self-insured employers must advance payment to workers who need pre-payment in order to attend a medical arbiter examination or an examination needed to resolve a medical treatment dispute pursuant to ORS 656.327.

Amendment of OAR 436-050 (Employer/Insurer Coverage Responsibility) is proposed to include several substantive changes. These proposed rules:

- Eliminate rules that simply repeat the statutory requirements in ORS 656.850 and 656.855.

- Provide that a worker-leasing company shall not provide workers' compensation coverage for another worker-leasing company or for a temporary employer.

- Incorporate the information/data requirements now in Bulletins 271 and 273 and the related forms (used for workers' compensation coverage notification and application for worker leasing company license).

- Clarify the requirement that a licensed worker leasing company must have at least one Oregon location where all Oregon leasing

NOTICES OF PROPOSED RULEMAKING

records are kept. • Include criminal conviction for theft or embezzlement among the reasons for disqualification, suspension or revocation of a worker-leasing company license.

Amendment of OAR 436-105, (Employer-at-Injury Program) is proposed to include several substantive changes. These proposed rules:

- Make permanent changes implemented by temporary rules that became effective 12/11/02, by: Requiring the insurer or self-insured employer to retain at the authorized claim processing location, documentation of the transitional work, to include the start date, wage and hours, and a description of the job duties. Eliminating the eligibility requirement that the worker be released for work, so that a temporary period of temporary disability doesn't end the Employer-at-Injury Program; revised rules require only that the worker have cited restrictions from the medical service provider which prevent the worker from performing regular work.

- Simplify the process to resolve Employer-at-Injury Program disputes by: (1) making it the insurer's option to request or not request a director's review; (2) providing that if the insurer does want director's review, it may submit additional information in support of its position. Currently, if the Workers' Compensation Division disagrees with the insurer's position following reconsideration pursuant to OAR 436-105-0008, the file is automatically referred for a director's review.

- Provide that (an additional) type of medical release meets Employer-at-Injury Program criteria: A statement by the medical service provider that indicates the worker is not released to regular employment, accompanied by an approval of a job description, which includes the job duties and physical demands required for the transitional work.

- Provide that a medical release which indicates restrictions are permanent does not expire in 30 days.

- Clarify time frames for expiration of medical releases due to missed medical appointments. If the worker misses a follow-up appointment, the medical provider must, within 14 days from the date of the missed appointment, provide a new medical release or a signed and dated statement indicating previous restrictions are still in effect in order for the medical releases to be continuous.

NOTICE OF PERIODIC REVIEW

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

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

The proposed rules are available on the Workers' Compensation Division's Web site: www.oregonwcd.org/policy/rules/permanent/rules.html#proprules or from WCD Publications at 503-947-7627 or fax 503-947-7630.

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

Rules Coordinator: Fred Bruyns

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

Telephone: (503) 947-7717

Department of Corrections Chapter 291

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.500 & 423.560

Proposed Adoptions: 291-031-0085 - 291-031-0210

Last Date for Comment: 4-21-03

Summary: The department is adopting these rules to establish a process whereby a county may cease to participate in the Community Corrections Act and transfer responsibility for community corrections to the state Department of Corrections, or option to participate in the Community Corrections Act rather than having the state Department of Corrections operate community corrections.

Rules Coordinator: David R. Schumacher

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97310

Telephone: (503) 945-0933

.....

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075

Proposed Amendments: 291-062-0030

Last Date for Comment: 4-21-03

Summary: The department is amending this rule to clearly reflect department policy for inmate eligibility to participate in the Oregon SUMMIT (Success Using Motivation, Moral, Intensity and Treatment) Program. Inmates who are convicted of certain crimes are not eligible for participation in the SUMMIT Program. This amendment provides greater clarification and reflects current department policy for acceptance or denial of an inmate to participate in the program.

Rules Coordinator: David R. Schumacher

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97310

Telephone: (503) 945-0933

.....

Department of Fish and Wildlife Chapter 635

Date:	Time:	Location:
5-9-03	8 a.m.	ODFW Commission Room 2501 SW First Avenue Portland, OR 97201

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.012 & 496.138

Stats. Implemented: ORS 496.171, 496.172, 496.182, 496.201, 496.430, 496.435, 496.440, 496.445, 496.450, 496.455, 496.458, 496.460, 496.465, 506.036, 509.580, 509.585, 509.610, 509.615 & 509.625

Proposed Adoptions: Rules in 635-007

Proposed Amendments: Rules in 635-007

Last Date for Comment: 5-9-03

Summary: Adopt rules to establish a Fish Hatchery Management Policy and amend current rules relating to hatchery fish and fish health management.

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

Rules Coordinator: Mike Lueck

Address: Department of Fish and Wildlife, 2501 SW 1st Ave., Portland, OR 97201

Telephone: (503) 872-5272, ext. 5447

.....

Date:	Time:	Location:
5-9-03	8 a.m.	ODFW Commission Room 2501 SW First Avenue Portland, OR 97201

Hearing Officer: Fish and Wildlife Commission

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 496.012, 496.138 & 496.146
Stats. Implemented: 497.308, 497.318, 498.022, 498.052 & 498.222

Proposed Amendments: 635-056-0075

Last Date for Comment: 5-9-03

Summary: Amend rules relating to grass carp to allow exceptions and clarify current rules for stocking.

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

Rules Coordinator: Mike Lueck

Address: Department of Fish and Wildlife, 2501 SW 1st Ave., Portland, OR 97201

Telephone: (503) 872-5272, ext. 5447

Date:	Time:	Location:
5-9-03	8 a.m.	ODFW Commission Room 2501 SW First Avenue Portland, OR 97201

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570

Proposed Amendments: Rules in 635-053

Last Date for Comment: 5-9-03

Summary: Amend rules regarding the Upland Game Bird Stamp by establishing dates and bird species for submission of artwork.

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

Rules Coordinator: Mike Lueck

Address: Department of Fish and Wildlife, 2501 SW 1st Ave., Portland, OR 97201

Telephone: (503) 872-5272, ext. 5447

Department of Human Services, Addiction Services Chapter 415

Date:	Time:	Location:
4-29-03	1-4 p.m.	Rm. 137 C&D 500 Summer St. NE Salem, OR

Hearing Officer: Shawn Clark

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265 - 430.335, 430.345 - 430.380, 430.405 - 430.700 & 813

Proposed Amendments: 415-051-0015, 415-051-0055, 415-051-0057, 415-51-0060

Last Date for Comment: 4-30-03

Summary: These rules are revised as a result of a budget note from the 2001 legislative session. The budgeted note directed "OADAP" to include a quality improvement measure in the quality assurance plans as required by the existing OAR. This rule will increase the number of certified Alcohol and Drug Counselors providing service to clients as it decreases the amount of time from date of hire that they have to become certified. This revision also aligns the requirements of Community College Substance Abuse programs with administrative rule requirements. The revisions will help ensure that all clients receiving substance abuse treatment are treated by certified or licensed professionals.

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

Rules Coordinator: Robert Miller

Address: Department of Human Services, Addiction Services, 500 Summer St. NE - E86, Salem, OR 97301

Telephone: (503) 945-6185

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

Date:	Time:	Location:
4-21-03	10:30 a.m.-12 p.m.	HSB, Rm. 137D 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-120-1875

Last Date for Comment: 4-21-03

Summary: The General Rules program Administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-120-1875 is being amended to indicate additions to types of hearings affected by rule.

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Date:	Time:	Location:
4-21-03	10:30 a.m.-12 p.m.	HSB, Rm. 137D 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0030

Last Date for Comment: 4-21-03

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0030 will be revised to strengthen the exception process for drugs not covered on the Practitioner-Managed Prescription Drug Plan (PMPDP) - Plan Drug List (PDL).

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0300

Proposed Repeals: 410-121-0300(T)

Last Date for Comment: 5-21-03

Summary: The rules of Pharmacy Services govern Office of Medical Assistance Programs (OMAP) payment to providers for pharmaceutical services provided for clients of the Medical Assistance Programs. On March 1, 2003, OMAP temporarily amended rule 410-121-0300 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 03-01, changes to be effective March 11, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS). This is the Notice of Proposed Rulemaking to permanently amend this rule.

Rules Coordinator: Darlene Nelson

NOTICES OF PROPOSED RULEMAKING

Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97310-1014
Telephone: (503) 945-6927

Stat. Auth.: ORS 409.010, 409.110, HB 5100 & SB 5527
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-125-0141, 410-125-0195
Last Date for Comment: 4-21-03

Summary: The rules of Hospital Services govern Office of Medical Assistance Programs (OMAP) payment to providers for services provided for clients of the Medical Assistance programs. Effective March 10, 2003, OMAP temporarily amended Rules 410-125-0141 and 410-125-0195 to clarify the percentage adjustment by specifying in rule the percentage amount to implement the DHS March 2003 budget reduction actions resulting from the December 2002 budget shortfall. This is the Notice for permanent filing for this rule.

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97310-1014
Telephone: (503) 945-6927

Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-120-1200
Last Date for Comment: 4-21-03

Summary: The General Rules program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Due to Legislative action, on March 14, 2003, OMAP temporarily amended rule 410-120-1200 to restore prescription drug benefits to OHP's Standard Benefit Package. This is the Notice of Proposed Rulemaking to permanently amend this rule.

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97310-1014
Telephone: (503) 945-6927

Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0140
Last Date for Comment: 4-21-03

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical services provided to clients. On March 14, 2003, OMAP filed an order to temporarily amend rule 410-121-0140, effective April 1, 2003, to change the definition of Estimated Acquisition cost (EAC) by changing, in section (9)(a), "Eighty-six" to "eighty-five" percent of Average Wholesale Price (AWP) of the drug." This is the Notice to permanently amend this rule, effective on or after May 1, 2003.

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97310-1014
Telephone: (503) 945-6927

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

Date: 4-23-03	Time: 9 a.m.	Location: Room 120-C Portland State Office Bldg. 800 NE Oregon St. Portland, OR
-------------------------	------------------------	--

5-2-03	10 a.m.	Bob Straub Rm. Lane Co. Courthouse Public Services Bldg. 125 E. 8th Ave. Eugene, OR 97401
5-9-03	9 a.m.	Deschutes County Commissioner's Hearing Rm. 1130 NE Hariman Bend, OR 97701

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 431.920; Other Auth.: 40 CFR 745
Stats. Implemented: ORS 431.920
Proposed Adoptions: 333-069-0075, 333-069-0085
Proposed Amendments: 333-069-0005, 333-069-0015, 333-069-0020, 333-069-0030, 333-069-0040, 333-069-0050, 333-069-0060, 333-069-0070, 333-069-0080, 333-069-0090
Last Date for Comment: 5-9-03

Summary: OAR 333-069-0005 is amended to limit certification to legally registered firms; to expand the scope of the rules to apply to paint removal and stabilization; and to incorporate EPA language describing lead-based paint work that can be done by a property owner.

OAR 333-069-0015 is amended to support the following changes: 1) Adoption of EPA Section 403, *Identification of Dangerous Levels of Lead; Final Rule (40 CFR 745)*; Final Rule (1/5/01); 2) Regulation of paint removal and stabilization; 3) Establishment of a procedure for 'preliminary clearance'; (4) Adoption of EPA Section 406B, *Requirements for Hazard Education Before Renovation of Target Housing*; (40 CFR 745). Final Rule (6/1/98); and Clarification of matters concerning certification, abatement, testing and evaluation, and enforcement.

OAR 333-069-0020 is amended to make the following changes: 1) Clarification of the expiration date of certifications; 2) Application of certain work practice standards for paint removal and stabilization; 3) Establishment of the passing score on qualifying examination; 4) Establishment of the course completion date as the standard for certification eligibility; 5) Change identification badge availability requirements; and 6) Authorizes revocation of exemption for a public agency that violates the terms of the 'in-house' exemption.

OAR 333-069-0030 is amended to make the following changes: 1) Clarify language about qualifications by eliminating reference to accreditation standards; 2) Change eligibility requirements for Risk Assessor; 3) Change eligibility requirements for Project Designer; 4) Allows certification candidates to complete a refresher course if certificate has been expired for more than six months but less than one year.

OAR 333-069-0040 is amended to make the following changes : 1) Requires that individuals removing or stabilizing paint on target housing and child occupied facilities obtain a Permit; 2) Establishes the process for applying for a Permit. 3) Requires self-employed individuals applying for certification to submit an affidavit to document work experience; 4) Eliminates the Respiratory/Personal Protective Equipment training requirement; 5) Updates and enhances program contact information; and 6) Requires Permit holders to give notice of address change.

OAR 333-069-0050 is amended to make the following changes: 1) Provides for annual renewal of a Permit; 2) Exempts Permit holders from examination requirements; 3) Changes language to streamline certificate renewal/recertification requirements; 4) Requires recertification no more than three years after issuance of original certificate; 5) Requires certification applicants to pass a standard training course and qualifying exam if certificate has been expired for more than one year.

OAR 333-069-0060 is amended to make the following changes: 1) Establishes the Permit expiration date; 2) Eliminates application process for applicants with certificates expiring on dates other than June 30.

NOTICES OF PROPOSED RULEMAKING

OAR 333-069-0070 is amended to make the following changes: 1) Adoption of EPA Section 403, *Identification of Dangerous Levels of Lead; Final Rule (40 CFR 745)*; Final Rule (1/5/01), including changes in work practices for Risk Assessment, for soil abatement, clearance sampling and analysis, and determinations of lead-based paint hazards; 2) Requires that paint removal and stabilization use prescribed and avoid proscribed work practices; 3) Requires lead-hazard warning signage for every abatement and paint removal worksite and specifies standards for readability; 4) Requires Inspectors to use NLAPP accredited laboratory for analysis of dust and soil samples; 5) Re-instates EPA language about on-site presence requirements for abatement Supervisor; 6) Establishes qualifying projects for which a certified Project Designer is required; 7) Assigns supervisory responsibilities to either a certified Supervisor or certified Project Designer; 8) Establishes specific requirements for submission of Notice of Abatement; 9) Requires certified Supervisor or certified Project Designer to generate a written occupant protection plan and have it available for inspection; 10) Requires an abatement scope of work (defined) to be available at the worksite for inspection; 11) Establishes the Clearance Report requirement; 12) Establishes timelines for required reports to be submitted to the building owner or client. 12) Provides a sample form on which all required reports may be submitted to DHS; 12) Authorizes the agency to post warning signage at a property upon a determination that a lead-based paint hazard exists; 13) Forbids removal of signage posted by the agency upon determination that a lead-based paint exists until such hazards have been remediated; 14) Clarifies that this rule requiring status reports if a claim is being decided in court or arbitration applies to large commercial claims and other claims filed under ORS 701.146.

OAR 333-069-0075 is adopted to incorporate the provisions of EPA Section 406B, Requirements for Hazard Education Before Renovation of Target Housing; Final Rule. 6/1/98. All renovators (defined) are required to notify clients and/or occupants of pre-1978 target housing and child-occupied facilities about possible lead-based paint hazards. The notice requires the distribution of a specified pamphlet. The renovator must obtain signed acknowledgment and maintain records for three years.

OAR 333-069-0080 is amended to make the following changes: 1) Changes identification badge worksite availability requirements for certified individuals; 2) Adds being subject to an administrative order of the Construction Contractors Board to criteria justifying denial, suspension or revocation of certification; 3) Eliminates OAR 333-069-0080(1)(m) as redundant of OAR 333-069-0080(1)(c); 4) Adds being subject to an administrative order of the Construction Contractors Board to criteria justifying denial, suspension or revocation of certification.

OAR 333-069-0085 is adopted to establish a Schedule of Penalties for violation of Division 69 of OAR Chapter 333. Penalties are progressive in terms of 1) severity (impact deemed on the environment or public health) and 2) compliance history. Levels One, Two and Three correspond to degree of violation severity. A civil penalty is established for removing a lead-hazard warning sign posted by the agency. Provides that civil hearings associated with civil penalty proceedings will be conducted in accordance with the procedures of the Construction Contractors Board per OAR 812-005-0000(1) and (2).

OAR 333-069-0090 is amended to make the following changes: 1) Eliminate the fee for certification, renewal or recertification for certificates expiring between January 1 and June 30; 2) Establish an application fee for a Permit.

All amended sections contain the following correction: References to "the Oregon Health Division", "the Health Division" and "the Division" are changed, respectively to "the Oregon Department of Human Services" or "the Department". This change reflects the administrative reorganization of the agency.

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

Rules Coordinator: Jana Fussell

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

Telephone: (503) 731-4320

Date:

4-21-03

Time:

1 p.m.

Location:

State Office Bdg.

Rm 140

800 N.E Oregon St.

Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 441.020 & 442.015

Stats. Implemented: ORS 441.020& 442.015

Proposed Adoptions: 333-700-0005, 333-700-0075, 333-700-0085, 333-700-0090, 333-700-0100, 333-700-0110, 333-700-0115, 333-700-0130

Last Date for Comment: 4-21-03

Summary: Establishes Licensure requirements for Outpatient Renal Dialysis Facilities.

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

Rules Coordinator: Jana Fussell

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

Telephone: (503) 731-4320

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

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

Proposed Amendments: 333-064-0025

Last Date for Comment: 4-21-03

Summary: Amends Rule (for accrediting environmental testing laboratories) to change the standards for accreditation from the NELAC 2000 Standards to the NELAC 2001 Standards as required to maintain national recognition of the Oregon Environmental Laboratory Accreditation Program by the U.S. Environmental Protection Agency's National Environmental Laboratory Accreditation Program.

Rules Coordinator: Jana Fussell

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

Telephone: (503) 731-4320

Stat. Auth.: ORS 475.300 - 475.346

Stats. Implemented: ORS 475.300 - 475.346

Proposed Amendments: 333-008-0010, 333-008-0020, 333-008-0040

Last Date for Comment: 4-21-03

Summary: Provides a registration fee reduction for Oregon Medical Marijuana Program applications. The \$150.00 registration fee for a new application remains unchanged. The registration fee for renewal applications is reduced from \$150.00 to \$100.00. For those persons who can demonstrate current, valid eligibility in the Oregon Health Plan, the proposed new or renewal application fee is established as \$50.00. Defines the conditions under which application fee reductions and eligibility for the Oregon Health Plan will be accepted.

Rules Coordinator: Jana Fussell

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

Telephone: (503) 731-4000

NOTICES OF PROPOSED RULEMAKING

Department of Veterans' Affairs Chapter 274

Stat. Auth.: ORS 406.030, 407.115, 407.135, 407.145, 407.275 & 407.375

Stats. Implemented: ORS 407.135, 407.145, 407.275, 407.375 & 407.377

Proposed Amendments: 274-021-0005

Proposed Repeals: 274-021-0005(T)

Last Date for Comment: 4-21-03

Summary: This rule replaces and supersedes the Temporary Rule 274-021-0005(T) filed on October 30, 2002, and effective November 1, 2002 through April 29, 2003.

The interest rate on contracts entered into on or after November 1, 2002, shall be seven percent fixed. The interest rate on contracts with approved work equity shall be one percent higher until the required improvements have been completed and approved.

Rules Coordinator: Charles E. Gehley

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

Telephone: (503) 373-2142

Division of State Lands Chapter 141

Date:	Time:	Location:
5-1-03	1-2:30 p.m.	Division of State Lands 775 Summer St. NE Suite 100 Salem, OR 97303
5-1-03	7-8:30 p.m.	Division of State Lands 775 Summer St. NE Suite 100 Salem, OR 97303

Hearing Officer: John Lilly

Stat. Auth.: ORS 196.600 - 196.692 & 196.800 - 196.990

Stats. Implemented: ORS 183

Proposed Amendments: Rules in 141-085, 141-089

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

Summary: Following a lengthy rule updating process, the Division adopted major revisions to Chapter 141-085 and 141-089. Since the adoption of the new rules in January 2003, the Division has identified a number of clarifications and changes that need to be made. Changes incorporate modifications to existing language and/or new provisions, including: (1) Compensatory Wetland Mitigation Ratio Requirements, Applicability, General Requirements and Functional Assessments; (2) Definitions; (3) Public review and Notice Process; and (4) Development of General Authorizations for pilings and for Oregon Department of Transportation bridges, and/or other related structure projects.

In addition, the Division may make other changes or clarifications to these rules.

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

Rules Coordinator: June LeTarte

Address: Division of State Lands, 775 Summer St. NE, Salem, OR 97301-1279

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

Employment Department Chapter 471

Date:	Time:	Location:
4-17-03	8 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard L. Luthe

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & 657.705 - 657.725

Proposed Amendments: 471-020-0035

Last Date for Comment: 4-17-03, 5 p.m.

Summary: The Employment department is proposing to amend the new Employment Service rules to clarify that a fee may not be charged in order to be referred to a job order listed with the Employment Department.

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

Rules Coordinator: Richard L. Luthe

Address: Employment Department, 875 Union St. NE - Room 312, Salem, OR 97311

Telephone: (503) 947-1724

Date:	Time:	Location:
4-17-03	3 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard L. Luthe

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657.610, 657.280 & 657

Proposed Amendments: 471-040-0005

Last Date for Comment: 4-17-03, 5 p.m.

Summary: The Employment Department is proposing to this rule to clarify how an individual or employer may file a request for hearing, and to clarify the meaning of a request for hearing.

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

Rules Coordinator: Richard L. Luthe

Address: Employment Department, 875 Union St. NE - Room 312, Salem, OR 97311

Telephone: (503) 947-1724

Employment Department, Child Care Division Chapter 414

Date:	Time:	Location:
4-17-03	10 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard L. Luthe

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.600 - 657A.640

Proposed Repeals: 414-001-0000

Last Date for Comment: 4-17-03, 5 p.m.

Summary: The Employment Department is proposing to delete this rule as it is obsolete.

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

Rules Coordinator: Richard L. Luthe

Address: Employment Department, Child Care Division, 875 Union St. NE - Room 312, Salem, OR 97311

Telephone: (503) 947-1724

Landscape Contractors Board Chapter 808

Date:	Time:	Location:
5-16-03	1 p.m.	Red Lion Inn North 1415 NE Third St. Bend, OR

Hearing Officer: Carl Cory

Stat. Auth.: ORS 670 & 671

Stats. Implemented: ORS 671

Proposed Amendments: 808-002-0620, 808-003-0025, 808-003-0045, 808-003-0050, 808-005-0020

Last Date for Comment: 5-16-03

Summary: 808-002-0620 - Clarifies definition of "Maintenance."
808-003-0025 - Adds requirement for signature and telephone number of client to verify maintenance experience and adds qualification to become a licensed landscape contractor for a holder of an active CCB license who also holds a current certification with the

NOTICES OF PROPOSED RULEMAKING

International Society of Arboriculture as a Certified Arborist, 808-003-0045 - Clarifies when a landscape business has a change in employed licensed landscape contractor, the business must notify the agency within ten days of the change and shall not offer or perform services for which it may no longer hold a license for that phase, 808-003-0050 - States a landscape business must submit verification of the individual licensed contractor it employs.

808-005-0020 - Failure to notify the agency of a change in employed licensed landscape contractor is a \$500 civil penalty, and failure to provide verification of the licensed individual landscape contractor employed by the business is a \$500 civil penalty.

**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

Oregon Criminal Justice Commission

Chapter 213

Date:	Time:	Location:
5-7-03	9 a.m.	635 Capitol St NE Salem, OR Basement Conference Rm. D

Hearing Officer: Lana Holman

Stat. Auth.: ORS 169.090(2), 419C.453 & 137.656(4)

Stats. Implemented: ORS 169.090(2) & 419C.453

Proposed Adoptions: 213-050-0045 - 213-050-0080

Last Date for Comment: 5-7-03

Summary: The rules provide standards for the review and approval of program plans from counties for the operation of extended detention programs in juvenile detention facilities. The rules allow courts with jurisdictions over cases under ORS 419A, 419B, and 419C to commit juveniles to an approved program for a maximum of 30 days.

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

Rules Coordinator: Phillip Lemman

Address: Oregon Criminal Justice Commission, 126 Public Service Bldg., 255 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-6495

Oregon Department of Education

Chapter 581

Date:	Time:	Location:
4-22-03	3 p.m.	Public Service Bldg. 255 Capitol St. NE Salem, OR Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Proposed Amendments: 581-015-1105, 581-015-1106

Last Date for Comment: 4-22-03

Summary: These amendments 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 copy of a rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
4-22-03	3 p.m.	Public Service Bldg. 255 Capitol St. NE Salem, OR Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 327.013 & 327.033

Stats. Implemented: ORS 327.013 & 327.033

Proposed Amendments: 581-023-0040

Last Date for Comment: 4-22-03

Summary: The Department of Education regularly updates the amount of money that it reimburses transportation to keep up with inflation and the cost of operation. Districts and contractors have raised the concern for many years that it is not true of the actual cost, especially when it is related to vehicles with passenger capacities between 11-20. The differences in operational cost between a 1-10 passenger vehicle and 11-20 are very minimal. The difference in purchase price of the vehicle does exist. However, the 11-20 passenger vehicle has higher construction standards and the department would be encouraging the use of these safer vehicles.

For questions regarding this rule, please contact Deborah Lincoln at (503)378-3600, ext. 2664 or e-mail Deborah.Lincoln@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
4-22-03	3 p.m.	Public Service Bldg. 255 Capitol St. NE Salem, OR Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 327.125

Stats. Implemented: ORS 327.013 & 327.008

Proposed Amendments: 581-023-0230

Last Date for Comment: 4-22-03

Summary: Expands the timeframe for submitting facility grant applications to reflect the actual distribution period, effectively extending the period that applications may be submitted by an additional year.

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

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

Rules Coordinator: Debby Ryan

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

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

Date:	Time:	Location:
4-22-03	3 p.m.	Public Service Bldg. 255 Capitol St. NE Salem, OR Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 820.110; Other Auth.: OAR 581-053-0002, 581-053-0006

Stats. Implemented:

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 581-053-0002

Last Date for Comment: 4-22-03

Summary: After tracking diabetic drivers for a year, the Department of Education finds it necessary to revise the rule to include only those drivers who are actually taking insulin, not drivers who control their diabetes with diet or oral agents. The item goes before the State Board on February 20, 2003 and school bus drivers can start the renewal process on March 1st. It would be less confusing and convenient for all parties to start before March 1.

For questions regarding this rule, please contact Deborah Lincoln at (503)378-3600, ext. 2554 or e-mail deborah.Lincoln@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

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

Rules Coordinator: Debby Ryan

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

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

.....

Oregon Housing and Community Services Chapter 813

Date:	Time:	Location:
5-8-03	11 a.m.	1600 State Street Salem, OR

Hearing Officer: Richard Mathews

Stat. Auth.: ORS 184, 456.555, 757.612 & 757.617

Stats. Implemented: ORS 456.555

Proposed Adoptions: 813-202-0005, 813-202-0010, 813-202-0020, 813-202-0030, 813-202-0040, 813-202-0050, 813-202-0060

Last Date for Comment: 5-9-03

Summary: The rules implement the Oregon Energy Assistance Program (OEA). The Program operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons meet their energy needs through assistance payments and client education.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

.....

Date:	Time:	Location:
4-17-03	3:30 p.m.	1600 State Street Salem, OR

Hearing Officer: John Wahrgren, Gene Smiley

Stat. Auth.: ORS 183, 456.555(2) & 456.625(12)(16)

Stats. Implemented: ORS 456.625(12)(16)

Proposed Adoptions: 813-350-0005, 813-350-0010, 813-350-0020, 813-350-0030, 813-350-0040, 813-350-0050, 813-350-0060, 813-350-0070

Last Date for Comment: 4-30-03

Summary: These rules establish the process by which Oregon Housing and Community Services Department may provide loan guarantees to lenders, sponsors and leasing companies for the development of suitable housing for low- and very-low income families and individuals including, but not limited to, disabled persons, farmworkers and ex-offenders.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

Date:	Time:	Location:
4-16-03	3 p.m.	1600 State St. Salem, OR

Hearing Officer: David McNamee

Stat. Auth.: ORS 456.515 - 458.725 & 458.210 - 458.240

Stats. Implemented: ORS 458.210 - 458-240

Proposed Adoptions: 813-047-0006

Proposed Amendments: 813-047-0001, 813-047-0005, 813-047-0010, 813-047-0015, 813-047-0020, 813-047-0025

Proposed Repeals: 813-047-0001(T), 813-047-0005(T), 813-047-0006(T), 813-047-0010(T), 813-047-0015(T), 813-047-0020(T), 813-047-0025(T)

Last Date for Comment: 5-9-03

Summary: 813-047-0001 - General Housekeeping to clarify language. 813-047-0005 is amended to provide further clarification to definitions that are commonly used in the program. 813-047-0006 is a new rule that outlines how the resources of the program will be administered. 813-047-0010 - General Housekeeping was incorporated into the rule for clarification. 813-047-0015 - Establishes a 30 calendar day deadline for the department to approve or request additional information in response to the receipt of an application. Incorporated general housekeeping to clarify language. 813-047-0020 - Adds language requiring the execution of a grant contract in a form and substance satisfactory to the department and any other documents as required by the department. Defines how grant funds will be used, establishes performance criteria and reporting requirements. 813-047-0025 - General Housekeeping to clarify language.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

.....

Date:	Time:	Location:
4-21-03	1 p.m.	1600 State St. Salem, OR

Hearing Officer: Cecilia Lyons

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Proposed Adoptions: 813-220-0001, 813-220-0015, 813-220-0070

Proposed Amendments: 813-220-0010, 813-220-0020, 813-220-0030, 813-220-0050, 813-220-0060

Proposed Repeals: 813-220-0040

Proposed Renumberings: 813-220-0000 to 813-220-0005

Last Date for Comment: 5-5-03

Summary: 813-220-0001 is a new rule describing the purpose and objectives of the program. 813-220-0005 (renumbered from 813-220-0000) is amended to provide further clarification to definitions that are commonly used in the program. 813-220-0010 incorporates language to clarify the relationship between the department and Regional Coordinating Agencies and the State Coordinating Agency. Additional clarification is provided on the handling of damaged shipments. 813-220-0015 establishes the requirements imposed on the Regional Coordinating Agencies by the State Coordinating Agency. 813-220-0020 incorporates general housekeeping to clarify language. 813-220-0030 incorporates general housekeeping to clarify language on the distribution of commodities. Adds language that the availability of Title II Commodities must be publicized and distributed in their respective Service Areas to ensure a maximum number of potential eligible households are reached. 813-220-0040 - Rule deleted. 813-220-0050 - Added language that Regional Coordinating Agencies must submit monthly progress reports to the Oregon Food Bank and the Department and maintain records as required by federal and state rules. This language was previously incorporated in 813-220-0040. General housekeeping was also incorporated to clarify language. 813-220-0060 - General housekeeping was incor-

NOTICES OF PROPOSED RULEMAKING

porated to clarify language. 813-220-0070 is a new rule providing the Director of the Department the ability to waive or modify any requirement of OAR Chapter 813, Division 220.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

Date:	Time:	Location:
4-21-03	1 p.m.	1600 State St. Salem, OR

Hearing Officer: Cecelia Lyons

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Proposed Adoptions: 813-250-0050

Proposed Amendments: 813-250-0000, 813-250-0010, 813-250-0020, 813-250-0030, 813-250-0040

Last Date for Comment: 5-5-03

Summary: 813-250-0000 - Clarifies language that ORS 458.525 to 458.530 designates the Department as the state agency responsible for administering emergency food assistance programs in Oregon. 813-250-0010 is amended to provide further clarification to definitions that are commonly used in the program. 813-250-0020 - Adds that the Department has designated the Oregon Food Bank through a letter agreement as the State Coordinating Agency. General housekeeping was incorporated to clarify language. 813-250-0030 - Deletes language that the SCA and RCAs will document spoilage received in food shipments. 813-250-0040 - General housekeeping of language for clarification. 813-250-0050 is a new rule providing the Director of the Department the ability to waive or modify any requirement of OAR Chapter 813, Division 250.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

Date:	Time:	Location:
5-8-03	10 a.m.	1600 State St. Salem, OR

Hearing Officer: Richard Mathews

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Proposed Adoptions: 813-200-0001

Proposed Amendments: 813-200-0010, 813-200-0020, 813-200-0030, 813-200-0040, 813-200-0050, 813-200-0060

Proposed Repeals: 813-200-0001(T), 813-200-0005(T), 813-200-0010(T), 813-200-0020(T), 813-200-0030(T), 813-200-0040(T), 813-200-0050(T), 813-200-0060(T)

Proposed Renumberings: 813-200-0000 to 813-200-0005

Last Date for Comment: 5-9-03

Summary: The rules implement the Low Income Energy Assistance Program. The Program operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

813-200-0001 is a new rule describing the purpose and objectives of the program. 813-200-0005 (renumbered from 813-200-0000) is amended to provide further clarification to definitions that are commonly used in the program. 813-200-0010 clarifies the language that the Department may contract with a Subgrantee Agency to provide Program services and activities at the local level. It further clarifies eligible agencies, and the general reporting requirements for these agencies. 813-200-0020 changes the eligibility requirements of a

household from 125 percent of the poverty guideline to the requirements outlined in the LIEAP Operations Manual. 813-200-0030 clarifies that all services may not be provided to each household. Allocation of resources will be determined based on need for service. Added language on the Leverage Incentive Fund assistance, allocation of those funds, and how the funds may be used. 813-200-0040 - General Housekeeping to clarify language. 813-200-0050 - General Housekeeping to clarify language. 813-200-0060 - General Housekeeping to clarify language.

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

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

Oregon State Lottery Chapter 177

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

Stats. Implemented: ORS 461.300

Proposed Amendments: 177-040-0070

Last Date for Comment: 5-16-03

Summary: The proposed amendments would revive language authorizing the use of alternative methods of providing access to Lottery services at Lottery retailers and add a new provision authorizing the Lottery to inspect a retailer's premises for compliance at any time, including an inspection as part of a random audit. These provisions strengthen the Lottery's ability to enforce the wheelchair accessibility program. The remaining amendments are grammar and housekeeping.

A copy of the proposed amendments is available by contacting Andrea Reimer at (503) 540-1169.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

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

Stats. Implemented: ORS 461.300

Proposed Amendments: 177-040-0030, 177-040-0051, 177-040-0110, 177-040-0115, 177-040-0120, 177-040-0125, 177-040-0130, 177-040-0160, 177-040-0180, 177-040-0190

Last Date for Comment: 5-16-03

Summary: The proposed amendment to OAR 177-040-0051 (Designated Employees) allows Lottery retailers to limit hours of redemption of winning tickets and shares. The proposed amendment to OAR 177-040-0160 (Suspension of OLCC License) strengthens the ability of the Lottery to suspend a retailer's authorization to sell non-video Lottery tickets and shares. This is in addition to the deactivation of the retailer's video lottery terminals when a retailer's OLCC liquor license is suspended. The amendment also sets forth the Lottery's process for investigating a retailer whose OLCC license has been suspended. The remaining amendments are grammar and housekeeping.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

Oregon University System, Eastern Oregon University Chapter 579

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-020-0006

Last Date for Comment: 5-14-03

NOTICES OF PROPOSED RULEMAKING

Summary: Amend Fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: LeeAnn Case

Address: Oregon State System of Higher Education, Eastern Oregon University, One University Blvd., LaGrande, OR 97850-2899

Telephone: (541) 962-3082

.....
**Oregon University System,
University of Oregon
Chapter 571**

Date:	Time:	Location:
4-22-03	4 p.m.	Board Room Erb Memorial Union UO Eugene, OR

Hearing Officer: Deb Eldredge

Stat. Auth.: ORS 351.070 & 352

Stats. Implemented: ORS 351.070

Proposed Amendments: 571-060-0005

Last Date for Comment: 4-23-03, 12 p.m.

Summary: Increase in family housing rental charge to cover projected operating costs for 2003-2004.

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

Rules Coordinator: Deb Eldredge

Address: Oregon State System of Higher Education, University of Oregon, 1226 President's Office, University of Oregon, Eugene, OR 97403-1226

Telephone: (541) 346-3082

.....
**Oregon Youth Authority
Chapter 416**

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.010, 420A.014 & 420A.105

Proposed Amendments: 416-440-0020

Last Date for Comment: 4-21-03

Summary: This rule will be amended to clarify the process of handling business and personal mail of offenders in the legal and/or physical custody of the OYA. Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

Rules Coordinator: Michelle Jayna

Address: Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

Telephone: (503) 378-3864

.....
**Parks and Recreation Department
Chapter 736**

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

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

Proposed Amendments: 736-018-0045

Last Date for Comment: 4-30-03

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 master plan for South Beach State Park. 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 the new master plan as a state rule.

The master plan responds to the most current information on park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, a steering committee, affected state and federal agencies and the City of Newport.

Rules Coordinator: Angie Steppe

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

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

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

Stat. Auth.: ORS 36.220 - 36.238; Other Auth.: Governor's Letter of Authorization

Stats. Implemented: ORS 36.224

Proposed Adoptions: 860-016-0015

Last Date for Comment: 4-21-03

Summary: The Oregon Department of Justice, in accordance with ORS 183.502, encourages the use of collaborative problem-solving processes, which enable decision makers and affected parties to engage in joint problem solving and which produce mutually beneficial agreements. Mediation is one such problem-solving process.

ORS 36.220 through 36.238 authorize state agencies to make mediation communications confidential. These statutes also allow agencies to limit the discovery and admissibility of mediation communications in subsequent proceedings. For most agencies, including the Commission, these confidentiality and inadmissibility provisions are available only by adopting, with the approval of the Governor, mediation confidentiality rules developed by the Attorney General.

The Department of Justice directs agencies to assess their needs and to then select an appropriate rule from those developed by the Attorney General pursuant to ORS 36.224. The Commission proposes to adopt the combined rule, which provides for the confidentiality and inadmissibility of mediation communications. This rule applies when the Commission is a party to a mediation or is mediating a dispute over which it has regulatory authority. The rule also sets out a confidentiality in mediation agreement.

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

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

Date:	Time:	Location:
4-17-03	9 a.m.	Rm. 140 Portland State Office Bldg. 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Stephen S. Walters, Chair

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Proposed Adoptions: 462-200-0630

Proposed Amendments: 462-110-0010

Last Date for Comment: 4-17-03

Summary: Amends definition of simulcast/simulcasting and provides new for Electronic 1-2-3 with Pick N wager.

Rules Coordinator: Carol N. Morgan

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

Telephone: (503) 731-4052

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

Date:	Time:	Location:
5-14-03	9-10 a.m.	255 Capitol St NE Room 300 A Salem, OR 97310

Hearing Officer: Fred R. Neal

Stat. Auth.: ORS 246.150 & 251.325

Stats. Implemented: ORS 251.325, 251.335 & 251.355

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 165-022-0020

Last Date for Comment: 5-14-03

Summary: This rule permanently adopts the temporary amendment to 165-022-0020 that was filed February 27, 2003. The amendments make several changes to the fee matrix for county voters' pamphlets. The previous matrix based the fee on the number of active registered voters in the entire electoral district. The amendments change the fees charged to candidates and those persons filing measure arguments when districts cross county lines, so that the fee charged to appear in any county voters' pamphlet is based only on the number of registered voters within that county and zone. Under the new matrix, if a candidate is elected by zone, the fee is based only on the number of registered voters in the zone. Finally, the threshold for each fee is changed, with the size of the electoral district for the highest fee increased from 25,000 to 50,000 active registered voters. Each change to the matrix reduces the fee charged to candidates and those filing measure arguments in those specific circumstances.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Teacher Standards and Practices Commission Chapter 584

Date:	Time:	Location:
5-8-03	3 p.m.	Comfort Suites at Salem 630 Hawthorne Ave. SE Salem, OR 97301

Hearing Officer: Patricia Evenson-Brady, TSPC Chair

Stat. Auth.: ORS 342.125, 342.136, 342.138, 342.147 & 342.165

Stats. Implemented:

Proposed Adoptions: 584-060-0210

Proposed Amendments: 584-005-0005, 584-017-0150, 584-060-0071, 584-065-0050

Last Date for Comment: 5-7-03

Summary: 1) Establishes an emergency license, not to exceed one year, when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students. 2) Revises the Reading endorsement content area to align with the International Reading standards. 3) Stipulates the number of practica required to obtain authorization for K-12 in the specialty areas.

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

Rules Coordinator: Janet Madland

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

Telephone: (503) 373-1060

Travel Information Council Chapter 733

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Proposed Repeals: Rules in 733-020

Last Date for Comment: 4-30-03

Summary: The Travel Information Council held a quarterly Council meeting on March 7, 2003. In the interest of cleaning up our OARs, the Council declared its intent to repeal Division 020 of Chapter 733, Oregon Administrative Rules.

Rules Coordinator: Angela Willhite

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

Telephone: (503) 378-4508

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Survey Chapter 820

Adm. Order No.: BEELS 2-2003(Temp)

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 3-14-03 thru 9-9-03

Notice Publication Date:

Rules Adopted: 820-010-0202

Subject: The title of "geotechnical engineer", "soils engineer", "soils engineer" or "foundation engineer" can be used by a professional engineer in the State of Oregon, that is practicing in these fields of engineering, until such date that the prior practice process has been completed by the Board per OAR 820-010-0200(8).

Rules Coordinator: Edward B. Graham—(503) 362-2666

820-010-0202

Use of Geotechnical Titles

The title "Geotechnical engineer", "soils engineer", "soil engineer", or "foundation engineer" can be used by a professional engineer in the State of Oregon that is practicing in these fields of engineering until such date that the prior practice process has been completed by the Board per OAR 820-010-0200(8).

Stat. Auth.: ORS 670.310 & ORS 672.255

Stats. Implemented: ORS 672.002 - ORS 672.325

Hist.: BEELS 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-9-03

Board of Nursing Chapter 851

Adm. Order No.: BN 1-2003

Filed with Sec. of State: 3-6-2003

Certified to be Effective: 3-6-03

Notice Publication Date: 1-1-03

Rules Adopted: 851-031-0085

Rules Amended: 851-031-0005, 851-031-0006, 851-031-0010, 851-031-0030, 851-031-0040, 851-031-0045, 851-031-0060, 851-031-0070, 851-031-0080, 851-031-0086, 851-031-0090

Rules Repealed: 851-031-0025

Subject: These rules establish the standards for licensure of Registered Nurses and Licensed Practical Nurses. These rules refine the general eligibility, limits on eligibility, and requirements for licensure of Registered Nurses and Licensed Practical Nurses.

Rules Coordinator: KC Cotton—(503) 731-4754

851-031-0005

Definitions

(1) "Address of Record" means the home address of a licensee, submitted on the initial application or by written notification of change.

(2) "Application" means a request for licensure including all information identified on a form supplied by the Board and payment of required fee.

(3) "Approved Nursing Program" means a pre-licensure educational program approved by the Board for registered or practical nurse scope of practice; or an educational program in another state or jurisdiction approved by the licensing board for nurses or other appropriate accrediting agency for that state.

(4) "Clinical Component" means a course or session in which a student obtains nursing experience in a practice site. The course or session may relate to activities that use nursing knowledge but not in a direct client/patient interaction, or may relate to nursing practice directly with clients/patients.

(5) "Commission on Graduates of Foreign Nursing Schools (CGFNS)" is a credentials evaluation/testing service for graduates of schools outside the U.S.

(6) "Completed application" means an application and all supporting documents related to licensure requirements.

(7) "Credentials Evaluation" means an independent determination, by a Board approved service, through review of transcripts and other relevant material, whether an educational program is or is not equivalent to nursing education in the United States.

(8) "Delinquent Renewal" means late receipt of a renewal application and fee up to thirty (30) days following license expiration.

(9) "English Language Proficiency" means the ability to use and comprehend spoken and written English at a level sufficient for safety within the scope of practice.

(10) "Examination" means the licensing examination endorsed by the National Council of State Boards of Nursing, Inc. which may be the State Board Test Pool Examination (SBTPE) or the NCLEX-RN® or -PN®.

(11) "Expired license" means that the license has lapsed and is void, the nurse has not renewed Oregon licensure or been granted Retired or Inactive status and is not authorized to practice nursing.

(12) "Inactive Nurse" status means that the nurse has applied for inactive status, is not currently authorized to practice nursing in Oregon but may elect to return to active practice by meeting the Board's standards.

(13) "International Nurse" means an individual who is credentialed to practice as a nurse in a country other than the United States or its jurisdictions.

(14) "Limited License" means a registered nurse or practical nurse license with conditions which specifically limit its duration or full use for practice.

(15) "Long Term Care Facility" means a licensed skilled nursing facility or intermediate care facility as those terms are used in ORS 442.015, an adult foster home as defined in ORS 443.705 that has residents over sixty (60) years of age, a residential care facility as defined in ORS 443.400 or an assisted living facility.

(16) "Name Change" means establishing the legal basis through documentation for a change in the name of record.

(17) "Name of Record" means the name to which the applicant is legally entitled, submitted on the initial application, or changed at the written request of the applicant with documentation of the legal basis for the change.

(18) "Official Transcript" means a transcript received directly from the school, bearing the official seal or other designation the school identified, showing the date of graduation and the degree, diploma or certificate awarded.

(19) "Reexamination" means subsequent examination(s) after one (1) or more failures.

(20) "Reactivation" is the process of relicensing after the license is expired thirty-one (31) or more days.

(21) "Reinstatement" is the process of relicensing when the license has been subject to disciplinary sanction by the Board.

(22) "Retired Nurse" is an honorary title given a nurse previously licensed and in good standing in Oregon and does not authorize the nurse to practice nursing.

(23) "United States" or "U.S." includes all states and jurisdictions of the United States.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, 678.050, 678.101, 678.150 & ORS 678.410

Hist.: NB 4-1997, f. 3-6-97, cert. ef. 5-1-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1999, f. & cert. ef. 12-1-99; BN 6-2000, f. & cert. ef. 4-24-00; BN 2-2002, f. & cert. ef. 3-5-02; BN 17-2002, f. & cert. ef. 10-18-02; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0006

General Eligibility, Limits on Eligibility, and Requirements

(1) Eligibility:

(a) Graduation from an approved nursing program as documented in an official transcript or credentials evaluation:

(A) An applicant for the practical nurse examination shall show evidence of having completed a state approved Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(B) An applicant for the registered nurse examination shall show evidence of having completed, a state approved Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(C) An applicant who graduated from a nursing program outside the United States shall show evidence that the program is equivalent to Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing in the U.S.

(b) Successful completion of the examination; and

(c) Current or recent nursing practice as defined in OAR 851-031-0006(3)(e); and

(d) English language proficiency as defined in OAR 851-031-0006(3)(f).

(2) Limits on Eligibility:

(a) If an applicant has a major physical or mental condition that could affect the applicant's ability to practice nursing safely, a physical or psychological assessment may be required, to assist in the determination as to whether or not the applicant's physical or mental health is adequate to serve the public safely.

ADMINISTRATIVE RULES

(b) If an applicant has been arrested, charged or convicted of any criminal offense a determination shall then be made as to whether the arrest, charge or conviction bears a demonstrable relationship to the practice of nursing, in which case licensure may be denied.

(c) If the applicant has past, current or pending disciplinary action in another licensing jurisdiction, the Board shall investigate and may deny licensure.

(d) If the applicant falsifies an application, supplies misleading information or withholds information, such action may be grounds for denial or revocation.

(e) No state constructed examination, challenge examination or other method of licensure examination will be accepted.

(f) The Board shall be the sole judge of all credentials.

(3) General Requirements:

(a) Completed application using forms and instructions provided by the Board, and payment of appropriate fees established by the Board.

(b) Official transcript or credentials evaluation:

(A) Graduates of United States schools of nursing must document evidence of degree awarded.

(B) Graduates of schools of nursing outside the United States must document graduation and educational equivalency with a credentials evaluation.

(c) Picture Identification:

(A) Passport photograph taken within six (6) months of the date of application;

(B) Submitted on a form, provided by the Board, that has been signed by the applicant;

(C) With photograph and signature of applicant verified by the Dean/Director of school or a Notary Public.

(d) Documentation of successful completion of the examination:

(A) A registered nurse applicant for licensure shall have achieved the following minimum score on the licensure examination:

(i) Between June 1951 up to and including February 1982, a standard score of 350 or above in each of the five test sections comprising the examination;

(ii) Between July 1982 through June 1988, a comprehensive standard minimum score of 1600 or above;

(iii) Beginning February 1989, a designation of a "Pass" score.

(B) A practical nurse applicant for licensure shall have achieved the following minimum standard score on the licensure examination:

(i) Between June 1951 up to and including April 1988, a comprehensive standard score of 350 or above;

(ii) Beginning October 1988, a designation of a "Pass" score.

(e) Documentation of meeting the nursing practice requirement.

(A) 960 hours of nursing practice, at the level of license sought, within the five (5) years immediately preceding application for licensure; or

(B) Graduation from a Board-approved school of nursing within the five (5) years immediately preceding application for licensure; or

(C) Completion of an Oregon State Board of Nursing approved re-entry program at the level of license sought, within the two (2) years immediately preceding issuance of licensure.

(f) Demonstration of English proficiency by:

(A) Graduation from an approved school of nursing in the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) The preponderance of clinical experience was in English; or

(B) Graduation from a school of nursing outside of the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) The preponderance of clinical experience was in English; or

(C) Documentation of nursing practice, in English, at level of license sought, in another state in the United States, for at least 960 hours, in the two (2) years preceding application for licensure; or

(D) Demonstration of English proficiency by:

(i) CGFNS Certificate; or

(ii) Passing the Test of English as a Foreign Language (TOFEL) with a minimum score of 560 for the paper version or a minimum score of 220 for the computer version; or

(iii) Passing the Test of English for International Communication (TOEIC) examination with a minimum score of 780; or

(iv) Passing the Michigan English Language Assessment Battery (MELAB) examination with a minimum cut score of 78; or

(v) VISA screen certificate.

(vi) TOEFEL, TOEIC and MELAB examinations must be taken within two (2) years of application for licensure;

(vii) Passing the NCLEX examination in another state;

(viii) Graduation from a nursing education program in the United States with an advanced degree.

(g) Use of documented legal name for licensure. Documents which may be submitted to document a legal name change include birth certificate, marriage license, court order or decree.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050 & ORS 678.150

Hist.: BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0010

Licensure by Examination

(1) Eligibility:

(a) Graduation from an approved nursing program as documented in an official transcript or credentials evaluation:

(A) An applicant for the practical nurse examination shall show evidence of having completed a state approved Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(B) An applicant for the registered nurse examination shall show evidence of having completed, a state approved Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(C) An applicant who graduated from a nursing program outside the United States shall show evidence that the program is equivalent to Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing in the U.S.

(b) Successful completion of the examination; and

(c) Current or recent nursing practice as defined in OAR 851-031-0006(3)(e); and

(d) English language proficiency as defined in OAR 851-031-0006(3)(f).

(2) Limits on Eligibility:

(a) If an applicant has a major physical or mental condition that could affect the applicant's ability to practice nursing safely, a physical or psychological assessment may be required, to assist in the determination as to whether or not the applicant's physical or mental health is adequate to serve the public safely.

(b) If an applicant has been arrested, charged or convicted of any criminal offense a determination shall then be made as to whether the arrest, charge or conviction bears a demonstrable relationship to the practice of nursing, in which case licensure may be denied.

(c) If the applicant has past, current or pending disciplinary action in another licensing jurisdiction, the Board shall investigate and may deny licensure.

(d) If the applicant falsifies an application, supplies misleading information or withholds information, such action may be grounds for denial or revocation.

(e) No state constructed examination, challenge examination or other method of licensure examination will be accepted.

(f) The Board shall be the sole judge of all credentials.

(3) General Requirements:

(a) Completed application using forms and instructions provided by the Board, and payment of appropriate fees established by the Board.

(b) Official transcript or credentials evaluation:

(A) Graduates of United States schools of nursing must document evidence of degree awarded.

(B) Graduates of schools of nursing outside the United States must document graduation and educational equivalency with a credentials evaluation.

(c) Picture Identification:

(A) Passport photograph taken within six (6) months of the date of application;

(B) Submitted on a form, provided by the Board, that has been signed by the applicant;

(C) With photograph and signature of applicant verified by the Dean/Director of school or a Notary Public.

(d) Documentation of successful completion of the examination:

(A) A registered nurse applicant for licensure shall have achieved the following minimum score on the licensure examination:

(i) Between June 1951 up to and including February 1982, a standard score of 350 or above in each of the five test sections comprising the examination;

(ii) Between July 1982 through June 1988, a comprehensive standard minimum score of 1600 or above;

ADMINISTRATIVE RULES

(iii) Beginning February 1989, a designation of a "Pass" score.

(B) A practical nurse applicant for licensure shall have achieved the following minimum standard score on the licensure examination:

(i) Between June 1951 up to and including April 1988, a comprehensive standard score of 350 or above;

(ii) Beginning October 1988, a designation of a "Pass" score.

(e) Documentation of meeting the nursing practice requirement.

(A) 960 hours of nursing practice, at the level of license sought, within the five (5) years immediately preceding application for licensure; or

(B) Graduation from a Board-approved school of nursing within the five (5) years immediately preceding application for licensure; or

(C) Completion of an Oregon State Board of Nursing approved re-entry program at the level of license sought, within the two (2) years immediately preceding issuance of licensure.

(f) Demonstration of English proficiency by:

(A) Graduation from an approved school of nursing in the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) The preponderance of clinical experience was in English; or

(B) Graduation from a school of nursing outside of the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) The preponderance of clinical experience was in English; or

(C) Documentation of nursing practice, in English, at level of license sought, in another state in the United States, for at least 960 hours, in the two (2) years preceding application for licensure; or

(D) Demonstration of English proficiency by:

(i) CGFNS Certificate; or

(ii) Passing the Test of English as a Foreign Language (TOFEL) with a minimum score of 560 for the paper version or a minimum score of 220 for the computer version; or

(iii) Passing the Test of English for International Communication (TOEIC) examination with a minimum score of 780; or

(iv) Passing the Michigan English Language Assessment Battery (MELAB) examination with a minimum cut score of 78; or

(v) VISA screen certificate.

(vi) TOEFEL, TOEIC and MELAB examinations must be taken within two (2) years of application for licensure;

(vii) Passing the NCLEX examination in another state;

(viii) Graduation from a nursing education program in the United States with an advanced degree.

(g) Use of documented legal name for licensure. Documents which may be submitted to document a legal name change include birth certificate, marriage license, court order or decree.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050, ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 3-1978, f. & ef. 6-30-78; NER 15-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NER 4-1983, f. & ef. 12-1-83; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & ef. 4-1-94; Renumbered from 851-020-0156; NB 4-1997, f. 3-6-97, cert. ef. 5-1-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 14-1999, f. & cert. ef. 12-1-99; BN 7-2000, f. & cert. ef. 7-3-00; BN 5-2001(Temp), f. & cert. ef. 4-3-01 thru 9-25-01; BN 14-2001, f. & cert. ef. 10-16-01; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0030

License by Endorsement

(1) Eligibility for License by Endorsement:

(a) Applicant shall meet all standards for eligibility established in 851-031-0006(1)(2)(3); and

(b) Applicant shall be or have been licensed in another state or jurisdiction.

(2) Requirements and procedures for Licensure by Endorsement:

(a) An applicant for registered nurse or practical nurse licensure by endorsement shall meet all requirements as established in OAR 851-031-0006; except the requirement for Picture Identification.

(b) Using instructions provided by the Board, the applicant shall provide for verification of:

(A) Successful completion of an approved examination; and

(B) Licensure status in the current or most recent state of practice.

(c) An application for licensure by endorsement which has not resulted in the issue of a license within one (1) calendar year shall be considered void.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050 & ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 5-1981, f. & ef. 11-24-81; NER 4-1978, f. & ef. 6-30-78; NER 4-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NER 6, 1983, f. & ef. 12-9-83; NB 5-1987, f. & ef. 7-1-87; NB 5-1989, f. & cert. ef. 10-4-89; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0171; NB 5-1995(Temp), f. & cert. ef. 6-15-95;

NB 10-1995, f. & cert. ef. 10-9-95; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0040

Nurses Not Licensed in Oregon Hired to Meet a Temporary Staffing Shortage

(1) Nurses who are hired in Oregon to meet a temporary staffing shortage in a coronary care unit, intensive care unit, emergency department (see ORS 678.031 and 678.034), or in a long term care facility as defined in these rules, and who do not hold a current Oregon license may be temporarily employed if the following conditions are met:

(a) Employer submits written notification to the Board of Nursing by the day the nurse is placed on staff indicating:

(A) Date nurse(s) placed on staff;

(B) Name(s) of nurse(s);

(C) Jurisdiction(s) of current licensure of nurse(s) so hired indicating evidence used to determine current unencumbered licensure;

(D) Nature of staffing shortage; and

(E) There is no labor dispute affecting nurses at the place of employment.

(b) A nurse hired under ORS 678.031(6)(e):

(A) Must apply for an Oregon license to practice nursing (see OAR 851-031-0030) by the day the nurse is placed on staff.

(B) A nurse not applying for an Oregon license by the day placed on staff shall be subject to a civil penalty for practicing nursing without an Oregon license as indicated in OAR 851-045-0025.

(2) The Board shall notify the Oregon Department of Human Resources of any hospital not complying with subsection (1)(a) of this rule or any hospital hiring nurses not complying with subsection (1)(b) of this rule.

(3) The Board shall notify the Department of Human Services of any long term care facility not complying with subsection (1)(a) of this rule or any long term care facility hiring nurses not complying with subsection (1)(b) of this rule.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.031 & ORS 678.150

Hist.: NER 1-1986, f. & ef. 4-3-86; NER 2-1986, f. & ef. 4-9-86; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0172; BN 10-1998, f. & cert. ef. 8-7-98; BN 2-2002, f. & cert. ef. 3-5-02; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0045

Limited License for Certain Students in Oregon Educational Programs

(1) RNs from other countries who enroll for graduate study in Oregon.

(a) Required licensure:

(A) When the nature of the graduate program includes no clinical component or a clinical component which requires no direct patient care, the international nurse is required to hold either a limited or full Oregon RN license.

(B) When the nature of the graduate program includes a clinical component with direct patient care experience (e.g. nurse practitioner programs) an Oregon RN license is required prior to clinical experience.

(b) Limited License Requirements:

(A) Completed application using forms and instructions provided by the Board and payment of appropriate fees established by the Board.

(B) Graduation from an educational program that is equivalent to nursing education in the United States documented by a Board approved credentials evaluation service.

(C) Competence in oral and written English demonstrated by:

(i) Passing the Test of English as a Foreign Language (TOEFL) with a minimum score of 540 on the paper version, or a minimum score of 207 on the computer version; or

(ii) Documentation of holding a Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate; or

(iii) Graduation from a school of nursing outside of the United States in which all classroom instruction was in English; and all nursing textbooks were in English; and the preponderance of clinical experience was in English; or

(iv) Documentation of practice as a registered nurse, in English, in another state in the United States, for at least 960 hours, in the two (2) years preceding application for licensure.

(D) A passing score on the licensing examination as defined in OAR 851-031-0005(10) or on the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination.

(c) Limited licenses issued under this section shall be valid for a period of two (2) years from the date of issuance. After that period, the limited

ADMINISTRATIVE RULES

license may be extended annually for a one (1) year period upon application by licensee, payment of the appropriate fee, and demonstration of continued enrollment in the graduate program.

(d) The limited license issued under this section is to be used only for study in the graduate program.

(2) RNs from other countries who seek short term educational experience in Oregon:

(a) Required licensure:

(A) When the nature of the short-term educational experience includes the practice of nursing, the international nurse is required to hold a limited RN license.

(B) When the nature of the short-term educational experience is observation only, the international nurse does not require an Oregon license. "Observation only" means that the individual is not responsible for nor a participant in any aspect of nursing practice.

(b) Limited license requirements:

(A) Completed application using forms and instructions provided by the Board and payment of appropriate fees.

(B) Competence in oral and written English demonstrated by:

(i) Passing the Test of English as a Foreign Language (TOEFL) with a minimum score of 540 on the paper version, or a minimum score of 207 on the computer version; or

(ii) Documentation of holding a Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate; or

(iii) Graduation from a school of nursing outside of the United States in which all classroom instruction was in English; and all nursing textbooks were in English; and the preponderance of clinical experience was in English; or

(iv) Documentation of practice as a registered nurse, in English, in another state in the United States, for at least 960 hours, in the two (2) years preceding application for licensure.

(C) Graduation from an educational program that is equivalent to nursing education in the United States documented by a Board approved credentials evaluation service.

(D) A passing score on the licensing examination as defined in OAR 851-031-0005(10) or on the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination.

(E) A contract with an organization or agency in Oregon for a planned learning experience including at least the planned learning outcomes, dates for the experience, and how the outcomes will be achieved.

(c) Limited licenses issued under this section shall be valid for practice only within the contracted learning experience, and shall be issued to the last date of the learning contract up to a maximum of six (6) months.

(3) Students from other countries in established exchange programs with Oregon schools:

(a) When a nursing student from another country engages in clinical experience as part of an established exchange program, a limited license is required.

(b) Limited license requirements:

(A) Completed application using forms and instructions provided by the Board and payment of appropriate fees established by the Board;

(B) Enrollment in a pre-licensure nursing program in another country;

(C) Acceptance by an approved Oregon nursing program for exchange experience; and

(D) Competence in oral and written English demonstrated by:

(i) Passing the Test of English as a Foreign Language (TOEFL) with a minimum score of 520 on the paper version, or a minimum score of 190 on the computer version; or

(ii) Documentation of holding a Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate; or

(iii) Graduation from a school of nursing outside of the United States in which all classroom instruction was in English; and all nursing textbooks were in English; and the preponderance of clinical experience was in English; or

(iv) Documentation of practice as a registered nurse, in English, in another state in the United States, for at least 960 hours, in the two (2) years preceding application for licensure.

(c) Limited licenses issued under this section shall be valid only for student experience within the exchange program, and shall be valid for the term of the exchange agreement up to a maximum of one (1) year.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050, ORS 678.101, ORS 678.150, ORS 678.410

Hist.: BN 11-1999, f. & cert. ef. 12-1-99; BN 6-2000, f. & cert. ef. 4-24-00; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0060

Renewal of License

(1) Eligibility for Renewal of License:

(a) An applicant for renewal of license shall meet the practice requirement as established in OAR 851-031-0006(3)(e).

(b) An applicant for renewal of license who does not meet the practice requirement, and who is otherwise eligible for renewal, may satisfy the practice requirement through successful completion of a Board approved re-entry program with a limited license for the clinical portion of the program pursuant to OAR 851-031-0070 and 851-030-0080.

(2) Requirements and procedures for renewal of license:

(a) The licensee shall submit, prior to the expiration date as set forth in ORS 678.101, an application and fee as prescribed by the Board. An application for renewal not completed within two (2) calendar years shall be considered void.

(b) The licensee shall answer all mandatory questions on the renewal form concerning employment and education.

(c) A renewal application and fee postmarked up to sixty (60) days following expiration of the license, shall be considered delinquent and the applicant shall pay the delinquent fee.

(d) A renewal application and fee postmarked sixty-one (61) or more days following expiration shall be considered a request for reactivation.

(3) Reactivation of license. An applicant for reactivation of license shall:

(a) Submit a completed application and fee, including the delinquent fee;

(b) Meet the nursing practice requirement as set forth in OAR 851-031-0006(3)(e);

(c) Submit picture identification as set forth in OAR 851-031-0006(3)(c); and

(d) Submit written verification of license from the most recent state of practice if licensed in another state since Oregon license has expired.

(4) Reinstatement. An applicant for reinstatement of license shall:

(a) Submit evidence that Board has issued an Order for reinstatement;

(b) Submit a completed application and fee, including the delinquent fee;

(c) Meet the nursing practice requirement as set forth in OAR 851-031-0006(3)(e);

(d) Submit picture identification as set forth in OAR 851-031-0006(3)(c); and

(e) Submit written verification of license in the most recent state of practice if licensed in another state since Oregon license has expired.

(5) If a licensee fails to make application for renewal on or before the deadline prescribed, the license shall be considered delinquent:

(a) In order to reinstate a delinquent license, a delinquent fee in addition to a renewal fee shall be required as prescribed by the Board.

(b) In addition, the delinquent licensee may be required to engage in a re-entry program as defined in OAR 851-031-0070 and 851-031-0080.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.021, ORS 678.040, ORS 678.101 & ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 3-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0186; NB 12-1997, f. & cert. ef. 9-29-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0070

Re-entry into Nursing

(1) Standards for Nurses Needing Re-entry

(a) An applicant for licensure by examination, endorsement, renewal, delinquent renewal, reactivation or reinstatement who does not meet the practice requirement as stated in OAR 851-031-0006(3)(e)(A)(B)(C) within the scope of practice for which licensure is sought, is required to complete a re-entry program approved by the Board.

(b) Process for completion of a Re-entry Program:

(A) The applicant submits a complete application for licensure;

(B) The Board determines that all requirements for licensure, other than the practice requirement, have been met;

(C) The applicant enrolls in a Board approved re-entry program or submits a plan and obtains approval for supervised clinical practice;

(D) The applicant obtains a limited license and completes the program or supervised clinical practice.

(E) The complete application for licensure remains valid for two (2) years for purpose of the applicant's meeting the re-entry requirements.

(F) An application for re-entry and limited license remains valid for two (2) years for completion of the formal re-entry program.

ADMINISTRATIVE RULES

(G) An application for re-entry and limited license remains valid for one (1) year for completion of an approved plan for supervised clinical experience.

(c) Except as otherwise provided in these rules, all re-entry requirements must be at the level of licensure being sought.

(d) If an applicant for RN licensure has completed a Board approved LPN re-entry program within the past two (2) years, and the theory component was passed at the RN level, the applicant may meet all other requirements without repeating the eighty (80) hour theory component.

(2) A Limited License for re-entry clinical experience shall be issued to a nurse who has:

(a) Submitted a current complete application and fee for re-entry and limited license; and

(b) Met all requirements for licensure except for completion of the re-entry program; and

(c) Obtained verification from an instructor that the applicant is enrolled in an approved re-entry program; or

(d) Submitted a plan and obtained approval from the Board for supervised clinical practice.

(3) The limited license issued under these rules is to be used only for the clinical practice component of the nursing re-entry program or approved plan for supervised clinical experience.

(a) The limited license expires six (6) months from date of issue or upon completion of the re-entry program, whichever comes first.

(b) One extension of the limited license will be granted upon request and payment of fee, provided there is a current valid application for licensure on file.

(4) Required hours of supervised clinical practice.

(a) A nurse with at least 480 hours of nursing practice but fewer than 960 hours of nursing practice during the four (4) year period preceding application for license, may submit a plan for additional hours of supervised nursing practice with a Board approved preceptor.

(A) The documented practice hours and additional hours of supervised practice shall total no less than 960 hours.

(B) In no case shall the supervised practice be less than 160 hours.

(C) The Board shall respond with written approval or disapproval of the plan for additional hours of supervised nursing practice within thirty (30) days of its submission; and

(D) Approval of the plan for additional hours of supervised nursing practice is valid for one (1) year from the date of the approval; and

(E) The supervised nursing practice must be completed within the year for which approval is valid.

(b) A nurse who has graduated from an approved nursing education program in the United States or an equivalent nursing education program in another country within the ten (10) years preceding application for licensure and re-entry shall complete 160 hours of supervised clinical practice in the re-entry program.

(c) A nurse who has graduated from an approved nursing education program in the United States or an equivalent nursing education program in another country within the fifteen (15) years preceding application for licensure and re-entry shall complete 320 hours of supervised clinical practice in the re-entry program.

(d) A nurse with fewer than 960 hours of nursing practice within the fifteen (15) years preceding application, must complete a Board approved nursing program, and pass the licensing examination;

(e) Supervised clinical experience of the nursing re-entry program or approved plan for supervised clinical experience shall be in a student role and unpaid.

(5) Successful completion of re-entry requirements means the applicant has:

(a) Completed an approved plan for supervised clinical experience as described in 851-031-0070(4)(a)(A-E) within one (1) year of the date of plan approval; or

(b) Enrolled in and completed a formal Board approved re-entry program within two (2) years of the date of application for licensure; and

(c) Successfully completed the clinical hours in a formal Board approved re-entry program within the program according to the 851-031-0070(4 a-g); and

(d) Satisfied a pharmacology requirement by successful completion of one of the following within the twelve (12) months prior to enrollment or concurrent with enrollment in the formal re-entry program:

(i) Independent pharmacology course specifically approved for re-entry; or

(ii) Two (2) semester credit basic nursing pharmacology course; or

(iii) Three (3) quarter credit basic nursing pharmacology course; or

(iv) At least thirty (30) clock hours of pharmacology.

(6) Failure to successfully complete.

(a) Failure to successfully complete the formal re-entry program within two (2) years means the applications and limited license are no longer valid. The applicant is required to reapply for licensure and for limited licensure and re-entry. Required clinical hours will be recalculated based on the later application(s).

(b) Failure to successfully complete the supervised clinical practice in an approved plan within one (1) year means the applications and limited license are no longer valid. The applicant is required to reapply for licensure and for limited licensure and re-entry. Required clinical hours will be recalculated based on the later application(s). The applicant is required to submit a new plan for supervised clinical experience.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.113 & ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 2-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NER 6, 1983, f. & ef. 12-9-83; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0187; NB 12-1997, f. & cert. ef. 9-29-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0080

Standards for Re-Entry Programs

Formal re-entry programs may be offered by persons, health care facilities, or educational facilities which meet the program standards identified in subsections (a)(b)(c)(d)(e) and (f) of this section:

(1) A new re-entry program shall be approved by the Board at least eight (8) months in advance of the expected date of implementation; and programs shall be reviewed for continuing approval at least every five (5) years. Programs which have been approved prior to the adoption of these rules, shall have up to eight (8) months for making any program changes required by the rules.

(2) Program changes requiring notification of the board and board approval:

(a) Change in program director;

(b) Major change in program content;

(c) Major change in instructional design.

(3) Philosophy, purpose and objectives:

(a) Philosophy, purpose and objectives of the course shall be clearly stated and available in written form. They shall be consistent with standards for registered nurse scope of practice and licensed practical nurse scope of practice as defined in OAR 851-045-0005 and 851-045-0010;

(b) Objectives reflecting the philosophy shall be stated in behavioral terms and describe the capabilities and competencies of the graduate differentiated for registered nurse and practical nurse scope of practice.

(4) Faculty:

(a) Each nurse faculty member shall hold a current unencumbered license to practice as a registered nurse in the State of Oregon, or state in which the program is located;

(b) The re-entry program director shall have:

(A) A minimum of a baccalaureate degree in nursing, and

(B) Three (3) years experience as a registered nurse; and

(C) Evidence of academic preparation for teaching, or evidence of equivalent experience in teaching.

(c) Each instructor shall have:

(A) Two (2) years experience as a registered nurse; and

(B) Evidence of preparation or experience in teaching.

(d) A clinical preceptor shall be a Registered Nurse who:

(A) Holds an unencumbered license to practice in Oregon.

(B) Has practiced the previous two (2) years on a full-time basis or at least half time during the previous four (4) years;

(C) Has a recommendation from the nurse executive of the facility where the clinical experience is to occur;

(D) Has been employed at least six (6) months in that practice setting;

(E) Has at least one (1) year of current experience in medical-surgical nursing, or in the practice area in which the re-entry student is being precepted; and

(F) Agrees to directly supervise and evaluate the re-entry nurse.

(5) Course content:

(a) The course content, length, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the course.

(b) The course content shall include, but not be limited to, a minimum of eighty (80) hours of theory in current basic concepts of:

(A) Overview of current health care system (e.g. managed care, short-stays, higher acuity levels in all settings);

ADMINISTRATIVE RULES

(B) Overview of current issues in professional nursing practice (e.g. critical thinking, transcultural awareness, case management, supervision and management of unlicensed workers, patient teaching);

(C) Legal and ethical issues (e.g. biogenetics, physician assisted suicide, right to life, freedom of choice, legal basis of nursing practice in Oregon);

(D) Overview and new dimensions of treatment and nursing practice (e.g. review of major areas of nursing emphasizing new information, review of nursing management of stress and pain, HIV/AIDS and issues related to bloodborne pathogens, changes in treatment and care in diabetes and cancer);

(E) Management of care issues (e.g. differentiation of roles - CNA, LPN, RN and various unlicensed workers, delegation and supervision, leadership);

(F) Health assessment;

(G) Documentation including legal issues;

(H) Application of pharmacologic knowledge and administration of medications.

(6) Clinical practice program:

(a) The program shall determine that each student:

(A) Holds a current full or limited license at the level for which the re-entry course is being taken;

(B) Works with a qualified preceptor as defined in OAR 851-031-0080(c)(D);

(C) Meets the clinical hours requirement as determined by the Board pursuant to OAR 851-031-0070(2); and

(D) Has completed at least thirty (30) contact hours of pharmacology within twelve (12) months prior to or concurrent with the re-entry program.

(b) Standard acute care medical-surgical clinical experience:

(A) Clinical experience for the re-entry student shall be appropriate to the student's level of licensure;

(B) At least one-half of the clinical practice experience shall be in medical/surgical nursing;

(C) The clinical experiences shall occur in an acute care hospital, or a skilled unit of a long term care facility;

(D) The student may seek clinical experiences in a specialized field of choice once half of the required clinical hours have been met.

(E) Prior to re-entry clinical experience the facility shall provide relevant orientation appropriate to the individual's planned clinical experience.

(c) Specialized re-entry: When the re-entry student gives evidence of advanced preparation and/or five (5) or more years of most recent practice in a specialized area of practice, and indicates the intention of continuing to practice in that specialized area, the student may choose to meet the required clinical practice hours solely in that specialized area subject to availability of a preceptor and facility willing to provide the experience and ability/willingness of the program director to supervise/coordinate the experience (e.g. operating room, pediatrics, oncology).

(A) Clinical experience for the re-entry student shall be appropriate to the student's level of licensure;

(B) The applicant shall submit a request for approval to the Board including the preparation and prior practice history, and a statement of indication for future practice;

(C) The objectives and arrangements for the specialized clinical experience are subject to approval and supervision by the program director.

(7) Documentation of successful completion of the re-entry program:

(a) Documentation of successful completion of the program shall include that the student has:

(A) Completed the required number of clinical hours;

(B) Met the program objectives;

(C) Passed a comprehensive final examination;

(D) Completed all required skills in a Board approved skills checklist; and

(E) Been recommended for licensure by the re-entry program director and the clinical preceptor.

(b) The program shall notify the Board in writing of the successful completion of each student, and shall include the signed skills checklist, clinical evaluation, and information about the pharmacology course requirement for each student.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.113 & ORS 678.150

Hist.: NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0189; NB 12-1997, f. & cert. ef. 9-29-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0085

Inactive Nurse

(1) Inactive Nurse status does not authorize nursing practice, either for compensation or as a volunteer or the use of the title "nurse". A full license to practice nursing is required to practice nursing in Oregon.

(2) A nurse currently licensed in good standing in Oregon may apply for Inactive Nurse status.

(1) To receive Inactive Nurse status a nurse shall:

(a) Request inactive status; and

(b) Notify the Board of the reason for requesting this status; and

(c) Sign a disclaimer acknowledging that Inactive Nurse status is not an authorization to practice nursing.

(4) To reactivate a license from Inactive Nurse status a nurse must:

(a) Meet all requirements for licensure.

(b) Provide nursing history if applicable. A nurse who does not meet the nursing practice requirement is required to complete the re-entry requirements specified in Board rules.

(c) Pay fee established by the Board.

(5) For two (2) years from the effective date of these rules, a nurse whose license has expired within the last two (2) years may apply for Inactive Nurse status by meeting the requirements of 851-031-0085(3).

Stat. Auth.: ORS 678.021, ORS 678.031

Stats. Implemented: ORS 678.021, ORS 678.031

Hist.: BN 1-2003, f. & cert. ef. 3-6-03

851-031-0086

Retired Oregon Nurse Status

Retired Nurse is an honorary status and does not authorize the practice of nursing, either volunteer or for compensation. A full license to practice nursing is required to practice nursing in Oregon.

(1) A nurse currently or previously licensed in good standing in Oregon is eligible to apply for Retired Nurse status if the nurse held an unnumbered Oregon nursing license.

(2) All licenses shall be retired simultaneously.

(3) To receive Retired Nurse status a nurse shall:

(a) Hold a current unnumbered license to practice nursing in Oregon; or

(b) Have been licensed in good standing in Oregon; and

(c) Indicate an intent to retire from nursing practice; and

(d) Apply using forms and instructions provided by the Board; and

(e) Sign a disclaimer acknowledging that Retired Nurse status is not an authorization to practice nursing; and

(f) Pay fee established by the Board.

(4) A nurse with Retired Nurse status must indicate "retired" when using the title nurse. (e.g. RN, Retired, LPN, Retired, NP, Retired, CNS, Retired, CRNA, Retired).

(5) To rescind Retired Nurse status a nurse must apply to reactivate the Oregon license and meet all requirements for licensure.

Stat. Auth.: ORS 678.031 & 678.050

Stats. Implemented: ORS 678.031 & 678.050

Hist.: BN 17-2002, f. & cert. ef. 10-18-02; BN 1-2003, f. & cert. ef. 3-6-03

851-031-0090

Name and/or Address of Record

(1) Name of Record:

(a) A licensee of the Board shall keep his/her current legal name on file with the Board at all times.

(b) At the time of a change of name, the licensee shall send a signed, written notification of change of name to the Board of Nursing, accompanied by legal proof of that name change. Legal proof shall be in the form of a birth certificate, marriage certificate or a court order/decreed.

(c) Upon receipt of written notification of name, the Board will change its licensing records to reflect the licensee's name change.

(d) The licensee shall submit an application for a duplicate license/certificate and appropriate fee to the Board to obtain a duplicate license/certificate reflecting the change of name.

(2) Address of Record:

(a) Licensee shall keep his/her current home address as the licensee's address of record on file with the Board at all times.

(b) Upon receipt of notification from the licensee of a change of home address, the Board will change its licensing records to reflect the licensee's current address.

(c) The Board will send all correspondence, the Board Newsletter and all official documents, including license renewal notices and Notices of Proposed Disciplinary Action to the licensee's address of record with the Board.

ADMINISTRATIVE RULES

(d) A Notice of Proposed Disciplinary Action sent to the licensee at the licensee's address of record by certified mail or registered mail, is sufficient notice even if the licensee fails to or refuses to respond to the postal service "return receipt" and never receives the Notice. Such mailing permits the Board to proceed with disciplinary action in the absence of a request for a hearing.

(3) When a licensee of the Board has his/her license stolen or lost, the licensee shall apply to the Board for a duplicate license/nurse practitioner certificate and submit the appropriate fee to the Board for a duplicate license/certificate.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 5-1981, f. & ef. 11-24-81; NER 6, 1983, f. & ef. 12-9-83; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0191; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03

Adm. Order No.: BN 2-2003

Filed with Sec. of State: 3-6-2003

Certified to be Effective: 3-6-03

Notice Publication Date: 1-1-02

Rules Amended: 851-050-0131

Subject: The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. The amendments add the November and December 2002 and January 2003 updates to Drug Facts and Comparisons to the formulary.

Rules Coordinator: KC Cotton—(503) 731-4754

851-050-0131

Formulary for Nurse Practitioners with Prescriptive Authority

(1) The following definitions apply for the purpose of these rules:

(a) "Appliance or device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated January 2003 with the exception of certain drugs and drug groups which are listed below.

(c) "Board" means the Oregon State Board of Nursing.

(2) The Board as authorized by ORS 678.385 (1993), shall determine the drugs which nurse practitioners may prescribe, shall periodically revise the formulary by rulemaking hearing at each regular Board meeting and shall transmit the list of those drugs which are exceptions to the formulary, and which nurse practitioners may not prescribe, to nurse practitioners with prescriptive authority and other interested parties.

(3) The formulary is constructed based on the following premises:

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Nurse practitioner prescribing is limited by the nurse practitioner's scope of practice and knowledge base within that scope of practice;

(c) Nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005;

(d) Nurse practitioners may prescribe drugs for conditions the nurse practitioner does not routinely treat within the scope of their practice provided there is ongoing consultation/collaboration with another health care provider who has the authority and experience to prescribe the drug(s);

(e) Nurse practitioners shall be held strictly accountable for their prescribing decisions;

(f) All drugs on the formulary shall have Food and Drug Administration (FDA) approval.

(4) Nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over the counter drugs;

(b) Appliances and devices.

(5) Nurse Practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated January 2003:

(a) Nutrients and Nutritional Agents — all drugs;

(b) Hematological Agents — all drugs except Drotrecogin Alfa (Xigris);

(c) Endocrine and Metabolic Agents — all drugs except:

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents - all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents:

(A) Class II Controlled Substances — Only the following drugs:

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-050-0170); and

(xiv) Levorphanol.

(B) General Anesthetic Agents — no drugs which are general anesthetic barbiturates, volatile liquids or gases, with the exception of nitrous oxide; and

(C) Chymopapain is excluded.

(h) Gastrointestinal Agents — all drugs except: Monoctanoin;

(i) Anti-infectives, Systemic — all drugs;

(j) Biological and Immunologic Agents—all drugs except Basiliximab (Simulect);

(k) Dermatological Agents — all drugs except Psoralens;

(l) Ophthalmic and Otic Agents — all drugs except:

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropal (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsin Sodium (Vitravene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan); and

(K) Unoprostone Isopropyl (Rescula).

(m) Antineoplastic Agents — all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(E) Arsenic Trioxide (Trisenox); and

(F) Ibritumomab Tiuxetan (Zevalin).

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

(C) Miscellaneous Radiopaque agents — no drugs from this category except:

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

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

Stat. Auth.: ORS 678.375 & ORS 678.385

Stats. Implemented: ORS 678.385

Hist.: NB 11-1993(Temp), f. 10-26-93, cert. ef. 11-4-93; NB 2-1994, f. & cert. ef. 4-15-94; NB 7-1994, f. & cert. ef. 9-28-94; NB 3-1995, f. & cert. ef. 4-12-95; NB 6-1995(Temp), f. & cert. ef. 6-15-95; NB 8-1995, f. & cert. ef. 6-29-95; NB 11-1995, f. & cert. ef. 10-9-95; NB 1-1996, f. & cert. ef. 2-29-96; NB 3-1996, f. & cert. ef. 6-11-96; NB 8-1996, f. & cert. ef. 10-30-96; NB 10-1996, f. & cert. ef. 12-2-96; NB 5-1997, f. & cert. ef. 3-6-97; NB 7-1997, f. & cert. ef. 5-13-97; NB 8-1997, f. & cert. ef. 7-1-97; NB 13-1997, f. & cert. ef. 9-29-97; NB 14-1997, f. & cert. ef. 12-11-97; BN 4-1998, f. & cert. ef. 3-13-98; BN 5-1998, f. & cert. ef. 5-11-98; BN 8-1998, f. & cert. ef. 7-16-98; BN 12-1998, f. & cert. ef. 9-22-98; BN 13-1998, f. & cert. ef. 12-1-98; BN 1-1999, f. & cert. ef. 3-4-99; BN 3-1999, f. & cert. ef. 5-4-99; BN 5-1999, f. & cert. ef. 7-1-99; BN 9-1999, f. & cert. ef. 10-20-99; BN 13-1999, f. & cert. ef. 12-1-99; BN 3-2000, f. & cert. ef. 2-25-00; BN 5-2000, f. & cert. ef. 4-24-00; BN 8-2000, f. & cert. ef. 7-3-00; BN 9-2000, f. & cert. ef. 9-18-00; BN 10-2000, f. & cert. ef. 12-15-00; BN 2-2001, f. & cert. ef. 2-21-01; BN 6-2001, f. & cert. ef. 4-24-01; BN 9-2001, f. & cert.

ADMINISTRATIVE RULES

ef. 7-9-01; BN 13-2001, f. & cert. ef. 10-16-01; BN 4-2002, f. & cert. ef. 3-5-02; BN 11-2002, f. & cert. ef. 4-25-02; BN 14-2002, f. & cert. ef. 7-17-02; BN 19-2002, f. & cert. ef. 10-18-02; BN 21-2002, f. & cert. ef. 12-17-02; BN 2-2003, f. & cert. ef. 3-6-03

Construction Contractors Board Chapter 812

Adm. Order No.: CCB 2-2003

Filed with Sec. of State: 3-4-2003

Certified to be Effective: 3-4-03

Notice Publication Date: 2-1-03

Rules Adopted: 812-004-0325, 812-004-0350, 812-004-0535

Rules Amended: 812-002-0480, 812-004-0001, 812-004-0300, 812-004-0320, 812-004-0340, 812-004-0520, 812-004-0540, 812-004-0550, 812-004-0560, 812-006-0012, 812-006-0050, 812-008-0070, 812-009-0070, 812-009-0100, 812-009-0120, 812-009-0400, 812-009-0440

Subject: OAR 812-002-0480 is amended to conform rule to present practice regarding when a claimant is required to file a claim in court due to its nature or complexity.

OAR 812-004-0001 is amended to move last sentence of existing section (3) to new rule OAR 812-004-0325 because it does not fit in subject of this rule. List rules cited in section (3) in subsections to make it easier to read rules cited. OAR 812-004-0300 is amended to clarify when a claim is accepted for filing if the Statement of Claim form submitted by claimant is deficient. Reference claims filed under ORS 701.146 so rule on filing date covers all claims. OAR 812-004-0320 is amended to specify that a contractor must be licensed for the type of work the contractor was performing that gave rise to a claim by the contractor in order to file that claim. Specify that a contractor must also be in compliance with requirements of exempt or nonexempt status rules. OAR 812-004-0325 is adopted to include requirement formerly in last sentence of existing OAR 812-004-0001(3) that Statement of Claim must be submitted to the agency before the agency will process a claim filed under ORS 701.146. Allow the agency to close a claim filed under ORS 701.146 if the claimant does not provide a Statement of Claim on request of the agency. OAR 812-004-0340 is amended to provide that Statement of Claim may be signed by an agent if the authority of the agent is established. Require that a claim alleging a breach of contract must describe the nature of the breach. Make minor improvements to the wording of several rules. OAR 812-004-0350 is adopted to provide procedure if claimant fails to provide information missing from Statement of Claim. Allow agency to refuse to open a claim if claimant and respondent are not identified or the respondent has never been licensed. This conforms rules to existing practice. OAR 812-004-0520 is amended to clarify that this rule requiring status reports if a claim is being decided in court or arbitration applies to large commercial claims and other claims filed under ORS 701.146. OAR 812-004-0535 is adopted to consolidate elements of a valid claim for monetary damages in one rule. This list of the necessary elements for an award of damages is referenced in three rules. OAR 812-004-0540 is amended to recognize that the agency may ask claimant to provide documents supporting claimant's request for damages that are in addition to or in lieu of repair estimates. Reference elements necessary for a valid claim for monetary damages listed in OAR 812-004-0535. OAR 812-004-0550 is amended to correct citation that changed as a result of amendments to OAR 812-004-0320. Reference elements necessary for a valid claim for monetary damages listed in OAR 812-004-0535. OAR 812-004-0560 is amended to improve style of and clarify certain passages in rule. No substantive changes are made in this amendment.

OAR 812-006-0012 is amended to allow for an open book test and to use the Oregon Contractor's Reference Manual during the test starting July 1, 2003. OAR 812-006-0050 is amended to more closely match the curriculum, classes and the fourth edition of the course manual that have changed some based on feedback of contractors,

instructors, education providers, and others; and to correct terms and eliminate repetitious language.

OAR 812-008-0070 is amended to delete the date reference to 2001 since it is no longer needed.

OAR 812-009-0070 is amended to change the title so it more accurately reflects content of rule. OAR 812-009-0100 is amended to improve style of and clarify certain passages in rule. No substantive changes are made in this amendment. Reference elements necessary for a valid claim for monetary damages listed in OAR 812-004-0535. OAR 812-009-0120 is amended to reference elements of a valid claim for damages included in OAR 812-009-0100. OAR 812-009-0400 is amended to improve style of and clarify certain passages in rule. No substantive changes are made in this amendment.

Rules Coordinator: Cathy Heine—(503) 378-4621, ext. 4077

812-002-0480

Nature or Complexity

"Nature or complexity" includes, but is not limited to the following meaning:

(1) Involves issues requiring legal interpretation of statutes and case law that are not normally part of a construction claim;

(2) In the interest of fairness and equity, requires rulings against persons or entities outside the jurisdiction of the agency; or

(3) Involves issues and fact determinations that are outside the expertise of the agency.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.145

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 2-2003, f. & cert. ef. 3-4-03

812-004-0001

Application of Rules

(1) The rules in division 4 of OAR chapter 812 apply to a claim involving work on a residential structure or an appurtenance to the structure and any other claim filed under ORS 701.145.

(2) Except as provided in section (4) of this rule, the following rules apply to a claim involving work on a large commercial structure or an appurtenance to the structure and any other claim filed under ORS 701.146:

(a) OAR 812-004-0001 through 812-004-0240;

(b) OAR 812-004-0260 through 812-004-0320;

(c) OAR 812-004-0340, except 812-004-0340(2)(c), (2)(i) and (8);

(d) OAR 812-004-0420;

(e) OAR 812-004-0520; and

(f) OAR 812-004-0550 through 812-004-0600.

(3)(a) Except as provided in subsection (b) of this section, the rules that apply to a claim involving work on a residential structure under section (1) of this rule apply to a claim involving work on a small commercial structure or an appurtenance to the structure.

(b) The rules that apply to the claim involving work on a large commercial structure under section (2) of this rule apply to a claim involving work on a small commercial structure or an appurtenance to the structure if the claimant files the claim under ORS 701.146.

(4) The rules that apply to a claim involving work on a residential structure under section (1) of this rule apply to a claim involving work on a large commercial structure or an appurtenance to the structure if:

(a) The claim is filed by the owner of the structure;

(b) The total contract for the work is \$25,000 or less; and

(c) The claimant files the claim under ORS 701.145.

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

Stats. Implemented: ORS 701.102, ORS 701.140 & ORS 701.145, ORS 701.146

Hist.: CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. & cert. ef. 6-1-90; CCB 2-1991, f. & cert. ef. 7-1-91; CCB 3-1991, f. & cert. ef. 9-26-91, cert. ef. 9-29-91; CCB 5-1993, f. & cert. ef. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. & cert. ef. 1-1-95; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. & cert. ef. 8-31-98, cert. ef. 9-1-98; CCB 8-1998, f. & cert. ef. 11-1-98; CCB 1-1999, f. & cert. ef. 4-1-99; CCB 8-2001, f. & cert. ef. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03

812-004-0300

Filing Date of Claims

(1) Claims submitted to the agency for processing under ORS 701.145, which applies to residential structures and may apply to certain other structures, shall be deemed to have been filed when a Statement of Claim that meets the requirements of OAR 812-004-0340(1) and that contains information sufficient to identify the claimant and respondent is received by the agency. A Statement of Claim that does not fully comply with the requirements of OAR 812-004-0340 is subject to OAR 812-004-0350.

ADMINISTRATIVE RULES

(2) Claims submitted to the agency for processing under ORS 701.146, which applies to large commercial structures and may apply to certain other structures, shall be deemed to have been filed when claimant complies with ORS 701.146(3).

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.140 & ORS 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2003, f. & cert. ef. 3-4-03

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) 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.

(b) If a claim is a primary contractor claim or a subcontractor claim, the 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. This license requirement for claimants does not apply to persons who are exempt from license under ORS 701.010. 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, ORS 701.139, ORS 701.140, ORS 701.143, ORS 701.145, ORS 701.146, ORS 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

812-004-0325

Filing Statement of Claim for Claim Filed Under ORS 701.146

(1) The agency shall suspend processing a claim involving work on a large commercial structure or an appurtenance to the structure filed under

ORS 701.146 or any other claim filed under ORS 701.146, until the claimant submits to the agency a Statement of Claim in substantial compliance with OAR 812-004-0340, except that the claimant need not comply with OAR 812-004-0340(2)(c), (2)(i) and (8).

(2) The agency may close a claim filed under ORS 701.146 if the claimant fails to respond to a written request by the agency that the claimant file a Statement of Claim that meets the requirements of section (1) of this rule. A request by the agency and closure of a claim under this section must comply with OAR 812-004-0260.

(3) Notwithstanding section (1) of this rule, if a person attempts to file a claim under ORS 701.146 and the complaint or other documents filed with the agency show on their face that the claim is not a type of claim that can be filed under ORS 701.146, the agency shall not accept the claim. The agency shall return the documents to the person with an explanation of why the claim cannot be accepted for filing under ORS 701.146.

Stat. Auth.: ORS 670.310 & ORS 701.235

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

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

812-004-0340

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:

(a) The name, address and telephone number of the claimant;

(b) The name, address, telephone number and license number of the licensee;

(c) The amount, if known at the time the Statement of Claim is filed, that the claimant alleges is due from the licensee after crediting payments, offsets and counterclaims in favor of the licensee to which claimant agrees;

(d) Identification of the type of claim;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;

(g) Job location;

(h) The beginning and ending date of the work or invoices;

(i) Payments, offsets and counterclaims of the contractor, if known;

(j) Whether the project involves work on a residential, small commercial or large commercial structure;

(k) A certification by the claimant that the Statement of Claim is true; and

(1) If a court judgment or arbitration award is the basis for the claim, a copy of the judgment or award, the original complaint and any answers or counter-suits related to the parties to the claim filed in the court action or arbitration.

(3) A subcontractor claim shall include copies 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) An employee trust claim shall include the name of each employee that is the subject of the claim, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

(a) The hours worked without payment of employee benefits;

(b) The amount of the unpaid benefits;

(c) The address of the job site where the employee worked; and

(d) Whether the structure at the job site is a residential structure, small commercial structure, or large commercial structure.

(6) A construction lien claim shall include evidence that the claimant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lien claimant, if applicable, and any foreclosure documents.

(7) A material claim shall include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the claim.

(8) A claim involving negligent or improper work shall include a list of the alleged negligent or improper work. A claim involving a breach of contract shall describe the nature of the breach of contract.

(9) The Statement of Claim form must be signed by the claimant or an agent of the claimant.

ADMINISTRATIVE RULES

(10) A Statement of Claim that does not comply with the requirements of this rule is subject to OAR 812-004-0350.

Stat. Auth.: ORS 701.140 & ORS 701.145

Stats. Implemented: ORS 701.140 & 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 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

812-004-0350

Procedure if Information on Statement of Claim is Incomplete

If the agency receives a Statement of Claim that does not meet the requirements of OAR 812-004-0340, the agency may close the claim if the claimant fails to provide the missing information in response to a written request for the information from the agency. The written request and closure must comply with OAR 812-004-0260.

Stat. Auth.: ORS 670.310 & ORS 701.235

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

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

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 Hearing Officer Panel 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 Hearing Officer Panel.

(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 Hearing Officer Panel for arbitration or a contested case hearing, the arbitrator or hearing officer 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

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 hearing officer 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

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

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

ADMINISTRATIVE RULES

(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 Hearing Officer Panel 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 Hearing Officer Panel 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

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

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(3)(b) or (4).

(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 Hearing Officer Panel 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

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

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 Hearing Officer Panel 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 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 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.

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

Hist.: 1BB 1-1986, f. & 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

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 passed:

(a) A test approved by the agency with a passing score approved by the agency; or

(b) Has 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) Effective July 1, 2003, 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

ADMINISTRATIVE RULES

- (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) Applicants who attempt and fail a test shall wait the following time periods before retaking the test:
 - (a) First and second retakes: no waiting period.
 - (b) Third retake: must wait 30 days.
 - (c) Fourth and subsequent retakes: must wait 90 days for each retake.
- (8) 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

812-006-0050

Education Subjects

(1) The agency may evaluate and approve courses based on written evaluation criteria approved by the Training Board and made available to providers. The agency may revoke a provider's right to offer classes if a provider's courses do not meet the approved criteria.

(2) The 16 hours of education shall consist of the following topics:

(a) Construction Contractors Board: role and authority, licensing requirements, application procedures, major divisions and functions; claims process; dispute resolution processes; business entities; mandatory consumer notices; rights and responsibilities of consumers and contractors; address change notification; enforcement program, and statutes and rules that govern contractors; (2 hours);

(b) Employer requirements and employee's rights: state agencies that regulate workplace issues; information and resources on employer requirements, employee's rights, workers' compensation insurance, and required workplace postings; civil rights; Title VII, child labor, and important state and federal wage and hour laws; current minimum wage rate requirements; prevailing wage rate law; employees and independent contractors (2 hours);

(c) Taxes, record keeping and business practices: required employment forms; identification numbers; cost of employees; importance of good record keeping; ways to organize records; required tax forms and reporting times; professional help; profit and cash flow; requirements for business licenses (2 hours);

(d) Building codes: applicable codes; building codes books; code revisions; specialty licenses and inspections; required and exempt permit work; permit applications permit violation penalties; required inspections; inspection procedures; final inspections and occupancy permits; red tag/stop work orders (3/4 hour);

(e) Oregon Occupational Safety and Health Division: OR-OSHA regulations, job site inspections and resources; equipment basics and maintenance; job site record keeping; general safety practices, responsibilities and relationships among contractors and subcontractors on a job site (1 1/2 hours);

(f) Sound environmental practices and laws: environmental friendly materials; good recycling, reduction and reuse methods; hazardous waste and special waste found in new and old construction; laws and regulations governing environmental hazards, proper handling and disposal methods of environmental hazards and job site debris; governmental agencies that regulate environmental conditions at a job site; environmental violation penalties; site preparation including construction activities that impact rivers; recycling methods; soil erosion; wetlands, water quality, sewage and underground storage/heating oil tanks (1 3/4 hours);

(g) Contract law: clear and concise contracts; four elements of contract law; three elements of a construction contract; breach of contract; minor and major breach of contract; written and verbal contracts and change orders; contractor responsibilities for work of self and others; partnering, negotiation, mediation, arbitration and litigation; Buyer's Right to Cancel (2 1/4 hours);

(h) Oregon construction lien law: purpose; required notices; lien law procedures; steps and timelines to perfect a lien and foreclose; important lien law differences of other states (1 1/2 hours); and

(i) Project management, estimating and scheduling: importance of project management and consequences for failing to do so; simple written budgets that include cost, overhead and profit; simple project schedules and consequences of improper job scheduling (2 1/4 hours).

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

Stats. Implemented: ORS 701.280

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 1-1993, f. & cert. ef. 2-1-93; 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 3-1997, f. & cert. ef. 10-3-97; CCB 3-1998, f. & cert. ef. 2-26-98; 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 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03

812-008-0070

Requirements for Renewal of Certification

(1) The Oregon certified home inspector shall submit the following to the agency for renewal of certification:

- (a) A properly completed renewal application on an agency form; and
- (b) The renewal fee of \$150 (listed in OAR 812-008-0110); and

(c) A statement of completed continuing education on an agency form.

(2) The statement of completed continuing education referred to in subsection (1)(c) of this rule shall contain the following:

(a) A listing of no less than 30 approved continuing education units (CEUs) completed by Oregon certified home inspector during the two years immediately preceding the expiration date of the certification for which renewal is sought on an agency form; and

(c) A signed declaration by the Oregon certified home inspector that the statement of completed continuing education units is true.

Stat. Auth.: ORS 701.350 & ORS 701.355

Stats. Implemented: ORS 701.350 & ORS 701.355

Hist.: CCB 4-1999, f. & cert. ef. 6-29-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 2-2003, f. & cert. ef. 3-4-03

812-009-0070

Suspending Processing

(1) A hearing officer may suspend or cancel a hearing at any time if the hearing officer finds that the nature or complexity of the issues is such that a court is a more appropriate forum for adjudication. If a hearing officer suspends or cancels a hearing under this rule, the hearing officer 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 hearing officer with instructions to resume the hearing.

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

Stats. Implemented: ORS 701.145

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

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 hearing officer shall dismiss the claim.

Stat. Auth.: ORS 670.310, ORS 701.145 & 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

812-009-0120

Determination of Validity of Claim

In determining the validity of the claim, the hearing officer 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 701.145 & 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

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 hearing officer has made a procedural error or that the proposed order is not supported by evidence received at the hearing.

ADMINISTRATIVE RULES

(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

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 a new hearing. 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

Adm. Order No.: CCB 3-2003(Temp)

Filed with Sec. of State: 3-11-2003

Certified to be Effective: 3-11-03 thru 9-6-03

Notice Publication Date:

Rules Amended: 812-001-0020

Subject: OAR 812-001-0020 is amended to correct the phone numbers listed in the form "Information Notice to Property Owners About Construction Responsibilities".

Rules Coordinator: Cathy Heine—(503) 378-4621, ext. 4077

812-001-0020

Information Notice to Owners

(1) The Construction Contractors Board adopts the form entitled "Information Notice to Owner," as revised October 18, 2002. This form may be obtained from the agency. Previously adopted versions of the Information Notice may also be used.

(2) The Construction Contractors Board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised March 11, 2003.

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

Stat. Auth.: ORS 87.093 & ORS 701.055, ORS 701.235

Stats. Implemented: ORS 87.093 & ORS 701.055

Hist.: 1BB 4-1981, f. 11-24-81, ef. 1-1-82; 1BB 3-1982, f. 6-4-82, ef. 1-1-83; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03

Department of Administrative Services Chapter 125

Adm. Order No.: DAS 1-2003

Filed with Sec. of State: 2-24-2003

Certified to be Effective: 2-24-03

Notice Publication Date: 1-1-03

Rules Amended: 125-020-0610

Subject: Chapter 125 division 020 rules govern the procedures to be used for personal service contracts entered into by the Department and state agencies subject to Department authority under ORS 279.712. This rule provides a procedure to procure Business Assistance Services that are delivered directly and expeditiously to small or troubled businesses in Oregon. These services assist businesses with start-up, growth, revitalization or stabilization.

The Oregon Economic and Community Development Department (OECD) is charged with assisting communities and workers affected by economic dislocations to evaluate and implement alternative business or community opportunities in the State of Oregon. The service needs typically result in small contracts valued at less than \$75,000 and require individual and very specialized consultative services to promptly respond to project opportunities, which in turn impacts community employment or business viability. The current procurement process to obtain these needed services does not work well without an exemption to the competitive procurement requirements from the Chapter 125 division 020 personal services contracting rules.

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

125-020-0610

Exemptions

(1) The Division exempts the following classes of contracts from the screening and selection procedures, as described in OAR 125-020-0300 through 125-020-0335:

(a) Client services;

(b) Expert witness services;

(c) Year 2000 services; or

(d) Business Assistance Services, which are defined as services, delivered directly to small or troubled businesses in Oregon, that are intended to assist business start-up or growth or to revitalize or stabilize a business. Such services include, but are not limited to, technical assistance services, feasibility evaluations, management consulting, basic business training (including elements of accounting, personnel management, marketing and tax compliance), counseling on business needs and problems,

ADMINISTRATIVE RULES

assistance in securing state or federal procurement contracts and assistance in securing Oregon suppliers for goods and services.

(A) This exemption is an exemption from screening and selection rules only. The Contracting Agency shall competitively solicit to the extent practicable or justify entering into the contracts by direct negotiation;

(B) Pursuant to ORS 291.045 and 291.047, this exemption does not allow the Contracting Agency to enter into contracts that require payments of more than \$75,000 without the approval of the Attorney General for legal sufficiency.

(2) The Division totally exempts the following types of Personal Services agreements: Federal Government, Interagency, Intergovernmental, Interstate and International. This exemption exempts the Contracting Agency from all requirements of ORS 279.712(3) and these division 020 rules and allows the Contracting Agency to enter into such agreements by direct negotiation without Division approval.

(3) Upon an Agency's written request, the Division may exempt a contract for Personal Services or class of contracts for Personal Services from any requirements of ORS 279.712(3) upon the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of Personal Services Contracts or substantially diminish competition for these contracts; and

(b) The awarding of Personal Services Contracts pursuant to the exemption will result in substantial cost savings to the Agency. In making such findings, the Division may consider the type, cost, amount of the contract, number of persons available and any other factors the Division deems appropriate.

(4) The Division may revoke the Contracting Agency's exempted authority by written letter to the Agency.

(5) The Agency shall maintain copies of letters granting exempted authority.

(6) The Contracting Agency is required to:

(a) Follow all applicable rules except to the extent exempted by this rule;

(b) Prepare the contract;

(c) Assign an Agency number to the contract;

(d) Obtain all required approvals; and

(e) Maintain records as required by state laws and OAR 125-020-0510.

(7) Copies of these contracts are not filed with the Division; however, exempted contract data must be reported to the Division each fiscal year for inclusion in the Division's report to the Legislature.

Stat. Auth.: ORS 184.305, ORS 184.340 & ORS 279.712

Stats. Implemented: ORS 279.712

Hist.: BMD 1-1992, f. & cert. ef. 1-6-92; TPPSD 3-1994, f. 12-30-94, cert. ef. 2-1-95; Renumbered from 122-020-0018 and 122-020-0028; DASII 1-1997, f. & cert. ef. 1-6-97; Suspended by DASII 7-1997(Temp), f. 10-3-97, cert. ef. 10-4-97; DAS 3-1998, f. & cert. ef. 4-1-98; DAS 3-1999(Temp), f. 7-23-99, cert. ef. 7-26-99 thru 1-21-00; DAS 5-2002(Temp), f. 8-22-02, cert. ef. 8-23-02 thru 2-19-03; DAS 1-2003, f. & cert. ef. 2-24-03

Department of Agriculture Chapter 603

Adm. Order No.: DOA 11-2003

Filed with Sec. of State: 2-27-2003

Certified to be Effective: 2-27-03

Notice Publication Date: 11-1-02

Rules Adopted: 603-082-0010, 603-082-0020, 603-082-0030, 603-082-0040, 603-082-0050, 603-082-0060, 603-082-0070, 603-082-0080, 603-082-0090, 603-082-0100

Subject: This rule will establish, document and explain the criteria and process used for rendering a decision relating to requests to lease state owned lands for the commercial cultivation of oysters, clams and mussels.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-082-0010

Purpose

The purpose of this division is:

(1) To establish procedures, standards and requirements to be used by the department to determine if a new plat application that proposes to lease and use state lands located in coastal estuaries for the commercial cultivation of oysters, clams or mussels is consistent with ORS 622.210 to 622.360.

(2) Establish procedures, standards and requirements for the sale, lease, assignment, conveyance, relinquishment or other transfer of shellfish plats.

(3) Establish procedures, standards and requirements for the withdrawal of unproductive and abandoned lands.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.210 - ORS 662.360

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0020

Definitions

For purposes of OAR 603-082-0010 through 603-082-0100, the definitions in ORS 183.310 and 622.210 apply. In addition:

(1) "Claimant" means a person or agency that claims control of a plat granted by the department under ORS 622.210 to 622.992.

(2) "Cultivation" means the process of growing or farming cultured oysters, clams or mussels with the primary intent to make a profit in money. Cultivation includes activities associated with bed or site preparation, seeding, grow out and harvesting and includes methods that:

(a) Are or may be used on an operation of a similar nature;

(b) Are or may become generally accepted, reasonable and prudent in conjunction with the commercial production of oysters, clams or mussels; and

(c) Comply with applicable laws.

(3) "Cultivator" means any person cultivating oysters, clams or mussels on or within a plat.

(4) "Department" means the State Department of Agriculture.

(5) "Impact" means the actual, expected or predictable results upon navigation, fish and wildlife habitat, recreational activities, commerce or other public uses.

(6) "Plat" means an area:

(a) The department has found to be available and classified as suitable for oyster, clam or mussel cultivation, pursuant to ORS 622.250; and

(b) The department has granted to an applicant for oyster, clam or mussel cultivation pursuant to ORS 622.250.

(7) "Public trust values" include commerce, navigation, fishing and recreation.

(8) "State land" means submerged and submersible lands within the boundaries of the State of Oregon.

(9) "Submerged lands" are lands lying below the line of ordinary low water of all title navigable and tidally influenced water within the State of Oregon.

(10) "Submersible lands" are lands lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced water within the State of Oregon.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.210 - ORS 662.360

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0030

Application Requirements

(1) Applicants for new oyster, clam or mussel plats shall complete and submit an application form prescribed and provided by the department including the following supplemental information:

(a) A legal description of the area applied describing the boundaries of the area and specifying its acreage.

(b) A map of sufficient detail to allow the area applied for to be readily identified.

(c) An application fee as established by ORS 622.250(1).

(d) An affidavit of publication indicating fulfillment of subsection (2) of this section.

(2) The applicant shall cause notice of the application to be published once a week for two consecutive weeks in a newspaper of general circulation in each county where any area is applied for, or any part thereof, is located. The notice must state the name of the applicant, the type of operation the applicant proposes to conduct, and a general and legal description of the area. The notice shall also state that any comments regarding the proposed plat may be submitted to the department.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.230

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0040

Plat Application Review

Upon receipt of an application for an oyster, clam or mussel lease, an applicant shall be eligible for an authorization of a plat if the director determines that:

(1) The application is complete pursuant to OAR 603-082-0030. If an application is determined to be incomplete, the department shall notify the applicant of exactly what information is missing within 45 days of the receipt of the application and allow the applicant to submit the missing

ADMINISTRATIVE RULES

information. The application shall be deemed complete on receipt of the missing information.

(2) The subject area is suitable for cultivation or can be rendered suitable for cultivation with conditions imposed by the department in the final order and grant certificate.

(3) In the case of an application for the cultivation of clams or mussels, the proposed plat shall involve an oyster plantation claim or plat that was in effect on June 1, 1997. The proposed clam or mussel plat area may include not more than 20 percent of the lands subject to the existing oyster claim or plat and shall include not less than one acre.

(4) The proposed plat will not restrict the rights of the public to use the waters of the state in a normal and customary manner.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.230, ORS 622.250 & ORS 622.320

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0050

Classifying Lands Suitable for Cultivation

(1) In determining if an area is suitable for cultivation of oysters, clams or mussels, the department shall consider the following:

(a) Consistency with local land use regulations, plans and zoning requirements and with the Statewide Planning Goals.

(b) Consistency with applicable local, state or federal laws.

(c) Certification or approval status by the department for harvest intended for human consumption.

(d) Compatibility with existing commercial fishing and shellfish operations including crabbing, shrimping and clamming.

(e) Impacts on fish and wildlife habitat.

(f) Impacts on navigation.

(g) Compatibility with recreational activities, commerce or other public uses or public trust values.

(h) Evidence that the land is owned by the state.

(i) If the land is available for shellfish cultivation.

(2) The department shall consult with appropriate local, state and federal agencies to determine whether lands proposed by an applicant are suitable for shellfish cultivation. A local, state or federal agency may request in writing to receive notice of new plat applications.

(3) The classification of state lands for cultivation for a specific proposed plat area may occur concurrent with the processing and review of an application for a new plat.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.240, ORS 622.250

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0060

Action by the Director

(1) The director may issue a proposed order approving, approving with conditions or denying a plat application. The director may grant or deny an application no later than the 90th day from after the date of publication of the notice referred to in OAR 603-082-0030(2). The 90 day time period may be extended for a reasonable period of time at the request of the applicant and approval of the department.

(2) The proposed order shall include or be accompanied by the following:

(a) A caption with the name of the department, the name of the claimant and a case number if used;

(b) A statement describing the purpose and effect of the proposed order, and the factual and legal basis for it, including citation to the statutes and rules relied upon;

(c) A statement of the claimant's right to challenge the proposed order by requesting a hearing, and that the request must meet the following requirements:

(A) A request for hearing must identify the matter appealed by the claimant's name, the date of the proposed order and the department's case number, if any;

(B) A request for a hearing must explain how the claimant considers the proposed order to be legally or factually incorrect.

(C) To be timely, a request for a hearing must be received by the department by the close of business on the 30th day after the date of the proposed order.

(d) A statement of additional rights and risks of the claimant, including at least the following:

(A) A statement informing the claimant that if a request for hearing is not received by the department by the established date, the claimant will have waived the right to a hearing and the proposed order will be final.

(B) A hearing in response to a request will be limited to the issues raised in the request;

(C) The claimant has the right to be represented by an attorney, but if the claimant is an agency, a corporation or an unincorporated association, the claimant must be represented by an attorney.

(e) How to get more information and the department staff member and address or facsimile number to which a request for hearing must be sent.

(f) A hearing shall be conducted pursuant to ORS 183.415 et seq.

(3) Upon final approval of a plat, a boundary survey shall be prepared and submitted to the department before a Grant Certificate is issued. A professional surveyor licensed in Oregon shall conduct the survey.

(4) The boundary corners of existing and new plats shall be plainly and distinctly marked out by a means that does not obstruct navigation.

Stat. Auth.: ORS 561.190 & ORS 622.320

Stats. Implemented: ORS 622.250

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0070

Transfer of Plats

(1) Sales, leases, assignments, conveyances, relinquishments and other transfers of oyster plantations and claims, or parts thereof, or of plats for the cultivation of oysters, clams or mussels may be made by reference to the plat filed as provided in ORS 622.210 to 622.300 and 622.320. The heirs, successors, assignees and lessees of those plats are entitled to continued possession of such plats by compliance with ORS 622.210 to 622.300 and 622.320.

(2) A person proposing to sell, lease, assign, convey, relinquish or otherwise transfer an oyster plantation claim or a plat for the cultivation of oysters, clams or mussels shall provide the department notice of such transaction within 30 days of the effective date of the transaction.

(3) The filing of such a notice, if other than a relinquishment, shall be accompanied by a claim or plat certificate reissuance fee established in ORS 622.340(3) for each affected claim or plat.

(4) The failure to provide the notice required by subsection (2) of this section shall result in the department holding the lessor of record of the claim or plat responsible for compliance with the provisions of ORS 622.210 to 622.360 and all provisions of the lease grant certificate.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.340

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0080

Annual Fees and Taxes

(1) Persons using state lands for cultivating oysters, clams or mussels shall pay annual cultivation fees and use taxes quarterly to the department. Fees and taxes become delinquent 30 days after the end of the quarter. Use taxes shall be in the amount established by ORS 622.290(1).

(2) Annual cultivation fees and use taxes shall be assessed in lieu of property taxes, lease fees or rental charges for the use of lands upon which oysters, clams or mussels are grown and harvested.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.290

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0090

Withdrawal of Unproductive and Abandoned Lands

(1) The rules of procedure in OAR 603-082-0090 are in addition to the procedural requirements of the Attorney General's Model Rules of Procedure, codified at OAR 137-003-0501 to 137-003-0692. In the case of conflict, this division controls over the Model Rules, unless the Model Rules establish a mandatory requirement.

(2) The director may issue a proposed order withdrawing any portion of a plat from a claimant if the director finds the portion of the plat is unproductive or abandoned as described in ORS 622.280 and OAR 603-082-0090(3). The proposed order shall include or be accompanied by the following:

(a) A caption with the name of the department, the name of the claimant and a case number if used;

(b) A short and plain statement describing the purpose and effect of the proposed order, and the factual and legal basis for it, including citation to the statutes and rules relied upon;

(c) A statement of the claimant's right to challenge the proposed order by requesting a hearing, and that the request must meet the following requirements:

(A) A request for hearing must identify the matter appealed by the claimant's name, the date of the proposed order and the department's case number, if any;

(B) A request for a hearing must explain how the claimant considers the proposed order to be legally or factually incorrect.

ADMINISTRATIVE RULES

(C) To be timely, a request for a hearing must be received by the department by the close of business on the 30th day after the date of the proposed order.

(d) A statement of additional rights and risks of the claimant, including at least the following:

(A) A statement informing the claimant that if a request for hearing is not received by the department by the established date, the claimant will have waived the right to a hearing and the proposed order will be final.

(B) A hearing in response to a request will be limited to the issues raised in the request;

(C) The claimant has the right to be represented by an attorney, but if the claimant is an agency, a corporation or an unincorporated association, the claimant must be represented by an attorney.

(e) How to get more information and the department staff member and address or facsimile number to which a request for hearing must be sent.

(f) A hearing shall be conducted pursuant to ORS 183.415 et seq.

(3) Pursuant to ORS 622.280, a plat or portion of a plat may be found to be unproductive or abandoned under any of the following circumstances:

(a) If more than one-half the lands in the plat are unproductive for a period of three years or more after the filing of the plat under chapter 675, Oregon Laws 1969. Lands are unproductive when

(A) The claimant fails to pay the fees or use taxes referred to in ORS 622.290, unless the department determines that there was reasonable cause for such failure.

(B) Evidence shows that cultivated oysters, clams or mussels have not been produced or harvested for a period of three years.

(b) If any portion of a plat is not marked in the manner provided by ORS 622.320, that portion of the plat may be considered abandoned.

(c) If any portion of a plat is held by a claimant for purposes other than oyster, clam or mussel cultivation, that portion of the plat may be considered abandoned.

(d) Evidence indicates that the plat is being used in a manner contrary to the conditions imposed on the plat as indicated in the Final Order and Grant Certificate.

(e) When the claimant requests in writing that their rights, claims and leases to any portion of a plat be terminated by the department.

(4) Lands may not be found to be abandoned if the reason for unproductiveness is any of the following:

(a) Restrictions imposed by governmental health authorities;

(b) The unavailability of seed; or

(c) Infestation of the plat by pest or disease.

(5) Nothing in this rule affects any oyster cultivation right acquired prior to January 1, 1982, pursuant to chapter 675, Oregon Laws 1969.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.280 & ORS 622.310

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

603-082-0100

Scheduling, Notice and Conduct of Hearings

(1) The department shall provide notice of the hearing containing at least the following information:

(a) If the claimant or the claimant's representative fails to appear at the time and place specified for the hearing, the department's file or files on the matter automatically become part of the record as prima facie evidence in support of the Order, and the Hearing Officer will decide the case based on that record;

(2) A hearing in response to a timely request shall be limited to the issues raised in the request. Evidence and argument shall not be taken on issues not raised in the claimant's request for appeal.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 622.210 - ORS 622.360

Hist.: DOA 11-2003, f. & cert. ef. 2-27-03

Department of Community Colleges and Workforce Development Chapter 589

Adm. Order No.: DCCWD 2-2003

Filed with Sec. of State: 3-10-2003

Certified to be Effective: 3-10-03

Notice Publication Date: 11-1-02

Rules Adopted: 589-007-0110, 589-007-0120, 589-007-0130, 589-007-0140, 589-007-0150, 589-007-0160, 589-007-0170, 589-007-0180

Rules Amended: 589-007-0100

Subject: As part of the annual review and revision of agency OAR's the rules were amended and created to better align the apprenticeship program regulations. The rules align the Department of Community Colleges and Workforce Development, The Department of Education Office of Professional Technical education, and the Bureau of Labor and Industry rules and coordinates responsibilities for oversight.

Adopting: 589-007-0110 Apprenticeship Related Training Instruction and Courses of Study For Apprentices; 589-007-0120 Apprenticeship Related Training Courses of Apprentices; 589-007-0130 Apprenticeship Related Training Instructors; 589-007-0140 Apprenticeship and Associate Degrees; 589-007-0150 Associate Degrees Requirements for Apprentices; 589-007-0160 Apprenticeship Menu of Services; 589-007-0170 Community Colleges and Local Joint Committees; 589-007-0180 Contracts for Educational Services Between Community Colleges and Local Joint Committees.

Amending: 589-007-0100 Apprentices Related Training Instruction and Courses of Study For Apprentices (All New Language).

Rules Coordinator: Laura J. Roberts — (503) 378-3600, ext. 238

589-007-0100

Apprenticeship Definitions

For purposes of this rule:

(1) "Academic credit" means the indication or certification by a community college that a student has completed a unit of study or demonstrated achievement or proficiency, so as to have satisfied a portion of the requirements for a degree or other academic recognition offered by the community college.

(2) "Academic credit course" means collegiate-level courses offered by the college as part of a lower-division transfer degree or approved professional technical program. Also known as "credit course."

(3) "Adverse intersegmental impact" or "adverse impact" means the detriment of duplication which would fall on a school or its students in a segment other than that of the school proposing the new program or location, except that a publicly funded program or location proposed by a private school or other organization has adverse intersegmental impact if it is detrimental to a school in any of the five segments: 1) Oregon University System, 2) Oregon Health and Sciences University, 3) private Oregon degree granting institutions, 4) private nondegree career schools and 5) community colleges.

(4) "Apprenticeable occupation" means a skilled trade that:

(a) Is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;

(b) Is clearly identified and commonly recognized throughout an industry;

(c) Involves manual, mechanical or technical skills and knowledge which require a minimum of 2,000 hours of on-the-job supervised training; and

(d) Requires related instruction to supplement the on-the-job training.

(5) "Apprenticeship credit" means the indication or certification by a local joint committee that an apprentice has demonstrated achievement or proficiency so as to satisfy a portion of the apprenticeship requirements as identified by the State Apprenticeship and Training Council.

(6) "Apprenticeship degree" means a state-approved Associate of Applied Science degree program that is approved for registered apprentices and journey persons and meets the standards and criteria for Associate of Applied Science degrees.

(7) "Apprenticeship program" means the total system of apprenticeship as operated by a particular local joint committee, including the committee's registered standards and all other terms and conditions for the qualification, recruitment, selection, employment and training of apprentices in that apprenticeable occupation.

(8) "Apprenticeship standards" means a written agreement submitted by a local joint committee and approved by the State Apprenticeship and Training Council, that sets forth a plan containing all terms and conditions for the qualification, employment and training of apprentices or trainees as set forth in ORS 660.126 and 660.137.

(9) "Associate of Applied Science (AAS)" means a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce. AAS degrees may also help to prepare students for career advancement, occupational licensure, or further study at the baccalaureate level.

(10) "Associate degree" means a state-approved lower division undergraduate award issued by a community college that indicates satis-

ADMINISTRATIVE RULES

factory completion of a course of study approved by the community college board.

(11) "Associate of General Studies" means a state-approved associate degree that is intended to meet the individual student needs using a variety of collegiate level courses to meet degree requirements.

(12) "Bureau of Labor and Industries (BOLI)" means the Oregon state agency responsible for apprenticeship and training in Oregon.

(13) "Certificate of completion" means a form of recognition awarded by a community college for meeting minimum occupational course or curriculum requirements. Certificates of completion must be state-approved, have a defined job entry point, represent college-level work, and meet State Board of Education's criteria. Commonly referred to as less than one-year, one-year and two-year certificates of completion.

(14) "Clock/contact hours" means one clock (or contact) hour that is 60 minutes long. No more than 10 minutes of each hour can be used for a regularly scheduled break or passing period.

(15) "Collegiate level work" means course and program content that provides skills and information beyond what is normally gained before or during the secondary level. It is characterized by analysis, synthesis, and application in which students demonstrate an integration of skills and critical thinking. It is a term that denotes more than college/university transfer courses. It also includes professional technical education and other courses that exceed basic skills, workplace readiness, and fundamental basic skills. Courses must be collegiate level if used to fulfill a requirement in an associate degree, Associate of Applied Science degree option or certificate of completion program.

(16) "Cooperative work experience (CWE)" means the placement of students by the college in a structured work-based learning experience that is directly related to their classroom studies and under the control of the college. The college instructor or supervisor visits the field work site regularly. Supervision toward achievement of college identified and approved student learning outcomes and measurable learning objectives is also provided by the employer or other individual contracted to provide field experience. Each student should have theoretical knowledge and/or practical experience in a relevant major field of study prior to being placed in a cooperative work experience.

(17) "Core apprenticeship services" means those services offered by Oregon community colleges to apprentices and local joint committees when college tuition is paid and state reimbursable fulltime equivalency (FTE) is generated through the apprenticeship related training.

(18) "Course challenge examination" means the award of academic credit by a community college when a student demonstrates through comprehensive examination of one or more related training classes that they have achieved the competencies and proficiencies of a course at or above the standard of academic achievement for the course. Local policies govern whether this is an acceptable alternative for students and the nature of the examination (oral, written, demonstration, etc.) Credit can only be granted for courses that are part of that college's approved curriculum.

(19) "Council" means the State Apprenticeship and Training Council as defined in ORS 660.010.

(20) "Course of study for apprentices and trainees" means the instructional objectives and outline of course content for related training and manipulative instruction as developed from a trade analysis for the trade, craft or industrial occupation as established in accordance with ORS 660.157.

(21) "Credit for prior certification" means the awarding of credit by a community college toward an associate degree or certificate of completion to acknowledge achievement of a publicly certified credential such as a journey persons card.

(22) "Credit for prior experiential learning" means the awarding of academic credit by a community college for prior learning acquired from work or life experience, mass media and independent reading and study.

(23) "Department" means the Oregon Department of Community Colleges and Workforce Development.

(24) "Detrimental duplication" means a situation that occurs when recruitment of students for a new program or location will tend to redirect prospects from a fixed pool concomitant with the application of publicly funded educational cost subsidies, thereby significantly reducing enrollment in existing similar programs for which student financial aid is available but the number of prospective enrollees is limited by nonfinancial factors such as interest, qualifications needed for admission, internship openings for students, and job openings for graduates

(25) "Direct control" means the community college maintains direct and sole responsibility for the academic quality of all aspects of all pro-

grams and courses through the management and supervision by faculty and institutional administrators.

(26) "Employer" means any person employing the services of a registered apprentice, regardless of whether such person is a party to an apprenticeship agreement with that apprentice.

(27) "Fulltime equivalency (FTE)" means a student or a combination of several students who carries or carry among them, within a single academic year, a minimum number of clock hours of instruction, in any program, to be specified by rule by the State Board of Education.

(28) "General education" means the introduction to the content and methodology of the major areas of knowledge including the humanities and fine arts, the natural sciences, mathematics, and the social sciences and help students to develop the mental skills that will make them more effective learners.

(29) "Laboratory (lab)" means an instructional setting in which students work independently with the instructor available and in the instructional area for assistance and supervision.

(30) "Lecture" means an instructional setting in which the instructor delivers information with limited student discussion.

(31) "Lecture/laboratory (Lecture/lab)" means an instructional setting in which the instructor gives short presentations and supervises student application of content. Instructional methods are integrated; lecture and lab are dependent upon each other for the student's educational success.

(32) "Local joint committee" means local joint apprenticeship committees, local joint training committees and trade committees.

(33) "Minimum guideline standards" means industry/trade benchmarks developed and proposed by the appropriate state joint committee and approved by the Council representing the fundamental requirements necessary for entry into, and completion of specific Council approved occupational/trade programs.

(34) "Non-credit course" means a course that does not offer college academic credit for completion. Non-credit courses are not required to use an established standard of academic achievement and therefore generally are not used as part of a credit-based degree or certificate of completion program.

(35) "Occupational preparatory course" means collegiate level courses designed to prepare persons for employment in a specified occupation or cluster of closely related occupations.

(36) "Occupational supplementary course" means collegiate level courses designed for individuals who have already entered an occupation but seek to improve their occupational skills and knowledge in order to achieve employment stability or advancement.

(37) "On-the-job training (OJT)" means training provided to an employee under the direct auspices of the employer or their representative.

(38) "Professional technical courses" are defined as the occupational preparatory or occupational supplementary collegiate level courses that are designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations.

(39) "Professional technical program" means collegiate level coursework that is designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Successful completion of professional technical programs results in the achievement of a state-approved certificate of completion, Associate of Applied Science degree or Associate of Applied Science degree option.

(40) "Registered apprentice" means a worker at least 16 years of age, except where a higher minimum age is otherwise required by law, who is employed to learn an apprenticeable occupation under standards of apprenticeship approved by the State Apprenticeship and Training Council or by the federal Office of Apprenticeship Training and Employer Labor Services. Also known as "apprentice."

(41) "Related instruction" means programs of study for which applied or specialized associate degrees are granted or programs of an academic year or more in length for which certificates of completion are granted, must contain a recognizable body of instruction in program-related areas of 1) communication, 2) computation, and 3) human relations. Additional topics that should be covered as appropriate include safety, industrial safety, and environmental awareness.

(42) "Related training attendance records" means the documentation required by the local joint committee to verify that a registered apprentice was present during the times required for an apprenticeship program.

(43) "Related training or apprenticeship related training" means an organized and systematic form of classroom/lab instruction designed to

ADMINISTRATIVE RULES

provide knowledge of the theory and technical aspects of an apprenticeship trade.

(44) "Standard of academic achievement" means demonstrated achievement, proficiency, or measured learning acknowledged as meeting a predetermined academic standard. Normally noted through a record transcribed and maintained by the college.

(45) "State Apprenticeship and Training Council" means the state apprenticeship and training entity as identified in ORS 660.010. Also known as "Council."

(46) "State-approved program" means a community college certificate of completion or associate degree program that has met and continues to meet the standards and criteria of and have been approved by the State Board of Education.

(47) "Statewide program" means an Associate of Applied Science and/or certificate of completion program which is developed, applied for and continuously monitored by a partnership of colleges to address a specific program need through a cohesive and transferable curriculum among and between participating colleges.

(48) "Supplemental apprenticeship services" means those services that may be available at some community colleges on a fee for service basis to support the local joint committee. These services and others need to be included as part of an agreement between the community college and the local joint committees specifying the service to be performed, fees for services, length of service to be provided, etc.

(49) "Transcribed" means coursework entered into the official and formal records of a college including the level and achievement of a student.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, ORS 341.665, ORS 660.157, ORS 660.160, ORS 660.167 & ORS 660.190

Hist.: 1EB 151, f. 7-20-73, ef. 8-1-73; 1EB 166, f. 2-20-74, ef. 3-11-74; 1EB 197, f. 5-23-75, ef. 6-25-75; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-042-0090, 581-042-0095, 581-042-0100, 581-042-0105, 581-042-0110, 581-042-0115, 581-042-0120, 581-042-0125, 581-042-0130, 581-042-0135, 581-042-0140 & 581-042-0145; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0400; DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0110

Apprenticeship Related Training Courses, Work-Based Learning and Academic Credit

(1) Community colleges will cooperate with the State Apprenticeship and Training Council, the Department, and the local joint committees in providing the necessary related training courses to meet the objectives of courses of study as identified in ORS 660.157(1) for registered apprentices and trainees. The coordination of related training offered in these courses with job instruction, and the carrying out of the other details will be the responsibility of the community college. (ORS 660.160)

(2) For each occupation and industry, the State Apprenticeship and Training Council shall review and approve courses of study for apprentices, based on current occupational analyses, that meet the training needs of each local joint committee and that shall be available to all registered apprentices.

(3) Local joint committees, in cooperation with the community college, shall have the responsibility for determining the training needs of the apprentices indentured by the committees subject to the training objectives adopted for the particular occupation or industry.

(4) Community college apprenticeship related training will be based on the course of study for apprentices and trainees approved by the State Apprenticeship and Training Council.

(5) Community colleges will collaborate with the local joint committee to develop and implement apprenticeship related training courses to satisfy the related training requirements of apprentices within the limits of the available resources and facilities of the community college.

(6) Community colleges will collaborate with local joint committees to identify the apprentice training requirements that can be met by existing community college courses.

(7) Community colleges identified on the Annual List of Community College Related Training Providers will provide apprenticeship related training courses to registered apprentices when regional accreditation and State Board of Education standards and requirements have been met. These standards and requirements include direct control by the community college relating to the approval of the curriculum and instruction, evaluation of the curricula, hiring or direct approval of instructors, evaluation of instructors and approval of the instructional setting.

(8) Community colleges will have sole responsibility for determining and providing academic credit for apprenticeship related training offered by the community college.

(9) The local joint committees will have responsibility for granting apprenticeship credit for training and education received in community college apprenticeship related training and other course work.

(10) Apprenticeship related training courses offered by community colleges will meet the same instructional standards and procedures as for other occupational supplementary and/or occupational preparatory courses offered by the community college.

(11) Apprenticeship related training courses offered by community colleges will follow the same contact hour to academic credit ratio as other academic credit courses offered by the community college. The ratio will include a consistent differentiation for instructional delivery provided through lecture, laboratory and lecture/laboratory as defined by state and local community college guidelines.

(12) Contact hours of apprenticeship related training offered by community colleges will be consistent with the hours of related training as approved by the State Apprenticeship and Training Council for the specific apprenticeship.

(13) Apprenticeship related training offered by the community colleges for apprentices may be offered as credit or non-credit courses at the discretion of the community college.

(14) Community colleges will transcribe the credit for all apprenticeship related training courses completed by apprentices for academic credit. Non-credit apprenticeship related training course transcription is at the discretion of the college.

(15) Effective July 1, 2003, and thereafter, apprenticeship on-the-job (OJT) training paid in whole or in part by any person or entity employing the services of a registered apprentice shall not be considered by the community college or the Department as cooperative work experience or related training for the registered apprentice.

(16) Effective July 1, 2003, and thereafter, state FTE reimbursement will not be provided for on-the-job training for registered apprentices that are paid in whole or in part by any person or entity employing the services of a registered apprentice.

(17) Skill and knowledge gained by registered apprentices and journey persons through on-the-job training may be considered as nonreimbursable credit for prior learning and/or credit for prior certification, according to the policies and procedures of a community college.

(18) Effective July 1, 2003, and thereafter, cooperative work experience (CWE) and similar work-based learning courses may continue to be included in certificate of completion and/or associate degree programs for registered apprentices and journey persons, however credits transcribed by the college shall be only for credit for prior learning or credit for prior certification.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0120

Apprenticeship Related Training Instruction

(1) Community colleges will enroll apprentices in apprenticeship related training courses utilizing the college registration procedures used for other students and student groups.

(2) Apprentices enrolled for community college apprenticeship related training courses will be community college students and will have access to the same college services and facilities as other similarly enrolled students.

(3) Community colleges will assure that apprenticeship related training courses are provided with classroom and laboratory space. Within the campus allocation and procurement procedures, community colleges will collaborate with the local joint committee to assure space for related training courses.

(4) Community college tuition and applicable fees for apprenticeship related training courses will be set by the local community college in the same manner as tuition is set for other college offerings.

(5) Community colleges will obtain necessary authorization from registered apprentices to provide class lists, grades, and progress and related training attendance records to the local joint committee on request.

(6) To assist the local joint committee, community colleges will maintain and provide class lists, academic progress records, and related training attendance records for all registered apprentices enrolled in apprenticeship related training courses, when appropriate authorization has been obtained from the registered apprentice.

(7) Registered apprentices that are enrolled in credit course work toward the achievement of community college certificate of completion or associate degree programs may be eligible for financial aid if they meet the college's financial aid guidelines.

ADMINISTRATIVE RULES

(8) The awarding of community college academic credit for apprenticeship related training toward associate degrees and certificates of completion will be determined by the local community college based on the local, Department, and State Board of Education policies and procedures. Local policies and procedures will assure that an established standard of academic achievement has been met for all apprenticeship related training courses accepted toward college awards.

(9) Community colleges will utilize the Professional Technical Course Approval Procedures as identified by the Department for the approval of apprenticeship related training courses.

(10) Apprenticeship related training courses may be offered by the community college prior to final approval as identified by the Department in the Professional Technical Course Approval Procedures.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0130

Apprenticeship Instructors

(1) The community college conducting the apprenticeship related training courses will have direct control of the selection, supervision, and evaluation of the apprenticeship related training instructors.

(2) Community colleges may contract with local joint committees to provide educational services including instruction to registered apprentices as identified in OAR 589-007-0180.

(3) Community college apprenticeship related training instructors will be able to demonstrate the occupational competency necessary for the courses to be taught and will have the necessary knowledge and skills required of a practicing journey person.

(4) Community college apprenticeship related training instructors will meet the same education, experience and other requirements in effect for other similar faculty, adjunct faculty or instructors as identified in local college policies, procedures and bargaining agreements.

(5) Community colleges will ensure that apprenticeship related training courses are taught by instructors that have the teaching competencies and qualifications expected of other college instructors and as required by the occupations and industries.

(6) Apprenticeship related training instructors' performance will be evaluated for quality, attendance and effectiveness according to the college's personnel policies or collective bargaining agreement, whichever applies to the community college. The community college may seek input for the evaluation of instructors from the local joint committee responsible for the administration of the training program.

(7) The community college will collaborate with the local joint committee in determining the instructor occupational competency needed for the instruction of an apprenticeship related training course.

(8) Community colleges will consult with the local joint committee for assistance in identifying qualified instructors for apprenticeship related training courses.

(9) Community college apprenticeship related training instructors will be provided with the same opportunities for pre-service and in-service training as other community college instructors and faculty as identified in local college policies, procedures and bargaining agreements.

(10) The community college will collaborate with the local joint committee to identify the needed competencies for apprenticeship related training instructors and to develop and implement appropriate community college pre-service and in-service training and experiences.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0140

Certificates of Completion and Associate Degrees for Apprentices and Journey Persons

(1) Community college associate degree and certificate of completion programs offered for registered apprentices and journey persons will follow the same local and State Board of Education standards, criteria and requirements as other certificate of completion and associate degree programs. Programs will follow the Certificate of Completion and Associate Degree Approval Procedures identified by the Department.

(2) Community college associate degree and certificate of completion programs developed for registered apprentices and journey persons will follow the general education, related instruction and other college requirements for certificate of completion and associate degree programs as identified by each community college.

(3) Community colleges will provide opportunities for apprentices and journey persons to achieve an associate degree using knowledge and

skills from current and prior education and experience. The associate degree opportunity may include, but not be limited to, an Associate of Applied Science degree in an apprenticeable trade, or an Associate of Applied Science degree in an area such as Industrial Technology, or an Associate of General Studies.

(4) Community colleges with Associate of Applied Science degree (AAS) programs for registered apprentices and journey persons (apprenticeable trade AAS degree programs or in an area such as Industrial Technology degree programs) will align with BOLI minimum guideline standards by apprenticeable trade within two years of the establishment of the minimum guidelines standards for the apprenticeable trade. New and existing AAS degree programs for registered apprentices and journey persons will follow the Minimum Guideline Standards Certificate of Completion and Associate of Applied Science Degree Procedures identified by the Department in consultation with stakeholders.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0150

Granting Academic Credit for Certificates of Completion and Associate Degrees for Apprentices and Journey Persons

(1) Registered apprentices and journey persons will be provided with the same opportunities for being awarded academic credit for prior learning or prior certification toward certificates of completion and associate degrees as is available for other community college students. These opportunities will include but may not be limited to: Credit for Prior Experiential Learning, Course Challenge Examination and Credit for Prior Certification.

(2) Community colleges will follow the regional accreditation standards allowing no more than 25 percent of certificate of completion and associate degree programs to be met through credit for prior experiential learning.

(3) Community colleges will utilize the same standards of achievement (proficiencies, grades, etc.) for granting academic credit for related training and previous experience for associate degrees and certificates of completion for apprentices and journey persons as for other community college students.

(4) Apprenticeship related training courses completed for academic credit and transcribed at one Oregon community college will be evaluated toward meeting the requirements for college certificates of completion and associate degrees at another Oregon community college.

(5) Journey persons with proof of Oregon journey person status or some other form of recognized state, regional or national standards certification may be awarded academic credit toward an associate degree based on local community college procedures.

(6) Evaluation procedures to establish apprenticeship credit for community college work toward apprenticeship requirements will follow policies adopted by the State Apprenticeship and Training Council in cooperation with the Department. Apprenticeship credit is acknowledged and accepted by the local joint committee. The community college does not grant apprenticeship credit toward BOLI apprenticeship program requirements.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0160

Menu of Core Apprenticeship Services and Supplemental Apprenticeship Services

(1) Core apprenticeship services will include the services provided by Oregon community colleges to registered apprentices and local joint committees when the registered apprentice is enrolled for one or more related training courses at the community college and the related training courses meet the community college's content, minimum class size, and other requirements for such courses.

(2) The menu of core apprenticeship services will include the core apprenticeship services and the definition of each service as have been identified by the community colleges in collaboration with the Department. Core apprenticeship services will include:

(a) Registration services for registered apprentices;

(b) Academic credit for apprenticeship related training instruction under the direct control of the college utilizing the same academic credit and instructional guidelines used for other similar college courses;

(c) Opportunities for registered apprentices to complete requirements to achieve an associate degree;

ADMINISTRATIVE RULES

(d) Registered apprentices with access to the same college services and facilities (financial aid eligibility, counseling, advising, library access, etc.) as other similarly enrolled students;

(e) Inservice and professional development opportunities for apprenticeship related training instructors that are consistent with opportunities provided for other similarly hired college instructors;

(f) Classroom and laboratory facilities for apprenticeship relating training courses either at the college facility or at another facility as agreed upon by the college and the local joint committee; and

(g) When appropriate authorization has been provided by the registered apprentice, apprenticeship related training class lists and related training attendance records for registered apprentices will be provided to local joint committees.

(3) Community colleges identified on the Annual List of Community College Related Training Providers may also provide a listing of supplemental apprenticeship services available to local joint committees from their individual community college. Supplemental apprenticeship services include services that may be available at an individual community college on a fee for service basis to support the local joint committee in its effort to provide effective services to registered apprentices.

(4) Supplemental apprenticeship services to be provided by a community college to a local joint committee will be provided through a contract between the parties. Such contracts will include but not be limited to the identification of supplemental apprenticeship and other services to be provided, fees for services provided and length of services to be provided.

(5) Supplemental apprenticeship services that may be provided by a community college on a fee for services basis through a contract between the community college and the local joint committee may include but are not limited to:

- (a) Administrative support to the local joint committee;
- (b) Posting meetings;
- (c) Maintenance of equal opportunity records;
- (d) Maintenance of records required by state and federal apprenticeship regulations;
- (e) Computer technical support;
- (f) Taking and distributing minutes for or on behalf of the local joint committee;
- (g) Marketing/promotion;
- (h) Grant proposal preparation and administration of grants;
- (i) Assessing transferability of related training coursework;
- (j) Completion of applicant rating forms; and
- (k) End of the term recommendations.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0170

Community College Apprenticeship Related Training Providers and Notification

(1) Community colleges, within the limits of the available resources and facilities of the community college, will provide core apprenticeship services for the registered apprentices. Community colleges may contract with other community colleges to assist in providing core apprenticeship services to registered apprentices.

(2) By March 1, 2003, and by February 1 of each year thereafter, each community college will submit to the Department their intention to offer apprenticeship related training and core apprenticeship services to registered apprentices for the following school year beginning July 1.

(3) By April 1, 2003, and by March 1 of each year thereafter, the Department will publish the Annual List of Community College Related Training Providers identifying the community colleges that have indicated their interest in offering apprenticeship related training courses and core apprenticeship services for the following school year. The Department will provide the Annual List and menu of core apprenticeship services to the Bureau of Labor and Industries — Apprenticeship and Training Division, the local joint committees and the community colleges.

(4) Local joint committees will utilize the Annual List of Community College Related Training Providers to enter into contractual agreements with one or more community colleges within the local joint committee boundaries to provide apprenticeship related training and core apprenticeship services to registered apprentices indentured to the local joint committee.

(5) If a community college and the local joint committee are unable to obtain agreement regarding apprenticeship related training and core apprenticeship services to be provided, the community college or local joint committee may contact the Department for a referral to the Oregon Public

Policy Dispute Resolution Program for dispute resolution services. Dispute resolution services provided shall include fair and equitable membership as approved jointly by the community college(s) and the local joint committee.

(6) If no contractual agreement can be reached between a local joint committee and one or more community college(s) within the geographic jurisdiction of the local joint committee, the local joint committee may contract with any community college on the Annual List of Community College Related Training Providers willing to provide apprenticeship related training and core apprenticeship services.

(7) If the local joint committee determines that they wish to contract with another community college, the local joint committees will provide notice within 90 calendar days of the completion of the existing agreement to the contracting community college of its intention to contract with another community college.

(8) Contracts between community colleges and local joint committees will not imply any requirement on the part of the state for reimbursement.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

589-007-0180

Contracts for Educational Services Between Community Colleges and Local Joint Committees

(1) Local joint committees, as private organizations, may contract with a community college to provide services of an educational nature that are subject to the approval of the State Board of Education as identified in ORS 341.315.

(2) A community college may enter into contracts with local joint committees to obtain educational services for students enrolled in the community college as identified in ORS 341.440.

(3) Educational services provided under contract between the community college and the local joint committee must meet or exceed the accreditation requirements for Contractual Relationships with Organizations Not Regionally Accredited of the Commission on Colleges and Universities of the Northwest Association of Schools and of Colleges and Universities or their successor to ensure full accreditation for the community college.

(4) The applicable requirements for contracted education services include but are not limited to:

- (a) The primary purpose of offering the course is educational.
- (b) Any course offered must be consistent with the institution's educational mission and goals.
- (c) Courses to be offered and the value and level of their credit must be determined in accordance with established institutional and State Board of Education policies and procedures.

(d) Courses offered must remain under the sole and direct control of the community college, which exercises ultimate and continuing responsibility for the performance of these functions as it relates to:

- (A) Recruitment and advertising;
- (B) Advising and counseling students;
- (C) Appointment and validation of credentials of faculty and instructors teaching the course;
- (D) Admission of students to courses and/or to the community college;
- (E) Instruction in the courses;
- (F) Evaluation of student progress;
- (G) Record keeping;
- (I) Tuition and/or fees charged, receipt and disbursement of funds, and refund policy;

- (J) Nature and location of courses;
- (K) Library and information resources;
- (L) Additional data including course outlines, syllabi, copies of exams, records of students and evidence of equivalencies with established programs.

(5) Educational services provided by the local joint committee under contract with the community college must meet the standards for educational services provided by the college as identified in ORS 341.440.

(6) Community colleges may not enter into a contract where the community college is required to share any portion of FTE reimbursement provided by the state.

(7) Contracts between the community college and the local joint committee will be based upon reasonable costs associated with the educational services provided under the contract.

(8) As set forth in ORS 341.440, the contract for educational services between the community college and the local joint committee will not

ADMINISTRATIVE RULES

exceed the costs that would otherwise be incurred by the college to provide students with the same or similar services.

(9) Contracts for educational services between the community college and the local joint committee may include those core apprenticeship services as identified in OAR 589-007-0160. Services provided must remain under the direct and sole control of the community college and meet the standards of regular community college courses, programs and services and are services that are best provided through the contractual arrangement. The educational services that may be provided by the local joint committee are limited to:

- (a) Facilities for apprenticeship related training courses;
- (b) Assistance in recommending instructional staff that meet the college requirements for college faculty and instructors;
- (c) Related training instructors to serve as instructors for college related training courses that meet the college requirements for college faculty and instructors;
- (d) Equipment, services and supplies to be utilized for apprenticeship related training courses; and
- (e) Assistance in the development of curriculum and assessments for related training courses.

(10) Contracts for educational services between the community college and the local joint committee will be consistent with OAR 589-002-0500 and will clearly establish the requirements and responsibilities of the community college and the local joint committee following regional accreditation and other requirements. Contracts will be executed by designated officers of the community college and the local joint committee and will include the following elements:

(a) Identification of the work to be performed, period of the agreement, and conditions under which renewal or renegotiation of the contract would take place;

(b) Identification of the community college as having ultimate responsibility for the performance of necessary control functions for the educational offerings and offering academic credit;

(c) Establishment of the responsibilities of the community college and the local joint committee regarding:

- (A) Indirect costs
- (B) Approval of salaries
- (C) Equipment
- (D) Subcontracts and travel
- (E) Property ownership and accountability
- (F) Inventions and patents
- (G) Publications and copyrights
- (H) Accounting records and audits
- (I) Security
- (J) Termination costs
- (K) Tuition refund
- (L) Student records
- (M) Faculty facilities
- (N) Safety regulations
- (O) Insurance coverage

(d) Demonstration that the regional accreditation requirements have been met regarding:

- (A) Enrollment agreements
- (B) Tuition policies including rates, refunds and cancellations and collection practices

(c) Student recruitment including advertising and promotional literature and field agents.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190
Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03

.....

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

Adm. Order No.: BCD 3-2003

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 10-1-02

Rules Amended: 918-400-0280, 918-400-0455, 918-400-0465, 918-400-0525, 918-400-0630, 918-400-0740

Subject: Adopts the 2000 edition of the Oregon Elevator Specialty Code effective March 1, 2003.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-400-0280

Board-Created Definitions

For the purposes of OAR chapter 918, division 400, unless the context requires otherwise, the following definitions are adopted:

(1) "Alteration" is a change of original design or operation through modernization; replacement of components or assemblies, or upgrade to existing equipment.

(2) "ANSI" means the American National Standards Institute.

(3) "Apprentice" means any person who is enrolled in an approved elevator apprenticeship program.

(4) "ASME" means the American Society of Mechanical Engineers.

(5) "Board" means the Electrical and Elevator Board.

(6) "BOLI" means the Bureau of Labor and Industries Apprenticeship Division.

(7) "Conveyance" is the industry term for elevator and includes, but is not limited to, escalator, man-lift, inclined elevator, dumbwaiter, lowerator, platform hoist, material lift, moving walk, platform or wheelchair lift and chair lift.

(8) "Electrical equipment" means any device or group of components that is connected to a source of electrical power. Such devices include, but are not limited to, electro-mechanical switches, controllers, motors, car and hall fixtures, lighting fixtures or any other component that has exposed electrical parts or connections either by design or when protective covers are removed.

(9) "Elevator Lobby" is the area in front of an elevator for waiting, boarding, disembarking, loading and unloading.

(10) "Equipment testing" means safety tests required by the adopted safety standard and required to be performed by properly licensed elevator technicians.

(11) "Industrial plant" means a facility engaged in a manufacturing endeavor to make a finished product using raw materials, especially on a large industrial scale wherein elevators are located and maintained by authorized plant personnel.

(12) "Interactive testing and maintenance" means that which requires interaction with the technical components of controllers and machinery and except where allowed by law, interactive testing and maintenance checks shall be performed only by licensed elevator personnel. This includes, but is not limited to, car and counterweight safety tests, pressure relief tests, buffer tests, brake tests, unintended car movement and ascending car over-speed tests.

(13) "License" means a document that signifies competency to install, repair, alter or maintain elevator mechanical equipment within a particular field in the elevator industry.

(14) "Maintenance" is the renewal of operating parts, cleaning, lubricating and adjusting existing elevator equipment to ensure proper and safe operation as required by code.

(15) "Mitigating Circumstances" are caused by a lack of materials or labor and are beyond the reasonable control of a building owner or contractor.

(16) "Operational testing and maintenance" means that which requires measurement, observation, cleaning and lubricating equipment that does not require disassembly or opening the equipment and shall be permitted to be performed by authorized or licensed elevator personnel. This includes, but is not limited to, fire service tests, step/skirt index tests, cleaning and lubricating exposed surfaces, starting and stopping of equipment through normal means, smoke and heat detector tests, relamping and repairing car lighting fixtures, and monthly monitoring of hydraulic oil levels.

(17) "Operator" is an individual employed by a general contractor, elevator contractor or owner to operate an elevator under a construction use permit.

(18) "Repair" is the restoration of an elevator to its original intended design, but not changing its operation or intended use.

(19) "Term" means a set period for each phase of training within an approved apprenticeship program.

(20) "Transferable experience" means experience, knowledge and aptitude gained on equipment not governed by the Elevator Safety Law but is similar in construct and application to the types of equipment associated with the licensing requirements herein.

(21) "Vertical Reciprocating Lift" is a power-driven, isolated, self-contained, stationary lift that meets the requirements of the **Oregon Elevator Specialty Code, Vertical Reciprocating Lift Code.**

(22) "Waiver" or "Variance" is a trade term referring to a site-specific exception from code requirement granted under ORS 460.085.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

ADMINISTRATIVE RULES

Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0003; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-005; BCD 13-1999, f. & cert. ef. 10-1-99; BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

918-400-0455

Elevator Specialty Code Adoption

The **Oregon Elevator Specialty Code** shall be:

(1) **"The Belt Manlift Standard"** published by the American Society of Mechanical Engineers, **ASME A90.1, 1997 Edition** with revisions and interpretations through January 31, 2001;

(2) **"Standards for Specialty Lifts in Oregon"** as provided by standards to be effective March 1, 2003; and

(3) **"The Inspector's Manual"** published by the American Society of Mechanical Engineers, **ASME A17.2, 2001 Edition** together with revisions and interpretations published through July 1, 2002.

(4) The safety standard for the general installation, alteration, repair and maintenance of elevators, other than those identified in sections (1) to (3) of this rule, is the **Safety Code for Elevators and Escalators, ASME A17.1, 2000 Edition** with published revisions and interpretations through January 1, 2003. The escalator step/skirt index **Requirements 6.1.3.3.7** and **6.1.3.3.8** and **Section 8.6.8.3** shall be considered optional. Elective testing and installation of skirt deflecting devices shall conform to Requirements 6.1.3.3.7 and 6.1.3.3.8 and Section 8.6.8.3 as applicable.

(5) The safety standard for the general installation, alteration, repair and maintenance of vertical and inclined wheelchair lifts and inclined stairway chairlifts is the Safety Standard for **Platform Lifts and Stairway Chairlifts, ASME A18.1 1999 Edition** with published revisions and interpretations through July 1, 2002.

(6) Referenced standards referred to within adopted standards, shall recognize the latest Oregon adopted edition unless otherwise specified herein.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

Hist.: DC 25-1982, f. & ef. 12-16-82; DC 12-1986(Temp), f. & ef. 7-8-86; DC 10-1987, f. & ef. 4-13-87; Renumbered from 814-030-0005; BCA 35-1989, f. 12-22-89, cert. ef. 1-1-90; BCA 7-1992, f. & cert. ef. 4-10-92; BCA 26-1992, f. 12-29-92, cert. ef. 1-1-93; BCA 13-1993(Temp), f. 6-23-93, cert. ef. 7-1-93; BCA 17-1993, f. 8-24-93, cert. ef. 9-1-93; BCA 24-1993, f. 10-22-93, cert. ef. 11-1-93; BCA 35-1993, f. 12-14-93, cert. ef. 1-1-94; BCD 21-1994, f. 9-13-94, cert. ef. 9-15-94; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0010; BCD 3-1997, f. 3-18-97, cert. ef. 4-1-97; BCD 20-1997, f. 12-24-97, cert. ef. 1-1-98; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0520; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

918-400-0465

Elevator Maintenance Requirements (Effective April 1, 1996)

(1) The governing code for the repair and maintenance of existing elevators and for placing elevators back in service shall be the **Oregon Elevator Specialty Code for Existing Elevators and Escalators** is the **1996 Edition of ASME A17.3** published by the American Society of Mechanical Engineers, as amended by the Building Codes Division with revisions and interpretations through January 1, 2003; and

(2) Where **ASME A17.3** fails to clearly define or govern a specific device or type of conveyance:

(a) The code under which the unit was installed, or the latest alteration code, if applicable, shall be used;

(b) The 1937 code shall apply to devices installed prior to March 1937.

(3) When elevator signal fixtures are altered, all elevator signal fixtures, car handrail(s), and two-way communication device(s) shall be brought into compliance with the applicable disability regulations in the **Oregon Structural Specialty Code**.

(4) All requirements for periodic safety tests, repair of existing devices and maintenance shall be brought into compliance within the time period required in the annual inspection report.

(5) Except as provided in section (4) of this rule, the maximum time allowed to comply with new maintenance standards for existing elevators shall not be more than 24 months from date of annual inspection except:

(a) The replacement of hand line control as required by **ASME A17.3, Item 3.10.1** shall be allowed a maximum of 36 months to comply.

(b) All existing elevator hoistway gates or doors required to comply with **ASME A17.3, Item 2.6.1** and car doors or gates required to comply with **Item 3.4.2(a)** shall meet the minimum 72-inch (1828.8 mm) height requirement within 60 months from the date of the annual safety inspection following effective date of this rule, or when the gate requires complete replacement, whichever comes first.

(c) All elevators required by **ASME A17.3, Item 3.11.3** to have fire fighters' service shall comply with this rule within 60 months from date of the annual safety inspection following effective date of this rule.

(d) All passenger elevators and freight elevators allowed to carry passengers permitted after January 1, 1993, shall comply with **ASME A17.3, Item 3.11.1**. Elevators not in compliance with the applicable chapter of the **Oregon Structural Specialty Code** for elevator communication devices as of January 1, 1993, shall have 24 months from date of annual inspection to install the proper communicating device.

(e) Compliance extensions beyond the limits set in this section may be granted where, because of material shortages or extent of required changes, the additional time is necessary to achieve compliance.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0075; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0100; BCD 3-1997, f. 3-18-97, cert. ef. 4-1-97; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0530; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

918-400-0525

Plan Review Requirements

Plans and pertinent data submitted to the department under ORS 460.048 shall include proof that the elevator equipment meets the **Oregon Elevator Specialty Code** by providing the following information:

(1) Electrical product certification by providing:

(a) The listing or certification number and identification of the approved laboratory that tested the equipment;

(b) When applicable, date and identification of the electrical special deputy who certified the equipment to the **Oregon Elevator Specialty Code** electrical requirement; or

(c) Proof that requests for listing or certification are pending.

(2) For the purpose of complying with plan submittal requirements of ORS 460.048, and when applicable to the type of equipment being proposed, a complete set of drawings shall include:

(a) Elevation view;

(b) Plan view;

(c) Machine room layout (when applicable to the type of equipment);

(d) Cab and fixture detail;

(e) Hoistway entrance detail; and

(f) Electrical straight line wiring diagrams showing, as a minimum, safety circuits, normal and final limit circuits and door lock circuits, which shall include circuitry required by **ASME A17.1, 2000 Edition, Requirements 2.26.1.5** and **2.26.5**.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.048

Hist.: BCD 21-1994, f. 9-13-94, cert. ef. 9-15-94; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0120; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0610; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

918-400-0630

Provisional Permits for Elevators Under Construction

(1) A construction-use (workman's) permit may be granted under the following conditions:

(a) It is only issued to an elevator contractor while the elevator is under construction;

(b) The elevator shall only be used for transportation of workers and materials necessary for the physical construction and inspection of the site and shall not be used by the general public;

(c) Notification shall be given to the division before making any elevator changes, except those necessary to complete construction of the elevator;

(d) The installation meets all requirements of the **Oregon Elevator Specialty Code (ASME A17.1, 2000 Edition, Section 5.10)**;

(e) An operator is provided for all elevator operations unless the elevator meets all requirements for normal operations; and

(f) The provisional permit shall be:

(A) Specific to a particular elevator; and

(B) Attached to the car enclosure in plain view.

(2) Notwithstanding any expiration date placed on a provisional permit, the permit automatically terminates upon issuance of an operating permit.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.055

Hist.: BCD 18-1995, f. & cert. ef. 12-15-95; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0450; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

ADMINISTRATIVE RULES

918-400-0740

Taking Elevators Out of Service

Except as provided in OAR 918-400-0275, a person wishing to take an elevator out of service shall:

(1) Within 30 days of taking an elevator out of service, notify the division in writing of the date the elevator was taken out of service; and

(2) Within 12 months from the date the elevator is taken out of service, disable it as an "installation placed out of service," described in the **Safety Code for Elevators and Escalators, ASME A17.1 2000 Edition, Requirement 8.11.1.4.**

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

Hist.: BCD 18-1995, f. & cert. ef. 12-15-95; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0560; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03

Adm. Order No.: BCD 4-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 3-14-03

Notice Publication Date: 6-1-02

Rules Adopted: 918-225-0315, 918-225-0665

Rules Amended: 918-225-0240, 918-225-0560, 918-225-0660

Subject: Implements 1999 House Bill 3383, establishing inspector responsibilities for inspecting Category "M" fluid service process piping.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-225-0240

Definitions

As used in OAR chapter 918, division 225, unless the context requires otherwise:

(1) "Agricultural Purposes" means:

(a) Sowing, tending, and harvesting of products of the soil grown under natural conditions;

(b) Raising of poultry or fowl;

(c) Pasturage or raising of livestock or other animals; or

(d) Original processing of the farm product, but not the processing of the product of a different operator, or reprocessing work as freezing, canning, or packing if performed substantially for commercial purposes.

(2) "Available" to determine inspection fees at cost, means the vessels must be due for inspection in the year the notification is applicable, and must all be ready for inspection at the time designated by the inspector.

(3) "Board" is defined in ORS 480.515(1).

(4) "Boiler Room" means any enclosed room or designated space within a building, intended by design or by usage to contain a boiler that is connected and available for use. A boiler located in an area not meeting the definition of "boiler room" under OAR 918-225-0465 shall apply to any space within 20 feet of any burner.

(5) "Building Service Piping" means piping systems operating at or less than 150 psig steam; and water at or less than 160 psig and 250o F. as described in **ANSI/ASME Standard B31.9**, 1988 Edition.

(6) "Chief Inspector" means the inspector appointed by the Director pursuant to ORS 480.565(1).

(7) "Farm" means an area of land:

(a) Located in a rural district;

(b) Of sufficient size to generally be considered as a farm in its locale; and

(c) Devoted primarily to tillage and raising crops under natural conditions, or to raising animals, fowl, or poultry.

(8) "Emergency" as used in ORS 480.630(7) means an unplanned circumstance requiring immediate repair, installation, replacement or shut-down because of risk to health, life or property.

(9) "Hobby" or "Demonstration" means recreational or other non-commercial use.

(10) "Immediate Safety Hazard" means hazardous conditions exist requiring immediate correction to a boiler, pressure vessel or pressure piping system to preserve the safety of people or property.

(11) "Installer," as used in the boiler or pressure vessel laws and rules, means the person making the water, steam, air, refrigerant or other product piping connection to the boiler or pressure vessel. A person who transports or merely positions the boiler or pressure vessel is not an "installer." An electrician making electrical connections is not an "installer."

(12) "National Board" means the National Board of Boiler and Pressure Vessel Inspectors.

(13) "Operating" means any vessel connected and ready for service.

(14) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

(15) "Place of Public Assembly" means a building used or held for use, in whole or in part, for worship, health treatment, rest, recuperation or retirement living; child care nurseries or institutions; public meetings; education; instruction; entertainment; eating; recreation; or awaiting transportation.

(16) "Pressure Piping" means piping systems and components under the scope of **ASME B31.1, B31.3, B31.5 and B31.9.**

(17) "Pressure Relief Valve" means a valve activated by inlet static pressure which opens in proportion to the increase in pressure over the opening pressure range. Only ASME approved valves are allowed under the boiler rules.

(18) "Pressure Vessel" is defined in ORS 480.515(9).

(19) "Psig" means pounds per square inch gauge pressure.

(20) "Quantity," to determine inspection fees at cost, means six or more vessels.

(21) "Related Appurtenance" is defined in ORS 480.515(11).

(22) "Safety Valve" means a valve activated by inlet static pressure and characterized by rapid opening or pop action. Only ASME approved valves are allowed under the boiler rules.

(23) "Same Location," to determine inspection fees at cost, means that all vessels are within 2,000 feet of one another.

(24) "Service of Process" means deposit in the U.S. mail a copy of a notice addressed to the respondent at the respondent's last known address.

(25) "Single Private Residence" means a one-family dwelling structure.

(26) "Process Piping Inspector" means the owner's inspector, for the inspection of **ASME B31.3 Process Piping**, Category "M" fluid service only.

(27) "Structure" means a building or shed with a roof and enclosed on the sides 75 percent or more.

(28) "Traction Boiler" means a boiler constructed before January 1, 1961, designed to operate or pull equipment, or to convert steam power into a flywheel energy driving apparatus such as a thresher, road roller, or grinding equipment.

(29) "Vessel That is Considered Subject to Corrosion or Erosion" means the vessel contains or is intended to contain contents having a corrosive or erosive effect on any portion of the vessel. The use of glass linings leaves a vessel subject to corrosion unless all portions of the vessel are impervious to the corrosive or erosive effects of the contents.

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

Stat. Auth.: ORS 480.545

Stats. Implemented: ORS 480.545

Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 3-1982, f. & ef. 2-3-82; DC 1-1984, f. & ef. 1-5-84; BCA 4-1989, f. & cert. ef. 4-17-89; Renumbered from 814-025-0003; BCA 4-1989, f. & cert. ef. 4-17-89; BCA 5-1991, f. & cert. ef. 3-15-91; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0005; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 26-1998, f. 12-30-98, cert. ef. 1-1-99; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 4-2003, f. & cert. ef. 3-14-03

918-225-0315

Process Piping Systems, Scope and Purpose

(1) For the purposes of the **Oregon Boiler and Pressure Vessel Specialty Code**, the requirements of OAR 918-225-0430(4) shall be applied to only Category "M" fluid service process piping systems, as described in **ASME B31.3, Appendix "M"**, Guide to Classifying Fluid Service. For the purposes of these rules, "process piping systems" consists of welded, brazed, mechanically or chemically assembled piping listed as Category "M" by the owner. Process piping systems begin at the first, flanged, screwed or circumferential joint outside the supply or source to the destination excluding manufactured packaged components. Process piping does not include liquefied petroleum gas piping.

(2) For the purposes of these rules, seismic provisions and additional requirements associated with process piping systems classified as Category "M" fluid service and the structure to which these systems are attached, shall be regulated and inspected under the provisions of the **Oregon Structural Specialty Code**.

(3) Businesses and owner-users installing process piping classified as Category "M" fluid service must meet the requirements under OAR 918-225-0640, 918-225-0720, 918-225-0730 and 918-225-0740 as appropriate. Individuals installing Category M fluid service process piping must be licensed under OAR 918-225-0691 on or before July 1, 2003, unless they meet the requirements of these rules under OAR 918-225-0720 or owner-users under 918-225-0740.

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

Stat. Auth.: ORS 480.545, ORS 480.565, ORS 480.605, ORS 480.607, ORS 480.647

ADMINISTRATIVE RULES

Stats. Implemented: ORS 480.545, ORS 480.565, ORS 480.605, ORS 480.607, ORS 480.647
Hist.: BCD 4-2003, f. & cert. ef. 3-14-03

918-225-0560

Responsibility of Inspectors

(1) All deputy and special inspectors shall perform boiler, pressure vessel and pressure piping inspections in accordance with the **Boiler and Pressure Vessel Specialty Code** adopted in OAR 918-225-0430 and the following requirements of the division:

(a) For new boilers, the inspector shall verify that the controls and safety devices required by **ASME CSD-1-1998** or other construction codes are installed and function as designed in accordance with manufacturer's instructions;

(b) External boiler inspections shall be performed with the boiler in normal operation. The inspector shall examine all controls, safety devices, water columns and gauge glasses for evidence of tampering and shall verify that all testing has been performed to ensure proper functioning;

(c) Internal boiler inspections shall be performed in a thorough and complete manner. Manways and other inspection openings necessary to perform a particular inspection shall be removed for access to the boiler internals. Water columns, feed water controllers and feed piping shall be inspected internally. The inspector shall visually examine pressure boundary retaining devices, boiler refractory, hangers, clips, boiler tubes and headers and drum internals for damage, corrosion, overheating, welded repairs, feedwater treatment or any detrimental conditions;

(d) The inspector shall explain to the owner or user that any boiler, pressure vessel or pressure piping deficiency requires correction under the **Oregon Boiler Specialty Code**. The inspector shall require conditions not hazardous to health or safety to be corrected within 30 days. The inspector shall require conditions hazardous to health or safety to be corrected prior to operating the equipment. The owner or user of the equipment may apply to the chief inspector for extension of the 30-day correction requirement; and

(e) All inspectors witnessing installation, repair or alteration of boilers, pressure vessels or pressure piping shall verify that the contractor and workers performing the work are appropriately licensed and hold valid permits as required by ORS 480.630.

(2) Failure to comply with subsections (1)(a) through (e) of this rule, or failure of an owner or user to perform a required deficiency correction may cause additional inspections to be performed per ORS 480.570 as directed by the chief inspector.

(3) The responsibilities of process piping inspectors are located in OAR 918-225-0562.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 480.545
Stats. Implemented: ORS 480.545
Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 37-1984, f. & ef. 12-4-84; Renumbered from 814-025-0020; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0045; BCD 26-1998, f. 12-30-98, cert. ef. 1-1-99; BCD 4-2003, f. & cert. ef. 3-14-03

918-225-0660

Certification of Special Inspectors

(1) An application for special inspector certification shall be filed by an employer described in ORS 480.565(3) using forms provided by the division and submitting the appropriate application fee.

(2) The person to be certified shall meet the experience requirements in OAR 918-225-0650 and shall have passed the National Board of Boiler and Pressure Vessel Inspectors Examination.

(3) An examination covering the Oregon Boiler and Pressure Vessel Law, ORS 480.510 to 480.990 and OAR chapter 918, division 225, the **National Board Inspection Code** and **ASME CSD-1-1998** shall be given by the chief inspector to all special inspector applicants.

(4) Special inspector certifications shall be renewed annually, by paying a renewal fee of \$25 prior to January 1 of each year.

(5) When a special inspector leaves the employment of the employer covered by ORS 480.565, the employer shall notify the division and return the special inspector certification.

(6) Process piping inspectors shall be certified pursuant to OAR 918-225-0665.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 480.565
Stats. Implemented: ORS 480.565
Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 27(Temp), f. & ef. 12-31-73; DC 33, f. 5-6-74, ef. 5-25-74; Renumbered from 814-025-0065; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0135; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 4-2003, f. & cert. ef. 3-14-03

918-225-0665

Certification of Process Piping Inspectors

(1) Applicants for process piping inspector shall submit an application on division-supplied forms along with a \$110 application fee. The applicant shall pass a division-approved examination on the substance and requirements of **ASME B31.3**, related standards and administrative rules.

(2) Applicants shall demonstrate to the satisfaction of the division not less than 10 years experience in the design, fabrication or inspection of industrial process piping. Each 20 percent of satisfactorily completed work toward an engineering degree recognized by the Accreditation Board for Engineering and Technology shall be considered equivalent to one year of experience, up to five years total.

(3) The board may consider other experience and education to determine if the experience is equivalent to the requirements in this rule.

(4) Process piping inspector certificate of competency shall be renewed annually. The annual renewal fee shall be \$27.50.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 480.545, ORS 480.565, ORS 480.605, ORS 480.607, ORS 480.647
Stats. Implemented: ORS 480.545, ORS 480.565, ORS 480.605, ORS 480.607, ORS 480.647
Hist.: BCD 4-2003, f. & cert. ef. 3-14-03

Adm. Order No.: BCD 5-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 4-1-03

Notice Publication Date: 1-1-03

Rules Amended: 918-309-0000

Subject: Amends rule to allow for compliance action against individuals providing incorrect or false information or incorrect or a false signature on permit applications.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-309-0000

Electrical Permits

(1) Except as provided by OAR chapter 918, division 282, dealing with restricted energy transactions and limited maintenance specialty contractor-HVAC/R, the signature of a signing supervising electrician or limited supervising electrician shall be required on each permit to aid inspections by the division and indicate responsibility under ORS 479.710. Any person providing false or incorrect information or false or an incorrect signature to obtain a permit may be subject to compliance action by the board.

(2) A permit is required prior to start of electrical work. See OAR 918-309-0080 for temporary permit criteria. Expansion of work under a permit may be added to an existing permit prior to final inspection.

(3) A permit shall be posted in a conspicuous place near the main electrical panel location. If there is no main panel installed, the permit shall be posted in a conspicuous place on the job site.

(4) An electrical permit, other than a restricted energy electrical permit as provided in OAR 918-309-0400, issued to one person or firm is not transferable and shall not permit any other person or firm to perform any electrical work thereunder.

(5) Any permittee holding an unexpired permit may apply for an extension of the time within which work may be completed.

(6) Permits issued by an inspection jurisdiction under the provisions of the Electrical Specialty Code and these rules shall expire and become null and void if the work authorized by the permit is:

- (a) Not started within 180 days from the date of permit issuance; or
- (b) Suspended or abandoned for a period of 180 days after the work is started.

(7) In addition to other signing supervising electricians, the following are authorized to sign permits:

(a) A person whose qualifications are relied upon for licensing under OAR 918-282-0140 is a "supervisor" under ORS 479.560 and can sign for electrical permits or labels for work under a limited maintenance specialty contractor-HVAC/R license;

(b) A Class "A" or Class "B" limited energy technician can sign permits or labels for 100 volt-ampere or less electrical installations performed by those licensees;

(c) A "supervisor" as used in ORS 479.630 who can sign restricted energy permits includes:

(A) A Class "A" or "B" limited energy technician when the electrical installation is within the scope of the person's license;

(B) Persons whose qualifications are relied upon for the issuance of a restricted energy electrical contractor license under OAR 918-282-0060; and

ADMINISTRATIVE RULES

(C) Any other electrical licensee authorized to sign a permit provided the work is within the scope of the person's license.

(8) No electrical permit is required:

(a) To replace light bulbs, fluorescent tubes, or approved fuses, or to connect approved portable electrical equipment to permanently installed and properly wired receptacles;

(b) For experimental electrical work or testing of electrical products in testing laboratories of electric shops, educational institutions, industrial plants, or recognized testing laboratories;

(c) For those minor electrical installations for which the board has authorized an installation label;

(d) To install components exempted by OAR chapter 918, division 261;

(e) To replace an existing garbage disposal, dish washer, electric water heater or similar appliance of 30 amps or less, single phase; or

(f) To install cord and plug connected Class 2 irrigation control systems.

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

Stat. Auth.: ORS 479.560

Stats. Implemented: ORS 479.560 & ORS 479.870

Hist.: DC 10, f. 4-13-72, ef. 5-1-72; DC 41, f. 1-20-75, ef. 2-11-75; DC 49(Temp), f. 6-30-75, ef. 7-1-75; DC 54, f. 9-5-75, ef. 10-1-75; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 20-1982, f. & ef. 9-21-82; DC 12-1983(Temp), f. 6-10-83, ef. 7-1-83; DC 17-1983, f. & ef. 7-21-83, DC 5-1984, f. & ef. 2-24-84; Renumbered from 814-022-0125; BCA 16-1988, f. & cert. ef. 7-20-88; BCA 2-1992(Temp), f. 2-28-92, cert. ef. 3-18-92; BCA 11-1992, f. & cert. ef. 6-26-92; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-260-0190; BCD 7-1997, f. & cert. ef. 4-1-97; BCD 16-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 23-2002, f. 9-13-02, cert. ef. 10-1-02; BCD 5-2003, f. 3-14-03, cert. ef. 4-1-03

Adm. Order No.: BCD 6-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 7-1-03

Notice Publication Date: 6-1-02

Rules Adopted: 918-225-0562

Rules Amended: 918-225-0700, 918-225-0720, 918-225-0740

Subject: Implements 1999 House Bill 3383, establishing inspector responsibilities for inspecting Category "M" fluid service process piping.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-225-0562

Process Piping Inspector Responsibilities

(1) The process piping inspector shall:

(a) Inspect the Category "M" fluid service process piping to the extent necessary to be satisfied that it conforms to all applicable examination requirements of **ASME B31.3**;

(b) Verify that all required examinations and testing have been completed; and

(c) Complete and sign division-supplied forms and provide them to the authority having jurisdiction, the division and the registered owner a summary report of the inspections on at least a quarterly basis including information showing who did the inspections.

(2) A certified process piping inspector may delegate inspection responsibility only to other persons when the process piping inspector has:

(a) Provided the name or list of names of the delegates to the authority having jurisdiction and the division; and

(b) Determined the person to whom an inspection function is delegated is qualified to perform that function.

(3) The division may review inspection and installation activities as necessary to determine compliance and may assess an hourly review fee as appropriate.

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

Stat. Auth.: ORS 480.565

Stats. Implemented: ORS 480.565

Hist.: BCD 6-2003, f. 3-14-03, cert. ef. 7-1-03

918-225-0700

Responsibility of Contractors

(1) Persons licensed by the division for the business of installing, repairing or altering boilers, pressure vessels or pressure piping shall meet and maintain the minimum requirements of the Oregon Construction Contractors Board.

(2) Contractors shall correct any condition or deficiency resulting from installations, repairs or alterations, which are determined by any deputy, special inspector or process piping inspector to be a violation of the minimum safety standards of the **Oregon Boiler and Pressure Vessel Specialty Code**.

(3) Contractors shall prepare and submit any documentation required by construction codes, repair and alteration standards or the authority having jurisdiction.

(4) Boiler contractors are directly responsible for assuring that all persons they employ have correct certification and are properly supervised in the installation, repair or alteration of boilers, pressure vessels or pressure piping systems. Supervision of persons holding a Class 1 or Class 6 certification shall meet the requirements of OAR 918-225-0690.

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

Stat. Auth.: ORS 480.545

Stats. Implemented: ORS 480.545

Hist.: BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 6-2003, f. 3-14-03, cert. ef. 7-1-03;

918-225-0720

Welding Requirements for Owner-Users

(1) An owner-user may use its own employees to repair or install boilers, pressure vessels or pressure piping, provided it develops, certifies and maintains a welding program meeting the requirements of the **Boiler Specialty Code (ASME Section IX, Part QW)**.

(2) The owner-user's welding program shall be reviewed for conformance with welding program requirements by the authorized inspector performing welding inspections.

(3) The owner-user is responsible for the use of proper materials when doing code repairs.

(4) Prior to welding on code materials, the owner-user shall notify a deputy, special inspector or process piping inspector who will review the proposed work and who will inspect the work when it is completed.

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

Stat. Auth.: ORS 480.545 & ORS 480.647

Stats. Implemented: ORS 480.545 & ORS 480.647

Hist.: BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 16-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 6-2003, f. 3-14-03, cert. ef. 7-1-03

918-225-0740

Quality Control System for Pressure Piping; Oregon "O" Certificate of Authorization

(1) This rule contains procedures for persons to develop and qualify a quality control system for welding or brazing on pressure piping other than boiler external piping.

(2) An application for approval of a quality control system shall include one copy of a proposed quality control manual. The manual shall include the elements described by the Building Codes Division Sample Quality Control Manual provided to the applicant as a guide. A Quality Control Manual will be reviewed and the applicant billed at board-established shop inspection rates.

(3) If welding, brazing, mechanical or chemical assembly will occur on Category M fluid service process piping, the quality control manual shall include processes and procedures demonstrating compliance with **ASME B31.3**. The registered business or owner-user shall ensure that the process piping inspector provides and updates a list of persons to whom the inspector has delegated responsibility under OAR 918-225-0562.

(4) After acceptance of the proposed quality control system, the applicant must demonstrate practical application of the system and the proficiency of the persons doing welding or brazing. The applicant shall provide the facilities, equipment and materials for the demonstration.

(5) The Certificate of Authorization issued to a successful applicant expires three years from date of issue. The same procedures for qualifying shall be followed for renewal. Copies of the manual do not need to be resubmitted if the only change is the effective date.

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

Stat. Auth.: ORS 480.647

Stats. Implemented: ORS 480.647

Hist.: BCA 24-1991(Temp), f. 7-3-91, cert. ef. 7-1-91; BCA 30-1991, f. & cert. ef. 9-9-91; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0196; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 35-2000, f. 12-29-00, cert. ef. 7-1-01; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; BCD 6-2003, f. 3-14-03, cert. ef. 7-1-03

Adm. Order No.: BCD 7-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 7-1-03

Notice Publication Date: 10-1-02

Rules Adopted: 918-225-0691

Rules Repealed: 918-225-0690

Subject: Modifies boiler certification categories and qualification requirements.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

ADMINISTRATIVE RULES

918-225-0691

Boiler, Pressure Vessel and Pressure Piping Installation, Alteration or Repair Certification Requirements

Persons installing, altering or repairing boilers and pressure vessels shall be certified under these rules and may only work within the scope of their certification.

(1) Persons desiring to obtain certification under these rules shall:

- (a) Meet the qualifications for that certification;
- (b) Apply on a division form; and
- (c) Pay the appropriate fee.

(2) An applicant may request the Board of Boiler Rules to approve alternate verification of training and work experience on a case-by-case basis when required by the certifications in sections (5) through (10) of this rule.

(3) Definitions. For the purpose of this rule:

(a) "Direct Supervision" means the person supervised is in the physical presence of a qualified certified person at the job site and the person doing the supervision is directly assigned to monitor and direct the activities of the person supervised;

(b) "Qualified Certified Person" means a person who holds a Class 2, 3, 4, 5, 5-A or 5-B certification and is authorized to do the work involved without supervision;

(c) "Supervision" means the individual person assigned to perform supervision under section (10) of this rule is directly and specifically assigned to monitor and direct the activities of the person being supervised. Both the person performing supervision and those being supervised shall be prepared to identify each other.

(d) "Verifiable" means the matter asserted by an applicant for certification is corroborated by independent evidence or by the sworn statements of others with actual knowledge.

(4) Class 1 Trainee/Helper Certification. A person holding this certification may install, alter or repair boilers, pressure vessels and pressure piping providing the work is of a mechanical nature only. Work performed shall be under the direct supervision of a qualified certified person. Direct supervision must be on a ratio of one qualified certified person to one trainee/helper. No ASME Code welding is permitted. This certification has no fixed or limited duration. A person may be permanently certified under this category. There are no minimum qualifications required for applicants to obtain this certification.

(5) Class 2 Pressure Vessel Installer Certification. A person holding this certification may install or repair unfired pressure vessels by any non-welded method of attachment.

(a) There are no minimum qualifications required to obtain this certification. Applicants shall pass an examination testing the applicant's knowledge of the Boiler and Pressure Vessel Law, ORS 480.510 to 480.665; OAR chapter 918, division 225; and **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Division 1, General Requirements.**

(b) Persons who install refrigeration process equipment assembled and sold as a modular unit by the manufacturer and who do not attach piping to a pressure vessel during the installation, are exempt from this rule. To qualify for this exemption, the attachment shall be made by any method other than fusion welding.

(6) Class 3 Building Service Mechanic Certification. A person holding this certification may install or repair boilers (including boiler and non-boiler external piping) and unfired pressure vessels by a non-welded method of attachment. Applicants shall:

(a) Have at least 2,000 hours of verifiable experience installing and repairing boilers;

(b) Pass an examination testing the applicants knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, IV and VIII, and CSD-1;**

(B) The State of Oregon Boiler Safety Program Study Guide;

(C) Building Service Systems (Hydronics) for boilers and related appurtenances, **American Society of Mechanical Engineers/ASME B31.1 Power Piping and B31.9 Building Service Piping;** and

(D) Structural and mechanical blueprints with the ability to interpret specifications.

(7) Class 4 Boilermaker Certification. A person holding this certification may install, alter or repair boilers and pressure vessels (excluding non-boiler external piping) by welding or other methods of attachment. Applicants shall:

(a) Have 2,000 hours of verifiable experience doing welding and 2,000 hours of verifiable experience doing non-welding applications involving boilers or pressure vessels. The verification must cover welding and non-welding applications separately; and

(b) Pass an examination testing the applicant's knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, II, IV, V, VIII and IX, CSD-1, B31.1 and B31.9;**

(B) General boilermaker skills and procedures;

(C) Blueprint reading, layout and shop mathematics;

(D) Interpreting plans and specifications covering installation, alteration, repair, fabrication and erection of boilers and pressure vessels;

(E) Welding process, metallurgy and other procedures particularly applicable to boilers and pressure vessels; and

(F) The State of Oregon Boiler Safety Program Study Guide.

(c) Class 4 Boilermakers may also perform the scope of work allowed under section (8) of these rules providing:

(A) Work may only be done under the supervision of a qualified certified person under section (8) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(8) Class 5 Pressure Piping Mechanic Certification. A person holding this certification may:

(a) Fabricate, install, alter and repair pressure piping;

(b) Install boilers and pressure vessels by attachment of piping connections; and

(c) Install, assemble and repair cast iron sectional boilers.

(A) Applicants shall have a minimum of 2,000 hours of verifiable experience performing pipe-welding on **ASME B31** pressure piping and 2,000 hours of verifiable experience performing work on pressure piping and boilers; and

(B) Pass an examination testing the applicant's knowledge of:

(i) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Sections I and IV, CSD-1 and B31 Pressure Piping;**

(ii) Structural and mechanical blueprints with the ability to interpret specifications;

(iii) Pressure piping systems and controls;

(iv) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225;

(v) The State of Oregon Boiler Safety Program Study Guide; and

(vi) Welding and brazing processes, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(d) Class 5 Process Piping Mechanics may also perform the scope of work allowed under section (7) of these rules providing:

(A) Work may only be done under the supervision of a qualified certified person under section (7) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(9) Class 5-A Process Piping Mechanic Certification. A person holding this certification may fabricate, install, alter or repair **B31.3** process piping. Applicants shall:

(a) Have a minimum of 2,000 hours of verifiable experience performing pipe-welding or brazing on **B31.3** process piping and 2,000 hours of verifiable experience performing work on pressure piping; and

(b) Pass an examination testing the applicant's knowledge of:

(A) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.3;**

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, chemical bonding procedures, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(10) Class 5-B Refrigeration Piping Mechanic Certification. A person holding this certification may fabricate, install, alter or repair **B31.5** refrigeration piping. Applicants shall:

(a) Have a minimum of 2,000 hours of verifiable experience performing pipe-welding or brazing on **B31.5** refrigeration piping and 2,000 hours of verifiable experience performing work on pressure piping; and

(b) Pass an examination testing the applicant's knowledge of:

(A) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.5;**

ADMINISTRATIVE RULES

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(11) Class 6 Welder Certification. A person holding this certification may weld on boilers, pressure vessels or pressure piping while employed by an approved welding employer. Work may only be performed under the supervision of a person certified under sections (7) through (10) of this rule as applicable. More than one welder may be supervised by one appropriately qualified certified person under this certification.

(a) A Class 6 Welder may also perform the scope of work under section (4) of this rule providing the work performed is under the direct supervision of a qualified certified person under sections (5) through (10) of these rules.

(b) Applicants shall be qualified as a welder in accordance with the **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section IX, Part QW**. The employer shall attest in writing that the applicant is qualified under that code section and is currently qualified to that employer's welding procedures. This written statement is not transferable to another employer.

(12) Certifications may be renewed annually providing the person is in good standing and:

(a) Completes 8 hours of division-approved continuing education; and

(b) Pays renewal fee.

(13) Class 1 Trainee/Helpers and Class 6 Welders are exempt from the continuing education requirements.

(14) Individuals holding a Class 5 Pressure Piping Mechanic certification, who wish to maintain the Class 5 certification shall, by June 30, 2004:

(a) Complete 8 hours of division-approved continuing education per OAR 918-225-0900, specifically focused on **ASME Sections I and IV, CSD-1 and ASME B31.3 Process Piping and B31.5 Refrigeration Piping**; and

(b) Pay a renewal fee.

(15) Individuals holding a Class 3 Building Service Mechanic Certification, a Class 4 Boilermaker certification or a Class 5 Pressure Piping Mechanic certification shall, between July 1, 2004, and June 30, 2005:

(a) Complete 8 hours of division-approved continuing education per OAR 918-225-0900, specifically focused on ASME CSD-1; and

(b) Pay a renewal fee.

Stat. Auth.: ORS 480.545 & 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 7-2003, f. 3-14-03, cert. ef. 7-1-03

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

Adm. Order No.: WCB 1-2003

Filed with Sec. of State: 2-21-2003

Certified to be Effective: 5-1-03

Notice Publication Date: 12-1-02

Rules Adopted: 438-006-0099, 438-007-0024, 438-007-0027, 438-022-0005, 438-022-0010

Rules Amended: 438-005-0011, 438-005-0015, 438-005-0040, 438-006-0031, 438-006-0036, 438-006-0075, 438-006-0081, 438-006-0091, 438-006-0095, 438-007-0015, 438-007-0018, 438-007-0020

Rules Repealed: 438-005-0016

Subject: Rule revision in response to the Board's triennial rule review and proposals regarding expedited remedy for failure to pay temporary disability and hearing for the purpose of Own Motion recommendation and involving adoption of Attorney General's Model Rules, definitions, pre-hearing, evidence, change of Administrative Law Judge, ex parte communication, subpoenas, offers of proof, Own Motion recommendations, and rulemaking.

Rules Coordinator: Vicky Scott—(503) 378-3308

438-005-0011

Effective Date; Applicability

Except as otherwise provided below, these rules are effective May 1, 2003 and shall apply to all cases pending before the Hearings Division and the Board under the provisions of ORS Chapter 656 on and after that date. These rules are also applicable to cases pending before the Hearings Division and the Board arising under ORS Chapter 655.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.726(5)

Hist.: WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 9-1990(Temp), f. 8-24-90, cert. ef. 8-27-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 1-1993, f. 5-19-93, cert. ef. 6-1-93; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-005-0015

Adoption of Attorney General's Model Rules

The Board hereby adopts OAR 137-004-0010, as adopted by the Department of Justice effective January 27, 1986.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 183.341(4)

Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-005-0040

General Definitions

(1) "Administrative Law Judge" means an individual appointed by the Board to perform the duties, functions and powers provided in ORS 654, 655 and 656, and such other duties, functions and powers as may be prescribed by the Board.

(2) "Aggravation" means an actual worsening of the compensable condition(s) after the last award or arrangement of compensation, which is established by medical evidence supported by objective findings, and otherwise satisfies the statutory requirements of ORS 656.273.

(3) "Aggravation rights" means the time periods specified in ORS 656.273 during which an injured worker is entitled to additional compensation for worsened conditions as a matter of right.

(4) "Benefits Section" means the Benefits Section of the Workers' Compensation Division of the Department of Consumer & Business Services.

(5) "Board" means the Workers' Compensation Board.

(6) "Claimant" means an injured worker or any other person entitled to initiate or continue a claim for compensation.

(7) "Director" means the Director of the Department of Consumer & Business Services or his/her designee.

(8) "Due diligence" means the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.

(9) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.

(10) "Insurer" means the State Accident Insurance Fund Corporation, an insurer authorized under ORS Chapter 731 to transact workers' compensation insurance in this state, or, except where the context requires otherwise, an assigned claims agent in cases under ORS 656.054.

(11) "Party" means a claimant, an employer, including a noncomplying employer, an assigned claims agent in cases under ORS 656.054, and an insurer.

(12) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out in ORS 656.407.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.726(5) & ORS 656.054

Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 3-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0031

Specification of Issues

Not later than 15 days after the first disclosure of documents under OAR 438-007-0015, the party who requested the hearing shall, on a form prescribed by the Board, file with the Board and simultaneously mail copies to all other parties a specific listing of all issues to be raised at the hearing and all relief requested. Amendments shall be freely allowed up to the date of the hearing. If, during the hearing, the evidence supports an issue or issues not previously raised, the Administrative Law Judge may allow the issue(s) to be raised during the hearing. In such a situation, the Administrative Law Judge may continue the hearing upon motion of an adverse party pursuant to OAR 438-006-0091.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.307, ORS 656.726(5)

Hist.: WCB 3-1987(Temp), f. 8-27-87, ef. 9-15-87; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

ADMINISTRATIVE RULES

438-006-0036

Response

Not later than 15 days after receiving the listing of issues and other information required by OAR 438-006-0031, a party defending against a request for hearing shall, on a form prescribed by the Board, file and simultaneously mail copies to all other parties a response specifying the respondent's position on the issues raised and relief requested and any additional issues raised and relief requested by the respondent. Amendments shall be freely allowed up to the date of the hearing. If, during the hearing, the evidence supports an issue or issues not previously raised, the Administrative Law Judge may allow the issue(s) to be raised during the hearing. In such a situation, the Administrative Law Judge may continue the hearing upon motion of an adverse party pursuant to OAR 438-006-0091.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.307, ORS 656.726(5)

Hist.: WCB 3-1987(Temp), f. 8-27-87, ef. 9-15-87; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0075

Expedited Remedy for Failure to Pay Temporary Disability

(1) If it is alleged that the self-insured employer or insurer has terminated temporary disability compensation without: the attending physician advising the worker and documenting in writing that the worker is released to return to regular employment; or the injured worker's actual return to regular or modified employment; or the attending physician advising the worker and documenting in writing that the worker is released to return to modified employment, when such employment has been offered in writing to the worker and the worker fails to begin such employment; or any other event that causes temporary disability benefits to be lawfully suspended, withheld or terminated under ORS 656.262(4) or other provisions under chapter 656; or the issuance of a determination order or notice of closure; or authorization of the Board or the Director, the claimant may file with the Hearings Division with copies to the insurer, a motion supported by affidavit asserting the failure to receive such compensation.

(2) If the Hearings Division determines that the amount in controversy is less than \$1,000, the case shall be referred to the Expedited Claims Service under the provisions of Division 013 of these rules;

(3) If the matter cannot be resolved by referral to the Expedited Claims Service, the Hearings Division shall immediately upon receipt of the motion and affidavit issue an Order requiring the self-insured employer or insurer to show cause within 15 days why said compensation has not been provided to the claimant. The show cause order shall contain notice of the date, time and place of the show cause hearing. Within 10 days after the close of the record, the Administrative Law Judge shall enter an order denying or granting temporary disability compensation and awarding penalties and attorney fees when appropriate.

Stat. Auth.: ORS 656.726(5), ORS 656.291(4)

Stats. Implemented: ORS 656.262(4), ORS 656.291 & ORS 656.726(5)

Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0081

Postponement of Hearings

(1) A scheduled hearing shall not be postponed except by order of an Administrative Law Judge upon a finding of extraordinary circumstances beyond the control of the party or parties requesting the postponement. "Extraordinary circumstances" shall not include:

(a) Failure of the insurer or self-insured employer to refer, or delay in referring, the case or any pertinent information to its representative;

(b) Unavailability of a party, lay witness or representative due to non-emergency occupational, personal or professional business or appointments, or unwillingness to appear, provided that a postponement may be granted if the unavailable person is a worker who is temporarily working out of state and is reasonably expected to return to the state within a time certain or is a person who has been duly subpoenaed and has failed to comply with the subpoena;

(c) An attorney's, party's, representative's or witness' conflict with proceedings before another administrative body that are scheduled more than three days after mailing of the Hearings Division's notice of hearing;

(d) Incomplete case preparation, unless the Administrative Law Judge finds that completion of the record could not be accomplished with due diligence.

(2) For purposes of this rule, "due diligence" shall include, but not be limited to, a party's inability to produce, because of unavailability, a medical or vocational expert witness for direct examination at hearing or for cross-examination at hearing or by deposition/interrogatories prior to a scheduled hearing, provided that the request for cross-examination was

made no later than seven (7) days after the requesting party received from another party a copy of a report from the medical or vocational expert witness accompanied by written notice that the sending party is submitting the report as a proposed exhibit for admission into evidence at a scheduled hearing. A party need not subpoena a medical or vocational expert witness to establish due diligence under this section.

Stat. Auth.: ORS 656.283(4)

Stats. Implemented: ORS 656.307, ORS 656.726(5)

Hist.: WCB 3-1987(Temp), f. 8-27-87, ef. 9-15-87; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, cert. ef. 4-1-89; WCB 1-1997, f. 3-20-97, cert. ef. 7-1-97; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0091

Continuances

The parties shall be prepared to present all of their evidence at the scheduled hearing. Continuances are disfavored. The Administrative Law Judge may continue a hearing for further proceedings. If a continuance is granted, the Administrative Law Judge shall state the specific reason for the continuance. A continuance may be granted:

(1) If circumstances, including the time allocated for the scheduled hearing, prevent all parties from presenting their evidence and argument;

(2) Upon a showing of due diligence, as described in OAR 438-006-0081(2), if necessary to afford reasonable opportunity to cross-examine on documentary medical or vocational evidence;

(3) Upon a showing of due diligence, as described in OAR 438-006-0081(2), if necessary to afford reasonable opportunity for the party bearing the burden of proof to obtain and present final rebuttal evidence;

(4) Upon motion of an adverse party, if that party is surprised and prejudiced by a new issue raised during a hearing; or

(5) For any reason that would justify postponement of a scheduled hearing under OAR 438-006-0081.

Stat. Auth.: ORS 656.283(4) & ORS 656.726(5)

Stats. Implemented: ORS 656.307, ORS 656.726(5)

Hist.: WCB 3-1987(Temp), f. 8-27-87, cert. ef. 9-15-87; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0095

Change of Administrative Law Judge

(1) Except as provided in section (3) of this rule, an Administrative Law Judge shall disqualify himself or herself from a proceeding in which the Administrative Law Judge's impartiality reasonably may be questioned, including, but not limited to, instances when:

(a) The Administrative Law Judge has a bias or prejudice concerning a party, a representative, or any other participant in the proceeding before the Administrative Law Judge, or has knowledge, obtained from sources outside the proceeding, of disputed evidentiary facts concerning the proceeding;

(b) The Administrative Law Judge served as a lawyer in the matter in controversy, or a lawyer with whom the Administrative Law Judge previously was associated served during the period of association as a lawyer in the matter, or the Administrative Law Judge or the lawyer has been a material witness in the matter;

(c) The Administrative Law Judge knows that the Administrative Law Judge, individually or as a fiduciary, or the Administrative Law Judge's spouse, parent or child, wherever residing, or any other person residing in the Administrative Law Judge's household has a financial interest in the subject matter in controversy, is a party to the proceeding or has any other interest that could be substantially affected by the outcome of the proceeding;

(d) The Administrative Law Judge, the Administrative Law Judge's spouse, parent or child, wherever residing, or any other person residing in the Administrative Law Judge's household:

(A) Is a party to the proceeding, or an officer, director, partner or trustee of a party;

(B) Is acting as a lawyer in the proceeding; or

(C) Is, to the Administrative Law Judge's knowledge, likely to be a material witness in the proceeding.

(2) For purposes of this rule:

(a) "Fiduciary" includes relationships such as personal representative, trustee, conservator and guardian;

(b) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that:

(A) Ownership in a mutual or common investment fund that owns securities is not a "financial interest" unless the Administrative Law Judge participates in the management of the fund;

ADMINISTRATIVE RULES

(B) Holding an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in property of the organization;

(C) The proprietary interest of a policy holder in a mutual insurance company, a depositor in mutual savings association, or a similar proprietary interest is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and

(D) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(3) An Administrative Law Judge who would be disqualified under this rule may, rather than disqualify himself or herself from the proceeding, disclose to the parties the basis of the disqualification. If, after such disclosure, any party wishes the Administrative Law Judge to disqualify himself or herself from the proceeding, the Administrative Law Judge shall do so. If, after such disclosure, the parties all agree in writing or on the record that the Administrative Law Judge's impartiality is not in question because of the information disclosed to the parties, the Administrative Law Judge may participate in the proceeding. Any writing signed by or on behalf of all parties shall be incorporated into the record of the proceeding, or, in the case of a mediation, made part of the Administrative Law Judge's mediation file.

(4) Immediately upon discovering the asserted basis, any party may request that an Administrative Law Judge disqualify himself or herself from a proceeding on any basis set forth in section (1) of this rule. If the Administrative Law Judge does not then disqualify himself or herself, any party may promptly file a request for disqualification of the Administrative Law Judge with the Presiding Administrative Law Judge. Such a request shall include an affidavit setting out, in detail, the basis for the requested disqualification.

(5) Following review of the request for disqualification and accompanying affidavit, the Presiding Administrative Law Judge will determine, in his/her discretion, whether a hearing on the allegations in the affidavit shall be held. Following such a hearing or following the Presiding Administrative Law Judge's determination that a hearing will not be held, the Presiding Administrative Law Judge shall issue a written decision concerning the disqualification request. If the Presiding Administrative Law Judge determines that the Administrative Law Judge should be disqualified, the Presiding Administrative Law Judge shall so state and explain the basis for his/her decision, and shall assign another Administrative Law Judge to the case. If the Presiding Administrative Law Judge determines that the Administrative Law Judge should not be disqualified, the Presiding Administrative Law Judge shall so state and explain the basis for his/her decision, and the case shall proceed with the Administrative Law Judge.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.726(5)

Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-006-0099

Ex Parte Communications

(1) An ex parte communication is an oral, written or electronic communication between an assigned Administrative Law Judge and a party, a party's representative or someone with a substantial interest in the outcome of the proceeding about the merits of a proceeding to which the Administrative Law Judge is assigned and which is not made to all parties to the proceeding.

(2) Ex parte communications are prohibited.

(3) Notwithstanding section (2) of this rule, an assigned Administrative Law Judge may communicate with a party, when necessary for administrative or scheduling purposes, so long as the communication does not involve the merits of a proceeding and the Administrative Law Judge believes that no party's legal rights or duties will be affected.

(4) An Administrative Law Judge shall promptly disclose to all parties the substance of any communication prohibited by this rule. All parties shall be allowed a reasonable opportunity to respond to a prohibited communication.

(5) This rule does not apply to communications made to, or by, an Administrative Law Judge acting as a mediator.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.726(5)

Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-007-0015

Entitlement to Claims Information — Disclosure Requirements

(1) With respect to a claim for workers' compensation benefits and as used in this section, references to the insurer and the claimant include persons acting on their behalf, and references to the insurer include the self-

insured employer, claims processing agents and assigned claims processing agents for non-complying employers.

(2) Documents pertaining to claims are obtained by mailing a copy of the Request for Hearing, or a written demand accompanied by an attorney retention agreement or medical information release, to the insurer. Within 15 days of said mailing, the insurer shall furnish the claimant and other insurers, without cost, originals or legible copies of all medical and vocational reports and other documents pertaining to the claim(s) as specified below.

(3) Upon written demand by the insurer, the claimant shall within 15 days of the mailing of the demand, furnish to the insurer, without cost, originals or legible copies of all medical and vocational reports and other documents pertaining to the claim(s) as specified below, which the claimant did not receive from the insurer [or self-insured employer] making the demand. In cases involving multiple insurers, an insurer shall seek discovery in accordance with section (9) of this rule.

(4) Documents acquired after the initial exchanges shall be provided to the insurer(s) and the claimant within seven days after the disclosing party's receipt of the documents.

(5) For the purpose of this rule, "documents pertaining to the claim(s)" or any variation thereof means documents and recordings, whether written or electronic or in any other form, which consist of the following items applicable to the workers' compensation claim:

(a) Medical and vocational reports, including any correspondence to and from the medical and vocational experts who provide the reports or who agree to testify on behalf of the party sending correspondence;

(b) Official forms and notices required by ORS Chapter 656, the Workers' Compensation Division or the Workers' Compensation Board, as they relate to the claim(s);

(c) Investigative statements, including a party's statement, and investigative summaries;

(d) Correspondence to and from the Workers' Compensation Division and the Workers' Compensation Board; and

(e) Upon specific request, records of all compensation paid, payroll records, records or statements of wages earned by the claimant, and copies of bills from medical and vocational service providers rendering treatment or services to the claimant.

(6) After the disclosure required by this rule, either the claimant or the insurer may request further specific discovery of other factual documents relevant and material to an issue raised by the Request for Hearing or the Response thereto, or any other issue which thereafter arises and is subject to the jurisdiction of the Workers' Compensation Board.

(7) Notwithstanding any other provision of this section, the following documents pertaining to the claim(s) are not discoverable:

(a) Material protected under the attorney/client privilege as defined in Oregon Rules of Evidence ORS 40.225 Rule 503;

(b) Material which is the work product of any attorney, except that correspondence and any inclusions sent to a medical or vocational expert who writes a report that is otherwise subject to disclosure under these rules or who agrees to testify at the request of the corresponding party shall be discoverable under subsection (5)(a) of this rule;

(c) Material reflecting the mental impressions, case value or merit, plans or thought processes of the claimant or insurer;

(d) Material protected by ORS 656.260; and

(e) Material protected from disclosure under OAR 438-007-0017 (impeachment).

(8) It is the express policy of the Board to promote the full and complete discovery of all relevant facts and expert opinion bearing on a claim being litigated before the Hearings Division, consistent with the right of each party to due process of law. Failure to comply with this rule, if found to be unreasonable or unjustified, may result in the imposition of penalties and attorney fees, exclusion of evidence, continuance of a hearing (subject to OAR 438-006-0091), and/or dismissal of a request for hearing.

(9) When a new party is joined into existing litigation, the disclosure of discoverable documents and the exhibit list shall be made available to the new party by the insurer with the lowest WCB case number. This disclosure shall be made as soon as reasonable but no later than 15 days from the insurer's receipt of notice of the joinder of the new party.

(10) Any dispute under this rule regarding whether something is discoverable, in whole or in part, will be resolved by the assigned Administrative Law Judge or the designee of the Presiding Administrative Law Judge.

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.307 & ORS 656.726(5)

Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; Suspended by WCB 3-1987(Temp), f. 8-27-87, ef. 9-15-87; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 2-

ADMINISTRATIVE RULES

1995, f. 11-13-95, cert. ef. 1-1-96; WCB 2-1997, f. 12-12-97, cert. ef. 3-1-98; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-007-0018

Exchange and Admission of Exhibits at Hearing

(1) Not later than 28 days before the hearing, the insurer or self-insured employer shall provide the claimant and other insurer or self-insured employer legible copies of all documents that are relevant and material to the matters in dispute in the hearing, together with an index. The index shall include the document numbers, description of each document, author, number of pages and date of the document. The documents shall be arranged in chronological order and numbered, in Arabic numerals, in the lower right corner of each page, beginning with the document of earliest date. The numbers shall be preceded by the designation "Ex," and pagination of multiple-page documents shall be designated by a hyphen followed by the page number. For example, page two of document two shall be designated "Ex 2-2." A physician's chart notes constitute a multi-page document to the extent that the date of each individual chart note is subsequent to the date of the preceding exhibit and is earlier than the date of the next exhibit. However, for deposition transcripts, only the cover page of the deposition need be numbered; i.e., "Ex. 3."

(2) Not less than 14 days before the hearing, or within seven days of receipt of the insurer document index and documents, whichever is later, the claimant shall provide the insurer(s) or self-insured employer(s) legible copies of any additional documents that are relevant and material to the matters in dispute in the hearing. The additional documents shall be marked and accompanied by a supplemental document index, prepared in the same manner as the insurer documents and index and numbered to coincide in chronological order with the insurer's documents. Letter subdesignations shall be used to ensure chronological numbering. For example, a document which is chronologically between documents six and seven of the insurer documents shall be designated "Ex 6A."

(3) Before or at the hearing, the parties shall delete from their indexes and packets of documents those documents which are cumulative, or which no party can in good faith represent to be relevant and material to the issues, and the revised indexes and packets of documents shall be submitted to the Administrative Law Judge. For compliance with this rule, it is sufficient for the parties to mark neatly through the index description of the documents not being offered in evidence with ink, and to remove the corresponding documents from the packets submitted to the Administrative Law Judge.

(4) Subject to ORS 656.287(1), at the hearing the Administrative Law Judge may in his or her discretion allow admission of additional medical reports or other documentary evidence not disclosed as required by OAR 438-007-0015. In the exercise of this discretion, the Administrative Law Judge shall determine whether material prejudice has resulted from the timing of the disclosure and, if so, whether there is good cause for the failure to timely disclose that outweighs any prejudice to the other party or parties. Following a finding of material prejudice, the Administrative Law Judge may exclude a document or continue the hearing for such action as is appropriate to cure the material prejudice caused by the late disclosure of the document.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 3-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-007-0020

Subpoenas; Witness Fees

(1) Attendance and testimony at a hearing, or the production of documentary or physical evidence under a witness' control, may be compelled by subpoena.

(2) Subpoenas may be issued by an Administrative Law Judge or the attorney of record of a party. Upon request, the Hearings Division shall provide blank subpoenas.

(3) Subpoenas issued on behalf of a party may be served by the party or the party's representative. Service may be made in person or by certified mail or other mail that provides for a receipt signed by the recipient.

(4) Subpoenas shall be served far enough in advance of a hearing to allow the witness reasonable time to comply with the subpoena.

(5) Witness fees and mileage shall be provided at the time the subpoena is served, in the amount provided for in civil actions.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.283(8), ORS 656.724(4) & ORS 656.726(2)(c)
Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-007-0024

Offers of Proof

Whenever the Administrative Law Judge excludes a document or the testimony of a witness, the party adversely affected may make an offer of proof for the record in a form determined by the Administrative Law Judge.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.726(5)
Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-007-0027

Hearing for Purpose of Own Motion Recommendation

(1) Where the Administrative Law Judge determines that an issue(s) raised by a party is within the Board's Own Motion jurisdiction, the Administrative Law Judge may proceed with a fact-finding hearing or other proceeding that the Administrative Law Judge deems achieves substantial justice (without notifying or requesting permission from the Board prior to going forward with such a fact-finding hearing or other proceeding) for the purpose of providing an unappealable recommendation to the Board regarding the issue(s) within the Board's Own Motion jurisdiction.

(2) If the Administrative Law Judge chooses to proceed with a fact-finding hearing or other proceeding as described in section (1), the Administrative Law Judge shall:

(a) Make findings of fact and conclusions of law regarding the Own Motion issue(s) within the time required to issue any appealable order in the related case issued regarding matters within the Administrative Law Judge's jurisdiction; and

(b) Forward to the Board a separate, unappealable recommendation with respect to the Own Motion issue(s) and a copy of any appealable order in the related case issued regarding matters within the Administrative Law Judge's jurisdiction.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.726(5)
Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-022-0005

Adoption of Attorney General's Model Rules; Notice of Rulemaking

To the extent that the following rules are applicable to the Workers' Compensation Law (Chapter 656), the Board hereby adopts by reference OAR 137-001-0005 through 137-001-0085 (Attorney General's Model Rules of Procedure), as adopted by the Department of Justice effective January 1, 2000.

Stat. Auth.: ORS 656.726(5) & ORS 654.025(2)
Stats. Implemented: ORS 183.341(4)
Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

438-022-0010

Notice of Rulemaking

(1) Prior to adoption, amendment or repeal of any administrative rule, other than a temporary rule adopted under ORS 183.355(5), the Board shall give notice of the intended action:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action;

(b) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the intended action; and

(c) By mailing or furnishing a copy of the notice to:

- (A) The Oregonian;
- (B) The Associated Press; and
- (C) The Capitol Press Room.

(2) The Board shall give notice of any administrative rulemaking hearing:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 14 days before the hearing; and

(b) By mailing notice of the hearing to any person requesting the hearing and to the persons on the Board's mailing list established pursuant to ORS 183.335(7) at least 21 days before the hearing.

Stat. Auth.: ORS 656.726(5) & ORS 654.025(2)
Stats. Implemented: ORS 183.341(4)
Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03

.....
Department of Corrections
Chapter 291

Adm. Order No.: DOC 4-2003(Temp)

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-28-03 thru 8-24-03

Notice Publication Date:

Rules Amended: 291-077-0030

ADMINISTRATIVE RULES

Subject: The department is amending this rule to more equitably distribute monetary awards to inmates with the lowest level of job responsibility when the number of days available to work in the month is shortened due to holidays. The purpose of the performance recognition and award system is to provide incentive and encouragement for good and exceptional work performance from inmates in their work and program assignments. This affects only a very small percentage of the total inmate population in DOC facilities (less than 1 %).

Rules Coordinator: David R. Schumacher—(503) 945-0933

291-077-0030

Inmate Performance Awards

(1) All inmates housed in a Department of Corrections facility, except inmates who are provided compensation by the department for their participation in an inmate work program, may be considered at the discretion of the department for a monthly performance award in accordance with these rules.

(2) When the department, in its discretion, determines to make available to inmates individual monthly performance awards, the awards will be made based on three primary considerations: the level of responsibility associated with an inmate's program assignments; the level of performance demonstrated by the inmate in his/her program assignments; and the inmate's institutional conduct. Individual performance awards will be determined based on each eligible inmate's **total monthly performance points** and a corresponding schedule of monetary awards for specific point ranges as set forth in Appendix A to these rules, and in accordance with the following criteria:

(a) Total Monthly Performance Points: Total monthly performance points will be calculated as follows:

MONTHLY PERFORMANCE POINTS
- BEHAVIORAL ADJUSTMENTS
= TOTAL MONTHLY PERFORMANCE POINTS

(b) Monthly Performance Points: In each month in which the department determines to make available to inmates individual performance awards, the department will add together each inmate's daily points for that month to determine the inmate's **monthly performance points**.

(c) Evaluation Periods: Evaluation periods are days during which the department will assess an inmate's willingness, attitude, and aptitude to perform in his or her particular program assignment(s). During evaluation periods, inmates are not eligible to earn PRAS points for assignments in which they participate.

(A) Inmates arriving at a Department of Corrections facility from intake status on or after October 1, 2000, will undergo an evaluation period of 90 days. The 90 days begin accumulating on the admission date to the facility.

(B) There is also a 30-day evaluation period which is an accumulate total of 30 successful programming days (30 daily passes). All inmates will undergo the 30-day evaluation period if involved in any of the following events:

(i) Removal from a program for failure to satisfactorily perform in a program assignment; or

(ii) Placement in segregated housing in connection with an inmate disciplinary sanction order.

(C) If an inmate fulfilling a 90-day evaluation period is involved in any of the above events, the 30-day evaluation period will not start until after the 90-day evaluation period is satisfied.

(D) Inmates assigned to a minimum security facility are exempt from all evaluation period assignments.

(d) Daily Points: After completion of the evaluation period and for each day of satisfactory performance in qualifying program assignment(s), the department will credit each eligible inmate with points equal to the numerical value of the responsibility level assigned to the inmate's program assignment. Satisfactory level of performance will be determined on a pass/fail basis. The sum of the points credited to the inmate for each day yield the inmate's daily points.

(e) Multiple Program Assignments: Inmates will be credited with points from only one assignment in the work program category and one assignment in the workforce development or treatment program category in any specific day.

(A) Work Program Assignments: If the inmate is assigned to more than one work or training assignment on a given day, the highest responsibility level assigned to the inmate's work program assignments will be used to calculate the daily points in the work program category. A failing level of performance in any one of the work or training assignments in a given

day will result in no points being awarded that day in the work program category.

(B) Work Force Development or Treatment Program Assignments: If an inmate is assigned to more than one workforce development or treatment program assignment on a given day, the highest value assigned to the inmate's workforce development or treatment program assignment will be used to calculate the daily points in the workforce development or treatment program category. A failing level of performance in any one of the workforce development or treatment program assignments will result in no points being awarded that day in the workforce development or treatment program category.

(f) Responsibility Level: The department's assessment of the level of responsibility associated with a specific qualifying inmate program assignment. The Assistant Director for Programs or designee, in his or her sole discretion, will determine for each qualifying inmate program a specific responsibility level value of one through eighteen, as follows:

(A) Workforce development and treatment assignments will be assigned a value of one.

(B) Work and training assignments will be assigned a responsibility level determined from a job description from the Department of Labor, Dictionary of Occupational Trades (DOT) that best describes the duties of the assignment. Each DOT job description includes skill level ratings for specific vocational preparation (SVP), reasoning, language, and math. The numeric skill level ratings for SVP, reasoning, and language will be added together for a total rating sum. The responsibility level is equal to the rating sum.

(C) The Assistant Director for Programs or designee may, in his or her sole discretion, assign a qualifying program assignment a responsibility level that differs from that described in subsections (A) or (B) above when deemed appropriate to more accurately reflect the level of responsibility associated with a particular program assignment. However, in no case will the responsibility level be assigned based on the value of the inmate's work to the facility or to any public agency or private enterprise.

(g) Satisfactory Performance: Program supervisors will submit to the functional unit manager or designee, their daily pass/fail assessment of each inmate's performance in each qualifying program assignment. The daily assessment will be based upon an evaluation of the inmate's attendance, performance quality, performance effort, interpersonal communications with staff and fellow inmates, self-improvement effort, and ability to follow directions.

(h) Behavioral Adjustment:

(A) The department will record all inmate disciplinary orders and adjust downward the inmate's monthly performance points based on the level of misconduct assigned to the disciplinary rule violation(s) by the corresponding inmate disciplinary grid(s) contained in the department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions**, OAR 291-105. For each disciplinary order sanctioning an inmate for disciplinary rule violation, the department will deduct points from an inmate's monthly performance points based on the level of misconduct as follows:

Level — Percentage Deducted

1 — 100%
2 — 100%
3 — 80%
4 — 65%
5 — 50%
6 — 40%
7 — 30%
8 — 20%

(B) Deductions for behavioral adjustment will be made in the month in which the final disciplinary order is issued in the disciplinary case.

(3) Deductions/Permissible Uses for Performance Awards: The department will deduct a fixed percentage of each performance award made to inmates under the PRAS and these rules, to be credited to a general victims assistance fund. The department will credit the remainder of any performance award to each recipient inmate's trust account for his/her use in accordance with department rules, including but not limited to making discretionary purchases from facility canteens.

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

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 1-1997(Temp), f. & cert. ef. 2-1-97; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; CD 31-1997(Temp), f. 12-24-97, cert. ef. 1-1-98; DOC 15-1998, f. 6-24-98, cert. ef. 6-29-98; DOC 22-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 3-29-01; DOC 1-2001, f. & cert. ef. 1-11-01; DOC 4-2003(Temp) f. 2-20-03, cert. ef. 2-28-03 thru 8-24-03

Adm. Order No.: DOC 5-2003(Temp)
Filed with Sec. of State: 2-21-2003

ADMINISTRATIVE RULES

Certified to be Effective: 2-21-03 thru 8-20-03

Notice Publication Date:

Rules Adopted: 291-031-0085, 291-031-0095, 291-031-0100, 291-031-0110, 291-031-0120, 291-031-0130, 291-031-0140

Subject: The department is adopting these rules to establish a process whereby counties may cease to participate in the Community Corrections Act and transfer responsibility for community corrections to the state Department of Corrections.

Rules Coordinator: David R. Schumacher—(503) 945-0933

291-031-0085

County Option to Cease Participation in the Community Corrections Act

(1) The Community Corrections Act gives each county the option to transfer responsibility for community corrections to the Department of Corrections if the Legislature fails to fund community corrections at the baseline established in ORS 423.483(1) and (3).

(2) If the total state community corrections allocation is less than the baseline, the county may discontinue participation in the Act by providing written notification to the Director of the Department of Corrections 180 days prior to implementation of the change.

(3) A county may transfer responsibility for community corrections to the state no more than one time in a biennium.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0095

Responsibility for Community Corrections

(1) The Department of Corrections will assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies who are on parole or post-prison supervision, probation, sentenced or sanctioned to a prison term of 12 months or less, or on conditional release under ORS 420.206.

(2) According to sentencing guidelines, terms of incarceration of 12 months or less are served at the direction of the local supervisory authority rather than in the legal and physical custody of the Department of Correction (OAR 213-005-0001(2)). The Department of Corrections will perform the duties of the local supervisory authority for terms of incarceration of 12 months or less (local control offenders).

(3) The Department of Corrections will not assume responsibility for the supervision of offenders convicted of misdemeanors.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0100

Funding

(1) Department of Corrections funds allocated to provide correctional services by the county will be retained by the state.

(2) County allocations are computed for a 24-month period. If the transfer of responsibility is for a period of less than 24 months, the funds retained by the state for community corrections activities will be prorated to the day of the transfer.

(3) A financial closing statement will be provided to the state within 60 days of the transfer of responsibility. Any state funds distributed but not spent will be returned to the state.

(4) The department, at its option, may choose to operate community corrections in regions consisting of several counties, and to combine funds and staff to operate the region most efficiently.

(5) The department shall retain all supervision fees collected from offenders supervised by state-operated community corrections offices and received subsequent to the state assuming responsibility for operations.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0110

Biennial Community Corrections Plan

(1) The Department of Corrections shall develop a community corrections plan for each county with a state-operated community corrections office.

(2) The department will meet with the local public safety coordinating council to review the county's recommendations as to how state resources will be invested to serve the local offender population. Those recommendations will be included in the plan and/or the department will provide a response to each recommendation.

(3) The department will submit the plan to the county commissioners for information and comments. The commissioners may choose to comment or may simply acknowledge the plan was received.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525, & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0120

Transfer of Property

(1) When a county ceases participation in the Community Corrections Act, the state shall assume title to any equipment, furnishings, vehicles or property purchased with community corrections grant funds and used by existing county staff to provide parole and probation services to the county. The county shall provide the Department of Corrections with a list of all such equipment, furnishings, vehicles or property with a value of over \$250 within 30 days of the county's notification to the Director of the Department of Corrections that it will discontinue participation in the Community Corrections Act.

(2) An agreement transferring title of equipment or property to the Department of Corrections shall be written, accompanied by an inventory list signed by the designated representatives of both the county and the department. The agreement shall be subject to all state regulations governing such transfer of title.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0130

Correctional Facilities

Correctional facilities acquired, constructed, or renovated under ORS 423.525(2) shall revert to state control if the county transfers responsibility for probation and parole/post-prison supervision before the least-sublease agreement terminates.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

291-031-0140

Employees

(1) County employees in the county community corrections agency and funded through the community corrections grant to that county will be transferred to state employment, to the extent there are funds available. If the county has experienced a reduction in funding, there will be a commensurate reduction in staff positions available for transfer.

(2) County employees transferred to state employment will not suffer any reduction in salary or loss of employee benefits for 12 months because of the transfer. Salary will not be reduced, accrued sick leave will be retained, up to 80 hours of vacation may be transferred, a waiver of waiting period for preexisting conditions will be arranged. The employee may remain with his or her present retirement system for 12 months or may participate in the state retirement system. Following this period, salary, benefits and retirement plan will be based on established state wages and benefits.

Stat Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483, ORS 423.525 & ORS 423.530
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.478, ORS 423.483 & ORS 423.500 - ORS 423.560
Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

Adm. Order No.: DOC 6-2003(Temp)

Filed with Sec. of State: 2-21-2003

Certified to be Effective: 2-21-03 thru 8-20-03

Notice Publication Date:

Rules Amended: 291-062-0030

Subject: The department is amending this rule to clearly reflect department policy for inmate eligibility to participate in the Oregon SUMMIT (Success Using Motivation, Moral, Intensity and Treatment) Program. Inmates who are convicted of certain crimes are not eligible for participation in the SUMMIT program. This amendment

ADMINISTRATIVE RULES

provides greater clarification and reflects current department policy for acceptance or denial of an inmate to participate in the program.

Rules Coordinator: David R. Schumacher—(503) 945-0933

291-062-0030

Inmate Eligibility

(1) The Department will identify inmates eligible to participate in the Oregon SUMMIT Program. To be eligible to participate in the program an inmate:

(a) Must be sentenced to the legal and physical custody of the Oregon Department of Corrections and be subject to a term of post-prison supervision upon satisfaction of a term of incarceration in a Department of Corrections facility;

(b) Must be at least 18 years of age at the time of entry into the program, or may be under 18 years of age and have been convicted of a crime upon remand from juvenile court; and

(c) Must be assigned minimum custody status in accordance with the Department's rule on Classification (Inmate) (OAR 291-104) and have no more than 36 months to serve at the beginning of the platoon cycle.

(2) An inmate is **not** eligible to participate in the Oregon SUMMIT Program if ever convicted of a crime described in ORS 163.095, 163.115, 163.118, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.525, 164.325, or 164.415. Current or previous convictions of attempt, solicitation or conspiracy to commit any of these listed or similar (i.e., other states) crimes, will also disqualify an inmate for program participation. These disqualifying felonies and misdemeanors are: Aggravated Murder, Murder, Manslaughter I, Kidnapping I, Rape III, Rape II, Rape I, Sodomy III, Sodomy II, Sodomy I, Unlawful Sexual Penetration II, Unlawful Sexual Penetration I, Sexual Abuse III, Sexual Abuse II, Sexual Abuse I, Contributing to the Sexual Delinquency of a Minor, Incest, Arson I, Robbery I. There is a single exception that applies only to attempt, solicitation, or conspiracy to commit Robbery I or Kidnapping I. This exception would be if the sentencing judge in the "instant" offense (the offense resulting in the inmate's current incarceration) specifically requests the department, in writing, to consider the inmate candidate's application.

(3) An inmate is **not** eligible to participate in the Oregon SUMMIT Program if the inmate is subject to ORS 137.635 (Ballot Measure 4) or ORS 161.610 (gun minimum sentence).

(4) An inmate is **not** eligible to participate in the Oregon SUMMIT Program if the inmate:

(a) Has an adult conviction for felony escape which was committed within three years prior to the beginning of the platoon cycle, or has a conviction for unauthorized departure from the legal and/or physical custody of the Oregon Department of Corrections or its authorized agents which was committed within three years prior to the beginning of the platoon cycle.

(b) Has non-sentencing guidelines prison terms, unresolved criminal prosecutions, consecutive county jail terms, or any other circumstance which would conflict with his/her release from prison upon satisfactory completion of the SUMMIT program.

(c) Has a current Immigration and Naturalization Service (INS) detainer which the facility superintendent determines to constitute a risk for escape from custody.

(d) Is currently assigned to special security housing for reasons of protective custody, or the inmate's assignment to the program is otherwise determined by Department officials to pose a threat to the safe, secure and orderly operation and management of the program, including the safety of Department staff and inmates.

(e) Has less than ten months to serve from the first day of the program's next cycle unless, as determined by the facility superintendent, there is sufficient bed space available to accommodate these applicants. In no case will an applicant be accepted who has less than eight months to serve from the first day of the program's next cycle.

(f) After April 1, 1995, commits and is convicted of Manslaughter II (ORS 163.125), Assault I (ORS 163.185), Assault II (ORS 163.175), Kidnapping II (ORS 163.225), or Robbery II (ORS 164.405).

(g) On or after October 4, 1997, commits and is convicted of Using a Child in a Display of Sexually Explicit Conduct (ORS 163.670) or Compelling Prostitution (ORS 167.017).

(h) On or after April 1, 1995, commits and is convicted of Assault II as defined in ORS 163.175(1)(b) (Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon), Kidnapping II (ORS 163.225), or Robbery II (ORS 164.405), unless the

sentencing court, notwithstanding ORS 137.700 and 137.707, has imposed a lesser sentence pursuant to 1997 Or Laws, Chapter 852.

(5) No inmate who is convicted of a crime committed on or after December 5, 1996, may be considered for participation in the Oregon SUMMIT Program except upon order of the sentencing court appearing in the judgment authorizing an alternative incarceration program.

Stat. Auth.: ORS 179.040, ORS 421.500 - ORS 421.512, ORS 423.020, ORS 423.030, & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.500 - ORS 421.512, ORS 423.020, ORS 423.030, & ORS 423.075

Hist.: CD 6-1994, f. & cert. ef. 3-4-94; CD 1-1995, f. 1-6-95, cert. ef. 1-9-95; CD 18-1997(Temp), f. & cert. ef. 10-14-97; DOC 8-1998, f. 4-6-98, cert. ef. 4-7-98; DOC 19-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 8-2000, f. & cert. ef. 4-14-00; DOC 6-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03

Department of Fish and Wildlife Chapter 635

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

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-21-03 thru 8-19-03

Notice Publication Date:

Rules Amended: 635-004-0033

Subject: Amend rules to establish two-month cumulative catch periods for greenling and cabezon for commercial purposes after February 21, 2003

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

(a) Minor Nearshore Rockfish;

(b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion rockfish);

(c) Minor Slope Rockfish;

(d) Black Rockfish;

(e) Cabezon;

(f) Canary Rockfish;

(g) Greenling;

(h) Tiger Rockfish;

(i) Vermillion Rockfish;

(j) Widow Rockfish;

(k) Yelloweye Rockfish;

(l) Yellowtail Rockfish;

(m) Darkblotched Rockfish;

(n) Pacific Ocean Perch;

(o) Longspine Thornyhead;

(p) Shortspine Thornyhead;

(q) Arrowtooth Flounder;

(r) Dover Sole;

(s) Petrale Sole;

(t) Rex Sole;

(u) Other Flatfish;

(v) Lingcod;

(w) Sablefish;

(x) Pacific Whiting.

(2)(a) No vessel may land more than 1,200 pounds of cabezon or 350 pounds of greenling for commercial purposes during any cumulative catch period described in subsection (b).

(b) The cumulative catch periods are: February 22 - April 30; May 1 - June 30; July 1 - August 31; and September 1 - October 31.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-

ADMINISTRATIVE RULES

1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03

Adm. Order No.: DFW 15-2003(Temp)

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-20-03 thru 2-28-03

Notice Publication Date:

Rules Amended: 635-042-0020

Subject: Amend rules to close the Columbia River gillnet fishery effective February 20, 2003.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-042-0020

Winter Season

(1) Adipose fin-clipped salmon and sturgeon may be taken by gill net for commercial purposes:

(a) From the area of the Columbia River described in section (2) of this rule from 5 a.m. to 9 p.m. February 17, 2003, and 5 a.m. to 9 p.m. February 19, 2003;

(b) From the Columbia River below Bonneville Dam during commercial sturgeon fishing seasons described in OAR 635-042-0135 with gear authorized for the taking of sturgeon;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period described in section (1)(a).

(2) During the season indicated in section (1)(a) of this rule, it is *unlawful* to fish in any area of the Columbia River other than from a lower deadline of a straight line projected from the knuckle of the south jetty on the Oregon bank to the inshore end of the north jetty of the Washington bank upstream to Kelley Point.

(3) During the season indicated in section (1)(a) of this rule, it is unlawful to use a gill net having a mesh size:

(a) Less than eight inches and more than 9-3/4 inches;

(b) Gill nets shall not exceed 900 feet (150 fathoms) in length. Monofilament nets are allowed;

(c) A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net;

(d) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water;

(e) It is *unlawful* for a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

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

(g) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(4) During the season indicated in section (1)(a) of this rule, nonlegal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box:

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked;

(b) All salmon and steelhead that are bleeding or in lethargic condition must be placed in the recovery box for rehabilitation purposes prior to release to the river;

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches;

(d) Each chamber of the recovery box must include an operating water pumping system; pumping system must be capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate

to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber;

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber;

(f) Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber;

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(6) During the season indicated in section (1)(b) of this rule, at least one fisher on each boat engaged in the fishery must have in possession a valid certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the fishery. The certificate shall expire on December 31, 2003. No individual may obtain more than one certificate between January 1, 2003 and December 31, 2003:

(a) The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request;

(b) Nothing in this section sets any precedent for any fishery ter the 2003 spring chinook fishery. The fact that an individual may hold a certificate in spring 2003 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a spring chinook fishery in spring 2004 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2003. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future fisheries.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, and Gnat Creek, are in effect during the open fishing periods described in section (1)(a) of this rule.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 10-1979(Temp), f. & ef. 3-5-79, Renumbered from 635-035-0210; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 13-1985(Temp), f. & ef. 3-7-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1987(Temp), f. & ef. 3-2-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 8-1989(Temp), f. & cert. ef. 3-2-89; FWC 10-1989(Temp), f. & cert. ef. 3-7-89; FWC 15-1990 (Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 17-1990(Temp), f. & cert. ef. 2-13-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 10-1991, f. 2-7-91, cert. ef. 2-8-91; FWC 11-1991 (Temp), f. & cert. ef. 2-12-91; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 20-1993(Temp), f. & cert. ef. 3-4-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 15-1994(Temp), f. & cert. ef. 3-3-94; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 6-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 7-2000(Temp), f. 2-11-00, cert. ef. 2-13-00 thru 2-29-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 10-2000(Temp), f. 2-25-00, cert. ef. 2-25-00 thru 2-29-00; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 9-2001(Temp), f. 3-2-01, cert. ef. 3-4-01 thru 3-6-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; DFW 11-2001(Temp), f. & cert. ef. 3-8-01 thru 3-31-01; Administrative correction 6-21-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 21-2002(Temp), f. 3-19-02, cert. ef. 3-20-02 thru 9-16-02; DFW 24-2002(Temp), f. & cert. ef. 3-22-02 thru 9-17-02; DFW 27-2002(Temp), f. & cert. ef. 3-26-02 thru 9-22-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 15-2003(Temp), f. & cert. ef. 2-20-03 thru 2-28-03

Adm. Order No.: DFW 16-2003(Temp)

Filed with Sec. of State: 2-27-2003

Certified to be Effective: 3-1-03 thru 7-1-03

Notice Publication Date:

Rules Amended: 635-017-0090, 635-023-0090

Subject: Amend rules to close the Columbia River to the retention of sturgeon form the Wauna powerlines (River Mile 40) upstream to Bonneville Dam, and the Willamette River downstream of Willamette Falls (including Multnomah Channel) from March 24, 2003 through June 30, 2003.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

ADMINISTRATIVE RULES

are allowed. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is *unlawful* to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 1, 2000 to 6 p.m. August 2, 2000, 12 noon August 8, 2000 to 6 p.m. August 9, 2000, 12 noon August 15, 2000 to 6 p.m. August 16, 2000, 12 noon August 22, 2000 to 6 p.m. August 23, 2000, 12 noon August 29, 2000 to 6 p.m. August 30, 2000, 12 noon September 5, 2000 to 6 p.m. October 31, 2000.

(b) Gill nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030
Hist.: FWC 32-1979, f. & cert. 8-22-79; FWC 28-1980, f. & cert. 6-23-80; FWC 42-1980(Temp), f. & cert. 8-22-80; FWC 30-1981, f. & cert. 8-14-81; FWC 42-1981(Temp), f. & cert. 11-5-81; FWC 54-1982, f. & cert. 8-17-82; FWC 37-1983, f. & cert. 8-18-83; FWC 61-1983(Temp), f. & cert. 10-19-83; FWC 42-1984, f. & cert. 8-20-84; FWC 39-1985, f. & cert. 8-15-85; FWC 37-1986, f. & cert. 8-11-86; FWC 72-1986(Temp), f. & cert. 10-31-86; FWC 64-1987, f. & cert. 8-7-87; FWC 73-1988, f. & cert. 8-19-88; FWC 55-1989(Temp), f. & cert. 8-7-89, cert. 8-20-89; FWC 82-1990(Temp), f. & cert. 8-14-90, cert. 8-19-90; FWC 86-1991, f. & cert. 8-7-91, cert. 8-18-91; FWC 123-1991(Temp), f. & cert. 10-21-91; FWC 30-1992(Temp), f. & cert. 8-4-92; FWC 35-1992(Temp), f. & cert. 5-22-92, cert. 5-25-92; FWC 74-1992 (Temp), f. & cert. 8-16-92; FWC 28-1993(Temp), f. & cert. 4-26-93; FWC 48-1993, f. & cert. 8-6-93, cert. 8-9-93; FWC 21-1994(Temp), f. & cert. 4-22-94, cert. 4-25-94; FWC 51-1994, f. & cert. 8-19-94, cert. 8-22-94; FWC 64-1994(Temp), f. & cert. 9-14-94, cert. 9-15-94; FWC 66-1994(Temp), f. & cert. 9-20-94; FWC 27-1995, f. & cert. 3-29-95, cert. 4-1-95; FWC 48-1995(Temp), f. & cert. 6-5-95; FWC 66-1995, f. & cert. 8-22-95, cert. 8-27-95; FWC 69-1995, f. & cert. 8-25-95, cert. 8-27-95; FWC 8-1995, f. & cert. 2-28-96, cert. 3-1-96; FWC 37-1996(Temp), f. & cert. 6-11-96, cert. 6-12-96; FWC 41-1996, f. & cert. 8-12-96; FWC 45-1996(Temp), f. & cert. 8-16-96, cert. 8-19-96; FWC 54-1996(Temp), f. & cert. 9-23-96; FWC 4-1997, f. & cert. 1-30-97; FWC 47-1997, f. & cert. 8-15-97; DFW 8-1998(Temp), f. & cert. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. 3-3-98; DFW 18-1998(Temp), f. & cert. 3-9-98, cert. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. 8-24-98; DFW 10-1999, f. & cert. 2-26-99; DFW 52-1999(Temp), f. & cert. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. 8-12-99; DFW 9-2000, f. & cert. 2-25-00; DFW 42-2000, f. & cert. 8-3-00; DFW 3-2001, f. & cert. 2-6-01; DFW 66-2001(Temp), f. & cert. 8-2-01, cert. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. & cert. 8-5-02, cert. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. 2-14-03; DFW 17-2003(Temp), f. & cert. 2-27-03, cert. 3-1-03 thru 8-1-03

Adm. Order No.: DFW 18-2003(Temp)

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03 thru 4-30-03

Notice Publication Date:

Rules Amended: 635-003-0004, 635-013-0004, 635-013-0009, 635-014-0090

Subject: Establish a troll chinook salmon season and an ocean sport chinook salmon season effective March 15, 2003, consistent with seasons adopted by the Pacific Fishery Management Council for federal waters.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-003-0004

Inclusions and Modifications

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean commercial 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, Subpart H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: Vessels prevented by unsafe weather conditions or mechanical problems from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) South of Cape Falcon to the Oregon/California border:

(a) Open for all salmon except coho March 15-April 30. The area described in subsection (5)(e) of this rule is closed during this fishing period;

(b) It is unlawful to take chinook salmon less than 26 inches in length;

(c) It is unlawful to retain incidentally caught halibut during this March-April salmon season;

(d) It is unlawful to fish with gear having more than four spreads per wire, and only single point, single shank barbless hooks are allowed;

(e) A triangular area offshore is open to the retention of all chinook salmon consistent with seasons adopted by the Pacific Fishery Management Council in adjacent waters, except that prior to August 1 only fin-clipped chinook salmon may be retained in this area. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points about three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty.

(6) Humbug Mountain, Oregon, to Humboldt South Jetty: When the fishery is closed north of the Oregon/California border and open to the south, vessels with fish on board taken in the open area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall first notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the vessel name, number of fish on board, and estimated time of arrival.

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

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

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. & cert. 5-1-89; FWC 42-1991, f. & cert. 4-29-91, cert. 5-1-91; FWC 25-1994, f. & cert. 5-2-94; FWC 83-1994(Temp), f. & cert. 10-28-94, cert. 11-1-94; FWC 34-1995, f. & cert. 5-1-95; FWC 40-1995(Temp), f. & cert. 5-18-95; FWC 62-1995(Temp), f. & cert. 7-27-95, cert. 7-28-95; FWC 20-1996, f. & cert. 4-29-96; FWC 26-1996(Temp), f. & cert. 5-16-96, cert. 5-17-96; FWC 31-1996(Temp), f. & cert. 6-4-96; FWC 19-1997(Temp), f. & cert. 4-15-97; FWC 30-1997, f. & cert. 5-5-97; FWC 33-1997(Temp), f. & cert. 5-28-97; FWC 44-1997(Temp), f. & cert. 8-13-97; FWC 34-1998, f. & cert. 5-4-98; DFW 36-1998(Temp), f. & cert. 5-12-98, cert. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. & cert. 5-19-98, cert. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. & cert. 6-2-98, cert. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. & cert. 8-14-98, cert. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. 8-21-98 thru 8-31-98; DFW 20-1999(Temp), f. & cert. 3-29-99, cert. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. 5-3-99; DFW 16-2000(Temp), f. & cert. 3-31-00, cert. 4-1-00 thru 4-30-00; DFW 24-2000, f. & cert. 4-28-00, cert. 5-1-00; DFW 45-2000(Temp), f. & cert. 8-10-00, cert. 8-11-00 thru 8-31-00; DFW 46-2000(Temp), f. & cert. 8-10-00, cert. 8-10-00 thru 9-30-00; DFW 49-2000(Temp), f. & cert. 8-17-00, cert. 8-18-00 thru 9-30-00; DFW 56-2000(Temp), f. & cert. 9-1-00 thru 9-30-00; DFW 59-2000(Temp), f. & cert. 9-6-00 thru 9-30-00; DFW 73-2000(Temp), f. & cert. 10-26-00, cert. 10-28-00 thru 11-1-00; DFW 28-2001, f. & cert. 5-1-01; DFW 48-2001(Temp), f. & cert. 6-14-01, cert. 6-15-01 thru 6-30-01; DFW 58-2001(Temp), f. & cert. 7-18-01, cert. 7-20-01 thru 9-30-01; DFW 67-2001(Temp), f. & cert. 8-2-01, cert. 8-3-01 thru 9-30-01; DFW 69-2001(Temp), f. & cert. 8-8-01 thru 9-30-01; DFW 74-2001(Temp), f. & cert. 8-17-01 thru 9-30-01; DFW 83-2001(Temp), f. & cert. 8-30-01, cert. 8-31-01 thru 9-30-01; DFW 22-2002(Temp), f. & cert. 3-19-02, cert. 3-20-02 thru 4-30-02; DFW 37-2002, f. & cert. 4-23-02; DFW 58-2002(Temp), f. & cert. 6-6-02, cert. 6-7-02 thru 6-30-02; DFW 65-2002(Temp), 6-27-02, cert. 7-1-02 thru 12-27-02; DFW 72-2002(Temp), f. & cert. 7-11-02, cert. 7-12-02 thru 12-31-02; DFW 76-2002(Temp), f. & cert. 7-25-02, cert. 7-26-02 thru 12-31-02; DFW 77-2002(Temp), f. & cert. 7-26-02 thru 12-31-02; DFW 84-2002(Temp), f. & cert. 8-8-02, cert. 8-9-02 thru 12-31-02; DFW 86-2002(Temp), f. & cert. 8-9-02 thru 12-31-02; DFW 92-2002(Temp), f. & cert. 8-22-02 thru 12-31-02; DFW 101-2002(Temp), f. & cert. 9-9-02 thru 12-31-02; DFW 111-2002(Temp), f. & cert. 10-8-02, cert. 10-14-02 thru 12-31-02; DFW 18-2003(Temp) f. & cert. 2-28-03, cert. 3-1-03 thru 4-30-03

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.

ADMINISTRATIVE RULES

(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) South of Cape Falcon to Humbug Mountain:

(a) Open for all salmon except coho March 15, 2003 through April 30, 2003;

(b) It is *unlawful* to take chinook salmon less than 20 inches in length;

(c) The catch limit is two fish per day, no more than six fish in 7 consecutive days.

(5) 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**.

[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

635-013-0009

Tillamook Terminal Area Ocean Fishery

(1) In addition to the open seasons prescribed in OAR 635-013-0004 there are open seasons for chinook salmon in the areas described in Sections (2) and (3) of this rule.

(2) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'49" N. lat.) and north of Pyramid Rock (45°29'45" N. lat.) and seaward three nautical miles offshore are open for chinook salmon March 15-November 15.

(3) A triangular area offshore is open to salmon angling for fin-clipped chinook salmon from March 15 through July 31 and open to angling for all chinook from August 1 through November 15. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points approximately three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty.

(4) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area and the Triangular Control Zone described in sections (2) and (3) of this rule are open to angling for salmon consistent with federal sport salmon management measures for the area Cape Falcon to Humbug Mountain.

(5) During the period August 1-December 31, in the area described in sections (2) and (3), no more than two adult and five jack salmon may be retained per day, no more than four adult chinook salmon may be retained in any seven consecutive days, and no more than 10 adult chinook salmon may be retained per season. Adult chinook salmon catch limits include, in aggregate, salmon taken in Tillamook, Nehalem, and Nestucca bays and tributaries (see OAR 635-014-0090). It is *unlawful* to angle for jack salmon after retaining an adult catch limit. For purposes of this rule, adult salmon are chinook having a length greater than 24 inches and jack salmon are chinook between 15 inches and 24 inches in length.

(6) No more than two single-point, single-shank barbless hooks are required in the ocean adipose fin-clipped coho salmon fishery and in the ocean outside the Terminal Area at all times.

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

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-

1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03

635-014-0090

Inclusions and Modifications

(1) The amended **2003 Oregon Sport Fishing Regulations** as posted on www.dfw.state.or.us provide requirements for the Northwest Zone. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **2003 Oregon Sport Fishing Regulations**. This rule contains requirements which modify the **2003 Oregon Sport Fishing Regulations** pertaining to the Northwest Zone.

(2) A triangular area offshore is open to salmon angling for fin-clipped chinook salmon from March 15 through July 31 and open to angling for all chinook from August 1 through November 15. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points approximately three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty.

(3) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area and the Triangular Control Zone described in OAR 635-013-0009(2)(3) are open to angling for salmon consistent with federal sport management measures for the area Cape Falcon to Humbug Mountain.

(3) Tillamook Bay inland of the jetty tips upstream to the Hwy. 101 bridges over the Trask and Wilson rivers, and the Burton Bridge over the Tillamook, is open to angling for adipose fin-clipped coho salmon August 1 to October 31.

(4) The Tillamook River below Burton Bridge is open to angling for adipose fin-clipped coho salmon August 1 to October 31.

(5) The Trask River below Hwy. 101 bridge is open to angling for adipose fin-clipped coho salmon August 1 to October 31.

(6) The Wilson River below Hwy. 101 bridge is open to angling for adipose fin-clipped coho salmon August 1 to October 31.

(7) Nestucca Bay seaward from northern point of Cannery Hill and within a radius of 1/2 mile from the center of the mouth of Nestucca Bay is open to angling for chinook salmon August 1 to December 31.

(8) The North Fork Alsea River is open to angling for adipose fin-clipped steelhead from December 1, 2002 through March 31, 2003, from the mouth upstream to 100 feet below the Alsea Hatchery fishway, and from 100 feet above the Alsea Hatchery fishway upstream 600 feet to an angling deadline marker.

(9) The Yachats River west of Highway 101 extending toward the Pacific Ocean to a line starting at the western most point in Yachats State Park and extending due south to the rocky point on the southern shoreline of the cove where the river enters the ocean is closed to angling for salmon, steelhead, and trout from October 26, 2002 through December 31, 2002.

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

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03

Adm. Order No.: DFW 19-2003(Temp)

Filed with Sec. of State: 3-12-2003

Certified to be Effective: 4-17-03 thru 6-13-03

Notice Publication Date:

Rules Amended: 635-042-0180

ADMINISTRATIVE RULES

Subject: Amends rules to establish a commercial salmon season in the Deep River Select Area.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-042-0180

Deep River Select Area Salmon Season

Salmon, sturgeon, and shad may be taken for commercial purposes as follows:

(1) From the Highway 4 Bridge, 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 25 open fishing periods from 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. April 22, 2003 to 7 a.m. April 23, 2003, 7 p.m. April 23, 2003 to 7 a.m. April 24, 2003, 7 p.m. April 24, 2003 to 7 a.m. April 25, 2003, 7 p.m. April 29, 2003 to 7 a.m. April 30, 2003, 7 p.m. April 30, 2003 to 7 a.m. May 1, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 6, 2003 to 7 a.m. May 7, 2003, 7 p.m. May 7, 2003 to 7 a.m. May 8, 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 14, 2003 to 7 p.m. May 15, 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 21, 2003 to 7 a.m. May 22, 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 28, 2003 to 7 a.m. May 29, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 4, 2003 to 7 a.m. June 5, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, 7 p.m. June 11, 2003 to 7 a.m. June 12, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is less than seven inches or more than 9-3/4 inches.

(4) Only salmon, sturgeon, and shad may be taken and sold commercially.

(5) It is *unlawful* to transport catch outside the fishing area (except to the Washington Department of Fish and Wildlife sampling station located just upstream of the Highway 4 Bridge deadline) without a transportation permit issued by Washington Department of Fish and Wildlife staff.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. & cert. ef. 4-17-03 thru 6-13-03

Adm. Order No.: DFW 20-2003(Temp)

Filed with Sec. of State: 3-12-2003

Certified to be Effective: 3-13-03 thru 4-1-03

Notice Publication Date:

Rules Amended: 635-041-0065

Subject: Amend rules to prohibit the sale of spring chinook salmon at 6 p.m. March 13, 2003, in the Treaty Indian fishery in the Columbia River above Bonneville Dam.

Rules Coordinator: Mike Lueck—(503) (503) 872-5272, ext. 5447

635-041-0065

Winter Salmon Season

(1) Salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery from 12 noon February 1, 2003 to 6 p.m. March 13, 2003.

(2) Steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian fishery from 6 p.m. March 13, 2003 to 12 noon March 21, 2003.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 89, f. & cert. ef. 1-28-77; FWC 2-1978, f. & cert. ef. 1-31-78; FWC 7-1978, f. & cert. ef. 2-21-78; FWC 2-1979, f. & cert. ef. 1-25-79; FWC 13-1979(Temp), f. & cert. ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & cert. ef. 1-28-80; FWC 1-1981, f. & cert. ef. 1-19-81; FWC 6-1982, f. & cert. ef. 1-28-82; FWC 2-1983, f. & cert. ef. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & cert. ef. 1-31-84; FWC 2-1985, f. & cert. ef. 1-30-85; FWC 4-1986(Temp), f. & cert. ef. 1-28-86; FWC 79-1986(Temp), f. & cert. ef. 12-22-86; FWC 2-1987, f. & cert. ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. & cert. ef. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. & cert. ef. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. & cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 9-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98

thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. & cert. ef. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. & cert. ef. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. & cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. & cert. ef. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. & cert. ef. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. & cert. ef. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. & cert. ef. 3-12-03, cert. ef. 3-13-03 thru 4-1-03

Department of Human Services, Child Welfare Programs Chapter 413

Adm. Order No.: CWP 21-2003

Filed with Sec. of State: 3-13-2003

Certified to be Effective: 3-13-03

Notice Publication Date: 2-1-03

Rules Adopted: 413-120-0455

Rules Amended: 413-120-0400, 413-120-0410, 413-120-0420, 413-120-0430, 413-120-0440, 413-120-0450, 413-120-0460, 413-120-0470

Subject: These permanent rules replace temporary rules that were filed in September 2002 regarding Criminal History. The permanent rules adopt the refinements that were made in the temporary version to clarify signature authority, procedures, application of these rules to a category of persons, standards for granting exceptions, and the criteria for meeting criminal history safety standards. Additional minor revisions have been made after the application of the temporary rules. These revisions include: the only possible exception to the “never-never” crimes applies only when the conviction occurred prior to the initial approval; a foster child 18 years of age or older is considered a child for the purpose of these rules; exceptional approval properly granted continues to be effective if the Rule is subsequently amended; specifying the requirement for meeting the criminal history safety standard; a certificate of approval for a relative caregiver may be revoked due to criminal conviction on the same basis that other approvals may be revoked. This rule delegates authority to the SDA manager to deny approval based solely on criminal history. This rule states that criminal history information from LEDS or other sources may only be temporarily stored in the foster home file and it must be in the “confidential section.” DHS is authorized by law to access and to use this information for particular purposes (placement of children) and it is not to be re-disclosed to others as a public record.

Rules Coordinator: Barbara J. Carranza—(503) 945-6649

413-120-0400

Purpose

(1) It is the goal of the DHS to reduce the risk of exploitation and/or abuse of children entrusted in the care of or receiving services from DHS. Therefore, DHS will conduct criminal offender information background checks as described in these rules.

(2) These rules establish procedures by which DHS obtains criminal offender information on subject individuals who are seeking to provide relative, foster or adoptive care to children in DHS custody under rules of CAF program and policy administration, and how DHS uses criminal offender information to determine the suitability of the subject individual to provide relative, foster or adoptive care.

(3) These rules provide guidelines on the procedures DHS will use when DHS receives requests to conduct criminal offender information record checks from licensed private agencies who are studying adoptive families for placement of children in the custody of DHS under rules of CAF program and policy administration.

(4) These rules provide guidelines on the procedures DHS will use granting exceptions for subject individuals convicted of certain felony and misdemeanor crimes to provide relative, foster or adoptive care if an exception is permitted under these rules.

(5) These rules shall be used in conjunction with other applicable standards when determining a subject individual's suitability to provide relative, foster or adoptive care for children in DHS custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560 & 418.016

ADMINISTRATIVE RULES

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0410

Scope of Rules

(1) Consistent with the purpose of these rules, DHS will issue decisions regarding the suitability for approval of subject individuals to provide relative, foster or adoptive care. These rules shall apply to any application which has been neither denied nor approved as of the effective date of these rules.

(2) Notwithstanding the prohibitions contained in 413-120-0450(2) and (3), if a subject individual was certified to provide relative or foster care or approved as an adoptive home before November 19, 1997, DHS may place additional children in the home, renew the family's relative caregiver or foster home certificate of approval or approve the home as an adoptive placement if the DHS Assistant Director for CAF and the DHS Assistant Director for CHS or their designees as described in 413-120-0450(4)(e) have determined that:

(a) Denial of the renewal or adoption application would result in the disruption of a child(ren)'s placement or prevent future substitute care or adoptive placements of the child(ren)'s siblings; and

(b) The certification, adoption or licensing file for the relative caregiver, foster family or adoptive family contains documentation that safety considerations with respect to the subject individual have been addressed; and

(c) Conviction(s) for the crime(s) described in 413-120-0450(3) occurred prior to the certification or approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0420

Definitions

For purposes of these rules:

(1) "Adoption Applicant" is a person who applies for adoption approval.

(2) "Agency Agreement" means a written agreement between the Oregon State Police and a Criminal Justice or designated agency as defined by ORS 181.010 authorized to receive criminal offender information, specifying the terms and conditions of accessing and receiving Oregon computerized criminal history information to assure compliance with state and federal regulations.

(3) "Battery" means the use of physical force to injure, damage or abuse or to cause offensive physical contact.

(4) "CAF" means the Children, Adults and Families program and policy administrative unit of DHS.

(5) "Child or Children" means a person or persons under the age of 18. A person who is between 18 and 21 years of age, who is in DHS custody under rules of CAF's program and policy administration, is also considered a child for purposes of these rules.

(6) "CHS" means the Community Human Services unit of DHS.

(7) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information by OSP.

(8) "Contested Case Hearing" means a hearing conducted under ORS Chapter 183 and applicable administrative rules.

(9) "Criminal Offender Information" is defined in ORS 181.010(3) and includes records, fingerprints and photographs, received, compiled and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders, as to such persons' records of arrests, the nature and disposition of criminal charges, including sentencing, confinement and release, and includes the OSP Computerized Criminal History System.

(10) "Designated Agency" means any DHS unit required to access Oregon criminal offender information: to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on criminal conduct; for agency employment or licensing purposes; or for other demonstrated and legitimate needs when designated by order of the Governor.

(11) "DHS" means the Department of Human Services, which accesses criminal offender information as a designated agency or a criminal justice agency, and requests fingerprint-based criminal offender information

from the FBI and OSP on certain persons or programs who provide care or treatment to children as regulated by DHS.

(12) "FBI" means the Federal Bureau of Investigation.

(13) "Fingerprint-Based Criminal Offender Information" means criminal offender information compiled and maintained by the Oregon State Police Bureau of Criminal Identification regarding persons who have been arrested for crimes where law enforcement agencies have submitted fingerprints and other identifying data as required by ORS 181.515 and/or federal statutes, or as deemed appropriate by the submitting law enforcement agency for the purpose of identification.

(14) "Foster Parent(s)" is the certified care provider(s) whose name is on the certificate of approval to operate a family foster home, and who resides at the address on the certificate, under OAR 413-200-0301 through 413-200-0401.

(15) "Information Required" means all information requested by DHS for processing criminal record checks, including fingerprint checks.

(16) "OSP" means the Oregon State Police.

(17) "Other Person in Household" means:

(a) A person 18 years of age or older who is living in the home; and is not a child as defined by this rule; or

(b) A person assisting in the home to enrich the care provided to children placed in the home by tutoring, providing recreation, relief care or other services such as household chores, whether paid or unpaid; or

(c) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the home.

(18) "Private Adoption Agency" means an agency licensed by the State of Oregon to provide adoption services within the state and which contracts with DHS to study adoptive parents seeking to adopt children in the custody of DHS.

(19) "Relative Caregiver" is the child's relative whose name appears on the Certificate of Approval and who resides at the address on the certificate under OAR 413-200-0301 through 413-200-0401.

(20) "SDA" means Service Delivery Area, an administrative subdivision of CHS.

(21) "Violence" means the use of physical force to injure, damage or abuse.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - 181.560, ORS 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0430

Subject Individuals

For purposes of these rules, "Subject Individual" means a person who:

(1) Applies to adopt a child in the custody of DHS as described in OAR 413-120-0200 through 413-120-0230 and 413-120-0300 through 413-120-0310, or

(2) Applies to be a foster parent as described in OAR 413-200-0301 through 413-200-0401, or

(3) Is an other person in the household as described in 413-120-0420(17), or

(4) Applies to be a relative caregiver as described in 413-200-0301 through 413-200-0401.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0440

Limitations of Inquiries

(1) Only DHS employees who have been fingerprinted and cleared by the Oregon State Police shall access or have access to criminal offender information pursuant to a valid agency agreement. All criminal offender information shall be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal offender information (OAR 257-010-010 to 257-010-050). It is the responsibility of DHS to assure strict compliance with federal and state laws, rules and procedures regarding criminal offender information access and dissemination.

(2) Criminal offender information obtained from OSP and/or the FBI may not be used for any purpose other than that for which it was obtained nor given to unauthorized persons or agencies.

ADMINISTRATIVE RULES

(3) Criminal offender information, including fingerprint-based criminal offender information, shall be obtained by DHS under rules of CAF's program and policy administration to ascertain whether a subject individual has been convicted of a crime that is substantially related to their qualifications as a relative caregiver, foster parent, or adoptive parent, or their suitability to be an other person in the household.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - 181.560, ORS 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0450

Consideration of Criminal History

(1) DHS has determined that persons who engage in certain criminal conduct may not be qualified to be a relative caregiver, foster or adoptive parent, or suitable to be an other person in a relative caregiver, foster or adoptive home because that criminal conduct is fundamentally inconsistent with any responsibility for care, treatment or supervision of children or other vulnerable persons. Unless an exception is allowed under these rules, convictions for crimes listed in these rules or a false statement about a conviction for any crime may disqualify a subject individual from being approved as a relative caregiver, foster or adoptive parent, or to be an other person in the household.

(2) If a subject individual has been convicted of a crime described in subsection (3), that individual shall not be approved or certified as a relative caregiver, foster parent, adoptive parent or other person in the household and no exception may be granted. A subject individual who has been convicted of any crime other than one described in subsection (3) may be approved or certified as a relative caregiver, foster parent, adoptive parent or other person in the household only if an exception is granted as provided in subsections (4) - (6).

(3)(a) DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home, or approve an adoption application, and no exception may be granted if a subject individual has been convicted in Oregon or any other jurisdiction of a felony crime that involves:

(A) Rape, sodomy or sexual abuse;

(B) Intentional starvation or torture;

(C) Murder or voluntary manslaughter;

(D) Abuse or neglect of a child that causes death of the child or serious physical injury to the child;

(E) Aiding, abetting, attempting, soliciting or conspiring to cause the death of a child.

(b) Crimes described under 3(a) of this section include, but are not limited to, the following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction:

(A) 163.095 Aggravated murder

(B) 163.115 Murder

(C) 163.118 Manslaughter in the first degree

(D) 163.125 Manslaughter in the second degree

(E) 163.355 Rape in the third degree

(F) 163.365 Rape in the second degree

(G) 163.375 Rape in the first degree

(H) 163.385 Sodomy in the third degree

(I) 163.395 Sodomy in the second degree

(J) 163.405 Sodomy in the first degree

(K) 163.408 Unlawful sexual penetration in the second degree

(L) 163.411 Unlawful sexual penetration in the first degree

(M) 163.425 Sexual abuse in the second degree

(N) 163.427 Sexual abuse in the first degree

(O) 163.525 Incest, if the victim of the offense is a child

(P) 163.537 Buying or selling a person under 18 years of age

(Q) 163.670 Using a child in display of sexually explicit conduct

(4)(a) If a subject individual has been convicted of one of the following crimes, which exclude those described in subsection (3), DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application unless an exception is granted as provided in this subsection and subsection (6):

(A) Any felony or misdemeanor crime of violence against a child, or;

(B) Any felony involving:

(i) Child abuse or neglect;

(ii) A child as the victim;

(iii) Violence, including domestic violence

(C) A felony drug related offense.

(b) Examples of Crimes described under 4(a) of this section include, but are not limited to, the following crimes under Oregon law or substantially similar crimes in Oregon or any other jurisdiction:

(A) 162.155 Escape in the second degree, if the offense involves the use or threatened use of violence

(B) 162.165 Escape in the first degree, if the offense involves the use or threatened use of violence or a dangerous or deadly weapon

(C) 162.325 Hindering prosecution, if the crime involves the use of violence

(D) 163.145 Criminally negligent homicide

(E) 163.160 Assault in the fourth degree, if the victim is a spouse or a child and the person has previously been convicted of assaulting the same victim

(F) 163.160 Assault in the fourth degree, if person previously convicted of assaulting same victim or assault witnessed by child/step child of defendant or victim or other child living in household of defendant or victim

(G) 163.160 Assault in the fourth degree if the victim is a child (misdemeanor)

(H) 163.165 Assault in the third degree

(I) 163.175 Assault in the second degree

(J) 163.185 Assault in the first degree

(K) 163.205 Criminal mistreatment in the first degree, if the victim is a child or if the crime involves violence

(L) 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree

(M) 63.225 Kidnapping in the second degree, if the victim is a child or spouse or if the crime involves violence

(N) 163.235 Kidnapping in the first degree, if the victim is a child or spouse or if the crime involves violence

(O) 163.535 Abandonment of a child

(P) 63.547 Child neglect in the first degree

(Q) 163.555 Criminal nonsupport

(R) 163.684 Encouraging child sexual abuse in the first degree

(S) 163.686 Encouraging child sexual abuse in the second degree

(T) 163.688 Possession of materials depicting sexually explicit conduct of a child in the first degree

(U) 163.689 Possession of materials depicting sexually explicit conduct of a child in the second degree

(V) 164.125 Theft of services, if the theft is by force for services valued at \$750 or more

(W) 164.225 Burglary in the first degree, if the offense involves violence

(X) 164.395 Robbery in the third degree

(Y) 164.405 Robbery in the second degree

(Z) 164.415 Robbery in the first degree

(AA) 166.015 Riot

(AB) 166.165 Intimidation in the first degree

(AC) 166.220 Unlawful use of weapon

(AD) 167.017 Compelling prostitution

(AE) 167.212 Tampering with drug records

(AF) 167.262 Adult using minor in commission of controlled substance offense (for controlled substance other than less than 5 grams of marijuana)

(AG) 475.992 Subsection (1) Manufacture or delivery of Schedule I, II or III counterfeit substance. Subsection (2) Delivery of marijuana for consideration. Subsection (3) Creation or delivery of Schedule I, II or III counterfeit substance. Subsection (4) Possession of Schedule I or II controlled substance

(AH) 475.993 Prohibited acts for registrants related to Schedule I controlled substance

(AI) 475.995 Distribution of Schedule I, II or III controlled substances to minors

(AJ) 475.999 Manufacture or delivery of Schedule I, II or III controlled substance within 1000 feet of school

(c) Written approval of both the DHS Assistant Director for CAF and of the DHS Assistant Director for CHS is required for an exception to operate a relative caregiver or foster home or be approved as an adoption applicant if a subject individual has been convicted of a crime described in (4). The DHS Assistant Directors for CAF and CHS may designate administrative staff not assigned to or located in a Service Delivery Area to grant an approval authorized under subsection (4).

(5) If a subject individual has been convicted of any felony or misdemeanor, other than those described in subsections (3) or (4), DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application unless an exception to approve the home is granted as provided in this subsection and

ADMINISTRATIVE RULES

subsection (6). The following persons are authorized to grant an exception as provided in this subsection and subsection (6):

(a) If a subject individual has been convicted of a misdemeanor, other than one resulting from domestic violence or one described in subsections (3) or (4), written approval of the SDA Manager is required for an exception to approve the home. The SDA Manager may designate the SDA Assistant Manager, the SDA Child Welfare Manager or a child welfare supervisor to grant an exception under this subsection.

(b) If a subject individual has been convicted of a felony or any crime involving domestic violence, other than one described in subsection (3) or (4), written approval of the SDA Manager is required for an exception to approve the home. The SDA manager may designate the SDA Assistant manager or the SDA Child Welfare Manager to grant an exception under this subsection.

(6) A person authorized to grant an exception under (4) or (5) shall determine whether the subject individual possesses the qualifications to be a relative caregiver, foster parent, adoptive parent, or is suitable to be an other person in the household, regardless of the criminal conviction(s). The person authorized to grant an exception shall document the approval on form DHS 1011D, "Criminal History Exception Request" In determining whether to grant an exception under (4) or (5) the person authorized to grant the exception shall consider:

- (a) The severity and nature of the crime;
- (b) The number of criminal offenses;
- (c) The time elapsed since commission of the crime;
- (d) The circumstances surrounding the crime;
- (e) Content of the police report(s) concerning the crime;
- (f) The subject individual's explanation of the crime;
- (g) The relationship of the criminal activity to the subject individual's capacity to safely provide the proposed care;
- (h) The subject individual's participation in counseling, therapy, education or employment evidencing rehabilitation or a change in behavior; and

(i) When the person is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the person would be a safe placement that is in the best interests of the child.

(7) Where allowed, by current or previously effective rules, exceptions for a specific misdemeanor or felony conviction need only be granted one time for a specific subject individual.

(8) Granting an exception for a specific misdemeanor or felony crime does not establish a precedent for other cases in which a conviction for the same crime is being considered.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0455

Consideration of Arrests

(1) Behavior that results in an arrest or a history of arrests may raise concerns about a subject individual's suitability to be a relative caregiver, foster or adoptive parent, or other person in the household. If a subject individual has a history of arrest(s) for any of the following, the field staff must assess whether, considering the behavior that resulted in the arrest, the subject individual meets the qualifications to be a relative caregiver, foster or adoptive parent, or other person in the household:

- (a) Child abuse or neglect;
- (b) Spousal abuse;
- (c) A crime against children, including pornography;
- (d) A crime involving violence, including rape, sexual abuse, manslaughter or homicide;
- (e) Physical assault;
- (f) Battery;
- (g) Drug or alcohol offenses; or
- (h) Weapons-related offenses.

(2) If a subject individual has been arrested for any of the crimes listed in subsection (1), the supervisor and caseworker/certifier, in consultation with the management staff as designated by the SDA Manager, shall assess the suitability of the subject individual to be a relative caregiver, foster or adoptive parent, or other person in the household and document their findings. The persons conducting the assessment shall consider and document their findings regarding the behavior or conduct that led to the arrest, how that behavior relates to the subject individual's qualifications to be a relative caregiver, foster or adoptive parent or other person in the household

and whether, given the behavior that led to the arrest, the subject individual is qualified to be a relative caregiver, foster parent or adoptive parent or other person in the household. In conducting this assessment, the supervisor and caseworker shall consider the following:

(a) The subject individual's explanation of the circumstances surrounding and the behavior that led to the arrest(s).

(b) The severity and nature of the behavior that led to the arrest(s):

(c) The number of arrests in the subject individual's history for behavior that relates to and raises concerns about that individual's qualifications to be a relative caregiver, foster or adoptive parent or suitability to be an other person in the household;

(d) The time elapsed since the arrest(s);

(e) The circumstances surrounding the arrest(s);

(f) Whether the subject individual was charged or indicted for a crime related to the arrest(s),

(g) The disposition of any charge or indictment related to the arrest(s);

(h) If applicable, whether the subject individual has participated in counseling, therapy, educational or employment opportunities since the arrest(s);

(i) When the person is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the person would be a safe placement that is in the best interests of the child.

(j) Any other information related to the circumstances of the arrest(s) or the behavior that led to the arrest(s) that may relate to the subject individual's qualifications to be a relative caregiver, foster parent, adoptive parent or other person in the household.

(3) The supervisor and worker may also obtain and review a copy of the police report of the arrest and interview the subject individual about the arrest.

(4) Under no circumstances will DHS bar or refuse to approve an individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 or 419A.262.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560

Hist.: SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0460

Procedures

(1) Any subject individual applying to be a relative caregiver, foster or adoptive parent, or an other person in the household shall consent to a criminal offender information records check at the time of application, and annually thereafter. All applicants shall be notified of this requirement at the time they apply for a certificate of approval or adoption approval. Criminal record check consent forms shall contain a notice that applicants for a certificate of approval, or adoption approval and an other person in a household are subject to a fingerprint-based criminal offender information records check that will be conducted as required by ORS 181.537 and 181.557 and OAR 413-120-0460(5) and (6).

(2) Adoptive applicants who have been approved as relative caregivers, foster parents or adoptive parents and who have submitted to a criminal history check within the 12 months preceding the date on which they apply to adopt may be exempt from a new criminal records check.

(3) DHS shall not issue a certificate of approval for relative or foster care or approve an adoption home if a subject individual refuses to be fingerprinted when required. DHS may deny a certificate of approval or approval as an adoptive home if a subject individual makes a false statement about having been arrested for or convicted of any crime(s).

(4) Subject individuals shall provide all information required for a criminal offender information records check, including fingerprints where required, on forms and fingerprint cards provided by DHS and according to procedures established by DHS, including:

(a) A properly completed and signed form CF 1011F from the subject individual;

(b) If the subject individual acknowledges a prior arrest or conviction for a crime listed in these administrative rules, an explanation of the relationship between the facts that support the arrest or conviction and all intervening circumstances and written authorization for DHS to verify the information;

(c) Two properly completed FBI fingerprint cards (FD 258) with red overprinting in the reason fingerprinted block from the subject individual when required.

(5) As part of the consent to a criminal records check, DHS may request subject individuals to consent to the use of their social security

ADMINISTRATIVE RULES

numbers in conducting the criminal records check. Subject individuals will indicate their consent by their signatures.

(6) DHS shall obtain and forward fingerprint cards to request criminal offender information on subject individuals from OSP and FBI as follows:

(a) If the subject individual has disclosed, or their Oregon record indicates, that they now live or have lived outside the State of Oregon anytime during the five years prior to application, DHS shall instruct OSP to conduct a fingerprint criminal offender records check through the FBI;

(b) If the subject individual has disclosed an arrest or conviction for a crime, DHS shall instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI;

(c) If the subject individual's Oregon record indicates an arrest or conviction for a crime, DHS shall forward the fingerprint cards to OSP for a positive identification verification prior to issuing a denial and may instruct OSP to conduct a fingerprint criminal offender records check through the FBI.

(7) DHS may grant an exception to the fingerprint requirement as described in (5) above if DHS determines that the subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to applicant or staff. The Criminal History Exception Request (DHS 1011D) must be signed by the SDA manager or designee.

(8) No applicant may be issued or may retain a certificate of approval as a relative caregiver or a foster parent, or approval as an adoptive parent unless these criminal history safety standards are met;

(a) Completion of a documented check of Oregon LEDS;

(b) Authorization and initiation of the other requirements to complete the criminal history check process, including a fingerprint based criminal offender check when required for subject individuals;

(c) Granting of exceptional approval as required and authorized by 413-120-0450 for any criminal convictions either acknowledged by the applicant or reported by the criminal offender information system; and

(d) Reconsideration of the approval upon receipt of any criminal history information not available at the time of previous approval.

(9) DHS will review the criminal offender information, including fingerprint-based criminal offender information when obtained, of subject individuals. The assessment of suitability, based on the criminal history, that reflects the decision-making criteria, shall be documented and filed in the relative caregiver, foster home, or adoption home record. The LEDS, OSP and FBI reports shall not be filed in these records and shall be destroyed within 90 days. A denial of the application or certification, based on criminal history, will be considered preliminary until the subject individual has been given notice of an opportunity to challenge the criminal record report, or to request a contested case hearing pursuant to OAR 413-120-0460. Except as provided in OAR 413-120-0450(3), a finding of suitability based on criminal history is only one factor DHS will use in deciding whether to issue a certificate of approval for a relative caregiver or foster home, or approve an adoption home. The final determination to grant or deny a certificate of approval or approval of an adoption home based solely on criminal history will be made by the SDA Manager or designee. Criminal offender information received from the OSP or the FBI is confidential and shall not be released to unauthorized persons or agencies.

(10) Subject individuals who have been determined not suitable to be approved as an adoptive resource pursuant to these rules shall be denied approval for adoption of a child in the custody of DHS under rules of CAF program and policy administration.

(11) Unless an exception for approval is granted under these rules, DHS shall revoke a certificate of approval for a foster parent or relative caregiver, deny a renewal application, or remove from consideration for child placement an approved relative caregiver, family foster home, or approved adoption applicant if a subject individual is convicted of a crime in Oregon or any other jurisdiction since the time of the last approval.

(12) If DHS determines that the subject individual is not suitable for a certificate of approval for relative care or foster care, or adoption approval, based on criminal history or false statement on the application related to criminal history, unless the subject individual voluntarily withdraws from the process, the CHS field office will notify the subject individual, via certified mail, that the subject individual:

(a) Has a right to inspect and challenge their Oregon criminal offender information through the Oregon State Police procedures as adopted per ORS 181.555(3) and OAR 257-010-0035;

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a chal-

lenge with the Assistant Director of the FBI Identification Division, Washington, DC, 20537-9700; and

(c) May appeal DHS's determination of unsuitability, and/or indicate an intent to challenge information in the OSP or FBI report, by requesting a contested case hearing pursuant to ORS 183.413 to 183.470 and OAR 413-120-0470 provided that DHS receives the request for a contested case hearing in writing within 30 days from the date of mailing the notice. After 30 days from the date of mailing have elapsed, designated staff within the SDA will inform the certifier or adoption worker or private agency adoption worker that either:

(A) The subject individual has been notified that he/she is not suitable for approval for relative care, foster care, or adoption based on criminal history or false statement in the application about criminal history and that the worker may not approve the relative care, foster care, or adoption application because the subject individual has waived or timely declined, to exercise his/her right to a contested case hearing regarding his/her suitability; or

(B) The subject individual has requested a contested case hearing and that the field office will be notified of the subject individual's suitability as a relative caregiver, foster care, or adoptive home provider upon issuance of the hearing decision.

(13) Upon DHS's determination that an applicant for relative care, foster care, or adoption of a child in the custody of DHS under rules of CAF program and policy administration is not suitable based on the criminal history of an other person in the household or false statement of criminal history of an other person in the household, the certifier, adoption worker, or private agency adoption worker shall:

(a) Inform the other person in the household whose record was reviewed of the right to inspect and challenge their Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035 and their rights under ORS 181.557(2)(b); and

(b) Inform the relative caregiver, foster care, or adoption applicant whose approval is affected by the other person's criminal history or false statement about criminal history, via certified mail, that:

(A) Based on the other person in the household's criminal history or false statement about their criminal history, DHS may not approve the relative care, foster care, or adoption applicant as long as the other person in the household remains in the home or provides care to children in the home; and

(B) The relative care, foster care, or adoption applicant may appeal in a contested case hearing DHS's determination of unsuitability based on the criminal history or false statement of criminal history concerning an other person in the home, provided that DHS receives the applicant's request for a contested case hearing in writing within 30 days from the date of mailing the notice to the applicant.

(14) The DHS relative care or foster care certifier, adoption worker or private adoption agency worker shall, after 30 days have elapsed from the date of mailing the notice, either:

(a) Notify the relative care, foster care, or adoption applicant that he/she is not suitable for approval for placement of a child in the custody of DHS under rules of CAF program and policy administration based on criminal history of an other person in the household or false statement in the application of the other person, and that DHS may not approve the applicant because the applicant has waived or declined to exercise his/her right to a contested case hearing regarding his/her suitability; or

(b) Notify the relative care, foster care, or adoption applicant that since he or she has requested a contested case hearing, the field office will be notified of the applicant's suitability for certification upon issuance of the final order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & ORS 181.010 - ORS 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0470

Rights for Review and Contested Case Hearings

(1) DHS shall conduct contested case hearings per ORS Chapter 183 and OAR 137-003-0501 to 137-003-0700 and shall afford relative care, foster care, or adoption applicants the right to appeal a decision made by DHS under rules of CAF program and policy administration that the applicant is not suitable for approval for placement of a child in the custody of DHS based on an authorized criminal offender information records check, or a false statement concerning a criminal records check of the applicant or other person in the household. Applicants must notify DHS in writing of their request for a contested case hearing within 30 calendar days after the notice is mailed by DHS to the applicant.

ADMINISTRATIVE RULES

(2) DHS has no jurisdiction in a contested case hearing over allegations that the criminal offender information received from OSP or the FBI is inaccurate, incomplete or maintained in violation of any federal or state law.

(3) DHS is entitled to rely on the criminal offender information supplied by OSP or the FBI until OSP or the FBI notifies DHS that information has been changed or corrected. If an applicant has timely requested a contested case hearing, DHS will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record, or has declined to do so.

(4) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing under this rule will not be open to the public.

(5) Prior to a contested case hearing being scheduled, a pre-hearing conference between DHS, the subject individual and his/her legal representative, if any, shall be convened to review all available information and determine the need for a contested case hearing. At the pre-hearing conference, the subject individual must verify whether he/she has exercised his/her right to inspect or challenge the criminal offender information record(s) or has declined to do so.

(6) The issues at a contested case hearing under this rule shall be limited to:

(a) Whether the subject individual has made a false statement in the application about a conviction or an arrest, has refused to consent to the criminal records check or refused to be fingerprinted; or

(b) Whether the subject individual has been convicted of a crime described in 413-120-0450(3); or

(c) If the subject individual has been convicted of any crime, other than those described in 413-120-0450(3):

(A) The DHS determination that the behavior which resulted in the conviction is relevant to qualification to provide care as a relative caregiver, foster or adoptive parent, or suitability to be an other person in the household; and

(B) The relationship between the facts supporting the conviction and the intervening circumstances as affecting the qualification to provide care as a relative caregiver, foster or adoptive parent, or suitability to be an other person in the household; or

(d) The relationship between the behavior that led to arrests as affecting the qualification to provide care as a relative caregiver, foster or adoption parent or suitability to be an other person in the household.

(7) Fingerprint cards required for evidence in a contested case hearing shall be destroyed by DHS when the contested case hearing procedure and any appellate procedures are concluded and final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, ORS 181.010 - ORS 181.560 & ORS 409.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99;

SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF

11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

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

Adm. Order No.: OMAP 8-2003

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 2-1-03

Rules Amended: 410-120-1200

Subject: The General Rules program Administrative rule govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-120-1200 includes a list of services not covered under the Standard Benefit Package. Due to DHS budget shortfall, and the failure to pass the January 2003 tax package generated by HB 5100 from a 2002 Legislative Special Session, Rule 410-120-1200 is amended to add prescription drugs to the list of not covered services in the Standard Benefit Package.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1200

Medical Assistance Benefits: Excluded Services and Limitations

(1) Certain services or items are not covered under any program or for any group of eligible clients. If the client accepts financial responsibility for a non-covered service, payment is a matter between the provider and the client subject to the requirements of OAR 410-120-1280. No payment will

be made for any expense incurred for any of the following services or items:

(a) That are not expected to significantly improve the basic health status of the client as determined by the Medical Assistance Program (e.g., OMAP's Medical Director, medical consultants or Peer Review Organization);

(b) That are not reasonable or necessary for the diagnosis and treatment of disability, illness, or injury;

(c) That are determined not medically appropriate by Medical Assistance Program staff or authorized representatives, including OMPRO or any contracted utilization review organization;

(d) That are not properly prescribed as required by law or administrative rule by a licensed practitioner practicing within his/her scope of practice or licensure;

(e) That are for routine checkups or examinations for individuals age 21 or older in connection with participation, enrollment, or attendance in a program or activity not related to the improvement of health and rehabilitation of the client. Examples include exams for employment or insurance purposes;

(f) That are provided by friends or relatives of eligible clients or members of his/her household, except when the friend, relative or household member is a health professional, acting in a professional capacity, or when the friend, relative or household member is directly employed by the client under Seniors & People with Disabilities (SPD) Home and Community Based Waiver;

(g) That are for services or items provided to a client who is in the custody of a law enforcement agency or an inmate of a nonmedical public institution, including juveniles in detention facilities, except such services as designated by federal statute or regulation as permissible for coverage under the Medical Assistance Program;

(h) Where the need for purchase, repair or replacement of materials or equipment is caused by adverse actions of clients to personally owned goods or equipment or to items or equipment rented or purchased by the Medical Assistance Program;

(i) That are related to a non-covered service; some exceptions are identified in the individual provider guides. If the provision of a service related to a non-covered service is determined by OMAP to be cost-effective, the related medical service may, at OMAP's discretion and with OMAP's prior authorization, be covered;

(j) Which are considered experimental or investigational or which deviate from acceptable and customary standards of medical practice or for which there is insufficient outcome data to indicate efficacy;

(k) That are identified in the provider guide appropriate Administrative Rules, including the Hospital guide, Revenue Codes Section, as not covered;

(l) That are requested by or for a client who has been determined by the Medical Assistance Program to be non-compliant with treatment and who is unlikely to benefit from additional related, identical, or similar services;

(m) That are for copying or preparing records or documents excepting those Administrative Medical Reports requested by the branch offices or OMAP for casework planning or eligibility determinations;

(n) Whose primary intent is to improve appearance;

(o) Which are similar or identical to services or items which will achieve the same purpose at a lower cost and where it is anticipated that the outcome for the client will be essentially the same;

(p) For the purpose of establishing or reestablishing fertility or pregnancy or for the treatment of sexual dysfunction, including impotence, except as specified by the Prioritized List of Health Services (OAR 410-141-0520);

(q) Items or services which are for the convenience of the client and are not medically appropriate;

(r) The collection, processing and storage of autologous blood or blood from selected donors unless a physician certifies that the use of autologous blood or blood from a selected donor is medically appropriate and surgery is scheduled;

(s) Educational or training classes which are not medically appropriate (Lamaze classes, for example);

(t) Outpatient social services except Maternity Case Management services and other social services described in the individual provider guides as covered;

(u) Plasma infusions for treatment of Multiple Sclerosis;

(v) Post-mortem exams or burial costs, or other services subsequent to the death of a client;

(w) Radial keratotomy;

ADMINISTRATIVE RULES

- (x) Recreational therapy;
- (y) Telephone calls, including but not limited to telephone conferences between physicians or between a physician or other practitioner and a client or representative of the client, except for telephone calls for the purpose of tobacco cessation counseling, as described in OAR 410-130-0190, and Maternity Case Management as described in OAR 410-130-0100;
- (z) Transsexual surgery or any related services or items;
- (aa) Weight loss programs, including, but not limited to Optifast, Nutri-system, and other similar programs. Food supplements will not be authorized for use in weight loss;
- (bb) Whole blood (whole blood is available at no cost from the Red Cross); the processing, storage and costs of administering whole blood are covered;
- (cc) Immunizations prescribed for foreign travel;
- (dd) Services which are requested or ordered but not provided (i.e., an appointment which the client fails to keep or an item of equipment which has not been provided to the client);
- (ee) DUII-related services already covered by the Intoxicated Driver Program Fund as directed by ORS 813.270(1) and (5);
- (ff) For transportation to meet a client's personal choice of a provider;
- (gg) Pain center evaluation and treatment.

(2) Medical Assistance Benefit Packages and the Medical Care Identification:

(a) Clients in some Medical Assistance Program categories have limited benefits. These limitations or exclusions are in addition to those limitations or exclusions described in these General Rules and in the individual provider guide. The Benefit Package Messages on the Medical Care Identification describe the "package" of medical benefits. Benefit Packages are as follows:

- (A) Plus Benefit Package;
- (B) Standard Benefit Package;
- (C) Limited Medicaid;
- (D) QMB — Qualified Medicare Beneficiary;
- (E) QMB — Qualified Medicare Beneficiary + Plus Benefit Package;
- (F) QMB — Qualified Medicare Beneficiary + Limited Medicaid;
- (G) CAWEM — Citizen/Alien-Waived Emergency Medical;
- (H) Other client populations with restricted or limited services.

(b) Additional limitations by Benefit Package Title and program category are as follows:

(A) Plus Benefit Package:

- (i) Service coverage for clients with this Package is based on the Prioritized List of Health Services;
- (ii) Ancillary services, (see OAR 410-141-0480);
- (iii) Chemical dependency services provided through local alcohol/drug treatment providers;
- (iv) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors.

(B) Standard Benefit Package:

(i) Service coverage for clients with this package is based on the Prioritized List of Health Services. Cost sharing and benefits limitations may apply to some covered services.

(ii) Ancillary services (see OAR 410-141-0480);

(v) The following services are not covered under the Standard Benefit Package:

- (I) Non-Emergency medical transportation;
- (II) Vision (frames, contacts, corrective devices, eye exams for the purpose of prescribing glasses/contacts);
- (III) Durable Medical Equipment and Supplies;
- (IV) Dental;
- (V) Outpatient Chemical Dependency;
- (VI) Outpatient Mental Health;
- (VII) Pharmaceutical/Prescription drugs;
- (VIII) For other limitations, refer to OMAP provider guides.

(C) Limited Medicaid. These clients are Medically Needy clients.

These clients receive:

- (i) Prescription drugs provided through a retail pharmacy or state contracted mail order pharmacy;
- (ii) Chemical dependency services through a local alcohol/drug treatment provider;
- (iii) Medical Transportation to services covered by medical assistance;
- (iv) Over-the-counter drugs;

(v) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs, or their subcontractors;

(D) QMB — Qualified Medicare Beneficiary:

(i) QMB clients are Medicare beneficiaries who have limited income but do not meet the income standard for full Medical Assistance Program coverage. QMB clients have coverage through Medicare Part A and B for most covered services. The Medical Assistance Program provides coverage only for those services which are also covered by Medicare;

(ii) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of the coinsurance and deductible, but no more than the Medicare allowable;

(iii) QMB clients may be billed by the provider for services which are not covered by Medicare. QMB clients may not be billed by the provider for the deductible and coinsurance amounts due for services which are covered by Medicare.

(E) QMB — Qualified Medicare Plus Benefit Package: These clients are Medicare beneficiaries. Their coverage includes:

(i) Any service covered by Medicare; and

(ii) Service coverage based on the Prioritized List of Health Services (OAR 410-141-0520);

(iii) Mental health services;

(iv) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible;

(v) Chemical dependency services provided through a local alcohol/drug treatment provider.

(F) QMB — Qualified Medicare + Limited Medicaid: These are also Qualified Medicare clients who are in the Medically Needy Program. Their coverage includes:

(i) All services covered by Medicare;

(ii) Prescription drugs through a retail pharmacy or state contracted mail order pharmacy;

(iii) Chemical dependency services provided through a local alcohol/drug treatment provider;

(iv) Medical transportation to services covered by the Medical Assistance Program;

(v) Mental Health Services based on the Prioritized List of Health Services and provided through Community Mental Health Programs or their subcontractors.

(G) Citizen/alien-waived Emergency Medical Assistance (CAWEM):

(i) The client receives a Medical Care Identification, which indicates coverage, and is limited to emergency medical needs or labor and delivery services;

(ii) Emergency medical services are covered when a client eligible under the CAWEM program has, after sudden onset, a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunctions of any bodily organ or part. There may be other limitations depending on the eligibility category to which the client is assigned;

(iii) The following services are Not Covered for CAWEMS: Prenatal or postpartum care; sterilization, family planning, preventive care, transplants or transplant related services, chemotherapy, hospice, home health, private duty nursing, dialysis, dental services provided outside of an emergency room/hospital setting, outpatient drugs or over-the-counter products, non-emergency medical transportation, therapy services, durable medical equipment and medical supplies, or rehab services.

(H) Other client populations with restricted or limited services:

(i) Fully Capitated Health Plans and Dental Care Organization Members:

(I) These clients are enrolled in a Prepaid Health Plan for their medical and dental care;

(II) Most non-emergency services are obtained from the Prepaid Health Plan or require a referral from the Prepaid Health Plan that is responsible for the provision and reimbursement for the medical or dental service;

(III) The name and phone number of the Plan appears on the Medical Care Identification.

(ii) Primary Care Case Managers:

(I) These clients are enrolled with a Primary Care Case Manager for their medical care;

(II) Most non-emergency services provided to clients enrolled with a Primary Care Case Manager (PCCM) require referral from the PCCM.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

ADMINISTRATIVE RULES

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76, Renumbered from 461-013-0030; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 103-1982, f. & ef. 11-1-82; AFS 15-1983(Temp), f. & ef. 4-20-83; AFS 31-1983(Temp), f. 6-30-83, ef. 7-1-83; AFS 43-1983, f. 9-2-83, ef. 10-1-83; AFS 61-1983, f. 12-19-83, ef. 1-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 78-1986(Temp), f. 12-16-86, ef. 1-1-87; AFS 10-1987, f. 2-27-87, ef. 3-1-87; AFS 29-1987(Temp), f. 7-15-87, ef. 7-17-87; AFS 54-1987, f. 10-29-87, ef. 11-1-87; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 53-1988(Temp), f. 8-23-88, cert. ef. 9-1-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 70-1988, f. & cert. ef. 12-7-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0055; 461-013-0103, 461-013-0109 & 461-013-0112; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 23-1990(Temp), f. & cert. ef. 7-20-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 27-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0420, 410-120-0460 & 410-120-0480; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 6-1996, f. 5-31-96 & cert. ef. 6-1-96; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 12-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 22-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 8-2003, f. 2-28-03, cert. ef. 3-1-03

Adm. Order No.: OMAP 9-2003

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 2-1-03

Rules Amended: 410-121-0140

Rules Repealed: 410-121-0153

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Due to DHS budget shortfall, and the failure to pass the January 2003 tax package generated by HB 5100 from a 2002 Legislative Special Session, Rule 410-121-0153 is repealed to remove prescription drug coverage for the Standard Benefit Package. Rule 410-121-0140 is amended to correct the definition for "Community Based Waiver."

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0140

Definition of Terms

(1) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment.

(2) Automated Information System (AIS): A computer system which provides on-line Medicaid eligibility information. Accessed through the provider's touch-tone telephone. The AIS is accessed by dialing 1-800-522-2508.

(3) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(4) Community Based Waiver — Clients eligible through Seniors and People with Disabilities' waiver may receive services in a community setting rather than a nursing facility. The community based setting may be any one of the following:

- (a) Supported Living Facilities;
- (b) 24-Hour Residential Services;
- (c) Foster Care;
- (d) Semi-independent Living and Residential Care Facilities.

(5) Compounded Prescriptions: A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient which must be a compensable item or a legend drug in a therapeutic amount. Compounded prescription is further defined to include the Board of Pharmacy definition of Compounding.

(6) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist.

(7) Drug Order/Prescription:

(a) A written prescription, dated and signed by the prescribing practitioner, the elapsed time between the date of writing and date of filling must be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required, or;

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner, or;

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-six percent of Average Wholesale Price (AWP) of the drug;

(b) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(c) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

(i) Each nursing facility or community based living facility patient's medication be delivered a minimum of five days weekly, or delivery of medical carts every other day with daily (seven-days-a-week) service available;

(ii) Only the actual number of drug units used by the client during the billing period can be billed to OMAP;

(iii) Resumption of the same medication after a "stop order" or discontinuance ("DC") order constitutes a new prescription;

(iv) The closing date for the monthly billing period shall remain the same for all clients;

(v) Small quantity prescriptions are allowed only when the closing date for the monthly billing period is interrupted, e.g., hospitalization, new patient admit, etc.

(B) Modified Unit Dose. A Modified Unit Dose Delivery System requires that:

(i) A pharmacy must deliver each nursing facility or community based living facility client's medication in a sealed single-or multi-dose packages;

(ii) A pharmacy must dispense the greater of the quantity prescribed or a 30-day supply, except when short-term therapy is specified by the prescriber;

(iii) Only the actual number of drug units used by the client during the monthly billing period or during the prescribed medication period can be billed to OMAP;

ADMINISTRATIVE RULES

(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

Adm. Order No.: OMAP 10-2003

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 2-28-03

Notice Publication Date: 1-1-03

Rules Amended: 410-121-0300

Rules Repealed: 410-121-0300(T)

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Program (OMAP) payments for pharmaceutical products provided to clients. Rule 410-121-0300 is permanently amended to update the Centers for Medicare and Medicaid Services (CMS) Upper Limits for Drug Payments list in compliance with federal regulations. This is the permanent filing for OMAP 71(T).

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/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, dated November 4, 2002, effective December 1, 2002 and is available for downloading on OMAP's Website, (<http://www.omap.hr.state.or.us/providerinfo/provguides/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. & cert. ef. 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

Adm. Order No.: OMAP 11-2003(Temp)

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03 thru 8-15-03

Notice Publication Date:

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 03-01, changes to be effective March 11, 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/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 03-01, with changes to be effective March 11, 2003, and is available for downloading on OMAP's Website, (<http://www.omap.hr.state.or.us/providerinfo/provguides/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-

ADMINISTRATIVE RULES

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

Adm. Order No.: OMAP 12-2003
Filed with Sec. of State: 2-28-2003
Certified to be Effective: 3-1-03
Notice Publication Date: 2-1-03
Rules Repealed: 410-122-0701

Subject: The Durable Medical Equipment and Medical Supplies administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-122-0701 was adopted effective February 1, 2003. Due to action of the November 2002 Emergency Board mandating the elimination of DME products and supplies from the Standard Benefit Package, this rule is repealed, effective March 1, 2003.

Rules Coordinator: Darlene Nelson—(503) 945-6927

Adm. Order No.: OMAP 13-2003
Filed with Sec. of State: 2-28-2003
Certified to be Effective: 3-1-03
Notice Publication Date: 12-1-02, 2-1-03

Rules Amended: 410-125-0141, 410-125-0181, 410-125-0195
Subject: The Hospital Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rules 410-125-0141, 410-125-0181 and 410-125-0195 are amended to allow the state flexibility in setting hospital reimbursement rates. 410-125-0141 also changes outlier payment eligibility criteria. These changes are needed to implement the hospital reimbursement reductions identified in the DHS December 2002 budget reductions.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0141

DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign individual claims to a DRG category. Medicare revises the Grouper program each year in October. OMAP uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, OMAP may modify the logic of the grouper program. OMAP will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. OMAP DRG weight tables can be found at web site www.omap.hr.state.or.us/provguides/hospital.

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, OMAP establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, OMAP uses the following methodology: Using the formula $N = \frac{Z}{R} \times S$ where $Z = 1.15$ (a 75% confidence level), S is the standard deviation, and $R = 10\%$ of the mean. OMAP determines the minimum number of claims required to set a stable weight for each DRG (N must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, OMAP sets a relative weight using:

(A) OMAP non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the OMAP Title XIX caseload.

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the OMAP Title XIX population in that DRG, the weight derived from OMAP Title XIX claims history is used instead of the externally-derived weight for that DRG.

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State-specific relative weights shall be adjusted, as needed, as determined by OMAP (www.omap.hr.state.or.us/provguides/hospital). When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighting of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Indexed: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Operating Costs:

(a) For the purposes of determining costs for all hospitals except for Type A, Type B, and Critical Access Hospitals, costs are defined as costs derived from the Medicare cost reports for the hospital FY ending during the State FY 87 (July 1, 1986 through June 30, 1987) adjusted to the Medicaid mix of services and trended forward using Data Resources Inc. (DRI) inflation factors;

(b) For the purposes of determining each hospital's unit value for services beginning July 1, 1991, the following procedure was used:

(A) The Medicaid cost per discharge was derived from each hospital's Medicare cost report as described above, and adjusted to the Medicaid mix of services. The costs of capital and direct and indirect medical education were deducted from this amount (capital and education costs were taken from the Medicare cost report for the hospital's fiscal year ending during the State 1987 Fiscal Year). The resultant amount is referred to as the "operating cost" per discharge;

(B) The operating cost per discharge as described in (5)(A) of this rule (Operating Costs) for each hospital was adjusted in order to bring all hospitals to the same 1987 mid-point, using HCFA-DRI inflation adjustments. The operating cost was then inflated forward to the mid-point of Oregon Fiscal Year 1992 (January, 1992) using the compounded HCFA-DRI inflation factor.

(6) Unit Value: The Unit Value for each hospital effective for services beginning on or after July 1, 1991, was established as follows:

(a) The Oregon Fiscal Year 1992 operating cost per discharge was multiplied by the ratio of the projected 1992 CMI to the 1987 CMI to adjust for changes in the CMI between 1987 and the CMI for 1992;

(b) The CMI-trend adjusted cost per discharge is divided by the hospital's projected 1992 CMI in order to compare all hospitals as though they had a CMI of 1.0;

(c) All hospitals, including Type A, Type B, and Critical Access hospitals, are ranked by their CMI adjusted cost per discharge;

(d) Each hospital below the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to its CMI adjusted operating costs per discharge described in (5), Operating Costs. This preliminary FY 1992 Unit Value is reduced by the cost outlier payments which had been projected for FY 1992 (the projections which were the basis for the FY 1992 prospective rates). This preliminary unit value is further reduced by 2.45% to get the Final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(e) Each hospital at or above the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to the Preliminary Unit Value of the hospital at the 70th percentile. This Preliminary FY 1992 Unit Value is adjusted downwards as required in order that the outlier payments which had been projected for FY 1992 combined with the Operational Payment will not exceed the hospital's FY 1992 Operating Cost per Discharge as described in (5), of this rule. This preliminary unit value is further reduced by 2.45% to get the final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(f) For services beginning on or after October 1, 1996 the Unit Values for each hospital shall be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(g) Effective for services provided on or after March 1, 2003, the Unit Value for DRG hospitals will be determined according to subsection (6)(f). In state fiscal years(s) when a budget deficit or surplus has been identified,

ADMINISTRATIVE RULES

the Department of Human Services, as informed by the Legislative Assembly, Emergency Board, or the Department of Administrative Services, will determine the aggregate reduction or increase required to adjust the Unit Value. The adjustment percentage will be determined by dividing the aggregate reduction or increase by the current hospital budget. The current Unit Value for each hospital will then be multiplied by the adjustment percentage to determine the net amount of decrease or increase in the hospital's current Unit Value. This will be applied to each hospital's current Unit Value to determine the new Unit Value for the individual hospital. The Department, in accordance with 42 CFR 447.205, will make public notice of changes whenever a Unit Value adjustment is made under the provision of this subsection.

(7) DRG Payment: The DRG payment to each hospital is calculated by multiplying the Relative Weight for the DRG by the Hospital-Specific Unit Value. This is also referred to as the Operational Payment.

(8) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to disproportionate share qualifying hospitals. Effective March 1, 2003 payment will be made at the time a claim is processed for exceptionally costly or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients under one (1) year of age in compliance with Sec. 1923 (42 U.S.C. 1396r-6);

(b) Effective for services beginning on or after July 1, 1991, the calculation to determine the cost outlier payment for all hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital's cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid case load;

(C) If the hospital's net costs as determined above are greater than 300 percent of the DRG payment for the admission and are greater than \$25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold (\$25,000 or 300% of the DRG payment, whichever is greater) are reimbursed using the following formula:

- (i) Billed charges less non-covered charges, times;
- (ii) Hospital-specific cost-to-charge ratio, equals;
- (iii) Net Costs, minus;
- (iv) 300% of the DRG or \$25,000 (whichever is greater), equals;
- (v) Outlier Costs, times;
- (vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;
- (vii) Cost Outlier Payment.

(E) Third party reimbursements are deducted from the OMAP calculation of payable amount;

(F) When hospital cost reports are audited, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and OMAP 42, adjusted to reflect the Medicaid mix of services.

(9) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Capital cost per discharge is calculated as follows:

(A) The capital cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This results in the Title XIX Capital Cost per discharge. The Title XIX capital cost per discharge for each hospital above the 50th percentile will be set at the 50th percentile for Oregon hospitals receiving DRG reimbursement;

(B) The Title XIX Capital Cost per discharge for this period is inflated forward to Oregon FY 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Capital Payment Per Discharge:

(A) The number of Title XIX discharges paid during the quarter for each hospital is multiplied by the Title XIX cost per discharge from 1987 trended forward as described above. This determines the current quarter's capital costs. Reimbursement is made at 85% of this amount. Payment is made within thirty days of the end of the quarter;

(B) The capital payment per discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(10) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the delivery of services to Title XIX eligible persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct Medical Education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This is the Title XIX Direct Medical Education Cost per discharge;

(B) The Title XIX Direct Medical Education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Direct Medical Education Payment Per Discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment Per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(11) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to in-state hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the Office of Medical Assistance Program's indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) The calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by Case Mix Index, multiplied by the Unit Value, multiplied by the Indirect Factor equals Indirect Medical Education Payment;

(e) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-15-120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-570, 461-015-0590, 461-105-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03

410-125-0181

Non-Contiguous and Contiguous Area Out-of-State Hospitals — Outpatient Services — Effective for Hospital Services Provided On or After July 1, 1991

Non-contiguous area hospitals are out-of-state hospitals located more than 75 miles outside the Oregon border. Contiguous area hospitals are out-of-state hospitals located less than 75 miles outside the Oregon border.

ADMINISTRATIVE RULES

Unless such hospitals have an agreement with OMAP regarding reimbursement for specialized services, these hospitals will be reimbursed as follows:

(1) Laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services will be reimbursed under an OMAP fee schedule.

(2) All other outpatient services will be reimbursed at 50 percent of billed charges. Effective March 1, 2003, in state fiscal years when the Department of Human Services, as informed by the Legislative Assembly, Emergency Board, or the Department of Administrative Services, will determine the aggregate reduction or increase required to meet projected budget. The adjustment percentage will be determined by dividing the aggregate reduction or increase by the current outpatient hospital budget resulting in an adjustment percentage. The current reimbursement percentage will then be multiplied by the adjustment percentage to determine the net percentage. This net percentage will be applied to each hospital's current reimbursement percentage to determine the new reimbursement percentage for the out-of-state hospital. There is no cost settlement.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03

410-125-0195

Other Hospitals

Oregon hospitals, which are reimbursed on the DRG methodology for inpatient services, are reimbursed for outpatient services under a cost-based methodology. An interim payment for laboratory, pathology, nuclear medicine, radiology and other imaging services, and maternity case management services is the lesser of billed charges or the OMAP fee schedule. The interim reimbursement for all other outpatient services is made by applying the cost-to-charge ratio, derived from the Medicare cost report, to billed charges. A cost settlement based on the most recent finalized Medicare cost report is then applied to Medicaid covered charges billed and paid for the cost reporting year. The final reimbursement for each DRG hospital is then calculated applying an administrative established percentage to the costs. This calculation results in these hospitals receiving less than 100% of cost.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540 & 461-015-0550; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780 & 410-125-0800; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03

Adm. Order No.: OMAP 14-2003

Filed with Sec. of State: 2-28-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 1-1-03

Rules Amended: 410-141-0000, 410-141-0520

Subject: Administrative Rules govern Office of Medical Assistance Programs payment for health services provided to eligible clients. Rule 410-141-0000 is revised to add the words "chemical dependency" to a definition and to do other necessary housekeeping

changes. 410-141-0520 is revised to reflect the removal of chemical dependency services from the Standard Benefit package.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0000

Definitions

(1) Administrative Hearing — A hearing related to a denial, reduction, or termination of benefits which is held when requested by the OHP Client or OMAP Member. A hearing may also be held when requested by an OHP Client or OMAP Member who believes a claim for services was not acted upon with reasonable promptness or believes the payor took an action erroneously.

(2) Advance Directive — A form that allows a person to have another person make health care decisions when he/she cannot make the decision and tells a doctor that the person does not want any life sustaining help if he/she is near death.

(3) Aged — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of medical assistance because of age.

(4) Americans with Disabilities Act (ADA) — Federal law promoting the civil rights of persons with disabilities. The ADA requires that reasonable accommodations be made in employment, service delivery, and facility accessibility.

(5) Alternative Care Settings — Sites or groups of practitioners which provide care to OMAP Members under contract with the PHP. Alternative Care Settings include but are not limited to urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, outpatient surgicenters.

(6) Ancillary Services — Those medical services under the Oregon Health Plan not identified in the definition of a Condition/Treatment Pair under the OHP Benefit Package, but Medically Appropriate to support a service covered under the OHP benefit package. A list of ancillary services and limitations is identified in OAR 410-141-0520, Prioritized List of Health Services, or specified in the Ancillary Services Criteria Guide.

(7) Automated Information System (AIS) — A computer system that provides information on the current eligibility status for clients under the Medical Assistance Program.

(8) Blind — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of medical assistance because of a condition or disease that causes or has caused blindness.

(9) Capitated Services — Those services that a PHP or Primary Care Case Manager agrees to provide for a Capitation Payment under an OMAP Oregon Health Plan contract.

(10) Capitation Payment — Monthly prepayment to a PHP for the provision of all Capitated Services needed by OHP Clients who are enrolled with the PHP. Monthly prepayment to a Primary Care Case Manager to provide Primary Care Case Management Services for an OHP Client who is enrolled with the PCCM. Payment is made on a per client, per month basis.

(11) Centers for Medicare and Medicaid Services (CMS). The federal agency under the Department of Health and Human Services, responsible for approving the waiver request to operate the Oregon Health Plan Medicaid Demonstration Project.

(12) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(13) Chemical Dependency Organization (CDO) — A Prepaid Health Plan that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as Capitated Services under the Oregon Health Plan. All chemical dependency services covered under the Oregon Health Plan are covered as Capitated Services by the CDO.

(14) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(15) Children's Health Insurance Program (CHIP) — A Federal and State funded portion of the Medical Assistance Program established by Title XXI of the Social Security Act and administered in Oregon by the Department of Human Services, Office of Medical Assistance Programs (see Medical Assistance).

ADMINISTRATIVE RULES

(16) Children Receiving CAFor OYA Services — Individuals who are receiving medical assistance under ORS 414.025(2)(f), (i), (j), (k) and (o), 418.034, and 418.187 to 418.970. These individuals are generally children in the care and/or custody of Children, Adults and Families Services, Department of Human Services or Oregon Youth Authority who are in placement outside of their homes.

(17) Clinical Record — The Clinical Record includes the medical, dental, or mental health records of an OHP Client or OMAP Member. These records include the PCP's record, the inpatient and outpatient hospital records and the ENCC, Complaint and Disenrollment for Cause records which may reside in the PHP's administrative offices.

(18) Comfort Care — The provision of medical services or items that give comfort and/or pain relief to an individual who has a Terminal Illness. Comfort care includes the combination of medical and related services designed to make it possible for an individual with Terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness. Comfort Care includes but is not limited to care provided through a hospice program (see Hospice Guide), pain medication, and palliative services including those services directed toward ameliorating symptoms of pain or loss of bodily function or to prevent additional pain or disability. Comfort Care includes nutrition, hydration and medication for disabled infants with life-threatening conditions that are not covered under Condition/Treatment Pairs. These guarantees are provided pursuant to 45 CFR, Chapter XIII, 1340.15. Where applicable Comfort Care is provided consistent with Section 4751 OBRA 1990 — Patient Self-Determination Act and ORS 127 relating to health care decisions as amended by the Sixty-Seventh Oregon Legislative Assembly, 1993. Comfort Care does not include diagnostic or curative care for the primary illness or care focused on active treatment of the primary illness and intended to prolong life.

(19) Community Mental Health Program (CMHP) — The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Mental Health and Developmental Disability Services Division.

(20) Comorbid Condition — A medical condition/diagnosis (i.e., illness, disease and/or disability) coexisting with one or more other current and existing conditions/diagnoses in the same patient. See OAR 410-141-0480(7).

(21) Complaint — An OMAP Member's, a PCCM Member's, or a Member's Representative's clear expression of dissatisfaction with the Prepaid Health Plan or the Primary Care Case Manager which addresses issues that are part of the Prepaid Health Plan or Primary Care Case Manager contractual responsibility. The expression may be in whatever form of communication or language that is used by the Member or the Member's Representative but must state the reason for the dissatisfaction.

(22) Community Standard — Typical expectations for access to the health care delivery system in the OMAP Member's or PCCM Member's community of residence. Except where the Community Standard is less than sufficient to ensure quality of care, OMAP requires that the health care delivery system available to OMAP Members in Prepaid Health Plans and to PCCM Members with Primary Care Case Managers take into consideration the Community Standard and be adequate to meet the needs of OMAP and PCCM Members.

(23) Condition/Treatment Pair — Diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9 CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or Mental Health and Developmental Services Division Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Services Commission, constitute the line items in the Prioritized List of Health Services. Condition/Treatment Pairs may contain many diagnoses and treatments. The Condition/Treatment Pairs are listed in OAR 410-141-0520, Prioritized List of Health Services.

(24) Continuing Treatment Benefit — A benefit for OHP Clients who meet criteria for having services covered that were either in a course of treatment or were scheduled for treatment on the day immediately prior to the date of conversion to the OHP Benefit Package of Covered Services and that treatment is not covered under the OHP Benefit Package of Covered Services.

(25) Copayment — The portion of a Covered Service that an OMAP Member must pay to a provider or a facility. This is usually a fixed amount that is paid at the time one or more services are rendered.

(26) Contract — The contract between the State of Oregon, acting by and through its Department of Human Services, Office of Medical Assistance Programs (OMAP) and a Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), or a Chemical Dependency Organization (CDO), or 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.

(27) Dentally Appropriate — Services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the Oregon Health Plan Member or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to an OMAP Member.

(28) \$500 Dental Benefit Calculation — Based on the OMAP Standard composite dental fee schedule, less copayments and TPR for Covered Services.

(29) \$500 Dental Benefit Period — Two periods from January 1 through June 30 and July 1 through December 31, regardless of the time frames of an eligibility period. The \$500 Benefit does not carry from one Benefit Period to another.

(30) Dental Care Organization (DCO) — A Prepaid Health Plan that provides and coordinates capitated dental services. All dental services covered under the Oregon Health Plan are covered as Capitated Services by the DCO; no dental services are paid by OMAP on a fee-for-service basis for Oregon Health Plan Clients enrolled with a DCO provider.

(31) Dental Case Management Services — Services provided to ensure that 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.

(32) Dental Emergency Services — Dental services may include but are not limited to severe tooth pain, unusual swelling of the face or gums, and an avulsed tooth.

(33) Dental Practitioner — A practitioner who provides dental services to OMAP Members under an agreement with a DCO, or is a Fee-For-Service Health Care Practitioner. Dental practitioners are licensed and/or certified by the state in which they practice, as applicable, to provide services within a defined scope of practice.

(34) Department of Human Services (DHS) — The Department comprised of seven divisions and three major program offices: Administrative Services; Community Human Services; Continuous System Improvement; Finance and Policy Analysis; Children, Adults and Families; Health Services and Seniors and People with Disabilities; and within Health Services, the programs include the Office of Medical Assistance Programs and Mental Health and Addiction Services, as well as the Office of Vocational Rehabilitation Services within Community Human Services.

(35) Diagnostic Services — Those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(36) Disabled — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of Medical Assistance because of a disability.

(37) Disenrollment — The act of discharging an Oregon Health Plan Client from a Prepaid Health Plan's or Primary Care Case Manager's responsibility. After the effective date of Disenrollment an Oregon Health Plan Client is no longer required to obtain Capitated Services from the Prepaid Health Plan or Primary Care Case Manager, nor be referred by the Prepaid Health Plan for Medical Case Managed Services or by the Primary Care Case Manager for PCCM Case Managed Services.

(38) Dual Eligible — OHP Clients who are receiving both Medicaid and Medicare benefits.

(39) Emergency Services — The health care and services provided for diagnosis and treatment of a medical condition manifesting itself by acute 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.

ADMINISTRATIVE RULES

ardly, 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, with reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(40) Enrollment — Oregon Health Plan Clients, subject to OAR 410-141-0060 — Oregon Health Plan Managed Care Enrollment Requirements, become OMAP Members of a Prepaid Health Plan or PCCM Members of a Primary Care Case Manager that contracts with OMAP to provide Capitated Services. An OHP Client's Enrollment with a PHP indicates that the OMAP Member must obtain or be referred by the PHP for all Capitated Services and referred by the PHP for all Medical Case Managed Services subsequent to the effective date of Enrollment. An Oregon Health Plan Client's Enrollment with a Primary Care Case Manager indicates that the PCCM Member must obtain or be referred by the Primary Care Case Manager for preventive and primary care and referred by the Primary Care Case Manager for all PCCM Case Managed Services subsequent to the effective date of Enrollment.

(41) Enrollment Area — Client enrollment is based on the client's residential address and zip code. The address is automatically assigned a county code or Federal Information Processing Standard (FIPS) code by the system which indicates to the DHS worker which Plan(s) are in the area.

(42) Enrollment Year — A twelve month period beginning the first day of the month of Enrollment of the Oregon Health Plan Client in a PHP and, for any subsequent year(s) of continuous Enrollment, beginning that same day in each such year(s). The Enrollment Year of Oregon Health Plan Clients who re-enroll within a calendar month of Disenrollment shall be counted as if there were no break in Enrollment.

(43) End Stage Renal Disease (ESRD) — End stage renal disease is defined as that stage of kidney impairment that appears irreversible and requires a regular course of dialysis or kidney transplantation to maintain life. In general, 5% or less of normal kidney function remains. If the person is 36 or more months post-transplant, the individual is no longer considered to have ESRD.

(44) Exceptional Needs Care Coordination (ENCC) — A specialized case management service provided by Fully Capitated Health Plans to OMAP Members who are Aged, Blind or Disabled, consistent with OAR 410-141-0405, Oregon Health Plan Prepaid Health Plan Exceptional Needs Care Coordination (ENCC). ENCC includes:

(a) Early identification of those Aged, Blind or Disabled OMAP Members that have disabilities or complex medical needs;

(b) Assistance to ensure timely access to providers and Capitated Services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of Capitated Services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(45) Family Health Insurance Assistance Program (FHIAP) — A program in which the State subsidizes premiums in the commercial market for uninsured individuals and families with income below 185% of the FPL. FHIAP is funded with federal and states funds through either Title XIX, XXI or both.

(46) Family Planning Services — Services for clients of childbearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(47) Fee-for-Service Health Care Providers — Health care providers who bill for each service provided and are paid by OMAP for services as described in OMAP provider guides. Certain services are covered but are not provided by Prepaid Health Plans or by Primary Care Case Managers. The client may seek such services from an appropriate Fee-For-Service provider. Primary Care Case Managers provide primary care services on a fee-for-service basis and might also refer PCCM Members to specialists and other providers for fee-for-service care. In some parts of the state, the State may not enter into contracts with any managed care providers. OHP Clients in these areas will receive all services from Fee-For-Service providers.

(48) Free-Standing Mental Health Organization (MHO) — The single MHO in each county that provides only mental health services and is not affiliated with a Fully Capitated Health Plan for that service area. In most cases this "carve-out" MHO is a county Community Mental Health

Program or a consortium of Community Mental Health Programs, but may be a private behavioral health care company.

(49) Fully Capitated Health Plan (FCHP) — Prepaid Health Plans that contract with OMAP to provide capitated services under the Oregon Health Plan. The distinguishing characteristic of FCHPs is the coverage of hospital inpatient services.

(50) Health Care Professionals — Persons with current and appropriate licensure, certification, or accreditation in a medical, mental health or dental profession, which include but are not limited to: Medical Doctors (including Psychiatrists), Dentists, Osteopathic Physicians, Psychologists, Registered Nurses, Nurse Practitioners, Licensed Practical Nurses, Certified Medical Assistants, Licensed Physicians Assistants, Qualified Mental Health Professionals (QMHPs), and Qualified Mental Health Associates (QMHAAs), Dental Hygienists, Denturists, and Certified Dental Assistants. These professionals may conduct health, mental health or dental assessments of OMAP members and provide Screening Services to OHP Clients within their scope of practice, licensure or certification.

(51) Health Insurance Portability and Accountability Act (HIPAA) of 1996 — HIPAA is a federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(52) Health Management Unit (HMU) — The OMAP unit responsible for adjustments to enrollments, retroactive disenrollment and enrollment of newborns.

(53) Health Plan New/Noncategorical Client (HPN) — A person who is 19 years of age or older, is not pregnant, is not receiving Medicaid through another program and who must meet eligibility requirements in OAR 461-136-1100(2), in addition to all other OHP eligibility requirements to become an Oregon Health Plan Client.

(54) Health Services Commission — An eleven member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be served.

(55) Hospice Services — A public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified for Medicare and/or accredited by the Oregon Hospice Association, is listed in the Hospice Program Registry, and has a valid provider agreement.

(56) Hospital Hold — A hospital hold is a process that allows a hospital to assist an individual who is admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the Oregon Health Plan due to inpatient hospitalization. OHP clients shall be exempted from mandatory enrollment with an FCHP, if clients become eligible through a hospital hold process and are placed in the Adults/Couples category.

(57) Line Items — Condition/Treatment Pairs or categories of services included at specific lines in the Prioritized List of Services developed by the Health Services Commission for the Oregon Health Plan Medicaid Demonstration Project.

(58) Local and Regional Allied Agencies — Local and Regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; local offices of DHS agencies (CAFS, SPD); Commission on Children and Families; OYA; Department of Corrections; Housing Authorities; local health departments, including WIC Programs; local schools; special education programs; law enforcement agencies; adult and juvenile criminal justices; developmental disability services; chemical dependency providers; residential providers; state hospitals, and other PHPs.

(59) Medicaid — A federal and state funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, and administered in Oregon by the Department of Human Services.

(60) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon's Medical Assistance Program includes Medicaid services including the OHP Medicaid Demonstration, and the Children's Health Insurance Program (CHIP). The Medical Assistance Program is administered by identified Divisions and the Office of Medical Assistance Programs (OMAP), of the Department of 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.

ADMINISTRATIVE RULES

(62) Medical Case Management Services — Medical Case Management Services are services provided to ensure that OMAP Members obtain health care services necessary to maintain physical and emotional development and health. Medical Case Management Services include a comprehensive, ongoing assessment of medical and/or dental needs plus the development and implementation of a plan to obtain needed medical or dental services that are Capitated Services or non-capitated services, and follow-up, as appropriate, to assess the impact of care.

(63) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan Client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of Medical services or medical supplies that can be safely provided to an OMAP Member or PCCM Member in the PHP's or Primary Care Case Manager's judgment.

(64) Medicare — The federal health insurance program for the aged and disabled administered by the Health Care Financing Administration under Title XVIII of the Social Security Act.

(65) Medicare HMO — A capitated health plan that meets specific referral guidelines and contracts with CMS to provide Medicare benefits to Medicare enrollees.

(66) Mental Health Assessment — The determination of an OMAP Member's need for mental health services. A Qualified Mental Health Professional collects and evaluates data pertinent to a Member's mental status, psychosocial history and current problems through interview, observation and testing.

(67) Mental Health Case Management — Services provided to OMAP Members who require assistance to ensure access to benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the OMAP Member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring OMAP Members to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services. ENCC Services are separate and distinct from Mental Health Case Management.

(68) Mental Health Organization (MHO) — A Prepaid Health Plan under contract with the Office of Mental Health and Addiction Services that provides mental health services as capitated services under the Oregon Health Plan. MHOs can be Fully Capitated Health Plans, community mental health programs or private behavioral organizations or combinations thereof.

(69) Non-Capitated Services — Those OHP-covered services which are paid for on a fee-for-service basis and for which a capitation payment has not been made to a PHP.

(70) Non Covered Services — Services or items for which the Medical Assistance Program is not responsible for payment. Services may be covered under the Oregon Medical Assistance Program, but not covered under the Oregon Health Plan. Non-Covered Services for the Oregon Health Plan are identified in:

(a) OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients;

(b) Exclusions and limitations described in OAR 410-120-1200; and

(c) The individual provider guides.

(71) Non-Participating Provider — A provider who does not have a contractual relationship with the Prepaid Health Plan, i.e. is not on their panel of providers.

(72) Office of Medical Assistance Programs (OMAP) — The Office of the Department of Human Services responsible for coordinating Medical Assistance Programs, including the OHP Medicaid Demonstration, in Oregon and the Children's Health Insurance Program (CHIP). OMAP writes and administers the state Medicaid rules for medical services, 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 a DHS Division to receive services under the Oregon Health Plan. The individual might or might not be enrolled in a Prepaid Health Plan or with a Primary Care Case Manager. The OHP categories eligible to enroll in Prepaid Health Plans are defined as follows:

(a) Aid to Families with Dependent Children (AFDC) are categorical eligibles with income under current eligibility rules;

(b) Children's Health Insurance Program (CHIP) — children under one year of age who have income under 170% FPL and do not meet one of the other eligibility classifications;

(c) PLM (Poverty Level Medical) Adults under 100% Federal Poverty Level (FPL) are OHP recipients who are pregnant women with income under 100% of FPL;

(d) PLM Adults over 100% FPL are OHP recipients who are pregnant women with income between 100% and 170% of the FPL;

(e) PLM children under one year of age have family income under 133% FPL or were born to mothers who were eligible as PLM Adults at the time of the child's birth;

(f) PLM or CHIP children one through five years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(g) PLM or CHIP children six through eighteen years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(h) OHP Adults and Couples are OHP recipients aged 19 or over and not Medicare eligible, with income below 100% FPL who do not meet one of the other eligibility classifications, and do not have an unborn child or a child under age 19 in the household;

(i) OHP Families are OHP recipients, aged 19 or over and not Medicare eligible, with income below 100% of FPL who do not meet one of the other eligibility classifications, and 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;

ADMINISTRATIVE 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, or mental health services or items who have agreed to provide those services or items and to bill in accordance with a signed agreement with a PHP.

(82) PCCM Case Managed Services — PCCM Case Managed Services include the following: Preventive Services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics and Tribal Health Clinics, Community Mental Health Programs, Mental Health Organizations; inpatient hospital services; and outpatient hospital services except laboratory, X-ray, and maternity management services.

(83) PCCM Member — An Oregon Health Plan Client enrolled with a Primary Care Case Manager.

(84) Post Hospital Extended Care Benefit — A 20 day benefit for non-Medicare OMAP Members enrolled in a FCHP who meet Medicare criteria for a post-hospital skilled nursing placement.

(85) Practitioner — A person licensed pursuant to State law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(86) Prepaid Health Plan (PHP) — A managed health, dental, 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).

(87) Preventive Services — Those services as defined under Expanded Definition of Preventive Services for Oregon Health Plan clients in OAR 410-141-0480, The Oregon Health Plan Benefit Package of Covered Services, and OAR 410-141-0520, Prioritized List of Health Services.

(88) Primary Care Case Management Services — Primary Care Case Management Services are services provided to ensure PCCM Members obtain health care services necessary to maintain physical and emotional development and health. Primary Care Case Management Services include a comprehensive, ongoing assessment of medical needs plus the development, and implementation of a plan to obtain needed medical services that are preventive or primary care services or PCCM Case Managed Services and follow-up, as appropriate, to assess the impact of care.

(89) Primary Care Case Manager (PCCM) — A physician (MD or DO), nurse practitioner, physician assistant; or naturopath with physician backups, who agrees to provide Primary Care Case Management Services as defined in rule to PCCM Members. Primary Care Case Managers may also be hospital primary care clinics, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics or Tribal Health Clinics. The PCCM provides Primary Care Case Management Services to PCCM Members for a Capitation Payment. The PCCM provides preventive and primary care services on a fee-for-service basis.

(90) Primary Care Provider (PCP) — A practitioner who has responsibility for supervising, coordinating initial and primary care within their scope of practice for OMAP Members, Primary care providers initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medically or dental appropriate care.

(91) Prioritized List of Health Services — The listing of condition and treatment pairs developed by the Health Services Commission for the purpose of implementing the Oregon Health Plan Demonstration Project. See OAR 410-141-0520, Prioritized List of Health Services, for the listing of condition and treatment pairs.

(92) Proof of Indian Heritage — Proof of Native American and/or Alaska Native descent as evidenced by written identification that shows status as an "Indian" in accordance with the Indian Health Care

Improvement Act (P.L. 94-437, as amended). This written proof supports his/her eligibility for services under programs of the Indian Health Service — services provided by Indian Health Service facilities, tribal health clinics/programs or urban clinics. Written proof may be a tribal identification card, a certificate of degree of Indian blood, or a letter from the Indian Health Service verifying eligibility for health care through programs of the Indian Health Service.

(93) Provider — An individual, facility, institution, corporate entity, or other organization which supplies medical, dental or mental health services or medical and dental items.

(94) Quality Improvement — Quality improvement is the effort to improve the level of performance of a key process or processes in health services or health care. A quality improvement program measures the level of current performance of the processes, finds ways to improve the performance and implements new and better methods for the processes. Quality Improvement (as used in these rules) includes the goals of quality assurance, quality control, quality planning and quality management in health care where "quality of care is the degree to which health services for individuals and populations increases the likelihood of desired health outcomes and are consistent with current professional knowledge."

(95) Representative — A person who can make Oregon Health Plan related decisions for Oregon Health Plan Clients who are not able to make such decisions themselves. A Representative may be, in the following order of priority, a person who is designated as the Oregon Health Plan Client's health care representative, a court-appointed guardian, a spouse, or other family member as designated by the Oregon Health Plan client, the Individual Service Plan Team (for developmentally disabled clients), a DHS case manager or other DHS designee.

(96) Rural — A geographic area 10 or more map miles from a population center of 30,000 people or less.

(97) Seniors and People with Disabilities (SPD) — The Division responsible for providing three types of services:

(a) Assistance with the cost of long-term care through the Medicaid Long Term Care Program and the Oregon Project Independence (OPI) Program;

(b) Cash assistance grants for persons with long-term disabilities through General Assistance and the Oregon Supplemental Income Program (OSIP); and

(c) Administration of the federal Older Americans Act.

(98) Service Area — The geographic area in which the PHP has identified in their Agreement to provide services under the Oregon Health Plan.

(99) Terminal Illness — An illness or injury in which death is imminent irrespective of treatment, where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death.

(100) Triage — Evaluations conducted to determine whether or not an emergency condition exists, and to direct the OMAP Member to the most appropriate setting for Medically Appropriate care.

(101) Urban — A geographic area less than 10 map miles from a population center of 30,000 people or more.

(102) Urgent Care Services — Covered services required in order to prevent a serious deterioration of an OMAP Member's or PCCM Member's health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered Urgent Services.

(103) Valid Claim — An invoice received by the PHP for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules; and

(c) A "valid claim" is synonymous with the federal definition of a "clean claim" as defined in 42 CFR 447.45(b).

(104) Valid Pre-Authorization — A request received by the PHP for approval of the provision of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(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

ADMINISTRATIVE RULES

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Ancillary Services and Preventive Services, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The most current list, dated October 1, 2002, is available on the HSC website (<http://www.ohpr.state.or.us/>). OMAP receives new information or modifications regarding the Prioritized List from HSC in the form of Attachments. The most recent, Attachment A, approved by the HSC July 17, 2002, is available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical Dependency (CD) Services are covered for eligible OHP clients when provided by an FCHP or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services. These codes are identified on the Chemical Dependency (CD) section of line 188.

(4) The first 558 lines of the Prioritized List of Services are currently funded and are covered for payment by OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03

Adm. Order No.: OMAP 15-2003

Filed with Sec. of State: 2-28-03

Certified to be Effective: 2-28-03

Notice Publication Date: 10-1-02

Rules Amended: 410-142-0300

Subject: The Hospice Services Rules govern Office of Medical Assistance Programs payment for services provided to clients. Rules 410-142-0300, Medicaid hospice rates, are calculated based upon the annual hospice rates established by Centers for Medicare and Medicaid Services (CMS). These rates are authorized by section 1814 of the Social Security Act. With Secretary of State's #OMAP 41-2002, Rule 410-142-0300 was temporarily amended effective October 1, 2003 to update the Hospice Rates in compliance with federal regulations. This is the permanent filing.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-142-0300

Billing Information

(1) Hospice care is defined as a group of services and is therefore paid on a per diem basis dependent upon the level of care being provided. If the client is enrolled in a prepaid health plan, the hospice must contact the plan and bill according to their instructions.

(2) If the client has the "Basic Health Care" benefit package but is not enrolled in a prepaid health plan, bill with the appropriate Revenue Codes using the instructions on how to complete the UB-92.

(3) If the client is enrolled in Medicare Part A, do not bill OMAP unless no Medicare certified Hospice is available.

(4) If the client is enrolled in Medicare Part B, enter NC or MC in Form Locator 84.

(5) If the client is enrolled in Medicare Part A and you are not a Medicare-certified hospice, and there is no Medicare-certified hospice available in the area, enter NC or MC in Form Locator 84.

(6) Submit your claim to OMAP on a hard copy UB-92 or electronically:

(a) Send paper UB-92 claims to: Office of Medical Assistance Programs (OMAP);

(b) For information about electronic billing (EMC), contact OMAP. Electronic billing (EMC) information is also available at OMAP's website, www.omap.hr.state.or.us.

(7) When billing for hospice services, the provider must bill the rate based upon the geographic location in which the care is furnished. Table 142-0300, Hospice Rate Chart — Revised 10/01/02. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 16-1995, f. & cert. ef. 8-1-95; OMAP 47-1998, f. & cert. ef. 12-1-98; OMAP 40-1999, f. & cert. ef. 10-1-99; OMAP 34-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 55-2001(Temp) f. 10-31-01, cert. ef. 11-1-01 thru 4-15-02; OMAP 65-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 41-2002(Temp), f. & cert. ef. 10-1-02 thru 3-15-03; OMAP 15-2003, f. & cert. ef. 2-28-03

Adm. Order No.: OMAP 16-2003(Temp)

Filed with Sec. of State: 3-10-2003

Certified to be Effective: 3-10-03 thru 8-1-03

Notice Publication Date:

Rules Amended: 410-125-0141, 410-125-0195

Subject: The Hospital Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-125-0141, DRG rate methodology for DRG hospitals; and, 410-125-0195, Rate methodology for DRG hospitals outpatient services, are being amended to clarify the percentage adjustment by specifying in rule the percentage amount to implement the DHS March 2003 budget reduction actions resulting from the December 2002 budget shortfall.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0141

DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign individual claims to a DRG category. Medicare revises the Grouper program each year in October. OMAP uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, OMAP may modify the logic of the grouper program. OMAP will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. OMAP DRG weight tables can be found at web site <http://www.dhs.state.or.us/policy/healthplan/guides/hospital/>.

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, OMAP establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, OMAP uses the following methodology: Using the formula $N = \frac{Z}{R}$ where $Z = 1.15$ (a 75% confidence level), S is the standard deviation, and $R = 10\%$ of the mean. OMAP determines the minimum number of claims required to set a stable weight for each DRG (N must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, OMAP sets a relative weight using:

(A) OMAP non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the OMAP Title XIX caseload.

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the OMAP Title XIX population in that DRG, the weight derived from OMAP Title XIX claims history is used instead of the externally-derived weight for that DRG.

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State-specific relative weights shall be adjusted, as needed, as determined by OMAP (<http://www.dhs.state.or.us/policy/healthplan/guides/hospital/>).

ADMINISTRATIVE RULES

When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighting of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Indexed: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Operating Costs:

(a) For the purposes of determining costs for all hospitals except for Type A, Type B, and Critical Access Hospitals, costs are defined as costs derived from the Medicare cost reports for the hospital FY ending during the State FY 87 (July 1, 1986 through June 30, 1987) adjusted to the Medicaid mix of services and trended forward using Data Resources Inc. (DRI) inflation factors;

(b) For the purposes of determining each hospital's unit value for services beginning July 1, 1991, the following procedure was used:

(A) The Medicaid cost per discharge was derived from each hospital's Medicare cost report as described above, and adjusted to the Medicaid mix of services. The costs of capital and direct and indirect medical education were deducted from this amount (capital and education costs were taken from the Medicare cost report for the hospital's fiscal year ending during the State 1987 Fiscal Year). The resultant amount is referred to as the "operating cost" per discharge;

(B) The operating cost per discharge as described in (5)(A) of this rule (Operating Costs) for each hospital was adjusted in order to bring all hospitals to the same 1987 mid-point, using HCFA-DRI inflation adjustments. The operating cost was then inflated forward to the mid-point of Oregon Fiscal Year 1992 (January, 1992) using the compounded HCFA-DRI inflation factor.

(6) Unit Value: The Unit Value for each hospital effective for services beginning on or after July 1, 1991, was established as follows:

(a) The Oregon Fiscal Year 1992 operating cost per discharge was multiplied by the ratio of the projected 1992 CMI to the 1987 CMI to adjust for changes in the CMI between 1987 and the CMI for 1992;

(b) The CMI-trend adjusted cost per discharge is divided by the hospital's projected 1992 CMI in order to compare all hospitals as though they had a CMI of 1.0;

(c) All hospitals, including Type A, Type B, and Critical Access hospitals, are ranked by their CMI adjusted cost per discharge;

(d) Each hospital below the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to its CMI adjusted operating costs per discharge described in (5), Operating Costs. This preliminary FY 1992 Unit Value is reduced by the cost outlier payments which had been projected for FY 1992 (the projections which were the basis for the FY 1992 prospective rates). This preliminary unit value is further reduced by 2.45% to get the Final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(e) Each hospital at or above the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to the Preliminary Unit Value of the hospital at the 70th percentile. This Preliminary FY 1992 Unit Value is adjusted downwards as required in order that the outlier payments which had been projected for FY 1992 combined with the Operational Payment will not exceed the hospital's FY 1992 Operating Cost per Discharge as described in (5), of this rule. This preliminary unit value is further reduced by 2.45% to get the final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(f) For services beginning on or after October 1, 1996 the Unit Values for each hospital shall be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(g) Effective for services provided on or after March 10, 2003. The Unit Value for each hospital shall be reduced by 12 percent. The Unit Value will be calculated as specified in (6)(a)-(f) and reducing this amount by 12 percent.

(7) DRG Payment: The DRG payment to each hospital is calculated by multiplying the Relative Weight for the DRG by the Hospital-Specific Unit Value. This is also referred to as the Operational Payment.

(8) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to disproportionate share qualifying hospitals. For dates of service effective March 10, 2003 payment will be at the time a claim is processed for exceptionally costly services or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients under one year of age in compliance with Sec. 1923 (42 U.S.C. 1396r-4).

(b) Effective for services beginning on or after July 1, 1991, the calculation to determine the cost outlier payment for all hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital's cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid case load;

(C) If the hospital's net costs as determined above are greater than 300 percent of the DRG payment for the admission and are greater than \$25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold (\$25,000 or 300% of the DRG payment, whichever is greater) are reimbursed using the following formula:

(i) Billed charges less non-covered charges, times;

(ii) Hospital-specific cost-to-charge ratio, equals;

(iii) Net Costs, minus;

(iv) 300% of the DRG or \$25,000 (whichever is greater), equals;

(v) Outlier Costs, times;

(vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;

(vii) Cost Outlier Payment.

(E) Third party reimbursements are deducted from the OMAP calculation of payable amount;

(F) When hospital cost reports are audited, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and OMAP 42, adjusted to reflect the Medicaid mix of services.

(9) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Capital cost per discharge is calculated as follows:

(A) The capital cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This results in the Title XIX Capital Cost per discharge. The Title XIX capital cost per discharge for each hospital above the 50th percentile will be set at the 50th percentile for Oregon hospitals receiving DRG reimbursement;

(B) The Title XIX Capital Cost per discharge for this period is inflated forward to Oregon FY 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Capital Payment Per Discharge:

(A) The number of Title XIX discharges paid during the quarter for each hospital is multiplied by the Title XIX cost per discharge from 1987 trended forward as described above. This determines the current quarter's capital costs. Reimbursement is made at 85% of this amount. Payment is made within thirty days of the end of the quarter;

(B) The capital payment per discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(10) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the delivery of services to Title XIX eligible persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct Medical Education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This is the Title XIX Direct Medical Education Cost per discharge;

(B) The Title XIX Direct Medical Education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Direct Medical Education Payment Per Discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical

ADMINISTRATIVE RULES

Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment Per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(11) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to in-state hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the Office of Medical Assistance Program's indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) The calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the Unit Value, multiplied by the Indirect Factor equals Indirect Medical Education Payment;

(e) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-15-120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-570, 461-015-0590, 461-105-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03

410-125-0195

In State DRG Hospitals

(1) Interim reimbursement:

(a) The interim reimbursement for laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services is the OMAP fee schedule.

(b) The individual hospital's interim percentage reimbursement for other outpatient hospital services will be reduced by 12 percent effective March 10, 2003.

(2) Settlement reimbursement:

(a) For Title XIX/Title XXI clients: Effective for dates of service on or after March 10, 2003, an adjustment to 51.9 percent of outpatient costs is made during the cost settlement process.

(b) For GA clients: Effective for dates of service on or after March 10, 2003, other outpatient hospital services are reimbursed at 44% of billed charges or 51.9 percent of costs, whichever is less.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from

461-015-0540 & 461-015-0550; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780 & 410-125-0800; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03

Adm. Order No.: OMAP 17-2003(Temp)

Filed with Sec. of State: 3-13-2003

Certified to be Effective: 3-14-03 thru 8-15-03

Notice Publication Date:

Rules Amended: 410-120-1200

Subject: The General Rules program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Due to Legislative action, Rule 410-120-1200 is being temporarily revised to restore prescription drug benefits to the OHP Standard Benefit package.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1200

Medical Assistance Benefits: Excluded Services and Limitations

(1) Certain services or items are not covered under any program or for any group of eligible clients. If the client accepts financial responsibility for a non-covered service, payment is a matter between the provider and the client subject to the requirements of OAR 410-120-1280. No payment will be made for any expense incurred for any of the following services or items:

(a) That are not expected to significantly improve the basic health status of the client as determined by the Medical Assistance Program (e.g., OMAP's Medical Director, medical consultants or Peer Review Organization);

(b) That are not reasonable or necessary for the diagnosis and treatment of disability, illness, or injury;

(c) That are determined not medically appropriate by Medical Assistance Program staff or authorized representatives, including OMPRO or any contracted utilization review organization;

(d) That are not properly prescribed as required by law or administrative rule by a licensed practitioner practicing within his/her scope of practice or licensure;

(e) That are for routine checkups or examinations for individuals age 21 or older in connection with participation, enrollment, or attendance in a program or activity not related to the improvement of health and rehabilitation of the client. Examples include exams for employment or insurance purposes;

(f) That are provided by friends or relatives of eligible clients or members of his/her household, except when the friend, relative or household member is a health professional, acting in a professional capacity, or when the friend, relative or household member is directly employed by the client under Seniors & People with Disabilities (SPD) Home and Community Based Waiver;

(g) That are for services or items provided to a client who is in the custody of a law enforcement agency or an inmate of a nonmedical public institution, including juveniles in detention facilities, except such services as designated by federal statute or regulation as permissible for coverage under the Medical Assistance Program;

(h) Where the need for purchase, repair or replacement of materials or equipment is caused by adverse actions of clients to personally owned goods or equipment or to items or equipment rented or purchased by the Medical Assistance Program;

(i) That are related to a non-covered service; some exceptions are identified in the individual provider guides. If the provision of a service related to a non-covered service is determined by OMAP to be cost-effective, the related medical service may, at OMAP's discretion and with OMAP's prior authorization, be covered;

(j) Which are considered experimental or investigational or which deviate from acceptable and customary standards of medical practice or for which there is insufficient outcome data to indicate efficacy;

(k) That are identified in the provider guide appropriate Administrative Rules, including the Hospital guide, Revenue Codes Section, as not covered;

(l) That are requested by or for a client who has been determined by the Medical Assistance Program to be non-compliant with treatment and who is unlikely to benefit from additional related, identical, or similar services;

ADMINISTRATIVE RULES

(m) That are for copying or preparing records or documents excepting those Administrative Medical Reports requested by the branch offices or OMAP for casework planning or eligibility determinations;

(n) Whose primary intent is to improve appearance;

(o) Which are similar or identical to services or items which will achieve the same purpose at a lower cost and where it is anticipated that the outcome for the client will be essentially the same;

(p) For the purpose of establishing or reestablishing fertility or pregnancy or for the treatment of sexual dysfunction, including impotence, except as specified by the Prioritized List of Health Services (OAR 410-141-0520);

(q) Items or services which are for the convenience of the client and are not medically appropriate;

(r) The collection, processing and storage of autologous blood or blood from selected donors unless a physician certifies that the use of autologous blood or blood from a selected donor is medically appropriate and surgery is scheduled;

(s) Educational or training classes which are not medically appropriate (Lamaze classes, for example);

(t) Outpatient social services except Maternity Case Management services and other social services described in the individual provider guides as covered;

(u) Plasma infusions for treatment of Multiple Sclerosis;

(v) Post-mortem exams or burial costs, or other services subsequent to the death of a client;

(w) Radial keratomotomies;

(x) Recreational therapy;

(y) Telephone calls, including but not limited to telephone conferences between physicians or between a physician or other practitioner and a client or representative of the client, except for telephone calls for the purpose of tobacco cessation counseling, as described in OAR 410-130-0190, and Maternity Case Management as described in OAR 410-130-0100;

(z) Transsexual surgery or any related services or items;

(aa) Weight loss programs, including, but not limited to Optifast, Nutri-system, and other similar programs. Food supplements will not be authorized for use in weight loss;

(bb) Whole blood (whole blood is available at no cost from the Red Cross); the processing, storage and costs of administering whole blood are covered;

(cc) Immunizations prescribed for foreign travel;

(dd) Services which are requested or ordered but not provided (i.e., an appointment which the client fails to keep or an item of equipment which has not been provided to the client);

(ee) DUII-related services already covered by the Intoxicated Driver Program Fund as directed by ORS 813.270(1) and (5);

(ff) For transportation to meet a client's personal choice of a provider;

(gg) Pain center evaluation and treatment.

(2) Medical Assistance Benefit Packages and the Medical Care Identification:

(a) Clients in some Medical Assistance Program categories have limited benefits. These limitations or exclusions are in addition to those limitations or exclusions described in these General Rules and in the individual provider guide. The Benefit Package Messages on the Medical Care Identification describe the "package" of medical benefits. Benefit Packages are as follows:

(A) Plus Benefit Package;

(B) Standard Benefit Package;

(C) Limited Medicaid;

(D) QMB — Qualified Medicare Beneficiary;

(E) QMB — Qualified Medicare Beneficiary + Plus Benefit Package;

(F) QMB — Qualified Medicare Beneficiary + Limited Medicaid;

(G) CAWEM — Citizen/Alien-Waived Emergency Medical;

(H) Other client populations with restricted or limited services.

(b) Additional limitations by Benefit Package Title and program category are as follows:

(A) Plus Benefit Package:

(i) Service coverage for clients with this Package is based on the Prioritized List of Health Services;

(ii) Ancillary services, (see OAR 410-141-0480);

(iii) Chemical dependency services provided through local alcohol/drug treatment providers;

(iv) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors.

(B) Standard Benefit Package:

(i) Service coverage for clients with this package is based on the Prioritized List of Health Services. Cost sharing and benefits limitations may apply to some covered services.

(ii) Ancillary services (see OAR 410-141-0480);

(iii) The following services are not covered under the Standard Benefit Package:

(I) Non-Emergency medical transportation;

(II) Vision (frames, contacts, corrective devices, eye exams for the purpose of prescribing glasses/contacts);

(III) Durable Medical Equipment and Supplies;

(IV) Dental;

(V) Outpatient Chemical Dependency;

(VI) Outpatient Mental Health;

(VII) For other limitations, refer to OMAP provider guides.

(C) Limited Medicaid. These clients are Medically Needy clients.

These clients receive:

(i) Prescription drugs provided through a retail pharmacy or state contracted mail order pharmacy;

(ii) Chemical dependency services through a local alcohol/drug treatment provider;

(iii) Medical Transportation to services covered by medical assistance;

(iv) Over-the-counter drugs;

(v) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs, or their subcontractors;

(D) QMB — Qualified Medicare Beneficiary:

(i) QMB clients are Medicare beneficiaries who have limited income but do not meet the income standard for full Medical Assistance Program coverage. QMB clients have coverage through Medicare Part A and B for most covered services. The Medical Assistance Program provides coverage only for those services which are also covered by Medicare;

(ii) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of the coinsurance and deductible, but no more than the Medicare allowable;

(iii) QMB clients may be billed by the provider for services which are not covered by Medicare. QMB clients may not be billed by the provider for the deductible and coinsurance amounts due for services which are covered by Medicare.

(E) QMB — Qualified Medicare Plus Benefit Package: These clients are Medicare beneficiaries. Their coverage includes:

(i) Any service covered by Medicare; and

(ii) Service coverage based on the Prioritized List of Health Services (OAR 410-141-0520);

(iii) Mental health services;

(iv) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible;

(v) Chemical dependency services provided through a local alcohol/drug treatment provider.

(F) QMB — Qualified Medicare + Limited Medicaid: These are also Qualified Medicare clients who are in the Medically Needy Program. Their coverage includes:

(i) All services covered by Medicare;

(ii) Prescription drugs through a retail pharmacy or state contracted mail order pharmacy;

(iii) Chemical dependency services provided through a local alcohol/drug treatment provider;

(iv) Medical transportation to services covered by the Medical Assistance Program;

(v) Mental Health Services based on the Prioritized List of Health Services and provided through Community Mental Health Programs or their subcontractors.

(G) Citizen/alien-waived Emergency Medical Assistance (CAWEM):

(i) The client receives a Medical Care Identification, which indicates coverage, and is limited to emergency medical needs or labor and delivery services;

(ii) Emergency medical services are covered when a client eligible under the CAWEM program has, after sudden onset, a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunctions of any bodily organ or part. There may be other limitations depending on the eligibility category to which the client is assigned;

ADMINISTRATIVE RULES

(iii) The following services are Not Covered for CAWEMS: Prenatal or postpartum care; sterilization, family planning, preventive care, transplants or transplant related services, chemotherapy, hospice, home health, private duty nursing, dialysis, dental services provided outside of an emergency room/hospital setting, outpatient drugs or over-the-counter products, non-emergency medical transportation, therapy services, durable medical equipment and medical supplies, or rehab services.

(H) Other client populations with restricted or limited services:

(i) Fully Capitated Health Plans and Dental Care Organization Members:

(I) These clients are enrolled in a Prepaid Health Plan for their medical and dental care;

(II) Most non-emergency services are obtained from the Prepaid Health Plan or require a referral from the Prepaid Health Plan that is responsible for the provision and reimbursement for the medical or dental service;

(III) The name and phone number of the Plan appears on the Medical Care Identification.

(ii) Primary Care Case Managers:

(I) These clients are enrolled with a Primary Care Case Manager for their medical care;

(II) Most non-emergency services provided to clients enrolled with a Primary Care Case Manager (PCCM) require referral from the PCCM.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76, Renumbered from 461-013-0030; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 103-1982, f. & ef. 11-1-82; AFS 15-1983(Temp), f. & ef. 4-20-83; AFS 31-1983(Temp), f. 6-30-83, ef. 7-1-83; AFS 43-1983, f. 9-2-83, ef. 10-1-83; AFS 61-1983, f. 12-19-83, ef. 1-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 78-1986(Temp), f. 12-16-86, ef. 1-1-87; AFS 10-1987, f. 2-27-87, ef. 3-1-87; AFS 29-1987(Temp), f. 7-15-87, ef. 7-17-87; AFS 54-1987, f. 10-29-87, ef. 11-1-87; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 53-1988(Temp), f. 8-23-88, cert. ef. 9-1-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 70-1988, f. & cert. ef. 12-7-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0055; 461-013-0103, 461-013-0109 & 461-013-0112; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 23-1990(Temp), f. & cert. ef. 7-20-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 27-1991 (Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0420, 410-120-0460 & 410-120-0480; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 6-1996, f. 5-31-96 & cert. ef. 6-1-96; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 12-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 22-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 8-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 17-2003(Temp), f. 3-13-03, cert. ef. 3-14-03 thru 8-15-03

.....

Adm. Order No.: OMAP 18-2003(Temp)

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 4-1-03 thru 9-1-03

Notice Publication Date:

Rules Amended: 410-121-0140

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0140 is being revised to change the definition of Estimated Acquisition Cost (EAC) by changing, in section (9)(a), "Eighty-six" to "eighty-five percent of Average Wholesale Price (AWP) of the drug."

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0140

Definition of Terms

(1) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment.

(2) Automated Information System (AIS): A computer system which provides on-line Medicaid eligibility information. Accessed through the provider's touch-tone telephone. The AIS is accessed by dialing 1-800-522-2508.

(3) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(4) Community Based Waiver — Clients eligible through Seniors and People with Disabilities' waiver may receive services in a community setting rather than a nursing facility. The community based setting may be any one of the following:

(a) Supported Living Facilities;

(b) 24-Hour Residential Services;

(c) Foster Care;

(d) Semi-independent Living and Residential Care Facilities.

(5) Compounded Prescriptions: A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient which must be a compensable item or a legend drug in a therapeutic amount. Compounded prescription is further defined to include the Board of Pharmacy definition of Compounding.

(6) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist.

(7) Drug Order/Prescription:

(a) A written prescription, dated and signed by the prescribing practitioner, the elapsed time between the date of writing and date of filling must be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required; or

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner; or

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-five percent of Average Wholesale Price (AWP) of the drug;

(b) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(c) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

ADMINISTRATIVE RULES

(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

.....

Department of Human Services, Public Health Chapter 333

Adm. Order No.: PH 1-2003

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-20-03

Notice Publication Date: 12-1-02

Rules Adopted: 333-535-0041

Rules Repealed: 333-535-0040

Subject: OAR 333-535-0040 would be repealed and replaced by OAR 333-535-0041. The proposed rule contains major revisions to construction requirements for hospital critical care units. These include care units for intensive care and coronary care patients, pedi-

atric patients and newborns, most of whom are born prematurely. The proposed rule combines most requirements for adult units, better allowing for multi-disciplinary use of the same patient rooms. More detailed requirements are proposed for separate pediatric critical care units and newborn intensive care units than in the current rule, with requirements reflective of recent care trends and recommended industry standards. The proposed rule was developed by an industry advisory committee, including nursing directors of related hospital departments, architects and hospital facility managers.

Rules Coordinator: Jana Fussell—(503) 731-4320

333-535-0041

Critical Care Units

(1) Critical Care Units, Generally: Critical Care Units require special space and equipment considerations for effective staff functions. In addition, space must be arranged to include provisions for immediate access for emergency medical equipment from other departments. Critical Care Units shall comply in size, number and type with the requirements of this rule and with the hospital's functional program. This rule is intended for the more common types of critical care services. Where specialized services are required, the Department may allow such additions and modifications as are necessary for efficient, safe and effective patient care. (See also OAR 333-535-0300 for mechanical requirements and OAR 333-535-0310 for electrical requirements.)

(2) Adult Critical Care Units: Each Adult Critical Care Unit shall comply with the following requirements:

(a) The location shall be convenient for access from emergency, respiratory, laboratory, radiology, surgery, and other essential departments and services, and be located so that medical emergency resuscitation teams may respond promptly to emergency calls;

(b) The location shall be arranged to eliminate the need for through traffic;

(c) For new construction, a private room shall be provided for each patient. A minimum of 200 square feet of clear floor area shall be provided exclusive of anterooms, vestibules, toilet rooms, closets, lockers, wardrobes, and alcoves. A combined total of at least seven feet of clear space shall be available at the head and foot of the bed. Minimum head wall width shall be 13 feet;

(d) Renovation projects shall comply with subsection (2)(c) of this rule except when existing structural conditions make full compliance impractical. In such cases, the Department may allow the following deviations:

(A) Private patient room size may be reduced to 160 square feet with a minimum headwall width of 11 feet 6 inches. The combined total of clear space available at the head and foot of the bed may be reduced to a minimum of six feet.

(B) Multiple bed rooms may be provided with cubicle curtains for patient privacy. The minimum patient cubicle size shall be 130 square feet with a minimum headwall width of 11 feet for each bed. Three of the seven feet of combined total clear space required at the head and foot of the bed may be outside the curtained cubicle area.

(e) In private rooms or curtained cubicles, visual access to the corridor shall be provided. In multiple bed rooms, cubicle curtains or other alternative methods approved by the Department shall be provided for visual privacy from casual observation by other patients and visitors;

(f) Where only one door is provided to a bed space, it shall be at least 44 inches in clear width and arranged to minimize interference with the movement of beds and large equipment. Sliding doors shall not have floor tracks and shall have hardware that minimizes jamming. When a secondary door is desired for staff use, it may be of a smaller width;

(g) For the purpose of allowing day from night orientation, newly constructed patient rooms shall include at least one window meeting the requirements of OAR 333-535-0025(1)(c), arranged to allow direct visual access by the patient to the outside. Patient rooms and cubicles in renovation projects shall also meet this requirement except when the Department determines that existing structural conditions make it impractical to do so. In these instances, patients must have direct visual access to an outside window, but it may be a clerestory type and the distance from the patient bed to the outside window may be up to 50 ft;

(h) A nurse call device shall be provided at each bed for patient use. A staff use emergency call station shall also be provided in each patient room to summon assistance. In multiple bed rooms, at least one such emergency call station shall be provided for each eight patient beds;

(i) Handwashing stations shall be convenient to nurses stations and patient bed areas. One handwashing station shall be provided in each

ADMINISTRATIVE RULES

patient room. The handwashing station shall be located near the entrance of the patient room, designed to minimize splashing water onto the floor, and shall be equipped with hands-free operable controls. In multiple bed rooms allowed under paragraph (2)(b)(D) of this rule, if the Department determines that existing structural conditions make it impractical to comply with this requirement, there shall be at least one handwashing station provided for every two beds in multiple bed rooms. The handwashing station shall be located near the entrances to patient cubicles;

(j) A toilet shall be provided within each patient room or in a separate private toilet room entered directly from the patient room. Space shall be provided adjacent to toilets to allow for staff assistance. An exception to this requirement may be granted by the Department when the project is within a Department of Human Services designated Level 1 Trauma Center Hospital and patients typically are unable to utilize toilets. In renovation projects if the Department determines that existing structural conditions make it impractical to comply with this paragraph, a minimum of one enclosed toilet room and handwashing station shall be provided for each eight patient beds. In these instances, portable toilets are permitted in place of fixed toilets within each patient room or cubicle. If portable toilets are used, facilities for cleaning and storing them shall be conveniently located within or adjacent to the Critical Care Unit;

(k) The nurses' station or a substation with space for charting and monitoring shall be located so that nurses will have direct visual observation of each patient. In larger Critical Care Units, more than one nurses' station may be needed to provide for observation of all patients;

(l) Individual patient closets or lockers shall be provided for the secure storage of clothing and personal effects. This storage may be within patient rooms or in a central location convenient to the Critical Care Unit; and

(m) Each Critical Care Unit shall provide space for equipment used for continuous physiological monitoring, including a bedside and remote visual display for each patient.

(3) Airborne Infection Isolation Room: At least one Airborne Infection Isolation Room shall be provided for use by Critical Care Unit patients. The number and location of Airborne Infection Isolation Rooms shall be determined based upon an Infection Control Risk Assessment conducted in accordance with OAR 333-535-0035(1). Each Airborne Infection Isolation Room shall comply with the requirements of OAR 333-535-0035(2) with the following exceptions:

(a) The requirement for the bathtub or shower may be eliminated.

(b) Compact, modular toilet/sink combination units may replace the requirement for a toilet room.

(c) Toilets may be eliminated entirely from patient rooms of Department of Human Services designated Level 1 Trauma Center Hospitals when patients typically are unable to utilize a toilet.

(4) Service Areas: One service area may serve two or more adjacent Critical Care Units. The size and location of each service area will depend upon the number of beds to be served. The following service areas shall be located in, or readily available to, each Critical Care Unit:

(a) Charting facilities. Multi-disciplinary charting facilities provided in accordance with the architectural functional program;

(b) Staff lounges. Staff lounge(s) and toilets located as a part of or adjacent to the Critical Care Unit, so that staff may be recalled quickly to the patient area in case of emergency;

(c) Staff personal effects storage. Space located at or near the nurses' work area for the secure storage of the personal effects of nursing personnel. Larger items such as coats may be stored in staff locker rooms located outside the Critical Care Unit;

(d) Clean supply room. Space which meets the requirements of OAR 333-535-0260(4), for the storage and distribution of all clean medical and surgical supplies kept in the Critical Care Unit;

(e) Soiled utility room. Each patient Critical Care Unit shall include at least one soiled utility room which meets the requirements of OAR 333-535-0260(5);

(f) Medication station. A Medication Station which meets the requirements of OAR 333-535-0025(2)(h). The medication station shall be designed to allow for secure, convenient, and prompt 24-hour distribution of medicine to patients;

(g) Clean linen storage. A separate closet or a designated area for clean linen storage shall be provided. If a closed cart system is used, storage may be in an alcove outside the required corridor width;

(h) Nourishment station. A nourishment station with sink, work counter, refrigerator, storage cabinets, and equipment for hot and cold nourishments between scheduled meals shall be provided. The nourishment station shall include space for trays and dishes used for non-scheduled meal

service. Provision and space shall be included for separate temporary storage of unused and soiled dietary trays not picked up at meal time. Nourishment stations shall not share storage, counters, sinks or refrigerator space with medical supplies or pharmaceuticals;

(i) Ice machine. Equipment to provide ice for treatments and nourishment shall be provided. Ice-making equipment may be in the clean work room or at the nourishment station. Ice intended for human consumption shall be from self-dispensing icemakers;

(j) Equipment storage room or alcove. Appropriate room(s) or alcove(s) shall be provided for storage of large items of equipment necessary for patient care and as required by the functional program. Each Critical Care Unit shall provide sufficient storage area(s) located on the patient floor to keep its required corridor width free of all equipment and supplies, but not less than 20 square feet per patient bed shall be provided. Additional space shall be provided for stretcher or bed storage if stored on the floor;

(k) Emergency equipment storage. Each Critical Care Unit shall have space for emergency cardiopulmonary resuscitation carts located out of the traffic pattern but convenient for access;

(l) Visitors' waiting room. A visitors' waiting room shall be provided that is designed to accommodate the long stays and stressful conditions common to such spaces, including provisions for privacy, means to facilitate communications, and access to toilets. The locations and size shall be appropriate for the number of patients and units served, with a capacity of at least one seating space per Critical Care Unit patient bed;

(m) Consultation room. A consultation room or other typically available room shall be provided to allow for private discussions between family members and medical staff. This room may be omitted in renovation projects if all patient rooms are private occupancy; and

(n) Janitors' closet. Janitors' closet with floor receptor or service sink and storage space for cleaning equipment and supplies. It may be located outside the Critical Care Unit if it is conveniently accessible to the Critical Care Unit.

(5)(a) Pediatric Critical Care Unit: If a facility has a distinct Pediatric Critical Care Unit, the functional program must include consideration for staffing, control, and the safe transportation of critically ill pediatric patients with life support and environmental systems from other areas of the facility. The Pediatric Critical Care Unit may be an open ward plan or may have private or semi-private patient rooms. Private rooms at the rate of at least one per 10 beds shall be provided. In addition, at least one private room for each Pediatric Critical Care Unit shall be provided for seclusion and airborne infection isolation. The room(s) provided for seclusion and airborne infection isolation shall comply with the requirements for Airborne Infection Isolation Rooms set forth in OAR 333-535-0035(2). (See also OAR 333-535-0300 for mechanical requirements and OAR 333-535-0310 for electrical requirements.)

(b) In addition to complying with the requirements of sections (1), (2), (3) and (4) of this rule, each Pediatric Critical Care Unit shall also include the following features:

(A) Space in the patient room for family and visitors. Space and furnishings to allow parents to sleep shall also be provided. If the sleeping area is separate from the patient area, a system for communication with Pediatric Critical Care Staff must be provided. Storage for associated bedding shall be provided;

(B) If an examination and treatment room is required by the functional program, it shall be located in or directly accessible from the Pediatric Critical Care Unit. Examination and treatment rooms shall have a floor area of at least 80 square feet and shall include a handwashing station, storage facilities and a surface for charting;

(C) Consultation/demonstration room which is separate from treatment rooms and within or convenient to the Pediatric Critical Care Unit; and

(D) Separate storage cabinets or closets for toys and games.

(6) Newborn Intensive Care Units (NICU@): Each Newborn Critical Care Unit shall include or comply with the following requirements:

(a) The NICU shall have a clearly identified entrance and reception area with a counter for charting and enclosed storage for supplies. The area shall permit visual observation of, and contact with, all traffic entering the NICU. A handwashing station shall be provided for visitors entering the NICU;

(b) The NICU shall be designed as part of an overall safety program to protect the physical security of infants, parents, and staff and to minimize the risk of infant abduction. There shall be controlled physical access to the NICU;

ADMINISTRATIVE RULES

(c) In a multiple-bed room, every bed shall be within 20 feet of a handwashing station. Where an individual room concept is used, a handwashing station shall be provided within each infant care room. All sinks shall be hands-free operable and large enough to limit splashing;

(d) At least one door to each room in the NICU must be large enough to accommodate portable X-ray equipment;

(e) The NICU shall be located in close proximity to Labor and Delivery Departments when that service is also provided at the facility;

(f) Privacy screening shall be provided at all infant viewing windows;

(g) Sound attenuation features shall be provided to limit background noise levels to a maximum 40-45 decibels and transient sounds to a maximum of 70 decibels;

(h) Indirect lighting and high-intensity lighting shall be provided in all nurseries. Controls shall be provided to enable lighting to be adjusted over individual patient care spaces from one to 60 footcandles at 3 feet above the floor level;

(i) Each infant care space shall contain a minimum of 150 square feet per bassinet, excluding sinks and aisles. Each bassinet shall have a minimum clearance of 4 feet to walls or any permanent obstruction. When single infant rooms or fixed cubicle partitions are used, there shall be an adjacent aisle of not less than 8 feet in clear unobstructed width to permit passage of equipment and personnel. In multiple bed rooms, there shall be a minimum of 8 feet between infant care beds. Each infant care space shall be designed to allow privacy for the baby and family;

(j) A medication station meeting subsection (4)(f) of this rule;

(k) Ceilings shall be easily cleanable and non-friable and shall have a noise reduction coefficient (ANRC@) of at least 0.55. Ceiling construction must limit the passage of particles from above the ceiling plane into the clinical environment. If a T-bar acoustic tile ceiling system is used, the tiles shall be clipped down, weighted or gasketed to limit passage of particles;

(l) At least one Airborne Infection Isolation Room is required within the NICU. The room shall be enclosed and separated from other areas of the nursery with provisions for direct visual observation of the infant. All Airborne Infection Isolation Rooms shall comply with the requirements of OAR 333-535-0035(2), except that a separate toilet, bathtub, or shower are not required;

(m) Rooms at the rate of at least one per 15 infant isolettes shall be provided within the NICU to allow parents and infants to spend extended private time together. These room(s) shall have direct, private access to sink and toilet facilities, communication linkage with the NICU staff, sleeping facilities for at least one parent, and sufficient space for the infant's bed and equipment;

(n) Dedicated space shall be provided for lactation support and consultation in or immediately adjacent to the NICU. Provision shall be made, either within the room or conveniently located nearby, for sink, counter, refrigeration and freezing of breast milk, storage for pump and attachments, and educational materials;

(o) Charting facilities shall have adequate linear surface space to ensure that staff and physicians may chart and have simultaneous access to information and communication systems;

(p) A clean workroom or clean supply room meeting the requirements of subsection (4)(d) of this rule;

(q) A soiled workroom or soiled holding room meeting the requirements of subsection (4)(e) of this rule;

(r) A lounge, locker room, and staff toilet within or adjacent to the NICU suite for staff use which meets the requirements of subsection (4)(b) of this rule;

(s) Emergency medical equipment storage which meets the requirements of subsection (4)(k) of this rule;

(t) A janitors' closet which meets the requirements of subsection (4)(n) of this rule;

(u) A visitors' waiting room which meets the requirements of subsection (4)(l) of this rule;

(v) A nurses/supervisors office or station meeting the requirements of subsection (2)(k) of this rule;

(w) Multipurpose room(s) for staff, patients, and patients' families for patient conferences, reports, education, training sessions, and consultation. These rooms must be accessible to each NICU. They may be located on other floors if convenient for regular use. One such room may serve several nursing units and/or departments;

(x) Equipment storage or alcove meeting subsection (4)(j) of this rule; and

(y) A nourishments station for refrigerated storage and distribution of breast milk, with sink, refrigerator, work counter and storage for clean containers.

Stat. Auth.: ORS 441 & ORS 442

Stats. Implemented: ORS 441 & ORS 442
Hist.: PH 1-2003, f. & cert. ef. 2-20-03

Adm. Order No.: PH 2-2003(Temp)

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-20-03 thru 8-19-03

Notice Publication Date:

Rules Amended: 333-011-0047

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;

(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)(a) 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)(b) 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.

(b) 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

Department of Human Services,

Self-Sufficiency Programs

Chapter 461

Adm. Order No.: SSP 4-2003

Filed with Sec. of State: 2-25-2003

ADMINISTRATIVE RULES

Certified to be Effective: 3-1-03

Notice Publication Date: 1-1-03

Rules Amended: 461-200-1160, 461-200-1180, 461-200-1500, 461-200-3420, 461-200-3260, 461-200-5020, 461-200-5040, 461-200-5060, 461-200-5120, 461-200-5125, 461-200-7140

Subject: The amendments to OAR 461-200-1160 clarify that when the Child Support Program receives a party's written request to retract a claim of risk, the program will terminate (or ask the court to terminate) a previously entered finding and order for nondisclosure. The amendments also clarify that information previously protected by an order for nondisclosure of information becomes subject to disclosure when the order for nondisclosure is terminated. The amendments also provide that if a court has made a finding of risk and order for nondisclosure of information, the Child Support Program will use the party's residence, mailing or contact address as an address of record, if no address of record is provided within 30 days of notice. Finally, the amendments make the phrase "finding of risk and order for nondisclosure of information" consistent throughout the rule.

The amendments to OAR 461-200-1180 provide that when the Child Support Program has sent a document to a party's address of record and the document is returned because the address is not good, the program will use the party's residence, mailing or contact address as the new address of record. The amendments also clarify that the party may retract an address of record.

The rewrite of OAR 461-200-1500 provides for a more equitable method of distributing federal incentives by calculating and distributing the incentives based on performance in four program areas: support order establishment, current support collections, cases receiving an arrears payment, and cost effectiveness.

The amendments to OAR 461-200-3420 make the two types of modification processes, periodic reviews and change of circumstances, as similar as legally and procedurally possible. The amendments define a request for a review as a written request with necessary supporting documents and more clearly states that the Child Support Program will not conduct a review for a change of circumstances request unless the requesting party provides documentation supporting the claim.

The amendment to OAR 461-200-3620 clarifies that hearings officers of the Oregon Hearing Officer Panel do not have the authority to issue administrative subpoenas under ORS 25.082. The authority for hearings officers to issue subpoenas and order discovery is found in the Oregon APA and not in chapter 25.

The amendments to OAR 461-200-5020 remove the references to when accounting services will be provided (as those provisions are covered under OAR 461-200-1070) and add a reference to OAR 461-200-5060, billings for support payments, to clarify when billings will occur.

The amendment to OAR 461-200-5040 addresses what actions the Child Support Program will take when the support provisions in the body of a support order do not match the money judgment summary. The Child Support Program will take action to correct the discrepancy for administrative orders and advise the parties to take action to correct the discrepancy when the order is judicial. However, the Child Support Program may choose to take action when the order is judicial if the child support rights have been assigned to the state. In all scenarios, the Child Support Program will enforce per the judgment register Oregon Judicial Information Network until the discrepancy is corrected.

The amendments to OAR 461-200-5060 remove the references to discontinuing billings after a period of five months of nonpayment, and allow the Division of Child Support to discontinue billings in those cases where income withholding or electronic funds transfer are being and have been paid for a period of six months or more, unless the obligor requests otherwise or the enforcing agency determines otherwise.

As of Fall term 2002, Oregon state schools of higher education contracted with a clearinghouse to certify student enrollment. In

order to accommodate this new process, the amendments to OAR 461-200-5120 and OAR 461-200-5125 allow for the acceptance of the clearinghouse enrollment verification certificate in lieu of Oregon state schools of higher education completing a portion of the child attending school compliance form developed by the Department.

The amendment to OAR 461-200-7140 clarifies that whenever possible and allowed under Oregon law, administrative process (ORS 416.400 to 416.470) will be used in conjunction with the Uniform Interstate Family Support Act to establish, enforce and modify support orders.

Rules Coordinator: Michelle Kутten—(503) 986-6158

461-200-1160

Confidentiality — Finding of Risk and Order for Nondisclosure of Information

(1) Pursuant to ORS 25.020, unless there is a finding of risk and order for nondisclosure of information as defined in subsection (2)(b) of this rule, any judicial or administrative decree or order establishing paternity or that includes a provision concerning support must contain each party's:

- (a) Residence, mailing or contact address;
- (b) Social Security number;
- (c) Telephone number;
- (d) Driver's license number; and
- (e) Employers' name, address and telephone number.

(2) For the purposes of this rule the following definitions shall apply:

(a) A claim of risk for nondisclosure of information means a claim by a party to a paternity or support case made to the administrator, an administrative hearing officer or the court that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information;

(b) A finding of risk and order for nondisclosure of information means a finding by the administrator, an administrative hearing officer or the court, which may be made ex parte, that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information.

(3) A claim of risk for nondisclosure of information may be made to the administrator by a party at any time that a child support case is open. Forms for making a claim of risk for nondisclosure of information shall be available from all child support offices and be made available to other community resources. At the initiation of any legal process that would result in a judicial or administrative decree or order establishing paternity or including a provision concerning support, the administrator shall provide parties an opportunity to make a claim of risk for nondisclosure of information.

(4) The administrator shall make a finding of risk and order for nondisclosure of information when a party makes a written and signed claim of risk for nondisclosure of information pursuant to section (3) of this rule unless the party does not provide an address of record pursuant to section (6) of this rule.

(5) A hearing officer shall make a finding of risk and order for nondisclosure of information when a party makes a claim of risk for nondisclosure of information in a hearing unless the party does not provide an address of record pursuant to section (6) of this rule.

(6) A party who makes a claim of risk for nondisclosure of information must provide an address of record that is releasable to the other party in legal proceedings. The claim of risk for nondisclosure of information form provided to the party by the administrator shall have a place in which to list an address of record. If a requesting party does not provide an address of record, a finding of risk and order for nondisclosure of information shall not be made.

(7) When a finding of risk and order for nondisclosure of information has been made, the administrator shall ensure that all pleadings, returns of service, orders or any other documents that would be sent to both parties or would be available as public information in a court file shall not contain or shall have deleted any of the identifying information specified in section (1) of this rule. Any document sent to the court that contains any of the information specified in section (1) of this rule shall be in a sealed envelope with a cover sheet informing the court of the confidential nature of the contents.

(8) A finding of risk and order for nondisclosure of information shall be documented on the child support case file and shall remain in force until such time as a party who requested a claim of risk may retract the claim in writing.

ADMINISTRATIVE RULES

(9) A party who requested a claim of risk may retract the claim on a form provided by the Child Support Program. When a signed retraction form is received by the administrator, the administrator will enter, or will ask the court to enter, a finding and order terminating the order for nondisclosure of information.

(10) Any information previously protected under an order for nondisclosure of information will be subject to disclosure when the order for nondisclosure of information is terminated. The retraction form provided by the Child Support Program shall advise the requestor that previously protected information may be released to the other party(ies).

(11) In cases where the administrator is not involved in the preparation of the order, any claim of risk for nondisclosure of information pursuant to ORS 25.020 shall be made to the court.

(12) Where the court has made a finding of risk and order for nondisclosure of information and the case is receiving or subsequently receives child support services, the administrator shall implement the Court's finding pursuant to this rule. In such a case, if the party fails to provide an address of record within 30 days of a written request from the administrator, the administrator shall use, in order of preference, the party's mailing, contact or residence address as the address of record. The written request from the administrator must advise the party that if no address of record is provided within 30 days, the administrator will use the party's mailing, contact or resident address as the address of record, and the new address of record may be released to the other party(ies).

Stat. Auth.: ORS 25.020 & ORS 409.021

Stats. Implemented: ORS 25.020

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-1180

Confidentiality — Address of Record

(1) "Address of record" means an address provided by a party in a child support or paternity case to the administrator that may be an address other than the party's home address but is an address where the party can receive legal papers. The address of record may be released to the other party.

(2) A party may provide or amend an address of record to the administrator at any time the child support case is open.

(3) The Child Support Program shall provide annual notice to parties that they may provide an address of record to the administrator at any time.

(4) The administrator shall provide notice to parties of the opportunity to provide an address of record at the initiation of any legal action that requires the service of legal documents on a party or would cause the following to be shared with the other party as part of the legal action:

- (a) Home, mailing or contact address.
- (b) Social Security Number.
- (c) Telephone number.
- (d) Driver license number.
- (e) Employer's name, address and telephone number.

(5) The administrator shall maintain the address of record on the child support case record.

(6) If a party has provided an address of record and the address is more than six months old, the administrator will provide the party with notice and opportunity to update the address of record prior to initiating any legal action.

(7) An address of record may be any place that a party can receive mail but must be located within the same state as the party's home.

(8) An address of record shall be documented on the child support case file and shall remain in force until such time as a party may retract the address of record in writing.

(9) Notwithstanding the provisions of subsection (8), when documents sent to a party's address of record are returned because the address of record is not valid, the administrator shall use, in order of preference, the party's mailing, contact or residence address as the address of record and shall notify the party that such address may be released to the other party(ies).

Stat. Auth.: ORS 25.011, ORS 25.080, ORS 25.085, ORS 409.021

Stats. Implemented: ORS 25.011, ORS 25.085

Hist.: AFS 23-1998, f. & cert. ef. 11-2-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0292; AFS 5-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-1500

Incentive Payments

(1) For purposes of this rule, the following definitions apply:

(a) "Centralized services" may include, but are not limited to: accounting functions, bankruptcy case management, central registry for

interstate cases, computer charges, constituent desk, CSP director's office administrative costs, garnishments resulting from a Financial Institution Data Match, locate services, mainframe, Oregon District Attorney Association liaison position, postage, receipt and distribution of support payments, and unemployment compensation and workers' compensation withholdings.

(b) "County" or "Counties" means the county district attorneys under cooperative agreements to provide support enforcement services under ORS 25.080 and any county which enters into an agreement with the Division of Child Support (DCS) under ORS 25.080(5) on or after May 1, 2001, for DCS to assume the functions of the district attorney.

(c) "Counties' Collection Base" is that portion of the "State's Collection Base" attributable only to amounts for cases assigned to the counties.

(d) "DCS' Collection Base" is that portion of the "State's Collection Base" attributable only to amounts for cases assigned to DCS.

(e) "State's Collection Base" has the meaning given in 45 CFR 305.31(f).

(f) "Available incentive payment pool" is the projected amount from the biennial budget of the gross amount of incentives to be received from the federal Department of Health and Human Services for the current fiscal year.

(2) Beginning with incentive payments received for federal fiscal year (FFY) 2002 (October 1, 2001 through September 30, 2002), incentive payments received by the Oregon Child Support Program from the federal Department of Health and Human Services pursuant to 45 CFR 305 et. seq. shall be allocated to each county and the Division of Child Support (DCS) based on their performance in four program areas:

- (a) Support order establishment;
- (b) Current support collections;
- (c) Collection on arrearage; and
- (d) Cost-effectiveness.

(3) The incentive calculations for the current federal fiscal year shall be based on the performance data from the final Office of Child Support Enforcement 157 report for the previous federal fiscal year and the state's available incentive payment pool for the current federal fiscal year.

(4) The formulas to compute each county's and DCS' performance for the four program areas identified in section (2) of this rule shall be as stated in 45 CFR 305.2.

(5) The level of performance of each county and DCS as calculated using the formulas referenced in section (4) of this rule determines the applicable percentage for each of the four performance measures as set out in tables in 45 CFR 305.33.

(a) The cost effectiveness performance category shall include an addition to the total expenditures of the counties for the cost of centralized services and a subtraction of the same amount from the DCS total expenditures for the cost of centralized services provided to the counties.

(6) For the support order establishment and current support collections performance measures, the applicable percentages as determined per section (5) of this rule are multiplied by 100% of the counties' collection base for county computations or 100% of DCS' collection base for DCS computations.

(7) For cases receiving an arrears payment and the cost effectiveness performance measures, the applicable percentages as determined per section (5) of this rule are multiplied by 75% of the counties' collection base for county computations or 75% of DCS' collection base for DCS computations.

(8) The incentive calculations for the four performance areas calculated in section (6) and (7) of this rule are added together to obtain the following amounts:

- (a) The incentive base amount for each individual county; and
- (b) The incentive base amount for DCS.

(9) The sum of the incentive base amounts for all the counties as calculated in (8)(a) is the total incentive base amount for all the counties.

(10) The state aggregate incentive base amount is the sum of the total incentive base amount for all the counties as calculated in (9), and the incentive base amount for DCS as calculated in (8)(b).

(11) The counties' collective incentive payment share is determined by dividing the total incentive base amount for all the counties as calculated in (9), by the state aggregate incentive base amount as calculated in (10), then multiplying the resulting percentage by the available incentive payment pool for the current federal fiscal year.

(a) The counties collective incentive payment share shall be reduced by a proportionate share of costs for centralized services, as determined upon review and agreement pursuant to subsection (15) of this rule, to be

ADMINISTRATIVE RULES

retained by DCS to offset the costs of such services provided to the counties by DCS.

(b) Each individual county's incentive payment is determined by dividing its county's incentive base amount by the total incentive base amount for all the counties, then multiplying the resulting percentage by the counties' collective incentive payment share as determined in subsection (11)(a).

(12) DCS' incentive payment is determined by dividing the DCS incentive base amount by the state aggregate incentive base amount as calculated in (10), then multiplying the resulting percentage by the available incentive payment pool for the current federal fiscal year.

(13) Each county's and DCS' incentive payment, as calculated respectively in section (11)(b) and (12) of this rule, shall be distributed in equal quarterly payments for the current federal fiscal year based on the counties' and DCS' performance for the prior federal fiscal year.

(14) When the federal Department of Health and Human Services reconciles and determines the actual annual incentive payment to the state following the end of each federal fiscal year, any resulting positive or negative incentive adjustment amount shall be apportioned according to the calculations in section (4) through (12) of this rule using the performance figures for the corresponding prior federal fiscal year.

(a) if the adjustment results in a positive incentive to the counties, such payment shall be distributed no later than 60 days following the state's receipt of the incentive adjustment from the federal Dept. of Health and Human Services;

(b) if the adjustment results in a negative incentive and incentive overpayment to the counties, such overpayment shall be recovered from future incentive payments due and distributed to the individual counties.

(15) The allocation of incentive payments as set out in this rule and the cost of centralized services shall be reviewed every two years, commencing in January 2004.

Stat. Auth.: ORS 409.021

Stats. Implemented: ORS 409.021

Hist.: AFS 80-1985(Temp), f. & ef. 12-31-85; AFS 14-1986, f. & ef. 2-11-86; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0052; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0255; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-3420

Periodic and Substantial Change in Circumstance Review and Modification of Child Support Award Amounts

(1) For the purposes of this rule, the following definitions shall apply:

(a) "Determination" means an order resulting from a periodic review which finds that the current order of support is in "substantial compliance" with the Oregon guidelines.

(b) "Guidelines" means the guidelines, the formula, and related provisions in Oregon Administrative Rules 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support award amount; and

(B) The need to provide in the order for the child's health care needs through medical insurance coverage or other means, not to include Title XIX benefits, regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support award amount as calculated using the guidelines.

(2) For all child support cases being enforced under Title IV-D of the Social Security Act, the Department of Human Services shall notify annually the obligor and obligee of their right to request a review of the amount of support ordered.

(3) The purpose of such review is to determine whether the current child support award should be modified to assure substantial compliance with Oregon's child support guidelines.

(4) Such review shall consist of seeking information from all parties and from searching computerized records and other sources as appropriate. The administrator may use a court or administrative hearing process or discovery process in conducting the review, when necessary, to obtain adequate evidence or sworn testimony from any party in order to complete the review.

(5) Unless there is a current assignment of support rights and the IV-A or IV-E agency has determined that a review would not be in the best interests of the child, which is defined as "good cause" in accordance with OAR 461-120-0350, the administrator shall, on the request of any party, initiate a periodic review no sooner than 24 months after the most recent

support order took effect, or the date of a determination that the most recent support order should not be adjusted. Notwithstanding this section, a review may be conducted based upon a change of circumstances sooner than 24 months pursuant to section (10) of this rule.

(6) The administrator shall complete the determination that the order is in substantial compliance with the guidelines or complete the modification of the existing order within 180 calendar days of receiving a written request for a review, or locating the non-requesting parent, if necessary, whichever occurs later. For a change of circumstances modification, a written request means the requesting party has provided the documentation specified in subsection (10)(d) of this rule. For a periodic review, a written request means any written request from a party.

(7) The administrator is responsible for conducting a review in this state or for requesting that another state conduct a review. Pursuant to the provisions of ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(8) Within 15 calendar days of a party's request for a periodic review or a request for a modification based upon a change of circumstances, the administrator shall determine in which state the review will be sought. The administrator is limited by the interstate provisions of ORS 110.300 through 110.441 in making this determination, including:

(a) If the controlling order is an Oregon support order and the obligor, obligee and child reside in this state, Oregon shall be the reviewing state.

(b) If the controlling order is an Oregon support order and one of the parties or the child resides in this state, Oregon shall be the reviewing state.

(c) If the child or a party is subject to the personal jurisdiction of this state and all the parties have filed a written consent in the state which issued the order for the Oregon tribunal to modify the order, Oregon shall be the reviewing state.

(d) If the administrator has registered another state's order for enforcement and none of the parties or the child resides in the state which issued the order, the resident state of the non-requesting party shall be the reviewing state.

(9) If none of the conditions in sections (8)(a) through (8)(c) of this rule apply and the administrator determines that the reviewing state is not Oregon, it shall proceed to:

(A) Determine and obtain the information needed by the reviewing state to permit review;

(B) Complete the federal, standardized interstate transmittal form;

(C) Transmit the documents in paragraphs (A) and (B) of this subsection within 20 calendar days of receipt of those documents to the reviewing state;

(D) If the reviewing state is currently providing interstate services for Oregon on this case, the documents shall be transmitted to the local office or agency working the case; and

(E) If the request is the first contact with the reviewing state on this case, the request must be sent to the interstate central registry in the reviewing state.

(10) The administrator shall conduct a review based upon a change of circumstances request for modification only when:

(a) Oregon has jurisdiction to modify;

(b) The existing order of support was entered not less than 60 days prior to the date the administrator receives a request for modification services based upon a change of circumstances, except for those cases where a change of custody is the reason for the change in circumstance modification;

(c) At least one of the following criteria are met:

(A) A change in the physical custody of the child(ren) has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(D) Veteran's benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(E) The obligated parent has been incarcerated after the current order was entered, as defined in and pursuant to OAR 461-200-3300; or

(F) The needs of the child have changed; and

(d) The requesting party:

(A) Completes a request for modification based upon a change of circumstances;

(B) Pursuant to ORS 416.425(6), provides appropriate documentation for the criteria in subsection (c) of this section showing that a change of circumstances has occurred; and

ADMINISTRATIVE RULES

(C) Completes a Uniform Income Statement or Uniform Support Affidavit.

(e) If the conditions in section (10)(a) through (10)(d) of this rule have not been met or the presumed correct child support award amount under the child support guidelines calculated as the result of a review indicates that the current support order is in substantial compliance, the administrator shall notify the requesting party in writing within 30 days that:

(A) The administrator denies the request for the filing of a motion for modification; and

(B) The party may use a motion for modification as provided for in ORS 416.425. The administrator shall advise the party on how to obtain the Oregon Judicial Department packet which has been prescribed for this purpose.

(11) Upon receipt of a written request for a review, the administrator shall notify the non-requesting party of the review in writing and provide a copy of the notice to the requesting party. The notice shall advise the obligor and obligee:

(a) Of the opportunity to provide information, with regard to themselves and the other party if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator shall consider written information received from any party prior to calculating the presumed correct amount of support;

(c) That the administrator shall not conduct a review or calculate a presumed correct child support award amount until 30 days has elapsed since the date of the notice unless documentation or written information is received from both the obligor and obligee before the 30 days have elapsed; and

(d) That a modification to the support amount shall effect only support owing on or after the date of filing of the determination or motion.

(12) Based upon a periodic review, the administrator shall notify the obligor and obligee in writing of the presumed correct support amount under the child support guidelines. This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines, or a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(b) Shall advise both the obligor and obligee that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed; and

(c) If the administrator uses an administrative determination or motion form, the administrator shall include the request for hearing form for each of the parties.

(13) Based upon a review conducted for a change of circumstances, subject to the conditions set out in section (10) of this rule, the administrator shall:

(a) Notify the requesting party as specified in subsection (10)(e) of this rule if the presumed correct support award amount under the child support guidelines is in substantial compliance with the current support order; or

(b) If the current child support award amount is not in substantial compliance with the child support guidelines, notify the obligor and obligee in writing of the presumed correct support award amount under the child support guidelines. This notification:

(A) Shall be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(B) Shall advise both the obligor and obligee that each party has 30 days from the date of service of the notice to object to the proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed; and

(C) If the administrator uses an administrative motion form, the administrator shall include the request for hearing form for each of the parties.

(14) If a party wishes to object to the proposed determination or modification:

(a) The party shall file a written request for hearing with the administrator or court before the 30 day period has elapsed; and

(b) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator shall:

(A) Review the case to determine whether an error was made in applying the guidelines or computing the support amount and, if so, notify both parties of the new presumed amount;

(B) Seek a stipulated order; or

(C) Ensure that the matter is set for hearing if no other resolution is achieved.

(15) If no request for hearing is filed within the 30 day period, the administrator shall docket or file the appropriate determination or modification of the support order.

(16) If a hearing is held on a determination and the hearings officer makes a finding that the order is not in substantial compliance with the guidelines, the hearings officer shall enter a modified order with the support amount that does comply with the guidelines.

(17) An order of the hearings officer may be appealed to the circuit court of the county in which the support order has been entered, docketed or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within 60 days after the order of the hearing officer has been docketed.

(18) No provision of this rule shall preclude the obligee or obligor from utilizing the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

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

Stat. Auth.: ORS 409.021

Stats. Implemented: ORS 25.080, ORS 25.287, ORS 107.135, ORS 416.425

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-3620

Administrative Subpoena

(1) The administrator and entities of other states that provide services pursuant to Title IV-D of the Social Security Act may issue administrative subpoenas pursuant to ORS 25.082.

(2) Subpoenas issued by the Administrator served on an Oregon entity or an entity of another state shall be in the form adopted by the United States Department of Health and Human Services for that purpose or some other form adopted by the Child Support Program.

(3) Child support entities of other states shall use the form adopted for that purpose by the United States Department of Health and Human Services when serving a subpoena upon an Oregon entity.

(4) Administrative subpoenas issued under this rule may compel the release of financial records and other information needed to establish paternity or to establish, modify or enforce a support order.

(5) Administrative subpoenas issued under this rule may be served on an individual or on a public or private entity.

(a) A public entity means an agency or office of any federal, state or local government.

(b) A private entity means any business entity or organization however organized, including all profit and non-profit entities.

(6) Subpoenas issued by the Administrator pursuant to this rule may specify a time for compliance of not less than ten working days.

(7) Subpoenas issued pursuant to this rule may be served by certified mail or personal service.

(8) An administrative subpoena issued by the Administrator or a child support entity of another state may be enforced by an Oregon court or the Administrator.

(9) The Administrator may enforce a subpoena by:

(a) Imposition of a civil penalty not to exceed \$250 imposed in the manner provided in ORS 183.090;

(b) Application to a court to compel compliance with the administrative subpoena; or

(c) Suspension of a license pursuant to OAR 461-200-3640 if the individual served with the subpoena is a party to a child support or paternity case.

Stat. Auth.: ORS 25.082, ORS 409.021 & ORS 411.060

Stats. Implemented: ORS 25.082

Hist.: AFS 13-1996, f. 4-15-96, cert. ef. 5-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0076; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-5020

Payment of Support Obligations

(1) The obligor on a support order must make all support payments to the Division of Child Support (DCS) while the obligee receives benefits from a Title IV-A or IV-E agency or care, support and services from the Oregon Youth Authority.

ADMINISTRATIVE RULES

(2) The obligor must continue to pay support to DCS after the Title IV-A or IV-E benefits or care, support and services end, for as long as arrearages are assigned to the state or support enforcement services are provided.

(3) When a case with a support order is activated on the DCS computer system, DCS will send notice to the obligor and obligee of the requirement to pay through DCS. Except as provided in OAR 461-200-5060, DCS will begin billing in the first full calendar month following 30 days from receipt of the referral or from the date the TANF benefits are issued. DCS shall determine the arrearage on a newly activated case pursuant to OAR 461-200-3240.

(4) An obligor may pay DCS by money order, personal check, certified check, cashier or traveler's check, earnings allotment, cash personally delivered, or by authorizing an electronic fund transfer from the obligor's account at a financial institution.

(5) Payment by electronic fund transfer may be established by completing an application furnished by and delivered to DCS, subject to the following conditions:

(a) The obligor's financial institution must be a participant in the Oregon Automated Clearinghouse Association.

(b) The obligor must be subject to a support order requiring payment to DCS of current or past-due support.

(c) The application must be complete and signed by all signatories to the obligor's account at the financial institution.

(d) The application must establish a monthly withdrawal date, no later than the monthly support due date, and the amount to be paid to DCS on each monthly withdrawal date from the obligor's account at the financial institution.

(e) DCS will notify the applying obligor and the obligee by mail if they qualify for the electronic fund transfer process and of the initial withdrawal date.

(f) The obligor may revoke the electronic fund transfer authorization by notifying DCS at least 10 days before the monthly withdrawal date.

(g) DCS may revoke the authorization when there are insufficient funds in the obligor's account to make the authorized payment and no advance notice of that has been received. DCS will mail a notice of revocation to the obligor and obligee.

(h) DCS may refuse an obligor's application if it is not fully completed, or if the obligor has made any support payment to DCS with insufficient funds in the 12-month period preceding the obligor's application.

Stat. Auth.: ORS 25.427, ORS 409.021

Stats. Implemented: ORS 25.020, ORS 25.396

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 4-1991, f. 1-28-91, cert. ef. 2-1-91; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0020; AFS 14-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-5040

Accrual and Due Dates

This rule applies to any court order or administrative order requiring the payment of child support, or child and spousal support through the Department of Justice, in accordance with ORS 25.020:

(1) Each support payment due under a support order is a final judgment, effective on the due date indicated in the order.

(2) When an order does not specify the date payments are to begin, the first payment shall be due on the last day of the month in which the order was signed, and the amount owed becomes a judgment effective on that day. The payment owed for each subsequent month shall be due, and become a judgment, effective on the last day of each month.

(3) When the support obligation terminates during any month, the support obligation shall not be pro-rated for the month, unless the order for support provides otherwise. In any month:

(a) If the support obligation terminates on or before the due date for the month, no amount shall be due for that month.

(b) If the support obligation terminates after the due date for the month, the entire monthly support amount shall be due for that month.

(c) If the order specifies that payments are due on a basis other than monthly, such as weekly, bi-weekly, or semi-monthly, the provisions of subsections (a) and (b) above shall apply to the specified payment period rather than monthly.

(4) If the administrator discovers that the support provisions in the body of a support order are inconsistent with the money judgment summary, the administrator shall:

(a) On a case in which the Division of Child Support is providing distribution only services, send a courtesy notice to all parties;

(b) On a case in which services are being provided under ORS 25.080 and the order is a judicial order which was not entered by the administra-

tor, send a written notice to all parties requesting action be taken to correct the error. The notice will advise the parties that their support case will be enforced per the judgment register Oregon Judicial Information Network (OJIN) until the Child Support Program is provided with a copy of the court corrected order and money judgment summary;

(c) On a case in which services are being provided under ORS 25.080 and the order is an administrative order which has been docketed with the court or a judicial order entered by the administrator, file a motion to correct the error. Until the error is corrected, the support case will be enforced per the judgment register OJIN;

(d) Notwithstanding subsection (b) of this section, the administrator may instead file a motion to correct the error if the child support rights, as defined in ORS 25.010, have been assigned to the state.

Stat. Auth.: ORS 409.021

Stats. Implemented: ORS 25.020, ORS 25.080

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 15-1988, f. & cert. ef. 2-24-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0040; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0080; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-5060

Billings for Support Payments

(1) Except as provided in subsection (2) of this rule, when the Division of Child Support (DCS) determines that a support payment is due, DCS will send a billing to the obligor.

(2) When support is paid by income withholding pursuant to ORS 25.378 for a period of six months, or by electronic fund transfer pursuant to OAR 461-200-5020 for a period of six months, DCS may discontinue monthly billings unless:

(a) The obligor requests otherwise; or

(b) The administrator determines that monthly billings should continue.

Stat. Auth.: ORS 25.020 & ORS 409.021

Stats. Implemented: ORS 25.020 & ORS 409.021

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 88-1980, f. & ef. 12-10-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0001; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0105; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-5120

Support for Child Attending School — Oregon Orders Entered On or After October 4, 1997

(1) The purpose of this rule is to define how the Child Support Program (CSP) will apply the provisions of ORS 107.108, regarding support or maintenance for a child attending school, in performing its official billing, accrual, distribution, and record-keeping functions for ongoing support when:

(a) The most recent order or modification for support was entered on or after October 4, 1997; and

(b) The order or modification provides for support until the child is age 21 so long as the child is a child attending school in accordance with ORS 107.108.

(2) The terms used in this rule shall have the meanings set out in OAR 461-200-5110.

(3) The CSP shall perform its official billing, accrual, distribution, and record-keeping functions for each child on a support obligation who qualifies as a child attending school after attaining age 18, unless the child:

(a) has failed to comply with the provisions set out in section (4) of this rule and the CSP has received a written objection from the obligor; or

(b) has failed to provide written notification as provided in section (7) of this rule.

(4) Beginning with the first full term or semester after the child attains age 18, or the first full term or semester after a pre-October 4, 1997 order is modified to include post October 4, 1997 provisions as set out in ORS 107.108, whichever occurs later:

(a) The child must submit the completed CSP Child Attending School Compliance Form to the obligor and to the CSP. The completed compliance form must be received by the obligor and the CSP within 30 calendar days from the first official day of classes for each term or semester. If the 30th day falls on a state holiday, a Saturday, or a Sunday, the compliance form must be received by the next working day. For schools which do not have traditional terms or semesters, or have courses which last longer than six months, the CSP may require that a compliance form be submitted "quarterly" in addition to within 30 calendar days from the first day of class.

(b) The child must maintain the equivalent of a cumulative "C" grade average or better as defined by the school or, if the child is still attending high school the child may have either a cumulative "C" grade average or better or a "C" grade average or better for each term or semester after attaining age 18;

ADMINISTRATIVE RULES

(c) The child must submit, to the obligor and to the CSP, copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled;

(d) If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the child may send the obligor's copy of the documents to the CSP for the CSP to forward to the obligor. The child must submit a copy of the documents to the CSP per the time periods set out in subsection (a) of this section. The CSP shall redact the following information prior to sending a copy of documents to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(5) Notwithstanding the form requirement of subsection (4)(a) of this rule, as of the Fall term or semester of 2002, the child may submit to the obligor and to the CSP, within the time frames set out subsection (4)(a) of this rule, the CSP Child Attending School Compliance Form with only the portion of the form "TO BE COMPLETED BY STUDENT/CHILD ATTENDING SCHOOL" completed, but the child must attach:

(a) An enrollment verification certificate from the school's contracted clearinghouse;

(b) Documentation from the school verifying grades of at least a cumulative "C" grade point average (or equivalent) as set out in subsection (4)(b) of this rule, such as:

(A) An official or unofficial transcript; or

(B) A report card which indicates a cumulative grade point average; and

(c) Copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled.

(6) When a child is attending school and a "normal break" occurs between academic terms at the school, the obligor will continue to owe ongoing support and the CSP shall continue official accounting functions throughout such break if the CSP records show that the child intends to resume classes at the start of the first regular academic term following the break. The CSP may require the child to provide additional documentation if at least 120 days have passed since the end of the child's last term or semester.

(7) At least 30 days prior to the child's 18th birthday, the CSP shall send written notification to the obligee, the child, and, if appropriate, the Oregon Youth Authority (OYA) that unless the obligee or the child sends written notification to the CSP prior to the child's 18th birthday that the child will continue to attend school, the CSP will terminate official accounting functions effective the date the child attains age 18.

(8) Upon receipt of the written notification from the obligee or the child that the child will continue to attend school, the CSP will send the Child Attending School Compliance Requirements, along with a copy of the Child Attending School Compliance Form, to the parties and the child. Such notice shall:

(a) List all of the compliance requirements to continue to receive support as a child attending school.

(b) Include objection information;

(c) Advise the parties of their right to a change in circumstance modification in accordance with OAR 461-200-3420;

(d) Include distribution information for distributing support directly to the child; and

(e) Include information for the child to make a claim of risk for nondisclosure of information pursuant to ORS 25.020 and OAR 461-200-1160.

(9) The CSP shall distribute support directly to the child unless good cause is found to distribute support in some other manner. For purposes of this section "good cause" may include:

(a) The child is in the care of the Oregon Youth Authority (OYA);

(b) The child provides written authorization for distribution to the obligee; or

(c) The court, hearings officer or administrator orders otherwise.

(10) When there are multiple children for whom support is ordered, the amount paid directly to the child under section (9) of this rule shall be a prorated share.

(11) If a child attending school is in the care of OYA, any and all reporting duties of the child as outlined in this rule shall be the duty of OYA.

(12) The CSP shall terminate official accounting functions on the case when one of the following conditions occurs:

(a) The obligee or child fails to provide written notification as required under section (7) of this rule;

(b) The child has failed to comply with section (4) of this rule, and the obligor has submitted a written objection under section (15) of this rule;

(c) During a normal school break, the child has failed to provide additional documentation as requested under section (6) of this rule;

(d) The child sends written notice that the child no longer qualifies as a child attending school; or

(e) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that an authorized representative of the school sent a written notice to the CSP that the child no longer qualifies as a child attending school.

(f) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that OYA has notified the CSP that the child is no longer in the care of the OYA.

(13) Once the CSP terminates official accounting functions on the case, the official accounting functions cannot be resumed except as provided in section (16) of this rule.

(14) When the CSP receives written notification from the child or authorized representative of the school that the child is no longer qualifies as a child attending school or notification from OYA that the child is no longer in the care of OYA, the CSP shall terminate official accounting functions on the case for any such child effective the date the notice is received by the CSP.

(15) If an obligor submits a written objection asserting that the child no longer is attending school, the CSP shall review the official records for compliance. The CSP will presume that the child's statutory reporting requirements as outlined in section (4) of this rule have been fulfilled if the CSP has record of a completed compliance form with any required documentation for the current or most recent, as appropriate, term or semester.

(a) If compliance has occurred according to CSP records, the CSP shall send a copy of the proof of compliance to the obligor. If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the CSP shall redact the following information prior to sending a copy to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(b) If compliance has not occurred according to CSP records, the CSP shall terminate official accounting functions on the case for any such child effective the date the CSP receives the obligor's written objection and shall notify all parties of this termination.

(16) In any case, up until the child attains the age of 21, the CSP shall resume official accounting functions upon receipt of a written statement from the obligor that the obligor wishes to continue paying ongoing support for such child. If such verification occurs, the CSP shall inform all parties and resume its official accounting functions effective the payment due date following receipt of such verification. If the obligor later decides to stop paying ongoing support for such child, the obligor shall provide a written statement to the CSP and the CSP shall terminate official accounting functions on the case for any such child effective the date the CSP receives the obligor's written statement and shall notify all parties of this termination.

(17) In any case, the CSP shall honor the provisions of a court or administrative order to reinstate or terminate the duty of support to a "child attending school" under ORS 107.108.

(18) If the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the CSP shall follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 107.108, ORS 25.020, ORS 25.080, ORS 409.021 & ORS 411.060

Stats. Implemented: ORS 107.108 & ORS 409.021

Hist.: AFS 21-1991, f. 10-23-91, cert. ef. 11-1-91; AFS 26-1991, f. 12-31-91, cert. ef. 1-1-92; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 18-1997(Temp), f. 9-23-97, cert. ef. 10-4-97; AFS 18-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0136; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

ADMINISTRATIVE RULES

461-200-5125

Support for Child Attending School — Oregon Orders Entered Prior to October 4, 1997

(1) The purpose of this rule is to define how the Child Support Program (CSP) will apply the provisions of ORS 107.108 regarding support or maintenance for a child attending school, in performing its official billing, accrual, distribution, and record-keeping functions for ongoing support when:

(a) The last order or modification for support was entered prior to October 4, 1997; and

(b) The order or modification provides for support until the child is age 21 so long as the child is a child attending school in accordance with ORS 107.108.

(2) The terms used in this rule shall have the meanings set out in OAR 461-200-5110.

(3) The CSP shall perform its official billing, accrual, distribution, and record-keeping functions for each child on a support obligation who qualifies as a "child attending school" after attaining age 18, unless the obligee or the child has failed to provide written notification as provided in sections (5) and (11) of this rule.

(4) When a child is attending school and a "normal break" occurs between academic terms at the school, the obligor will continue to owe ongoing support and the CSP shall continue official accounting functions throughout such break if the CSP records show that the child intends to resume classes at the start of the first regular academic term following the break.

(5) At least 30 days prior to the child's 18th birthday, the CSP shall send written notification to the obligee, the child, and, if appropriate, the Oregon Youth Authority (OYA) that unless the obligee or the child sends written notification to the CSP prior to the child's 18th birthday that the child will continue to attend school, the CSP will terminate official accounting functions effective the date the child attains age 18.

(6) Upon receipt of the written notification from the obligee or the child that the child will continue to attend school, the CSP will send the Child Attending School Compliance Requirements to the parties and the child. Such notice shall:

(a) List all of the compliance requirements to continue to receive support as a child attending school;

(b) Include objection information;

(c) Advise the parties of their right to a change in circumstance modification in accordance with OAR 461-200-3420; and

(d) Include information for the child to make a claim of risk for nondisclosure of information pursuant to ORS 25.020 and OAR 461-200-1160.

(7) Support shall be distributed to the child only upon order of the court or written permission of the obligee.

(8) The obligor, obligee and a child who has attained age 18 and is a child attending school may enter into a written agreement to apply the provisions which are applicable to support orders and modifications entered on or after October 4, 1997, as outlined in OAR 461-200-5120.

(9) The CSP shall terminate official accounting functions on the case when one of the following conditions occurs:

(a) The obligee or child fails to provide written notification as required under section (5) of this rule;

(b) The obligor has submitted a written objection under section (11) of this rule and the obligee or child has failed to provide compliance documents as required by that section;

(c) The obligee or child sends written notice that the child no longer qualifies as a child attending school; or

(d) The obligee or child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that an authorized representative of the school sent a written notice to the CSP that the child no longer qualifies as a child attending school.

(e) The child or the obligee fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that OYA has notified the CSP that the child is no longer in the care of the OYA.

(10) When the CSP receives written notification from the obligee, child or authorized representative of the school that the child is no longer enrolled in school at least half time or notification from OYA that the child is no longer in the care of OYA, the CSP shall terminate official accounting functions on the case for any such child effective the date the notice is received by the CSP.

(11) If an obligor submits a written objection asserting that the child no longer is attending school, the CSP shall send written notification to the

obligee and child that the CSP must receive a completed CSP Child Attending School Compliance Form within 30 calendar days from the date of the CSP written notification.

(a) If a valid compliance form is received by the CSP within 30 days, the CSP will send a copy to the obligor. If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the CSP shall redact the following information prior to sending a copy to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(b) If the compliance form is not received within 30 days or does not show that child is in compliance, the CSP shall terminate official accounting functions on the case for any such child effective the date the CSP receives the obligor's written objection, and shall notify all parties of this termination.

(12) The CSP shall resume official accounting functions for the child anytime prior to the child attaining the age of 21, if the obligee or child submits a valid CSP Compliance Form showing that the child is currently enrolled in school at least half time.

(a) Official accounting functions shall resume effective the date the CSP receives the completed form.

(b) The administrator shall establish arrears in accordance with OAR 461-200-3240, only upon the request of the obligee.

(13) Notwithstanding the CSP Child Attending School Compliance Form requirement of sections (11) and (12) of this rule, as of the Fall term or semester of 2002, the child may submit this Compliance Form with only the portion "TO BE COMPLETED BY STUDENT/CHILD ATTENDING SCHOOL" completed; but the child must attach an enrollment verification certificate from the school's contracted clearinghouse to the Compliance Form.

(14) In any case, up until the child attains the age of 21, the CSP shall resume official accounting functions upon receipt of a written statement from the obligor that the obligor wishes to continue paying ongoing support for such child. If such verification occurs, the CSP shall inform all parties and resume official accounting functions effective the payment due date following receipt of such verification. If the obligor later decides to stop paying ongoing support for such child, the obligor shall provide a written statement to the CSP. The CSP shall treat such statement as an objection received under section (11) of this rule.

(15) In any case, the CSP shall honor the provisions of a court or administrative order to reinstate or terminate the duty of support to a "child attending school" under ORS 107.108

(16) If the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the CSP shall follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020, ORS 25.080, ORS 107.108, ORS 409.021 & ORS 411.060

Stats. Implemented: ORS 107.108 & ORS 409.021

Hist.: AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

461-200-7140

Oregon as Responding State — Establishing, Enforcing and Modifying Support and Medical Insurance Orders

(1) The registering tribunal under UIFSA is the Circuit Court of Oregon. This does not preclude action by other tribunals.

(2) Administrative contested case hearings shall be conducted by the Hearing Officer Panel pursuant to the provisions of ORS 416.427.

(3) Whenever allowed under the law, the administrator shall use the provisions of ORS 461.400 to 416.470 in conjunction with the provisions of ORS chapter 110 to establish, enforce and modify support orders.

Stat. Auth.: ORS 25.020, ORS 25.080, ORS 25.729, ORS 110, ORS 409.021, ORS 409.050, ORS 411.060 & ORS 416.400 - ORS 416.470

Stats. Implemented: ORS 25.729, ORS 110 & ORS 409.021

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2360; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03

Adm. Order No.: SSP 5-2003

Filed with Sec. of State: 2-26-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 1-1-03

ADMINISTRATIVE RULES

Rules Amended: 461-115-0530, 461-180-0090

Subject: Rule 461-115-0530 is being amended as a result of a change to rule 461-180-0090. The certification period policy is changed so clients eligible for the Oregon Health Plan under the OHP-OPU program are certified eligible for only six months, the month containing the effective date for starting medical benefits and the following five months.

Rule 461-180-0090 is being amended to change the policy for determining the effective date for starting medical benefits for clients eligible under the OHP-OPU program of the Oregon Health Plan. The effective date for starting medical benefits under the OHP-OPU program is being changed to the first of the month following the month the Department of Human Services determines the client is eligible for the program.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0530

Certification Period; OHP

(1) The OHP *certification period* is the period for which a client is certified eligible for the program. Except for clients eligible under OHP-OPU, the initial certification period consists of the month containing the effective date for starting medical benefits (described in OAR 461-180-0090) and the following six months. For clients in the OHP-OPU program, the initial *certification period* consists of the month containing the effective date for starting medical benefits and the following five months, for a total of six months. Subsequent *certification periods* are for six months.

(2) To establish a new *certification period*, an OHP benefit group must file an application and be found eligible.

(3) For OHP recipients working under a JOBS Plus agreement, the certification period is extended to include the month after the client finishes working under the agreement.

(4) When a person wishes to be added to an OHP benefit group already certified for OHP, the entire group must reapply and establish a new certification period (see OAR 461-115-0050, "When An Application Must be Filed"). If the circumstances revealed on the new application would make the new benefit group ineligible, the original benefit group remains eligible for the remainder of its certification period.

(5) If a member leaves an OHP benefit group, that individual and other members of the benefit group remain eligible for the remainder of the certification period.

(6) If a current OHP client moves into another current OHP filing group, that client and the members of that filing group who are OHP-eligible are combined into one benefit group if the client is required to be in the current household's OHP filing group. The certification period for the new benefit group ends the later of the date the current client's certification period or the filing group's period was set to end.

(7) A pregnant woman found eligible for the OHP-OPP program is not assigned a *certification period* — she is eligible for the period described in OAR 461-135-0010.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the GAM, MAA, MAF, OSIPM, QMB-DW, REFM and SAC programs, it is the date the client requests benefits or, if the client does not meet all eligibility requirements on the *date of request*, the first day following the date the client requests benefits on which all eligibility requirements are met. See OAR 461-135-0875 and 461-180-0140 regarding retroactive eligibility for some medical programs.

(2) In the ADCM-EA program, it is the day benefits are issued.

(3) In the EXT program, it is the first of the month following the month that TANF benefits end.

(4) In the OHP program:

(a) In the OHP-OPU program:

(A) For clients whose *date of request* is on or after March 1, 2003, it is the first of the month following the month in which the Department makes the eligibility determination.

(B) For clients whose date of request is prior to March 1, 2003, it is the date described in subsection (b) of this section.

(b) For all other OHP programs, it is the *date of request* (see OAR 461-115-0030) or, if the client does not meet all eligibility requirements on the *date of request*, the first day after the date of request that the client meets all eligibility requirements.

(5) In the QMB-BAS program, it is the first of the month after the benefit group has been determined to meet all QMB-BAS eligibility criteria and the Department receives the required verification.

(6) In the QMB-SMB program, it is the first of the month in which the benefit group meets all QMB-SMB eligibility criteria and the Department receives the required verification.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03

Adm. Order No.: SSP 6-2003(Temp)

Filed with Sec. of State: 2-26-2003

Certified to be Effective: 3-1-03 thru 6-30-03

Notice Publication Date:

Rules Amended: 461-155-0235

Subject: Rule 461-155-0235 is being amended as a temporary rule to reflect the annual increase in the federal poverty levels that were published in the Federal Register. This rule includes standards/allowances based on the federal poverty levels.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0235

OHP Premium Standards

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the filing group:

(1) The number of persons in the OHP need group is determined in accordance with OAR 461-110-0630.

(2) The financial group's countable income is determined in accordance with OAR 461-150-0055 and 461-160-0700.

(3) Based on the number in the need group and the countable income, the monthly premium for each non-exempt OHP-OPU client in the benefit group is determined from the following table: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, ORS 411.070

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03

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

Adm. Order No.: SPD 4-2003(Temp)

Filed with Sec. of State: 3-11-2003

Certified to be Effective: 3-11-03 thru 6-30-03

Notice Publication Date:

Rules Adopted: 411-999-0010, 411-999-0011, 411-999-0012, 411-999-0013, 411-999-0014, 411-999-0015

Subject: The Community Resource Development Project is a new resource for clients transitioning from Medicaid Home and Community Based Waivered services and assessed at survival priority levels 12-14. The services have been cut due to legislative directed budget reductions. These rules implement the program which will meet a need for clients in levels 12-14 who will require some assistance in transitioning from waiver services to unpaid community support. The rules are effective only through June 30, 2003.

Rules Coordinator: Pam Warren—(503) 378-2897

411-999-0010

Purpose

(1) The purpose of these rules is to provide for the administration and implementation of Community Resource Development Services.

ADMINISTRATIVE RULES

(2) Community Resource Development Services are services provided to an individual who is transitioning from the Departments Home and Community-Based Care Services waiver to non-waiver community supports as the result of a program reduction.

(3) This service is furnished to individuals who are facing a crisis in service delivery that would otherwise jeopardize their ability to remain in the community.

(4) The scope of services is limited to transitional items or activities and the duration is for up to 90 days after eligibility has been terminated.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

411-999-0011

Definitions

(1) "Adaptive Equipment" — Medical equipment that allows an individual with physical impairments to live as independently as possible.

(2) "Area Agency on Aging" or "AAA" — An established public agency within a planning and service area designated under Section 305 of the Older Americans' Act that has contracted with the Department to provide local administration of the Department's programs for seniors and people with disabilities.

(3) "Assistive Technology" — Any item, piece of equipment, or product system, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) "Case Management" — The function of overseeing the effective provision of services to the client.

(5) "Case Manager" — An employee of the Department of Human Services or Area Agency on Aging who ensures client entry, evaluation, case planning, service implementation, and evaluation of the effectiveness of the services.

(6) "Client" — The individual eligible for Community Resource Development Services.

(7) "Department" — The Department of Human Services, Seniors and People with Disabilities.

(8) "Evaluation of Need" — An assessment completed by the Case Manager to determine whether an individual qualifies for Community Resource Development Services.

(9) "Home" — The primary residence of an individual that is not licensed as a foster home, residential care facility, assisted living facility, any other residential program, or a nursing facility.

(10) "Home and Community Based Care Waiver Services" or "Waiver Services" — Services approved for Oregon by the Centers for Medicare and Medicaid Services for aged and physically disabled persons in accordance with Sections 1915 (c) and 1115 of Title XIX of the Social Security Act.

(11) "Home Modification" — Changes to the physical structure of a home or apartment to enable a client to live independently and achieve maximum self-sufficiency.

(12) "Informal Support System" — Other possible resources for the provision of services to meet the client's needs. This includes, but is not limited to, natural physical/social support systems, Risk Intervention services, Older Americans Act programs, or other community resources.

(13) "Life skills" — Skills that can be taught to an individual to help them move into or remain living in their own home.

(14) "Service Plan" — The written authorization for Community Resource Development Services. The Service Plan includes a description of the services and the signature of the Case Manager.

(15) "Set up expenses" — Costs such as rent, security deposits, pet deposits, utility deposits, installation costs or other expenses that are required for one to move into their own home or apartment.

(16) "Vendor" — Any agency, program, company, Client-Employed Provider, licensed residential care facility staff, or individual that has the skills to provide one or more authorized services for the Community Resource Development Program, as defined in OAR 411-999-0012. When significant changes to the physical structure of a home are authorized, the vendor must be licensed and bonded.

(17) "Work Plan and Authorization" — A form completed by the Case Manager which indicates the vendors who will perform the authorized services, the cost and a description of services to be performed. The form is signed by the client, indicating consent to receive the authorized services and to authorize the release of necessary information to the vendor. Necessary information can include such things as the client's name, address and Department identification number.

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

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

411-999-0012

Scope of Services

The Community Resource Development program is limited to the following:

(1) Teaching the individual life skills that enable the client to remain in the community.

(2) Teaching and training persons providing non-paid informal supports to help them better support the individual remaining in the community.

(3) One time set up expenses for transition from a community based residential setting to the client's own home or apartment.

(4) Assistive Technology/adaptive equipment.

(5) Home modification.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

411-999-0013

Eligibility

The eligibility requirements for Community Resource Development Project Services are as follows:

(1) Clients must be currently receiving waiver services at the time their "evaluation of need" and "service plan", are completed by the Case Manager.

(2) The "evaluation of need" and "service plan" must be completed before March 31, 2003.

(3) Clients must be current Home and Community Based Care waiver clients, whose services are ending as the result of program reductions to service levels 12-14.

(4) Eligible clients may not reside in a nursing home.

(5) The services must be completed within 90 days of loss of waiver eligibility (June 30, 2003).

(6) Community Resource Development Project Services are not meant to replace services that could be provided through the client's informal support system.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

411-999-0014

Authorization of Service

(1) Evaluation of Need. AAA or local state office Case Managers will conduct an "evaluation of need" in a format approved by the Department. All individuals who will be receiving Community Resource Development Services must also be current Home and Community Based Care clients with a current Title XIX assessment in the Client Assessment and Planning System (CA/PS).

(2) Time Lines for Authorization. Case Managers will conduct an "evaluation of need" and if the client is determined eligible, will authorize services by March 31, 2003. The services must be authorized while the client is receiving services under the Home and Community Based Care Waiver. No services can be authorized after March 31, 2003.

(3) Vendor selection. The client carries the primary responsibility for locating and selecting vendors who will be paid to provide specific services. When authorizing the teaching of life skills or the training of unpaid, informal care providers, the Case Manager will verify that the vendor has the necessary skills and/or experience to provide teaching and training.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

411-999-0015

Payment for Services

(1) Payment and billing:

(a) The Department will contract with a fiscal intermediary to make payments to vendors for authorized services.

(b) The Department will send a list of clients who have been authorized for community resource development services to the fiscal intermediary.

(c) The local office will send the "Work Plan and Authorization" to the fiscal intermediary with vendor information and service cost.

(d) The local office can send amended versions of the "Work Plan and Authorization" to the fiscal intermediary as the client's needs are identified.

(e) The vendor must complete all authorized services on or before June 30, 2003. The billing for services may occur after that date.

(2) Payment Limitations The Service Plan must be implemented 30 days after an individual has been deemed ineligible for waiver services as the result of a program reduction.

ADMINISTRATIVE RULES

(a) The maximum amount of payment that can be authorized per client for the total amount of services cannot exceed \$800,000 with one exception. If the client qualifies for one time set up expenses, the total payment that can be authorized is \$1200.00. The AAA or local office will submit the Service Plan to Seniors and People with Disabilities. Services are not meant to replace informal support systems.

(b) Community Resource Development Services are not available to clients who are no longer eligible for waiver services for reasons other than a program reduction.

(c) Ongoing supplies or services cannot be authorized.
Stat. Auth: ORS 409.050 & ORS 410.070
Stats. Implemented: ORS 410.070
Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03

Adm. Order No.: SPD 5-2003(Temp)
Filed with Sec. of State: 3-12-2003
Certified to be Effective: 3-12-03 thru 6-3-03
Notice Publication Date:
Rules Amended: 411-015-0015
Rules Suspended: 411-015-0015(T)
Subject: This amendment, effective March 12, 2003, indicates client assessed priority levels the Department is currently able to serve. Originally, this temporary rule was based on program reductions required to maintain a balanced budget for the biennium, pursuant to ORS 183.335(5), the mandates of HB 5100 and further directives from the E-Board. However, the March 4, 2003, Legislative action passed HB 5075, which restored two survival priority levels (10 and 11), which were previously scheduled to be cut effective April 1, 2003. This amendment replaces temporary amendment of OAR 411-015-0015 previously effective on February 18, 2003.
Rules Coordinator: Pam Warren—(503) 945-6954

411-015-0015

Current Limitations

The Department has the authority to establish by Administrative Rule the priority level within which to manage its limited resources. The Department is currently able to serve:

(1) Persons determined eligible for OSIPM or TANF if they are assessed on CA/PS in conjunction with the priority levels of OAR 411-015-0010 and:

(a) Who are assessed as meeting at least one of the priority levels (1) through (14) will be served through March 31, 2003; and

(b) Who are assessed as meeting at least one of the priority levels (1) through (11) will be served from April 1, 2003 thereafter, or unless otherwise stated by future amendments to this rule.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older having a primary diagnosis of mental illness or developmental disability are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age having a primary diagnosis of mental illness or developmental disability are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age whose primary diagnosis and primary need for service is due to mental illness or developmental disability are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915(c) Waiver.

Stat. Auth.: ORS 410.060, ORS 410.070 & ORS 411
Stats. Implemented: ORS 410.070
Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03; SPD 5-2003(Temp), f. & cert. ef. 3-12-03 thru 6-3-03

Department of Justice Chapter 137

Adm. Order No.: DOJ 1-2003
Filed with Sec. of State: 2-28-2003
Certified to be Effective: 3-1-03
Notice Publication Date: 2-1-03
Rules Adopted: 137-083-0000, 137-083-0010, 137-083-0020, 137-083-0030, 137-083-0040, 137-083-0050

Rules Amended: 137-008-0000
Subject: Effective January 1, 2002, the responsibility for the administration of the Child Abuse Multidisciplinary Intervention (CAMI) Account and related programs was transferred to the Department of Justice. OAR 137-083-0000 to 137-083-0050 implement the grant program established in ORS 418.786 for CAMI Account grants for regional and community child abuse medical assessment centers.

The newly adopted rules set forth the application requirements, criteria for awarding grants, reporting and other performance requirements and grievance procedures. They also define the services offered by regional assessment centers and referral of complex cases to regional assessment centers. The CAMI program rules currently set out in OAR 417-001-0001 to OAR 417-001-0011 (Department of Human Services) will be repealed.

OAR 137-008-0000(2) is amended to comply with ORS 183.341(4) and give reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule related to the Child Abuse Multidisciplinary Intervention (CAMI) Account.

Rules Coordinator: Carol Riches—(503) 378-6313

137-008-0000 Notice of Proposed Rule

(1) Prior to the adoption, amendment, or repeal of any rule, including the Model Rules, the Attorney General shall give notice of the proposed adoption, amendment, or repeal:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(b) By mailing a copy of the Notice to persons on the Attorney General's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(c) By mailing a copy of the Notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(d) By mailing or furnishing a copy of the Notice to:

- (A) The Oregon State Bar;
- (B) The Associated Press; and
- (C) The Capitol Press Room.

(2) When the Department of Justice adopts, amends or repeals rules specifically applicable to one of its programs listed below, notice in addition to that required by section (1) of this rule shall be provided by mailing a copy of the notice to the individual(s) or organization(s) listed in this section for the program:

(a) For the Crime Victims' Compensation Program, to:

- (A) The Workers' Compensation Board;
- (B) Each district attorney in the state; and
- (C) Each person on the program's mailing list established pursuant to ORS 183.335(7).

(b) For the Crime Victims Assistance Program to:

- (A) Each city attorney that has a certified, comprehensive victims assistance program;
- (B) Each district attorney in the state; and
- (C) Each person on the program's mailing list established pursuant to ORS 183.335(7).

(c) For the Division of Child Support to:

- (A) Oregon Legal Services Corporation;
- (B) Multnomah County Legal Aid Service;
- (C) Oregon District Attorneys Association;
- (D) Each Division of Child Support branch office, to be posted in the area most frequently visited by the public;
- (E) The Child Support Section of the Department of Human Resources; and
- (F) Each person on the Division's mailing list established pursuant to ORS 183.335(7).

(d) For the Charitable Activities Section:

(d) For the Charitable Activities Section:

ADMINISTRATIVE RULES

(A) For professional fund raising regulation, to all professional fund raising firms registered pursuant to ORS 128.821;

(B) For charitable organization regulation, to all charitable corporations and trusts registered pursuant to ORS 128.650;

(C) For bingo game regulation, to all bingo licensees licensed pursuant to ORS 167.118 and 464.250, et seq.;

(D) For raffle game regulation, to all raffle licensees licensed pursuant to ORS 167.118 and 464.250 et seq.;

(E) For Monte Carlo regulation, to all Monte Carlo licensees licensed pursuant to ORS 167.118 and 464.250, et seq.; and

(F) Each person on the section's mailing list established pursuant to ORS 183.335(7) for the appropriate program identified in A-E above.

(e) For the Criminal Intelligence Unit, Organized Crime Section, of the Criminal Justice Division:

(A) Each District Attorney in the state;

(B) Each Sheriff in the state;

(C) Each Chief of Police in the state;

(D) The Superintendent of the Oregon State Police; and

(E) Each attendee of the Basic Officer's Intelligence Course conducted by the Criminal Justice Division.

(f) For the Child Abuse Multidisciplinary Intervention Account:

(A) Persons on the Advisory Council on Child Abuse Assessment;

(B) All county multidisciplinary child abuse teams receiving money from the Child Abuse Multidisciplinary Intervention Account;

(C) The Oregon network of child abuse intervention centers;

(D) The regional assessment centers; and

(E) Each person on the Child Abuse Multidisciplinary Intervention Account's mailing list established pursuant to ORS 183.335(8).

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

Stats. Implemented: ORS 183.341(4)

Hist.: IAG 13, f. & ef. 10-21-75; JD 3-1983, f. & ef. 6-22-83; JD 8-1983, f. & ef. 11-10-83; JD 7-1989, f. 12-21-89, cert. ef. 12-20-89; JD 6-1994, f. 10-31-94, cert. ef. 11-1-94; JD 1-1998, f. & cert. ef. 2-4-98; DOJ 9-1999, f. & cert. ef. 12-8-99; DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

137-083-0000

Purpose

These rules implement the grant program established in ORS 418.786 for community and regional child abuse assessment centers. These rules define the services offered by Regional Assessment Centers, complex cases and the criteria for awarding grants. They also describe the grievance procedures.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

137-083-0010

Definitions

As used in OAR chapter 137, division 083:

(1) "Multidisciplinary Child Abuse Team (MDT)" means the interdisciplinary investigation team established in each county by ORS 418.747.

(2) "Complex Case" means a case in which the local community assessment center or the local multidisciplinary team determines the need for assistance from a Regional Assessment Center, in order to perform or complete a child abuse medical assessment or to evaluate, diagnose or treat a victim of child abuse.

(3) "Consultation" means discussions between or among persons associated with a Regional Assessment Center and persons associated with community assessment services regarding individual cases involving child abuse or possible child abuse, child abuse medical assessments, and related topics.

(4) "Education" means the provision of specialized information to individuals regarding the detection, evaluation, diagnosis and treatment of child abuse or possible child abuse.

(5) "Referral Services" means the provision of specialized services related to child abuse medical assessments or to the detection, evaluation, diagnosis or treatment of child abuse. It may include consultation or directing or redirecting a child abuse victim or possible victim to an appropriate specialist for more definitive evaluation, diagnosis or treatment.

(6) "Technical Assistance" means assistance of a practical, specialized or scientific nature, including but not limited to practical advice, specialized advice, advanced laboratory testing or forensic testing.

(7) "Training" means the provision of teaching or instruction to individuals regarding:

(a) The detection, evaluation, diagnosis or treatment of child abuse or possible child abuse; or

(b) Center operations, program development or other administrative issues.

(8) "Community Assessment Service" means a neutral, child sensitive community-based center or service provider to which a child from the community may be referred to receive a thorough child abuse medical assessment for the purpose of determining whether the child has been abused or neglected. These services may be provided by assessment, advocacy, or intervention centers.

(9) "Regional Assessment Center" means a community based assessment center that is also providing training, education, consultation, referral, technical assistance, and may with the approval of the Department of Justice be providing specialized assessment services for children in multiple counties. The Regional Assessment Center is commonly called the Regional Training and Consultation Center (RTCC) and may be referred to as RTCC or Regional Assessment Center throughout the rest of this document.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

137-083-0020

Application Requirements

(1) Eligible Applicants:

(a) An applicant for the RTCC grant must be a public or private non-profit agency that has demonstrated the ability to provide quality community assessment services for a period of at least two years, as determined by the Advisory Council on Child Abuse Assessment.

(b) An applicant for a community assessment service grant must be a public or private non-profit agency whose mission includes the provision of services to victims of child abuse or neglect.

(2) Application Contents. An application for either a community assessment center or RTCC grant must include the information requested in ORS 418.788(3), 418.790 (RTCC applicants only) and ORS 418.792 (community assessment center applicants) in addition to the following:

(a) Service Delivery Plan:

(A) An in-depth description of how the regional or community assessment centers will assure the provision of neutral, child-centered child abuse medical assessments for the purpose of determining whether a child has been abused or neglected.

(B) Documented support from constituent agencies and the local MDT. The constituent support must address the level of need for the services, and how that service will be accessed by community agencies or individuals.

(C) Goals, objectives and measurable outcomes for the projected funding period. The method by which the quality of services will be evaluated must be included in the service delivery plan.

(D) For RTCC applicants, the service delivery plan will include the requirements set forth in ORS 418.790(1).

(b) For RTCC applicants, how and to what extent the applicant proposes to provide consultation, education, training and technical assistance to local MDT's, community assessment centers, and others as may be appropriate. A description of services shall include documentation that potential recipients of any of the above services have been provided a reasonable opportunity to provide input into the proposed service plan.

(c) For RTCC applicants, a projected budget for the costs associated with the provision of consultation, education, training, referral and technical assistance or other services as may be approved by the Department of Justice. Costs may include, but are not limited to personnel, training, equipment, rent, supplies, travel, telephone or other communication charges. The budget for the services provided as a RTCC must be clearly differentiated from those of the direct victim services provided as a community assessment center.

(d) Any additional information requested by the Coordinator of the CAMI Account.

(3) Referral of Complex Cases. RTCC's shall assure that they will provide access for community assessment centers and MDT's for referral of complex cases. RTCC's, community assessment centers and MDT's shall have an agreement regarding how referrals and services may be made, who can make a referral, and if desired, more specificity regarding the definition of a complex case. The method for contacting the regional centers shall be updated as needed, and distributed by the RTCC centers, to all assessment centers and MDT coordinators.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

ADMINISTRATIVE RULES

137-083-0030

Criteria for Awarding Grants

(1) Criteria for awards include application quality, the documentation of services needed by those to be served, quality of past service provision, cost efficiencies, and geographic area to be served. In addition, the following criteria shall be considered:

(a) Length of time and experience hired staff have in providing comprehensive child abuse medical assessments. Also considered will be the number of full time employees available for the level of anticipated service;

(b) Length of time the applicant has been financially and organizationally stable;

(c) The leadership demonstrated by the applicant in promoting skilled, complete therapeutic medical assessments for any child alleged to be a victim of child abuse;

(d) The geographic area to be served and the accessibility of the center for those to be served;

(e) The availability of state of the art equipment for conducting comprehensive child abuse medical assessments;

(f) The extent to which the applicant meets the application requirements set forth in OAR 137-083-0020;

(g) Allowable expenses eligible for reimbursement through this grant;

(h) Responsiveness of the service delivery plan to a documented need for services; and

(i) Past success in meeting stated objectives and measurable outcomes.

(2) A successful applicant will be required to execute a grant agreement with the Department of Justice before any funds will be disbursed.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

137-083-0040

Performance of Duties

(1) Once each year, as directed by the CAMI Account Coordinator, community or regional assessment centers receiving CAMI funds directly from the Department of Justice, shall submit a report that provides both qualitative and quantitative information regarding the delivery of services at the community or regional center. The report form shall be provided by the Department of Justice.

(2) Failure to meet the conditions of the award including administration, fiscal and programmatic requirements, may result in a reduction or denial of subsequent funds.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

137-083-0050

Grievance Procedures

(1) An applicant has a right to a review of the award decision for CAMI funds for regional and community assessment centers.

(2) Each applicant will be informed of this grievance procedure at the time a decision is made regarding their funds.

(3) No applicant will be subject to reprisal for seeking a review of a grievance.

(4) To request a grievance review after receiving notification of the decision regarding the eligibility of the program, the applicant should make a written request to the CAMI Account Program Coordinator within 30 days after receiving notification of the award decision.

(5) When the Department is notified that an applicant has a grievance, a meeting will be scheduled with the CAMI Account Coordinator and members of the Advisory Council without a conflict of interest. Every effort will be made to have this meeting occur within 30 days of receipt of the grievance.

(6) If the matter is not resolved through the above described procedure, the applicant can request a review of the issue by the State Attorney General or his designee. The applicant should make a written request for such a review, to the Director of the Crime Victims' Assistance Section within 30 days following notification of the results of meeting with the CAMI Account Coordinator.

(7) The decision of the State Attorney General or his designee is final.

Stat. Auth.: ORS 418.782 - ORS 418.793

Stats. Implemented: ORS 418.780 - ORS 418.796

Hist.: DOJ 1-2003, f. 2-28-03, cert. ef. 3-1-03

Department of Transportation, Board of Maritime Pilots Chapter 856

Adm. Order No.: BMP 1-2003

Filed with Sec. of State: 2-26-2003

Certified to be Effective: 2-26-03

Notice Publication Date: 2-1-03

Rules Amended: 856-010-0010

Subject: Rule amendment is housekeeping that deletes subparagraph (4)(g), repealed effective December 31, 2000.

Rules Coordinator: Susan Johnson—(503) 731-4044

856-010-0010

Original Licensing Requirements

In addition to the qualifications required for licensing of pilots under ORS 776, the applicant shall:

(1) Present an application in writing to the administrator of the board on the form provided by the board for the pilotage ground for which the applicant intends to become licensed. The application shall be filed not less than 30 days prior to appearance before the board for a written examination. The board shall consider the application and upon approval, the written examination will be scheduled. The examination shall be proctored by the board's administrator. The examination for each pilotage ground shall be prepared by the board with the assistance of the board's licensed training organization for that pilotage ground. The examination will test for skill and knowledge of those factors identified in ORS 776.035(2) and 776.325(1)(b). The examination will be scored by the board member from the pilotage ground for which the applicant is seeking a license, and two additional pilots selected by the training course monitor and approved by the board, from the board's licensed training organization for the pilotage ground. The examination will be pass/fail.

(2) Accompany the application with a physical examination form provided by the Board and signed by an Oregon licensed physician verifying that the applicant meets the physical and mental criteria in subsections (a) through and including (l):

(a) Eyesight: Has visual acuity of at least 20/200 in each eye uncorrected and correctable to at least 20/40 in each eye as determined by Snellen test or its equivalent unless applicant qualified for a waiver from the Officer in Charge, Marine Inspection, or the Commandant, U.S. Coast Guard. Vision correctable to 20/40 in each eye is sufficient to satisfy the requirements of this subsection if the applicant carries a spare pair of correcting lenses while performing piloting duties;

(b) Color perception: Has normal color vision per pseudo isochromatic plates, Ishihara or Keystone test. If the applicant fails this test, the Farnsworth or Williams Lantern tests or their equivalent may be used to determine the applicant's ability to distinguish primary colors;

(c) Hearing: An audiometer test is only required if the applicant has, or is suspected to have, impaired hearing. A hearing loss of over 40 decibels is considered impaired hearing;

(d) Heart: Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(e) Blood pressure: Has no current clinical diagnosis of high blood pressure. Blood pressure shall be recorded with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg, further tests may be necessary to determine whether the applicant is qualified to pilot a vessel;

(f) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(g) Has no established medical history or clinical diagnosis of a respiratory dysfunction;

(h) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic muscular, neuromuscular, or vascular disease;

(i) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness;

(j) Has no mental, nervous, organic, or functional disease or psychiatric disorder;

(k) Has submitted to a test indicating the applicant is free of illegal substance abuse. Testing will be for the presence of Cocaine, Opiates, Marijuana (THC), Amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Code of Federal Regulations 46, CFR § 16 (1994).

ADMINISTRATIVE RULES

Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); and

(l) Has no current clinical diagnosis of alcoholism, unless the applicant has completed an in-patient program of rehabilitation and treatment under the care of a physician;

(m) Based on information on the physical examination form, and any other medical information or opinions provided to the Board by the applicant, the Board will determine whether the applicant's health is satisfactory for performance of the duties of a maritime pilot.

(3) Have actual experience as a pilot handling ships over the pilotage ground for which a state license is sought and state in the application the names of ships piloted, dates, draft, gross tonnage, and length over all, as specified in (but not limited to) (4), (5), (6) and/or (7) in this section, and:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard;

(b) Hold an unlimited federal pilot's endorsement for the ground for which a state license is sought; and

(c) Have served at least two years as Master aboard vessels, or when applying for a license over the Columbia and Willamette River pilotage ground, have completed a program of apprenticeship training which has been approved by the Board.

(4) In addition to the requirements in OAR 856-010-0010(1), (2), (3), when applying for a Grade "C" license over the Columbia and Willamette River pilotage ground, the applicant shall:

(a) Have served at least 730 active working days as captain of towing vessels on the Columbia River and its tributaries, or have completed a program of apprenticeship training which has been approved by the Board, as specified in OAR 856-010-0014;

(b) Have made at least six trips under the supervision of an unlimited state-licensed pilot within six months preceding the application while on the bridge of a ship of not less than 500 feet length over-all (L.O.A.) through the bridges in the upper harbor in Portland, up to and including the Broadway Bridge, which shall be made with and without the aid of a tug or towboat, including at least one trip in each direction, and also including at least six ship turns in the Willamette River;

(c) Have made at least 100 transits while on the bridge of a ship of not less than 500 feet L.O.A. within the six months preceding the application, with at least 70 of these transits made under the supervision of an unlimited state-licensed pilot;

(d) When combining trip segments to establish a transit, each trip segment may be used only once;

(e) Have made at least six trips under the supervision of an unlimited state-licensed pilot within the six months preceding the application while on the bridge of a ship of not less than 500 feet L.O.A. in a combination of the following directions, with at least two trips in each direction:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River.

(f) Present recommendations from the training course monitor and at least ten unlimited state-licensed pilots from the board's licensed training organization, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground, of a size authorized by a "Grade C" license.

(5) When applying for a license on the Coos Bay bar pilotage ground, the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilots endorsement for the Coos Bay bar pilotage ground;

(c) Complete one hundred (100) crossings of the Coos Bay bar while under the supervision of an unlimited state-licensed Coos Bay bar pilot, with at least ten crossings with each unlimited state-licensed Coos Bay bar pilot;

(d) Dock and undock 25 ships under the supervision of an unlimited state-licensed pilot;

(e) Make 25 trips through each of the bridges, with at least twenty-five percent (25%) of the total trips completed during hours of darkness;

(f) Submit letters from two Coos Bay bar pilots who have supervised the training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(6) When applying for a license on the Yaquina Bay bar pilotage ground the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilots endorsement for the Yaquina Bay bar pilotage ground;

(c) Complete one hundred (100) crossings of the Yaquina Bay bar while under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of bar crossings at Yaquina Bay may be reduced to 12, with at least one such crossing with each unlimited state-licensed Yaquina Bay bar pilot;

(d) Dock and undock 25 ships under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of dockings and undockings may be reduced to 12;

(e) Make twenty-five (25) trips through the bridge, with at least twenty-five percent (25%) of the total trips completed during hours of darkness, or after completing one year of piloting with a state license in Coos Bay, the number of trips may be reduced to 12, with at least 25 percent (25%) of the total trips completed during hours of darkness; and

(f) Submit letters from two Yaquina Bay bar pilots who have supervised training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(7) When applying for an original license on the Columbia River bar pilotage ground the applicant shall:

(a) Hold a valid license issued by the U.S. Coast Guard as "Unlimited Master any oceans — any tonnage", endorsed for Radar Observer;

(b) Have served at least two years as Master of an offshore merchant ship of 5,000 gross tons or more, certified by Certificates of Discharge or Continuous Discharge Book;

(c) Obtain a federal pilot's endorsement for the Columbia River bar pilotage ground, after which a minimum of one hundred (100) crossings of the Columbia River bar shall be made under the supervision of an unlimited state-licensed Pilot, and make crossings with at least five unlimited state-licensed Columbia River bar pilots;

(d) Be on board a minimum of ten ships docking or undocking from the Astoria Port Docks, Tongue Point, and other facilities;

(e) Make approximately twenty-five percent (25%) of the crossings of the Columbia River bar during the hours of darkness.

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

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 776.115 & ORS 776.300

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-1999, f. & cert. ef. 6-24-99; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2003, f. & cert. ef. 2-26-03

.....

Occupational Therapy Licensing Board Chapter 339

Adm. Order No.: OTLB 1-2003

Filed with Sec. of State: 3-4-2003

Certified to be Effective: 3-4-03

Notice Publication Date: 1-1-03

Rules Amended: 339-020-0020

Subject: These amendments further define continuing education categories. They amend number of points awarded.

Rules Coordinator: Peggy G. Smith—(503) 731-4207

339-020-0020

CE Categories and Credit

Credit for CE shall be calculated on a point basis in the following categories and must relate to occupational therapy services. It is the responsibility of the licensee to demonstrate how specific classes contribute to the development of the occupational therapy skills. "Application to OT Services" (CE Log) must be included for credit.

(1) Attendance at university, college or vocational technical adult education courses at or above practice level: Four points per credit hour. Documentation of successful completion required.

(2) Attendance at seminars, workshops, or institutes: One point per direct hour of content.

ADMINISTRATIVE RULES

(3) Completion of educational telecommunication network or on-line courses: Points as awarded by certificate or per credit, see (1). Certificate of successful completion required.

(4) Attendance at educational sessions relating to occupational therapy sponsored by OTOA, AOTA, AOTA approved providers, and NBCOT or professional academic institutions relating to occupational therapy: One point per hour of attendance. Certificate of attendance required.

(5) Satisfactory completion of American Occupational Therapy Association approved courses/materials or courses/materials offered by AOTA approved providers: Points per certificate on completion. Documentation of satisfactory completion required.

(6) Publication — Copy of publications required.

(a) Publication of article in non-peer reviewed publication (e.g. OT Practice, SIS Quarterly, Advance, etc.): Five points per article.

(b) Publication of article in peer-reviewed professional publication (e.g. journals, book chapter, research paper): Ten points per article.

(c) Publication of chapter(s) in occupational therapy or related textbook: ten points per chapter.

(7) Professional presentation (person presenting): Presentation must be at practice level for credit, e.g. CNA training would not be acceptable: Two points per hour with no additional points for subsequent presentation of same content. Course outline must be provided.

(8) Development of alternative media (computer software, video or audio tapes): Three points/hr of finished product. Outline required.

(9) Completing requirements for occupational therapy specialty certification (initial and/or one time only for each specialty): 12 points. Copy of certificate required.

(10) Research, provided an abstract of the research is retained to prove participation:

(a) Principal — Eight points.

(b) Associate — Six points.

(11) Development and implementation of a school approved Level II student program (one time only and completed within a year): Four points. Copy of program must be provided.

(12) In-service training: One point per hour of attendance.

(13) Attendance at videotaped presentations of educational courses, seminars, workshops or institutes (group viewing with discussion): One-half point per direct hour of viewing with additional points for discussion, not to exceed seven points.

(14) Student supervision, Level I Fieldwork: One-half point per student per week (or portion of a week) of supervision.

(15) Student supervision, Level II Fieldwork: One point per student per week (or any portion of a week) of supervision.

(16) Mentoring: One point for every eight hours contract mentoring.

(17) Professional leadership — Volunteer services to organizations, populations, and individuals that advance the reliance on and use of one's occupational therapy skills and experiences to the volunteer setting or experience: 10 hours equal two points. Up to four points a year with documentation. Eight to 15 required CE points must come from categories 1-11. A limit of 7 of the required CE points may be accrued from categories 12-17.

Stat. Auth.: ORS 675.320(11) & (12)

Stats. Implemented: ORS 675.210(4), ORS 675.240(1) & (2), ORS 675.250(2) & (3), ORS 675.300(1)(a) & ORS 675.320(11)

Hist.: OTLB 2-1994, f. 4-11-94, cert. ef. 6-1-94; OTLB 1-1999, f. & cert. ef. 10-27-99; OTLB 1-2003, f. & cert. ef. 3-4-03

Oregon Department of Aviation Chapter 738

Adm. Order No.: AVIA 1-2003

Filed with Sec. of State: 2-24-2003

Certified to be Effective: 3-1-03

Notice Publication Date: 11-1-02

Rules Adopted: 738-035-0005, 738-035-0010, 738-035-0015, 738-035-0020, 738-035-0025, 738-035-0030, 738-035-0035, 738-035-0040, 738-035-0045, 738-035-0050, 738-035-0055, 738-035-0060, 738-035-0065, 738-035-0070, 738-035-0075

Subject: These rules implement the provisions of three policies adopted during FY2001-2002 by the Oregon Department of Aviation regarding leases at state-owned airports: (a) Minimum Operating Standards for Category II State-Owned Airports, formally approved by the State Aviation Board on January 26, 2002, (b) Minimum Operating Standards for Category IV State-Owned Airports, formally approved by the State Aviation Board on January 26, 2002, and (c) Minimum Operating Standards for Category V State-Owned Air-

ports, formally approved by the State Aviation Board on February 20, 2002.

The policies and subsequent rule are established to ensure that the following conditions are consistently followed: (1) any person using or accessing State-owned airport property or facilities for commercial aeronautical activity compensates the Department at fair market rent; (2) all commercial operators consistently meet uniform requirements; (3) no person receives competitive advantage by using State facilities; (4) public areas remain available and open for public aeronautical use; (5) development of facilities and services is orderly and efficient; (6) the airport environment fosters high-quality services for all users and tenants; and (7) the Department, as airport sponsor for all State-owned airports, complies fully with federal grant assurances.

Rules Coordinator: Carolyn R. Bolton—(503) 378-4880, ext. 223

738-035-0005

Purpose and Overview

(1) Minimum operating standards are established at Oregon's State-owned airports so that:

(a) Any person or entity proposing to use or access State-airport property or facilities for commercial aeronautical activity compensates the Department for use of State property at fair market rent for such use and privilege.

(b) The Department consistently applies uniform requirements to all commercial operators at State-owned airports;

(c) Application of fair market rental rates creates parity between State-owned facilities and other public airports, ensuring that no person or entity receives a competitive advantage by using State facilities;

(d) State-owned airport public areas, roads, taxiways, runways and aprons remain available and open for public aeronautical use;

(e) Development of airport facilities and commercial aeronautical services at all State-owned airports is orderly and efficient;

(f) The environment at State-owned airports fosters high quality commercial aeronautical services for the airport users and tenants; and

(g) The Department, as airport sponsor for all State-owned airports, complies fully with federal grant assurances.

(2) The Department shall require all activities of commercial operators at State-owned airports to comply with the Operating Minimum Standards set forth in OAR 738-035, whether the commercial activity occurs:

(a) On the State-owned portion of the airport;

(b) On portions of the airport held in private ownership; or

(c) Where a private property owner accesses the State-owned land for landing and takeoff of aircraft through an access agreement with the Department.

(3) The specific minimum standards for each State-owned airport are based upon the airport category as set forth in the Oregon Aviation Plan, as well as unique conditions at the individual State-owned airport, including:

(a) Existing and planned facilities at the airport, and

(b) The current and anticipated future role of the airport in the State aviation system.

(4) Operating minimum standards provide threshold entry requirements for any person or entity proposing to enter into an agreement with the Department to provide public commercial aeronautical services to the public at a State-owned airport to ensure that services and facilities of service providers meet the needs of airport users.

(5) Operators are encouraged to exceed these minimum operating standards whenever possible.

(6) Each commercial operator shall agree to offer the specified minimum level of services to obtain an agreement with the Department granting permission to operate at the State-owned airport.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0010

Application of Operating Minimum Standards

(1) Existing operators with current agreements executed prior to February 1, 2003, shall not be required to conform to these minimum standards until renewal of their agreement with the Department; however, any exempt operator may voluntarily elect to comply with these operating minimum standards in advance of their renewal date.

(2) Existing operators who are unable to meet the requirements of these minimum standards at the time of their agreement renewal shall sub-

ADMINISTRATIVE RULES

mit a written plan outlining a specific timeline for their full compliance with the minimum standards. The Director, or the Director's designee, must approve the compliance plan prior to renewal of the agreement.

(3) These operating minimum standards are deemed to be part of each commercial operator's agreement with the Department, whether or not expressly set forth in their written agreement, with the exception of those specific instances when provisions are expressly waived or modified in writing by the Director or the Director's designee. The omission of a specific reference to any particular minimum standard in an operator's written agreement with the Department shall not constitute a waiver or modification of these operating minimum standards.

(4) If a commercial operator conducts multiple aeronautical activities under a single written agreement with the Department, that operator shall comply with the minimum standards established for each separate activity or SASO. If the minimum standards for one aeronautical activity are inconsistent with the minimum standards for another, then the stricter or higher standard shall apply to all aeronautical activities of that operator.

(5) Activities with no specific minimum standards in these rules shall be addressed by the Department on a case-by-base basis in the commercial operator's written lease, license, permit or agreement.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0015

Authorization for Commercial Activity on State-Owned Airport Property

(1) The Oregon Department of Aviation has authority to authorize commercial aeronautical activity on State-owned airport property.

(2) When the Department determines that a person or entity is engaged in, or proposes to engage in, commercial activity at a State-owned airport, the Department may grant that person or entity permission to do so, may issue that person or entity a permit with restrictions or conditions, may require the person or entity to enter a lease or agreement with the Department, or may deny such permission.

(3) The Department shall consider the following criteria in determining if an operator shall be authorized to conduct business:

(a) The terms and conditions of any pre-existing commercial operators at the airport providing comparable services;

(b) The impact of the proposed new commercial activity on public safety and convenience;

(c) The amount of available space at the airport;

(d) The customary uses of the airport;

(e) Compatibility of the proposed new commercial activity with present and planned development at the airport; and

(f) Compliance of the proposed activity with all federal, state and local laws and regulations, including land use regulations.

(4) The Department may impose any conditions or restrictions necessary to ensure safety in the air and on the ground at the State-owned airport, including preservation of unobstructed traffic patterns and runway approaches.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0020

Waiver or Modification of Operating Minimum Standards

(1) The Director, or the Director's designee, may waive or modify any portion of these operating minimum standards for the benefit of:

(a) A government agency performing nonprofit public services; or

(b) Fire protection or emergency response operations.

(2) The Director, or the Director's designee, may waive or modify any portion of these operating minimum standards for any person or entity when it is determined that such waiver is in the best interest of the public and will not result in unjust discrimination against other commercial aeronautical operators at the airport.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0025

Review, Revisions and Amendments to Operating Minimum Standards

The Department shall review these operating minimum standards at least once every two (2) years to determine whether changes in either the airport business or the regulatory environment necessitate amendment of these standards.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0030

Enforcement

The Department shall provide consistent, uniform, and fair enforcement of these minimum standards to accomplish the Department's goals and promote successful commercial business operations at all State-owned airports. The Department may, therefore, provide in its written agreements any appropriate provisions to assist the Department in enforcing these operating minimum standards.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0035

Commercial Business Employee Conduct at State-Owned Airports

(1) All commercial operators at State-owned airports shall diligently provide consistently high quality, responsive and professional services that meet or exceed the needs of airport users.

(2) Each commercial operator shall employ the quantity of trained, on-duty management and personnel necessary to ensure compliance with its obligations to provide courteous, efficient and safe services to all customers.

(3) All personnel employed by any commercial operator shall meet all federal, state and local training requirements, and shall hold all appropriate certifications required for their duties.

(4) No commercial operator shall do, or permit to be done, anything that may interfere with the effectiveness or accessibility of any:

- (a) Airport system;
- (b) Public utility system;
- (c) Drainage system;
- (d) Sewer system;
- (e) Fire protection system;
- (f) Sprinkler system;
- (g) Alarm system; or
- (h) Fire hydrant.

(6) If any commercial operator discovers an event has occurred or a situation exists that interferes with the effectiveness or accessibility of any service described in paragraph (4) above, the commercial operator, or an employee of the operator, shall immediately notify the Department, and the local fire department or utility company or such other municipal or community services as are appropriate to effectively and immediately resolve the situation.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0040

Minimum Standards for Fixed Base Operators (FBOs) at State-Owned Airports

(1) An FBO is the only commercial operator permitted by the Department to provide fueling services and facilities at any category of State-owned airport.

(2) In addition to the mandatory primary operation of aircraft fueling, an FBO operating at a Category II, Category III or Category IV State-owned airport shall provide a minimum of two (2) of the following secondary services:

- (a) Flight training;
- (b) Airframe and power plant maintenance;
- (c) Aircraft rental;
- (d) Avionics maintenance and sales; or
- (e) Aircraft storage.

(3) An FBO operating at a Category V State-owned airport may provide secondary services as the market demands, but shall be permitted to provide only fueling services facilities if an insufficient secondary market exists.

(4) Each FBO may subcontract or use third-party operators to provide any primary or secondary service. Subcontractors and third-party operators shall meet all minimum standards requirements.

(5) Each FBO shall conduct its business, and perform activities on and from the business premises, in a professional manner, consistent with the degree of care and skill exercised by experienced FBOs providing comparable products, services and activities from similar airports in like markets, and consistent with this section.

(6) Every FBO operating on State-owned airport shall comply with the following airport public building requirements:

ADMINISTRATIVE RULES

(a) **Category II Airport:** The FBO shall provide on the property a public use terminal building with floor space for:

- (A) Customer lobby;
- (B) Office;
- (C) Pilot's lounge;
- (D) Flight planning and weather briefing area;
- (E) Public rest rooms; and
- (F) Additional facilities and services as listed in paragraphs (7), (8) and (9) below.

(b) **Category III or IV Airports:** The FBO shall lease or construct on the property, a public use terminal building capable of meeting business demand, as approved by the Director or the Director's designee.

(c) **Category V Airport:** The FBO is not required to lease or construct a public use terminal building on the property; however, if the FBO chooses to lease or construct a public use terminal building, the building must be capable of meeting business demand, as approved by the Director or the Director's designee.

(7) Each FBO shall provide adequate vehicle parking on the property to meet the needs of customers and employees, in accordance with local building codes, but in no event fewer than:

- (a) **Category II Airport:** five (5) paved parking spaces;
- (b) **Category III or IV Airports:** three (3) paved parking spaces;
- (c) **Category V Airport:** two (2) paved or gravel parking spaces.

(8) Every FBO operating on a State-owned airport shall provide adequate property for its aircraft operating area (ramp), independent of any building area, vehicle parking area and fuel storage area. The aircraft operating area shall provide transient aircraft parking and tie-down areas for no fewer than:

- (a) **Category II Airport:** five (5) aircraft;
- (b) **Category III or IV Airports:** three (3) aircraft;
- (c) **Category V Airport:** two (2) aircraft.

(9) Each tie-down ramp area on a State-owned airport shall be adequate to support all the activities of the FBO and all approved subtenants. The FBO shall maintain the ramp area and keep it clean and free of foreign object debris (FOD).

(10) Each FBO shall be open for business on a regular schedule and shall provide aircraft fueling and line services to adequately serve the airport category. Business hours, including holiday closures, shall be recorded with the Department in advance and regularly updated for accuracy:

(a) **Category II Airport:** Each FBO shall be open for business and provide aircraft fueling and line services seven (7) days per week, during appropriate business hours. In addition, each FBO shall:

(A) Be on call twenty-four (24) hours each day to provide after-hours fuel service within two (2) hours of a customer request; or

(B) Develop and record with the Department a shared on-call schedule, at those airports where multiple FBOs are located who mutually agree upon shared responsibilities, to provide after-hours fuel services; and

(C) Provide adequate notice to the public of the communication mode with a designated on-call employee to ensure that after-hours on-call fueling services are readily accessible and timely provided, whether after-hours services are provided by a sole FBO or shared between multiple FBOs.

(b) **Category III and IV Airports:** Each FBO shall be open for business and provide aircraft fueling and line services a minimum of five (5) days per week, during appropriate business hours. In addition, each FBO shall:

(A) Be on call twenty-four (24) hours each day to provide after-hours fuel service within two (2) hours of a customer request; or

(B) Develop and record with the Department a shared on-call schedule, at those airports where multiple FBOs are located who mutually agree upon shared responsibilities, to provide after-hours fuel services; and

(C) Provide adequate notice to the public of the communication mode with a designated on-call employee to ensure that after-hours on-call fueling services are readily accessible and timely provided, whether after-hours services are provided by a sole FBO or shared between multiple FBOs.

(c) **Category V Airport:** If the FBO provides a self-fueling station, it must be readily accessible to customers and illuminated for nighttime operations.

(11) Each FBO operating on a Category II, Category III or Category IV airport shall have on duty, during all required hours of operation, a minimum of one (1) employee and such additional personnel as needed to adequately meet the operating minimum standards for each specific aeronautical service offered by the FBO. Multiple responsibilities may be assigned to qualified employees, where feasible.

(12) Each FBO operating at a State-owned airport shall provide the Department with a current and accurate roster consisting of names, addresses and contact information for all persons responsible for the both

management and operation of the FBO, even if the FBO is an unstaffed self-fueling operation sited at a Category V airport.

(13) Each FBO shall provide the Department with points of contact and appropriate telephone numbers to enable contact in any emergency situation.

(14) Each FBO shall obtain, and shall keep current at all times, any and all required fueling certifications and permits necessary for storing, handling and dispensing aircraft fuel storage. Each FBO shall train its management and fuel handling personnel to ensure safe and proper handling, dispensing and storage of aviation fuels. Periodic refresher training shall be provided as necessary.

(15) Each FBO shall develop and maintain Standard Operating Procedures (SOPs) for refueling and ground handling operations that comply with all Uniform Fire Code and FAA standards and requirements. The SOPs shall be submitted to the Department no later than thirty (30) days prior to the FBO commencing fueling activities and shall specifically address:

- (a) Bonding protection;
- (b) Fire protection;
- (c) Public protection;
- (d) Control of access to fuel storage areas; and
- (e) Marking and labeling of fuel storage tanks and fuel dispensing equipment.

(16) Each FBO shall comply with all FAA regulations pertaining to aircraft fuel storage, handling and dispensing on airports, to all airport rules and regulations, and to any other applicable laws related to aircraft fuel handling, dispensing and storage.

(17) Each FBO shall meet all State of Oregon insurance requirements and shall maintain, at a minimum, the specific types and amounts of insurance specified in their agreement with the Department.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0045

Primary Business Services Required at State-Owned Airports

(1) The following requirements apply to every FBO operating on a State-owned airport, regardless of airport category. Each FBO shall:

(a) Provide the sale and into-plane delivery of ASTM rated aviation fuels (to include either 100 LL octane avgas, Jet A fuel, or both), lubricants and other aviation petroleum products.

(b) Ensure that all equipment used for storing and dispensing petroleum products meets all applicable federal, state and local safety standards, codes and regulations.

(c) Provide a stationary fuel storage system design meets all applicable federal, state and local regulations and standards. The system shall be designed and operated to meet Air Transport Association (ATA) 103 requirements and the requirements of AC150/5230-4, as well as Environmental Protection Agency (EPA) standards that include proper fuel spill prevention features and containment capabilities.

(d) Provide filter-equipped fuel dispensers, with separate dispensing pumps and meter systems for each grade of fuel supplied.

(e) Ensure that all metering devices are inspected, checked and certified annually by appropriate local and state agencies.

(f) Monitor fuel inventories in accordance with current Environmental Protection Agency (EPA) standards and provide copies of fuel inventories to the Department upon request.

(g) Maintain a written plan for fuel spill prevention, countermeasures and control, and shall provide a current copy of the plan to the Director or the Director's designee.

(h) Receive prior written permission from the Director or the Director's designee before providing commercial self-service fueling equipment (cardlock) equipment. All cardlock equipment must comply with all state and local building codes, as well as the requirements of OAR 738-035-0070.

(i) Conduct the lawful, sanitary and timely handling and disposal of all solid waste, regulated waste and other materials, including but not limited to:

- (A) Sump fuel;
- (B) Used oils;
- (C) Solvents; and
- (D) Other regulated waste.

(j) Ensure that no crates, boxes, barrels, containers, refuse or other surplus property is piled or stored anywhere on the lease property.

(k) Provide an adequate supply of the proper type and size of operable fire extinguishers in all proper locations, in accordance with the

ADMINISTRATIVE RULES

Uniform Fire Code. All fire extinguisher certifications shall be kept current at all times.

(l) Meet all State of Oregon insurance requirements and maintain the type and amounts of insurance specified in their agreement with the Department.

(2) The following additional requirements shall apply to FBOs operating at **Category II airports**. Each FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of eight thousand (8,000) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) One (1) or more personnel to serve the fuel demand at the airport.

(d) Aircraft line services, including necessary equipment, supplies and trained personnel for aircraft parking and tie down areas.

(e) The following services and concessions inside their main building, unless otherwise approved by the Department:

(A) Customer service counter stocked with basic pilots supplies;

(B) Public lounge and waiting area;

(C) Flight planning work area, with Flight Service Station and weather service communication links;

(D) Public telephones;

(E) Snack food and beverage machines;

(F) Local ground transportation contacts; and

(G) Public indoor restrooms.

(3) The following additional requirements shall apply to FBOs operating on **Category III or IV airports**. The FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of eight thousand (8,000) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) One (1) or more personnel to serve the fuel demand at the airport.

(d) Aircraft line services, including necessary equipment, supplies and trained personnel for aircraft, parking and tie down areas.

(e) The following services and concessions inside their main building, unless otherwise approved by the Department:

(A) Customer service counter;

(B) Public lounge and waiting area;

(C) Public indoor restrooms;

(D) Public telephones; and

(E) Local ground transportation contacts.

(4) The following requirements shall apply only to FBOs operating on Category V airports. The FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of five hundred (500) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) The FBO is not required to provide aircraft line services.

(d) Although the FBO is not required to lease or construct a building at a State-owned airport, they may choose to do so. In that event, the FBO may provide services and concessions similar to (3)(E) above.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0050

Secondary FBO Services at State-Owned Airports

(1) An FBO providing flight training services shall:

(a) Make available a minimum of one (1) FAA-certified and currently qualified flight instructor, registered with the Department in compliance with Oregon pilot registration laws and as many additional instructors as are necessary to adequately meet the flight training demand and schedule requirements;

(b) Provide one or more properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to conduct the services offered; and

(c) Ensure that all student pilots are registered with the Department in compliance with Oregon pilot registration laws.

(2) An FBO providing airframe or power plant maintenance services may provide either or both of the following: major and minor airframe maintenance and repair, engine, and accessory overhaul repair services on single and multi-engine piston driven propeller aircraft. Turbine and jet aircraft maintenance services are optional. An airframe and power plant maintenance operator shall:

(a) Operate the service from a ventilated shop space capable of accommodating at least one (1) aircraft within the FBO property;

(b) Have in their employ a minimum of one (1) FAA-certified technician who possesses an airframe and/or power plant certificate, with inspection authorization, or conduct operations as a certified repair station pursuant to 14 CFR Part 145;

(c) Keep the premises open and services available as follows:

(A) **Category II Airport**: during appropriate business hours, five (5) days a week, excluding holidays;

(B) **Category III or IV Airports**: an on-demand operator shall be available;

(C) **Category V Airport**: services shall be available to meet market demand.

(d) Provide equipment, supplies and parts required for general aircraft airframe and power plant inspection, maintenance and repair.

(3) An FBO providing on-demand air transportation services shall:

(a) Make available at least one (1) person who is appropriately certified and currently qualified, and registered with the Department in compliance with Oregon pilot registration laws, to conduct the flight activity offered by the Operator;

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered; and

(c) Hold and display a current 14 CFR Part 135 Certificate.

(4) An FBO providing aircraft rental services shall:

(a) Have at least one (1) person available to meet customer needs;

(b) Keep the premises open and services available as follows:

(A) **Category II Airports**: during appropriate business hours, six (6) days a week, excluding holidays;

(B) **Category III and IV Airports**: during appropriate business hours, five (5) days a week, excluding holidays;

(C) **Category V Airports**: to meet market demand.

(c) Have available for rental a minimum of one (1) owned or leased certified and airworthy aircraft that is registered with the Department in compliance with Oregon aircraft registration; and

(d) Ensure that all aircraft renters are in compliance with Oregon pilot registration laws.

(5) Any FBO providing avionics maintenance service shall:

(a) Operate the service in a heated and ventilated shop space to accommodate at least one (1) aircraft within the FBO property;

(b) Have at least one (1) trained, currently qualified FAA-certified technician;

(c) Keep the premises open and services available as follows:

(A) **Category II, III and IV Airports**: appropriate business hours, five (5) days a week, excluding holidays;

(B) **Category V Airports**: to meet market demand.

(d) Hold all appropriate FAA repair station certificates for the types of equipment the operator plans to install, service or repair.

(6) Any FBO providing aircraft storage and hangar services shall:

(a) Lease and rent hangars, multiple T-hangars, and/or shade hangars to aircraft owners or operators solely for aircraft storage purposes;

(b) Make available the necessary amount of land to accommodate the proper quantity and size of hangars for the quantity of stored aircraft;

(c) Post an informational sign for prospective customers, displaying:

(A) Contact names and numbers for all hangar operators; and

(B) Where to obtain information on hangar availability and rental rates.

(d) Ensure that each based aircraft stored within the operator's hangar facilities is registered with the Department in compliance with Oregon aircraft registration laws

(e) Ensure that all hangar tenants are fully informed regarding what constitutes legal activities within the hangar property, including the following information:

(A) Only preventive aircraft maintenance as described in 14 CFR Part 43 may be performed by the aircraft owner on the leased or rented hangar property. All other aircraft maintenance services must be performed by an appropriately permitted FBO, SASO, MSP or by the operator in accordance with 14 CFR Part 43.3(d);

(B) Experimental aircraft construction and maintenance is allowed in accordance with 14 CFR Parts 21 and 65;

(C) Painting and welding activities, and storage of any hazardous or combustible materials, shall be permitted within the hangar property only as permitted by the Uniform Fire Code;

(D) The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property shall not be permitted outside the hangar; and

(E) All maintenance activity shall be in accordance with the requirements of the Uniform Fire Code.

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

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

ADMINISTRATIVE RULES

738-035-0055

Minimum Standards for Specialized Aviation Service Operations (SASO) at State-Owned Airports

(1) SASOs that provide the same or similar services shall comply equally with all applicable Minimum Standards; however, the Department will not require, without adequate justification, that a SASO meet all the criteria for a full-service FBO for the type of operation conducted.

(2) Each SASO shall operate out of a building located on the airport. The building shall be of an appropriate size to accommodate the services being offered, be accessible to the public, and shall be marked with appropriate external signage.

(3) Each SASO shall provide automobile parking area appropriate for the needs of the business. Parking areas on Category II, III and IV Airports shall be paved; parking areas on Category V Airports may be paved or gravel.

(4) Each SASO shall keep current and provide to the Department a written statement of names, addresses and contact information for all personnel responsible for the operation and management of the SASO.

(5) Each SASO shall meet all State of Oregon insurance requirements and shall maintain the types and amounts of insurance as specified in the agreement with the Department.

(6) Each SASO providing aircraft dual and solo ground and flight instruction, necessary to complete the written examination and flight check for any category of pilot certificate or rating, shall meet the following minimum requirements:

(a) Provide at least one (1) currently qualified FAA-certified flight instructor, registered with the Department in compliance with Oregon pilot registration laws, and additional qualified instructors as necessary to meet the flight training demand and schedule requirements;

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered; and

(c) Ensure that all student pilots are registered in compliance with Department pilot registration laws.

(7) Each SASO providing aircraft airframe and power plant maintenance, which includes either major or minor airframe maintenance or engine and accessory overhaul repair services on single or multi-engine piston driven propeller aircraft, shall meet the following minimum standards:

(a) Operate the service from a ventilated shop space able to accommodate at least one (1) aircraft on the airport.

(b) Provide one (1) FAA-certified technician with an airframe and/or power plant, with inspection authorization, or possess and conduct operations pursuant to a repair station certificate pursuant to 14 CFR Part 145.

(c) Keep premises open and services available as follows:

(A) **Category II, III and IV Airports:** appropriate business hours, five (5) days a week, excluding holidays;

(B) **Category V Airports:** to meet market demand.

(d) Provide equipment, supplies and parts required for general aircraft airframe and power plant inspection, maintenance and repair.

(8) Each SASO providing on-demand air transportation of persons or property to the general public for hire shall:

(a) Provide at least one (1) currently qualified FAA-certified person, registered with the Department in compliance with Oregon pilot registration laws, to permit the flight activity offered by the operator.

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered.

(c) Hold and display a current 14 CFR Part 135 Certificate.

(9) Each SASO providing aircraft rental services to the general public shall:

(a) Have at least one (1) person available to meet customer needs;

(b) Keep the operation open and services available as follows:

(A) **Category II Airports:** during appropriate business hours, six (6) days a week, excluding holidays;

(B) **Category III and IV Airports:** during appropriate business hours, five (5) days a week, excluding holidays;

(C) **Category V Airports:** to meet market demand.

(c) Have available for rental a minimum of one (1) owned or leased certified and airworthy aircraft, registered with the Department in compliance with Oregon aircraft registration laws; and

(d) Ensure that all aircraft renters are registered with the Department in compliance with Oregon pilot registration laws.

(10) Each SASO providing avionics maintenance and sales services shall:

(a) Operate the service in a heated and ventilated office or shop space able to accommodate at least one (1) aircraft on the airport;

(a) Provide at least one (1) trained and FAA certified technician;

(b) Keep premises open and services available as follows:

(A) **Category II, III and IV Airports:** during appropriate business hours, five (5) days a week, excluding holidays.

(B) **Category V Airports:** to meet market demand.

(d) Hold the appropriate FAA certificates required for the types of services offered.

(11) Each SASO providing aircraft storage and hangar services shall:

(a) Ensure that all hangars, multiple T-hangars, and/or shade hangars are used solely for aircraft storage purposes;

(b) Make available the necessary amount of land to accommodate the proper quantity and size of hangars for the quantity of stored aircraft;

(c) Post an informational sign for prospective customers, displaying:

(A) Contact names and numbers for all hangar operators; and

(B) Where to obtain information on hangar availability and rental rates.

(d) Ensure that each based aircraft stored within the operator's hangar facility(ies) is registered with the Department in compliance with Oregon aircraft registration laws;

(e) Ensure that all hangar tenants are fully informed of what constitutes legal activities within the hangar property, including the following information:

(A) Only preventive aircraft maintenance as described in 14 CFR Part 43 may be performed on the leased or rented hangar property;

(B) All other aircraft maintenance services must be performed by an appropriately permitted FBO, SASO, MSP or by the operator in accordance with 14 CFR Part 43.3(d);

(C) Experimental aircraft construction and maintenance is allowed in accordance with 14 CFR Parts 21 and 65;

(D) Painting and welding activities, and storage of any hazardous or combustible materials, shall be permitted within the hangar property only as permitted by the Uniform Fire Code;

(E) The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property shall not be permitted outside the hangar; and

(F) All maintenance activity shall be in accordance with the requirements of the Uniform Fire Code.

(12) Each SASO providing new and/or used aircraft sales and aircraft brokerage services shall:

(a) Provide at least one (1) qualified aircraft salesperson that has a current commercial pilot certificate, with appropriate aircraft type ratings, and registered with the Department in compliance with Oregon aircraft registration laws;

(b) Keep premises open and services available as follows:

(A) **Category II, III and IV Airports:** during established business hours as recorded with the ODA.

(B) **Category V Airports:** to meet market demand.

(c) Be registered with the Department as an aircraft dealer.

(13) Each SASO providing restoration, painting or refurbishing services for aircraft structures, propellers, accessories, interiors, exteriors, and components shall:

(a) Provide at least one (1) qualified person who possesses certificates appropriate for the work performed;

(b) Keep the operation open and services available as follows:

(A) **Category II, III and IV Airports:** during appropriate business hours, five (5) days a week, excluding holidays.

(B) **Category V Airports:** to meet market demand.

(c) Meet all requirements of the Uniform Fire Code.

(14) Each SASO providing specialized commercial flying services, such as, but not limited to, non-stop sightseeing tours, aerial photography or surveying, power line or pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, banner towing, and other air transportation operations specifically excluded from 14 CFR Part 135, shall:

(a) Provide at least one (1) qualified person who holds a current FAA appropriate pilot certificate and medical certificate, with ratings appropriate for the operator's aircraft, and registered as an Oregon pilot in compliance with the Department's registration laws;

(b) Keep the operation open and services available as follows:

(A) **Category II, III and IV Airports:** during appropriate business hours, five (5) days a week, excluding holidays.

(B) **Category V Airports:** to meet market demand.

(c) Own or lease at least one (1) airworthy aircraft, appropriately registered in compliance with the Department's aircraft registration laws; and

ADMINISTRATIVE RULES

(d) Maintain up-to-date copies of Material Safety Data Sheets (MSDS).

(15) Any SASO engaging in the transportation of persons for commercial parachuting, instruction in parachuting, and rental and sales of parachuting equipment shall:

(a) Provide at least one (1) properly certificated, airworthy aircraft, either owned or under lease, that has been registered with the Department in compliance with Oregon aircraft registration laws;

(b) Meet or exceed the Basic Safety Requirements (BSR) of the United States Parachute Association (USPA), 14 CFR Part 105, and related FAA Advisory Circulars; and

(c) Provide at least one (1) jump plane pilot who holds an appropriate pilot certificate, appropriately rated for the aircraft being operated, and registered with the Department in compliance with Oregon pilot registration laws.

(16) Any SASO engaging in aerial agricultural spraying or seeding shall:

(a) Provide at least one (1) person who holds a current FAA appropriate pilot certificate with ratings appropriate for the operator's aircraft and is registered with the Department in compliance with Oregon pilot registration laws;

(b) Own or lease at least one (1) properly certificated, airworthy aircraft that has been registered with the Department in compliance with Oregon aircraft registration laws;

(c) Provide a centrally drained and paved area of not less than ten thousand (10,000) square feet that meets all current requirements of state, federal and local agencies for purposes of aircraft loading, washing and servicing;

(d) Maintain complete compliance at all times with OAR 340-109-0010, Pesticide Residue Waste Management, and all applicable OARs contained within Division 57, Pesticide Control, Oregon Department of Agriculture;

(e) Employ specific safeguards and safe operating practices to prevent spillage, including:

(A) Clean-up and removal of all containers at the end of each day's activities;

(B) Maintenance of all loading and mixing facilities in good condition;

(C) Use of dry break devices or equivalent couplings to the aircraft-loading receptacle to prevent leaks of all materials;

(f) Position all aircraft and loading equipment as to not interfere with normal aircraft operations at the airport;

(g) Immediately remove contaminated surface materials from the lease property in the event of a small pesticide or pesticide solution spill, and treat the area of the spill with SuperBugs or an equivalent product;

(h) Immediately contain all material in the event of a reportable amount of spilled pesticide, and contact those agencies required to receive notification under Department of Environmental Quality (DEQ) regulations;

(i) Keep an appropriate spill kit on site, in a known and easily accessible location; and

(j) Store all chemicals on airport in accordance with the Material Safety Data Sheet (MSDS) requirements for that chemical, and provide current MSDS sheets available to Department upon request.

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

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0060

Minimum Standards for Mobile Service Providers (MSPs) at State-Owned Airports

(1) Each MSP shall maintain a current Airport Operating Permit (AOP) issued by the Department. All AOPs must be renewed annually and accompanied by the fee designated in OAR 738-010, the Rates and Charges rule.

(2) Each MSP shall maintain a current written statement of names, addresses and contact information for all personnel responsible for the operation and management of the MSP, and shall provide the Department with updated copies.

(3) Each MSP shall meet all State of Oregon insurance requirements and shall maintain the specific types and amounts of insurance as specified in their agreement with the Department.

(4) Each MSP shall employ a sufficient number of qualified personnel to meet these Minimum Standards for each aeronautical service provid-

ed; however, multiple responsibilities may be assigned to any qualified employee, where feasible.

(5) Each MSP that operates aircraft shall ensure that all aircraft and pilots are registered with the Department in compliance with Oregon aircraft and pilot registration laws.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0065

Minimum Standards for Commercial Self-Fueling Services at State-Owned Airports

(1) All commercial self-fueling operators situated on any State-owned airport must be an FBO, as defined in OAR 738-035-0035. All commercial self-fueling operators shall apply to the Department and receive written approval before commencing operations. The Department reserves the right to grant or deny authorization for a commercial self-fueling operation at a State-owned airport.

(2) Each commercial self-fueling operator shall provide, at a minimum, 100LL aviation gasoline.

(3) All commercial self-fueling products, dispensing equipment and fuel storage shall meet all applicable federal, state and local regulations and requirements regarding safety, testing, filtering, inventory management and quality assurance.

(4) Only those locations on the airport that have been designated by the Department as temporary or permanent fuel storage areas shall be used for storing aviation fuels.

(5) Each commercial self-fueling operator shall comply with all federal, state and local environmental laws, ordinances and regulations.

(6) Each commercial self-fueling operator shall provide the Department with a copy of its current fuel spill prevention, countermeasures and control plan, which must include methods and procedures to prevent, control and clean up a fuel spill on airport property.

(7) Each FBO authorized to install and maintain self-fueling equipment shall provide monthly fuel inventory reconciliation reports to the Department, listing the total amounts of fuel dispensed to all aircraft.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112

Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055

Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0070

Compliance with Operating Minimum Standards by Through-The-Fence Operators at State-Owned Airports

(1) The Department is obligated, on behalf of the aviation system of Oregon and the State-owned airports held in the state inventory, to regulate all aeronautical activities on property that accesses the State-owned land for landing and takeoff of aircraft. Therefore, the Department shall require any person or entity conducting commercial aeronautical activities at a State-owned airport by an access or through-the-fence agreement to comply fully with these operating minimum standards.

(2) If a person or entity has an existing access agreement with the Department, already in effect on February 1, 2003, that person or entity is not subject to these operating minimum standards during the remaining period of the agreement; however, the minimum standards shall apply at the time that agreement is renewed and shall be clearly incorporated in any new agreement.

(3) If a person or entity is performing through-the-fence commercial aeronautical activities without a current access agreement with the Department, that person or entity shall either:

(a) Obtain an access agreement within thirty (30) calendar days of notification by the Department; or

(b) Cease their access of State-owned airport property by the 30th day following notification by the Department.

(4) Each application for a new access agreement on a State-owned airport shall include:

(a) Proof of appropriate level of insurance;

(b) A written plan indicating compliance with all laws and regulations; and

(c) The identity and contact information for the individual who will be responsible for all aeronautical activities proposed in the proposed access agreement.

(5) The Department shall consider and evaluate a new development application on a case-by-case basis, with consideration to airport safety and operating efficiency factors.

(6) The Department retains the right to restrict or deny any access agreement if airport safety or efficiency is compromised by the existence of the proposed service or activity.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0075

Exemption from Operating Minimum Standards for Flying Clubs at State-Owned Airports

(1) All aircraft owned by a flying club must be vested in the name of the club or in its owners on a pro-rata basis.

(2) The flying club shall not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace or enhance the aircraft or fleet of aircraft.

(3) A flying club has the right to fuel and maintain the club aircraft with its members, since it qualifies as an individual under the FAA grant assurances.

(4) The regulation of flying clubs is not governed through these minimum standards, since flying clubs are not commercial aeronautical activities.

(5) The Department may require a flying club to furnish documents, such as insurance policies, by-laws, meeting minutes and notifications, and a current roster of members, to ensure that the club remains a non-commercial and non-profit organization.

Stat. Auth.: ORS 835.035, ORS 835.040, ORS 835.112
Stats. Implemented: ORS 835.035, ORS 835.040, ORS 835.112, ORS 836.055
Hist.: AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

Oregon Department of Education
Chapter 581

Adm. Order No.: ODE 1-2003(Temp)

Filed with Sec. of State: 3-4-2003

Certified to be Effective: 3-4-03 thru 8-1-03

Notice Publication Date:

Rules Amended: 581-053-0002

Subject: After tracking diabetic drivers for a year, the Department of Education finds it necessary to revise the rule to include only those drivers who are actually taking insulin, not drivers who control their diabetes with diet or oral agents.

For questions regarding this rule, please contact Deborah Lincoln at (503) 378-3600, ext. 2664 or e-mail Deborah.Lincoln@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

581-053-0002

Administration of Pupil Transportation

(1) Definitions of terms used in OAR 581-053-0002 through 581-053-0550 shall be as follows:

(a) A school bus shall be as defined in ORS 801.460;

(b) A school activity vehicle shall be as defined in ORS 801.455;

(c) For purposes of OAR 581-053-0006, a diabetic is a person who takes insulin.

(d) Pupil transporting vehicles shall include all school buses as well as other vehicles which are owned or under contract with the school districts, private or parochial schools and are used to transport pupils to or from school or an authorized school activity or function.

(2) School districts shall provide transportation in compliance with all applicable laws and administrative rules.

(3) School districts or other employers shall not require or knowingly permit any person to operate a school bus or other pupil transporting vehicle in violation of any applicable rules of the Oregon Department of Education or Oregon laws.

(4) School boards shall adopt and implement written policies that insure that transportation officials receive notification of students having special medical or behavioral protocols identified in student records and that drivers receive appropriate training related to specified protocols, including requirements of confidentiality.

(5) School districts shall adopt and implement written transportation policy, including provisions regarding student suspensions and expulsions from district-provided transportation.

(a) Written transportation suspension and expulsion policy shall include at least the following:

(A) Definitions for the terms "suspension" and "expulsion" from district-provided transportation services and identify the specific applicable time limits; and

(B) Identification of criteria used for student suspension and expulsion from district-provided pupil transportation services; and

(C) Special provisions for the application of the policy to students receiving services under the Individuals with Disabilities Education Act; ORS 339.250, and 343.363; or

(b) An adoption as local board policy all elements listed below:

(A) Students may be suspended from district-provided pupil transportation services when such suspensions are executed within the provisions contained in OAR 581-021-0065(1) through (3) and all applicable procedures are consistent with OAR 581-053-0002(9), 581-053-0010, and the Individuals with Disabilities Education Act;

(B) The school district board shall limit the term of a suspension for a specific incident to a specific number of days. The maximum shall not exceed 10 school days when transportation is provided;

(C) Upon the occurrence within one school year of a subsequent incident or any occurrence of a severe disciplinary problem constituting a demonstrable safety hazard for the pupil transporting vehicle or persons inside/outside the vehicle, the student may be expelled from district-provided transportation services for a period not to exceed one school year. Parent notification and procedural rules for year-long length expulsions must be included in local board-approved transportation policy and must comply with those set forth for student expulsion in OAR 581-021-0070. An expulsion may extend into a second term or semester if the current term or semester ends within such a short period of time that the expulsion would be too short to be effective;

(D) Suspensions and expulsions shall be ordered by the school board, the executive officer of the school district or his or her designated representative. The district school board shall have the right of final review if the action is not taken by the school board itself. The school board may affirm, amend, modify, or rescind any suspension or expulsion order.

(6) School buses and all other pupil transporting vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, plus any subsequent rules applicable to the vehicle.

(7) Any additions of vehicle equipment or alterations in the vehicle construction not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without prior approval from the Oregon Department of Education.

(8) All school buses and school activity vehicles which will be transporting students for the first time in a school system in Oregon must conform, or be made to conform within thirty days of notice of nonconformity, to the minimum standards for Oregon school buses or school activity vehicles currently in force as they apply to each vehicle. Written notification must be sent to the Superintendent of Public Instruction when relocating school or activity buses for a period exceeding 10 days. School and activity buses with a manufacture date prior to November 1, 1985 shall not be relocated. Oregon Department of Education personnel may give a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or the public. The vehicle owner shall notify the Oregon Department of Education that the deficiency is corrected before transporting students.

(9) Vehicle maintenance records shall be kept for each vehicle used to transport students. These records shall be available to Department of Education personnel upon request. The following minimum information shall be kept for each vehicle by date and mileage at the time of service, adjustment or repair:

(a) Chassis lubrications;

(b) Engine oil and filter changes;

(c) Major engine tune-ups and repairs;

(d) All adjustment, service and repair of brake system;

(e) All adjustment, service and repair of steering mechanism and other related parts;

(f) Tires; and

(g) Drive train components.

(10) A seat that fully supports the passenger shall be provided for every passenger on all pupil transporting vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while vehicle is in motion.

(11) Safety instruction:

(a) All regularly transported pupils in schools which provide pupil transportation shall receive the following instruction at least once within the first six (6) weeks of the first half and once within the first six (6) weeks of the second half of each school year:

ADMINISTRATIVE RULES

cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03

(A) Safe bus riding procedures, including but not limited to loading, unloading, crossing, etc.;

(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils in schools where pupil transportation is provided who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe bus riding procedures; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(12) All school buses manufactured prior to September 1, 1979 shall be equipped to meet all requirements of the applicable minimum standards for Oregon school buses in effect on that date.

(13) School systems shall provide for the required training, examination, and testing of their school bus and school activity vehicle drivers to comply with Oregon Department of Education rules. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport students with disabilities. Records to document training and testing shall be maintained by school districts. Such records shall be made part of each driver's driver-training record file. Records shall be made available to Oregon Department of Education personnel or the driver upon request.

(14) School districts or contractors employing school bus drivers or Type 10 or Type 20 school activity vehicle drivers shall immediately notify the Department of Education if they have reason to believe any change in the driver(s)' criminal or driving record has occurred which could affect their ability to:

(a) maintain a school bus driver permit or certificate under the provisions of OAR 581-053-0006(8); or

(b) meet the requirements listed in OAR 581-053-0545 and 581-053-0550 for activity vehicle drivers.

(15) Schools or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus including the bus safety lights. Exception: If the bus is sold for the purpose of transporting school children to and from school, the bus identification and bus safety lights need not be removed. If sold for the purpose of transporting workers, the bus safety lights need not be removed.

(16) Schools or contractors planning to rebuild a school bus shall first secure approval from the Pupil Transportation Section, Oregon Department of Education. (This does not apply to repair of damage.) All rebuilt buses must meet current Oregon Minimum Standards for School Buses and applicable Federal Department of Transportation regulations.

(17) Special vehicles used for transportation of students with disabilities or for specific educational purposes which do not meet all current Oregon Minimum Standards for School Buses must be approved by the Pupil Transportation Section, Oregon Department of Education.

(18) Appeal for Variance.

(a) A school or contractor desiring to purchase a school bus or school activity vehicle which cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the local school superintendent, and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items which will not meet applicable standards; and

(D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(19) In case of an accident involving serious injury or death, the Oregon Department of Education shall be notified immediately.

(20) A school district or contractor shall notify the Department of Education in writing within 30 days of notification of any employee's conviction for driving violations or criminal offenses specified in OAR 581-053-0006(8).

(21) School district shall report to the Department of Education statistics related to pupil transportation: Information required shall be related to mileage, numbers and types of buses, and numbers of stStat. Auth.: ORS 327.013 & ORS 820.100 - ORS 820.120

Stats. Implemented: ORS 327.013, ORS 820.100, ORS 820.105, ORS 820.110 & ORS 820.120

Hist.: IEB 13-1978, f. 4-3-78, ef. 9-1-78; IEB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99,

Adm. Order No.: ODE 2-2003

Filed with Sec. of State: 3-10-2003

Certified to be Effective: 3-10-03

Notice Publication Date: 12-1-02

Rules Adopted: 581-015-0097, 581-015-0607, 581-015-0608, 581-015-0972, 581-015-1051, 581-015-1052

Rules Amended: 581-015-0005, 581-015-0016, 581-015-0017, 581-015-0035, 581-015-0037, 581-015-0039, 581-015-0042, 581-015-0044, 581-015-0048, 581-015-0049, 581-015-0051, 581-015-0054, 581-015-0057, 581-015-0059, 581-015-0061, 581-015-0062, 581-015-0063, 581-015-0066, 581-015-0067, 581-015-0068, 581-015-0075, 581-015-0079, 581-015-0080, 581-015-0081, 581-015-0085, 581-015-0086, 581-015-0088, 581-015-0093, 581-015-0094, 581-015-0099, 581-015-0101, 581-015-0126, 581-015-0131, 581-015-0296, 581-015-0550, 581-015-0551, 581-015-0552, 581-015-0553, 581-015-0555, 581-015-0556, 581-015-0558, 581-015-0559, 581-015-0568, 581-015-0601, 581-015-0805, 581-015-0811, 581-015-0816, 581-015-0820, 581-015-0825, 581-015-0900, 581-015-0935, 581-015-0937, 581-015-0938, 581-015-0939, 581-015-0945, 581-015-0946, 581-015-0960, 581-015-0964, 581-015-0966, 581-015-0968, 581-015-0970, 581-015-0980, 581-015-0990, 581-015-1000, 581-015-1008, 581-015-1100, 581-015-1110

Rules Repealed: 581-015-1107

Subject: Special Education Rules. If you have questions regarding these rules, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of a 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

581-015-0005

Definitions

The definitions below apply to Oregon Administrative Rules 581-015-0015 through 581-015-0296, unless the context indicates otherwise.

(1) "Adult student" is a student for whom special education procedural safeguard rights have transferred as described in OAR 581-015-0101.

(2) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

(3) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(4) "Children with disabilities" means children who require special education because of: autism; communication disorders; deafblindness; emotional disturbances; hearing impairments, including deafness; mental retardation; orthopedic impairments; other health impairments; specific learning disabilities; traumatic brain injuries; or visual impairments, including blindness.

(a) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child's educational performance. Other characteristics that may be associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily

ADMINISTRATIVE RULES

routines, and unusual responses to sensory experiences. Essential features are typically but not necessarily manifested before age three. Autism may include autism spectrum disorders such as but not limited to autistic disorder, pervasive developmental disorder — not otherwise specified, and Asperger's syndrome. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. However, a child who qualifies for special education under the category of autism may also have an emotional disturbance as a secondary disability if the child meets the criteria under emotional disturbance.

(b) "Communication Disorder" means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of a spoken or other symbol system that adversely affects educational performance. The language impairment may be manifested by one or more of the following components of language: morphology, syntax, semantics, phonology, and pragmatics.

(c) "Deafblindness" means having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for students having hearing or visual impairments

(d) "Emotional Disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems;

(F) The term includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(e) "Hearing Impairment" means a hearing condition, whether permanent or fluctuating, that adversely affects a child's educational performance. The term includes those children who are hard of hearing or deaf.

(f) "Mental Retardation" means significantly subaverage general intellectual functioning, and includes a student whose intelligence test score is two or more standard deviations below the norm on a standardized individual intelligence test, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and that adversely affects a child's educational performance.

(g) "Orthopedic Impairment" means a motor disability that adversely affects the child's educational performance. The term includes impairments caused by an anomaly, disease or other conditions (e.g., cerebral palsy, spinal bifida, muscular dystrophy or traumatic injury).

(h) "Other Health Impairment" means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that:

(A) Is due to chronic or acute health problems (e.g. a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, attention deficit disorder, attention deficit hyperactivity disorder, leukemia, or diabetes); and

(B) Adversely affects a child's educational performance.

(i) "Specific Learning Disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disability includes [such] conditions such as perceptual disabilities, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage.

(j) "Traumatic Brain Injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behav-

ior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(k) "Visual Impairment" means a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes those children who are partially sighted or blind.

(5) "Consent" is defined in 581-015-0039.

(6) "Day" means calendar day unless otherwise indicated as:

(a) "Business day," which means Mondays through Fridays, other than holidays; or as

(b) "School day," which means any day, including partial days that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including those with and without disabilities.

(7) "Department" means the Oregon Department of Education.

(8) "EI/ECSE" means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.

(9) "Evaluation" means procedures used to determine whether the child is disabled, and the nature and extent of the special education and related services that the child needs.

(10) "General curriculum" means the same curriculum as for non-disabled children. For preschool children with disabilities, the term means appropriate activities.

(11) "Health assessment statement" means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant shall be practicing within his or her area of specialty.

(12) "Identification" means the process of determining a child's disability and eligibility for special education and related services under OAR 581-015-0051.

(13) "Individualized Education Program" (IEP) means a written statement of an educational program which is developed, reviewed, revised and implemented.

(14) "Mediation" means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such a time as a resolution is agreed to by the parties or the mediation process is terminated.

(15) "Medical statement" means a written statement issued by a physician licensed by a State Board of Medical Examiners.

(16) "Native language" with reference to a person of limited English-speaking ability means the language normally used by that person or, in the case of a child, the language normally used by the parent of the child. For an individual with deafness, blindness, deafblindness or no written language, the term means the mode of communication normally used by the person (such as sign language, Braille, or oral communication). In direct contact with a child, the term means the language normally used by the child.

(17) "Order" has the meaning given in ORS 183.310 to 183.550.

(18) "Parent" means: a natural or adoptive parent of the child; a person acting as a parent; a legal guardian, other than a state agency; a surrogate parent; or an adult student to whom rights have transferred. A foster parent may be treated as a parent without being appointed as a surrogate parent if:

(a) Parental rights have been terminated by court order; and

(b) The foster parent:

(A) Has an ongoing long-term relationship with the child;

(B) Is willing to make educational decisions; and

(C) Has no interest that would conflict with the interests of the child.

(19) "Participating agency" means a state or local agency, other than the school district responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

(20) "Personally identifiable" means information that includes, but is not limited to:

(a) The name of the child, the child's parent or other family member;

(b) The address of the child;

(c) A personal identifier, such as the child's social security number or student number; and

(d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(21) "Placement" means educational placement, not social service placement, by a state agency.

ADMINISTRATIVE RULES

(22) "Preschool child" means "preschool child with a disability" as defined under OAR 581-015-0900.

(23) "Private school" means an educational institution or agency not operated by a public agency. A private school may be approved as a contractor with public agencies for certain early intervention or special education programs as described in OARs 581-015-0126 and 581-015-0131.

(24) "Public agency" means a school district, an education service district, a state agency or institution, EI/ECSE contractor or subcontractor, responsible for early intervention, early childhood special education or special education.

(25) "Regular school year" means the time in which pupils are normally enrolled in an annual period exclusive of any distinct extra or special session, such as separate summer sessions.

(26) "Related services" includes transportation and such developmental, corrective and other supportive services (including orientation and mobility services, speech language and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, counseling services, including rehabilitation counseling services, social work services in schools, parent counseling and training, school health services and medical services) as are required to assist a child with a disability to benefit from special education, and includes early identification and assessment of disabling conditions in children. Medical services shall be for diagnostic and evaluation purposes only.

(27) "School age child or children" means a child or children who have reached 5 years of age but have not reached 21 years of age on or before September 1 of the current school year.

(28) "School district" means a common or union high school district, an education service district or a state agency or institution that is charged with the duty or contracted with by a public agency to care for or educate, or both, children apparently eligible for special education.

(29) "Short term objectives" means measurable intermediate performance steps that will enable parents, students and educators to gauge, at intermediate times during the year, how well the child is progressing toward the annual goals by either:

(a) Breaking down the skills described in the goal into discrete components, or

(b) Describing the amount of progress the child is expected to make within specified segments of the year.

(30) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction in the classroom, instruction in the home and instruction in hospitals, institutions, special schools, and other settings. The term includes specially designed instruction in physical education, speech language services, vocational education, travel training, and orientation and mobility services.

(31) "Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

(a) To address the unique needs of the child that result from the child's disability; and

(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(32) "Supplementary aids and services" means aids, services and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

(33) "Superintendent" means the State Superintendent of Public Instruction or the designee of the State Superintendent of Public Instruction.

(34) "Surrogate parent" means an individual who acts in place of a parent in safeguarding a child's rights in the special education decision-making process when: the parent cannot be identified or located after reasonable efforts; [or when] there is reasonable cause to believe that the child has a disability and is a ward of the state; or at the request of a parent or adult student.

(35) "Transition services" means a coordinated set of activities for a student with a disability that:

(a) Is designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(b) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(c) Includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and

(d) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Stat. Auth.: ORS 343.041, ORS 343.045, ORS 343.055 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155; CFR § 300.7, 300.13, 300.16, 300.17 & 300.18

Hist.: 1EB 8-1978, f. & ef. 3-3-78; 1EB 35-1978, f. & ef. 10-5-78; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 5-1985, f. 1-30-85, ef. 1-31-85; EB 39-1988(Temp), f. & cert. ef. 11-15-88; EB 18-1989, f. & cert. ef. 5-15-89; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 9-1993, f. & cert. ef. 3-25-93; EB 18-1994, f. & cert. ef. 12-15-94; EB 22-1995, f. & cert. ef. 9-15-95; ODE 10-2000, f. & cert. ef. 5-3-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0016

School Programs in State-Operated Hospitals and Training Centers

(1) For purposes of this rule:

(a) "Patient" means a school age child who is admitted to a state-operated hospital or training center;

(b) "School district" means the school district in which the state-operated hospital or training centers is located.

(2) All patients admitted to state operated hospitals and training centers are eligible to receive educational services.

(3) Educational services in state operated hospitals need not commence until a patient's hospital stay is expected to last five schools days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(4) The school district contracting to provide the education program shall develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria under OAR 581-015-0051.

(5) The primary purpose of the school program for patients in state-operated hospitals is to maintain the patients' educational programs. For patients working toward a GED, the school program staff shall continue the student's work in that program.

(6) The hospital or training center shall:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;

(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and

(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(7) All teachers in hospital or training center school programs shall have appropriate teacher certification under rules of the Teacher Standards and Practices Commission. At least one teacher or supervisor in the school program serving the hospital or training center shall have special education certification appropriate to the age and disability of patients served.

(8) The Department shall monitor each program for compliance with applicable state and federal requirements.

(9) The State Superintendent of Public Instruction shall ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;

(b) Each nondisabled student has a personalized educational plan that includes goals, services, timeline, and assessment of progress;

(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner;

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.261

Hist.: EB 28-1987, f. & ef. 11-19-87; EB 15-1990, f. & cert. ef. 4-5-90; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0017

School Programs in Private Hospitals

(1) For purposes of this rule:

(a) "Patient" means a school age child;

(b) "Specialized intensive treatment" means that the hospital maintains special facilities, equipment, and staff;

ADMINISTRATIVE RULES

(c) "School district" means the school district in which the private hospital is located.

(2) Private hospitals not including psychiatric facilities may submit an application for approval of a school program to the State Superintendent of Public Instruction. The application submitted shall include verification that:

(a) The hospital admits patients from throughout the state;

(b) The hospital provides specialized intensive treatment that is unique and generally not available in local community hospitals;

(c) The hospital provides services to patients who have severe, low incidence types of disabling conditions including but not limited to burns, orthopedic impairments, and head injuries, but not including drug and alcohol problems;

(d) The hospital admits patients who can be expected to be hospitalized for five days or more or readmitted frequently; and

(e) The facility is licensed as a hospital under OAR 333-500-0010(1)(a).

(3) Approval of the application by the State Superintendent of Public Instruction establishes the hospital program's eligibility to receive state funds.

(4) All patients are eligible to receive educational services. Educational services need not commence until a patient's hospital stay is expected to last five school days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(5) The school district contracting to provide the education program shall develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria for a disability under OAR 581-015-0051.

(6) The primary purpose of the school program for hospitalized patients is to maintain the patient's educational programs. For patients working toward a GED, the school program staff shall continue the student's work in that program.

(7) The hospital shall:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;

(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and

(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(8) All teachers in the hospital school program shall have appropriate teacher certification under rules of the Teacher Standards and Practices Commission. At least one teacher or supervisor in the school program serving the hospital shall have special education certification appropriate to the age and disability of patients served.

(9) Upon initial application or approval of a school program in a private hospital the Oregon Department of Education shall review the application, inspect the school program facility and confer with hospital authorities as necessary. The Department will then advise the private hospital whether the school program is approved or disapproved and under what conditions; if approved, the date upon which funds will be available for operation of the school program, and the effective date and length of the approval. The hospital may reapply for approval at the expiration of each approval period.

(10) The Department shall monitor each program for compliance with applicable state and federal requirements.

(11) The State Superintendent of Public Instruction shall ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;

(b) Each nondisabled child has a personalized educational plan that includes goals, services, timelines, and assessment of progress;

(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner; and

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.261

Hist.: EB 29-1987, f. & ef. 11-19-87; EB 16-1990, f. & cert. ef. 4-5-90; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0035

Criteria for Approving School District Special Education Programs

(1) School districts operating or initiating special education programs shall have their programs approved by the State Superintendent of Public Instruction in order to qualify such programs for state reimbursement. As part of this process districts shall subscribe to the following:

(a) Special education instructional programs in the district shall include a continuum of services to meet the individual special education needs of all resident children with disabilities, including resident children with disabilities enrolled in public charter schools.

(b) Special education shall be established and conducted as an integral part of the district's regular school program;

(c) Children who require special education have the same rights and privileges provided to other students.

(2) In addition the school district shall have on file with the Oregon Department of Education a set of assurances and Department-approved policies and procedures that ensure district compliance with requirements set forth in Oregon Revised Statutes and Oregon Administrative Rules for the education of children with disabilities.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.221

Hist.: 1EB 208, f. 12-19-75, ef. 1-16-76; Renumbered from 581-022-0175; 1EB 248, f. & ef. 9-23-76; 1EB 269, f. & ef. 12-22-77; 1EB 48-1978, f. & ef. 11-17-78; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0037

Child Find

(1) School districts shall identify, locate and evaluate all resident children who may have a disability and who may need early intervention, early childhood special education, or special education services. The requirements of this rule apply to all preschool and school age children unless these children are no longer entitled to a free appropriate public education under OAR 581-015-0600 to 581-015-0602.

(2) The requirements of this rule apply to all resident children, including:

(a) Highly mobile children with disabilities (such as migrant and homeless children);

(b) Children who are suspected of having a disability even though they are advancing from grade to grade;

(c) Private school children with disabilities, including religious school children residing in the jurisdiction of the school district;

(d) Children enrolled in public charter schools;

(e) Children who are home schooled;

(f) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and

(g) Children above the age of compulsory school attendance that has not graduated with a regular high school diploma.

(3) Child find for children attending private schools, including religious schools, in the jurisdiction of the school district:

(a) Activities for private school children with disabilities shall be comparable to child find activities for public school children with disabilities.

(b) Each school district shall consult with appropriate representatives of private school children with disabilities on how to carry out these activities.

(c) Each school district shall conduct initial child find activities for private schools located within their jurisdiction. If the school district locates a non-resident student with a possible disability, the school district shall notify the student's resident district, and the resident district shall be responsible for determining whether to conduct an evaluation, completing the evaluation and eligibility process, and complying with all notice and consent requirements related to identification, evaluation and eligibility determinations.

(4) For purposes of this rule, residency is determined in accordance with ORS 339.133 through 399.137.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.045, ORS 343.155 & ORS 343.157

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1983, f. 11-23-83, ef. 11-25-83; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0039

Consent

(1) "Consent" means that:

(a) The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(b) The parent or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought; and the consent describes that activity and lists any records that will be released and to whom; and

(c) The parent or adult student understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) The school district shall obtain written consent from the parent or adult student before conducting an initial evaluation or reevaluation, and

ADMINISTRATIVE RULES

before special education placement of a child with a disability. Consent for initial evaluation may not be construed as consent for the initial special education placement.

(3) The parent or adult student's written consent shall also be obtained before administering individual intelligence tests and all tests of personality to a child pursuant to OAR 581-021-0030(2)(a).

(4) A parent or adult student may revoke consent at any time before the completion of the activity or action for which they have given consent. If a parent or adult student revokes consent, that revocation is not retroactive. A parent or adult student may revoke consent for evaluation or reevaluation that has not yet been conducted. A parent or adult student may revoke consent for initial special education placement before the initiation of that placement.

(5) If a parent or adult student refuses to grant consent for an evaluation or reevaluation, school districts shall follow the procedures set forth in OAR 581-015-0081(2).

(6) A refusal to consent to one service or activity may not be used to deny the parent or child any other service, benefit, or activity of the school district, except as provided in this rule.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 37-1978, f. & ef. 10-5-78; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0042

Exceptions to Consent

(1) Written parent or adult student consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation;

(b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

(c) Conducting evaluation tests, procedures or instruments that are identified on a child's IEP as a measure for determining progress.

(2) If the school district can demonstrate that it has taken reasonable measures to obtain written consent, and the parent or adult student has failed to respond, written consent need not be obtained for reevaluation, except under OAR 581-015-0039(3). "Reasonable measures" means that the school district has used procedures consistent with OAR 581-015-0067(3).

(3) Written consent is not required if a hearing officer determines under OAR 581-015-0088 that the evaluation or reevaluation is necessary to ensure that the child is provided with a free appropriate public education.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.164

Hist.: ODE 16-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0044

Criteria for Funding of Educational Programs for Children Placed by State Agencies for Psychiatric Day and Residential Treatment

(1) Eligibility Guidelines:

(a) For the purpose of determining eligibility for funding under this rule, the following definitions shall apply:

(A) "Long-term" means 90 days or longer;

(B) "Treatment program" means the treatment services provided by a private nonprofit or public agency and provided under contract with the Department of Human Services. Intermediate care facilities are excluded from this definition;

(C) "Education program" means those activities provided under contract between a school district or education service district and the Department of Education, which provide a public education to school-aged children in a treatment program;

(D) "Psychiatric day treatment programs" are those defined in OAR 581-032-1110(68);

(E) "Psychiatric residential treatment facility" is defined in OAR 309-034-1110(69).

(F) "Resident district" means the resident district as defined under ORS 343.283;

(G) "Contracting school district" means the school district, the education service district or a program under the auspices of the State Board of Higher Education that contracts with the Department of Education for the provision of educational services at the agency.

(H) "State agencies" means the Department of Human Resources and the Oregon Youth Authority.

(b) The purposes of the education program shall be as follows:

(A) To serve children placed for needs other than educational;

(B) To serve children who require schooling in a protected environment in order to protect the health and safety of themselves and/or others; and

(C) To extend the treatment process into the school day in order to fully implement the treatment plan.

(c) An agency may offer several different treatment programs serving different populations. For the purposes of determining eligibility for funding and funding levels for education programs, each program will be considered separately. Temporary shelter programs, which would not otherwise meet the definition of long-term provided in this rule, shall be considered eligible for funding only when they are attached to an eligible treatment program and the children served are primarily awaiting placement in such programs;

(d) To be eligible for an education program, a treatment program shall meet all of the following:

(A) Have a letter of approval from the Office of Mental Health and Addiction Services certifying that the psychiatric day treatment program or psychiatric residential treatment facility meets standards for day and residential treatment services for children (OAR 581-032-1120), or provides long-term residential treatment of children placed by the Department of Human Services;

(B) Meet state licensing requirements for a private child-caring agency and serve seven or more children;

(C) Be operated by a nonprofit corporation or a political subdivision of the state;

(D) Demonstrate through client admissions, staff hiring practices, and client access to services that it meets requirements for ORS 659.150 relating to the prevention of discrimination; and

(E) Demonstrate through curriculum content, teaching practices, and facilities management that the constitutional requirements regarding no religious entanglement are met.

(e) The State Superintendent of Public Instruction shall be responsible for approving the educational program under this rule.

(A) The State Superintendent of Public Instruction shall ensure that the school district contracting to provide the educational program meets the requirements in subsection(B).

(B) The district shall ensure that the program is operated in compliance with a written agreement with the Department that specifies the following services to be provided:

(i) Each child who is not a child with a disability under OAR 581-015-0051 has a personalized educational plan that includes assessment, goals, services, and timelines;

(ii) Information pertaining to students and educational programs is provided to the Department in an accurate and timely manner;

(iii) Children have opportunities to be educated in the least restrictive environment; and

(iv) The education program is developed and implemented in conjunction with the care/treatment program.

(f) Final determinations concerning the eligibility of care/treatment programs for education funding shall be made at the discretion of the State Superintendent of Public Instruction.

(2) Funding Guidelines:

(a) For the purpose of determining funding under this rule, the following definitions shall apply:

(A) "Average daily membership" means the membership of a school as defined in ORS 327.006(2);

(B) "Net operating expenditure" means the sum of expenditures as defined in ORS 327.006(6), divided by the average daily membership of the school district or in the case of an ESD, its districts, which contract for education services offered in the program;

(C) "Service level factors" means:

(i) 1.75 times the contracting district's average net operating expenditure divided by the average daily membership for students under 14 years of age and all Psychiatric Day Treatment Programs;

(ii) 2.00 times the contracting district's average net operating expenditure divided by the average daily membership for students 14 years of age and older in psychiatric residential facilities.

(b) A formula will be employed to reflect the needs of the population served and shall identify funds available for the development of an approved contract:

(A) The formula is: (Service level factors) x (the contracting district's average net operating expenditure) divided by (the average daily membership) x (average daily membership as specified in the contract with the Department of Human Services or Oregon Youth Authority) = ODE contracted amount;

ADMINISTRATIVE RULES

(B) The factor shall represent an equitable division of funds available to the Department for programs eligible under these criteria.

(c) A special needs fund shall be established at the Oregon Department of Education which will be up to five percent of the total monies made available for this program:

(A) Individual applications may be made to this fund to cover unexpected, emergency expenses;

(B) Funds not utilized under this subsection for the first year of the biennium shall be carried forward to the next fiscal year.

(3) Funding Procedures: Upon receipt of an application of a treatment program for funding under this rule, the Department shall:

(a) Within a reasonable time determine if the treatment program meets the criteria set forth in this rule;

(b) If necessary, request additional funding or a limitation for funding from the State Legislature; and

(c) Fund the program only when funds are forthcoming.

(4) Resident District Obligations for special education services in Psychiatric Day Treatment Programs and Psychiatric Residential Treatment Facilities:

(a) The resident district is responsible for the provision and/or payment of daily transportation to and from a psychiatric day treatment education program in which a resident student is enrolled:

(A) The resident district may directly transport or contract for transportation services with the agency, an adjacent school district, an education service district or a private carrier as long as the subcontractor is operating under the provision of ORS 801.455, 801.460, and 820.100 through 820.150, or is exempt from these regulations by operating under the Public Utility Commission, ORS Chapter 767, or city regulations included in ORS Chapter 221;

(B) Subject to agreement with the parent or guardian, the resident district may reimburse a parent or guardian for the transportation of a child at the per mile rate established by that district;

(C) Transportation shall be provided by the resident district even though the education calendar of the psychiatric day treatment program differs from that of the resident district;

(D) The resident district is responsible for the provision and/or payment of transportation when it is required by the Individualized Education Program or the Personalized Education Plan for the purpose of least restrictive environment and transition services.

(b) The resident district may claim reimbursement for transportation costs under ORS 327.035 and 343.281;

(c) The resident district shall participate in all individualized education program or personalized education plan meetings involving its students.

(5) Due Process Hearings:

(a) The school district with which Oregon Department of Education contracts to educate children under ORS 343.961 is the "school district" for the purposes of carrying out the procedures required by ORS 343.165 to 343.175;

(b) The issues of the hearing shall not include the placement by the Department of Human Services or Oregon Youth Authority for long-term care or treatment;

(c) Costs for the hearings officer in due process proceedings that are in excess of the contracted educational program budget shall be paid by the Oregon Department of Education;

(d) The Oregon Department of Education and the Department of Human Services or Oregon Youth Authority, respectively, shall be parties to such proceedings and will be responsible to provide additional services ordered by a hearings officer that are beyond the funding provided to the contracted educational program.

Stat. Auth.: ORS 343.961

Stats. Implemented: ORS 343.961

Hist.: 1EB 23-1986, f. & ef. 7-14-86; EB 7-1988, f. & cert. ef. 1-15-88; EB 22-1990, f. & cert. ef. 5-18-90; EB 10-1991(Temp), f. & cert. ef. 7-15-91; EB 31-1991, f. & cert. ef. 12-18-91; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0048

Compliance Monitoring

School districts involved in the education of children with disabilities shall be monitored by the Department on a regular basis to ensure compliance with the requirements of the Individuals with Disabilities Education Act, Oregon Revised Statutes, and Oregon Administrative Rules. Monitoring procedures may include district self-assessment, data collection, analysis and reporting, on-site visits, review of policies and procedures, review of the development and implementation of IEPs, improvement planning, and auditing federal fund use.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.065

Hist.: 1EB 15-1983, f. 11-23-83, ef. 11-25-83; EB 6-1993, f. & cert. ef. 2-11-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0049

Recovery of Funds for Misclassified Children

(1) School districts shall ensure that children identified on the special education child count under Part B of the Individuals with Disabilities Education Act are limited to eligible children.

(2) For purposes of this rule, an "eligible child" means a child aged three through school-age who:

(a) Is determined to be a child with a disability under OAR 581-015-0051;

(b) Has a current IEP or IFSP that provides for special education and related services that is being implemented; and

(c) Is receiving free public education.

(3) For the purposes of this rule, an "ineligible child" means a child for whom one or more of the requirements in subsection (2) is not met.

(4) The Department shall recover funds for ineligible children included on a district's special education child count by reducing that district's Part B award for the year in which the child was counted, in direct proportion to the numbers of children classified as eligible to be counted.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.243

Hist.: 1EB 269, f. & ef. 12-22-77; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0051

Criteria for Evaluation and Eligibility Determination

For the disability categories below, subsection (a) sets forth the evaluation that shall be conducted, subsection (b) sets forth the minimum criteria the child shall meet and subsection (c) sets forth the requirement that the team shall determine whether a child needs special education.

(1) Autism Spectrum Disorder:

(a) If a child is suspected of having an autism spectrum disorder, the following evaluation shall be conducted:

(A) A developmental profile that describes the child's historical and current characteristics that are associated with an autism spectrum disorder as described in subsection (1)(b) of this rule;

(B) At least three observations of the child's behavior one of which involves direct interactions with the child. The observations shall occur in multiple environments, on at least two different days, and be completed by one or more licensed professionals knowledgeable about the behavioral characteristics of autism spectrum disorder.

(C) An assessment of communication to address the communication characteristics of autism spectrum disorder which includes but is not limited to measures of language semantics and pragmatics completed by a speech and language pathologist licensed by a State Board of Examiners in Speech Pathology and Audiology or the Teacher Standards and Practices Commission;

(D) A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(E) An assessment using an appropriate behavior rating tool or an alternative assessment instrument that identifies characteristics associated with an autism spectrum disorder.

(F) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(G) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having an autism spectrum disorder, the child shall meet all of the following minimum criteria:

(A) The team shall have documented evidence that the child demonstrates all of the behaviors in subsection (1)(b)(B). Each of these behaviors shall be:

(i) Characteristic of an autism spectrum disorder;

(ii) Inconsistent or discrepant with the child's development in other areas; and

(iii) Documented over time and/or intensity.

(B) The child shall exhibit the following:

(i) Impairments in communication;

(ii) Impairments in social interaction;

(iii) Patterns of behavior, interests, and/or activities that are restricted, repetitive, or stereotypic; and

(iv) Unusual responses to sensory experiences.

(c) For a child to be eligible for special education services as a child with an autism spectrum disorder, the eligibility team shall determine that:

ADMINISTRATIVE RULES

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(d) A child may not be eligible for special education services on the basis of an autism spectrum disorder if the child's primary disability is an emotional disturbance as set forth in section (4) of this rule. However, a child with autism spectrum disorder as a primary disability may also have an emotional disturbance as a secondary disability.

(2) Communication Disorder:

(a) If a child is suspected of having a communication disorder, the following evaluation shall be conducted:

(A) A speech and language assessment administered by a speech and language pathologist licensed by a State Board of Examiners in Speech Pathology and Audiology or the Teacher Standards and Practices Commission, including:

(i) When evaluating syntax, morphology, semantics or pragmatics, a representative language sample and comprehensive standardized tests that assess expression and comprehension;

(ii) When a voice disorder is suspected, a voice assessment scale; and

(iii) When a fluency disorder is suspected, an observation in at least two settings;

(B) For a child suspected of having a voice disorder, a medical statement by an otolaryngologist licensed by a State Board of Medical Examiners. For other than a voice disorder, if a medical or health diagnosis is needed, a medical statement or a health assessment statement describing relevant medical issues;

(C) An evaluation or screening of the child's hearing acuity and, if needed, a measure of middle ear functioning;

(D) An evaluation of the child's oral mechanism, if needed;

(E) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(F) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having a specific communication disorder, the child shall meet the following minimum criteria:

(A) Voice disorder:

(i) The child demonstrates chronic vocal characteristics that deviate in at least one of the areas of pitch, quality, intensity or resonance;

(ii) The child's voice disorder impairs communication or intelligibility; and

(iii) The child's voice disorder is rated as moderate to severe on a voice assessment scale.

(B) Fluency disorder:

(i) The child demonstrates an interruption in the rhythm or rate of speech that is characterized by hesitations, repetitions, or prolongations of sounds, syllables, words or phrases;

(ii) The child has a fluency disorder that interferes with communication and calls attention to itself across two or more settings; and

(iii) The child demonstrates moderate to severe vocal dysfluencies or the child evidences associated secondary behaviors, such as struggling or avoidance as measured by a standardized measure.

(C) Phonological or articulation disorder:

(i) The child's phonology or articulation is rated significantly discrepant as measured by a standardized test; and

(ii) The disorder is substantiated by a language sample or other evaluation(s).

(D) Syntax, morphology, pragmatic or semantic disorder:

(i) The child's language in the area of syntax, morphology, semantics or pragmatics is significantly discrepant as measured by standardized test(s); and

(ii) The disorder is substantiated by a language sample or other evaluation(s).

(iii) For a child to be eligible with a syntax, morphology, pragmatic or semantic disorder, the disorder is not the result of another disability.

(c) For a child to be eligible for special education services as a child with a communication disorder, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(3) Deafblindness:

(a) If a child is suspected of having deafblindness, the child shall be evaluated using the minimum evaluation procedures in sections (5) and (11) of this rule.

(b) For a child suspected of having deafblindness, the child shall meet one or more of the following minimum criteria:

(A) The child meets the minimum criteria for both vision impairment and hearing impairment in sections (5) and (11) of this rule; or

(B) The child meets the minimum criteria for either vision impairment or hearing impairment of sections (5) or (11) of this rule and demonstrates inconsistent or inconclusive responses in an assessment of the other sensory area. If the child demonstrates inconsistent or inconclusive responses in an assessment of the other sensory area, a functional assessment must be administered by a state licensed educator of the visually impaired, a state licensed educator of the hearing impaired or an audiologist licensed by a State Board of Examiners in Speech Pathology and Audiology; or

(C) The child meets the minimum criteria for either vision impairment or hearing impairment of sections (5) or (11) of this rule and has a degenerative disease or pathology that affects the acuity of the other sensory area.

(c) For a child to be eligible for special education services as a child having deafblindness, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(4) Emotional Disturbance:

(a) If a child is suspected of having an emotional disturbance, the following evaluation shall be conducted:

(A) An evaluation of the child's emotional and behavioral status, including a developmental or social history, when appropriate;

(B) A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(C) The completion of at least two behavior-rating scales, at least one of which is a standardized behavior measurement instrument;

(D) An observation in the classroom and in at least one other setting by someone other than the child's regular teacher;

(E) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(F) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having an emotional disturbance, the child shall meet the following minimum criteria:

(A) The child's emotional or behavioral problems shall have existed over an extended period of time; and

(B) The child exhibits one or more of the following:

(i) An inability to learn at a rate commensurate with the child's intellectual, sensory-motor, and physical development;

(ii) An inability to establish or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) A variety of excessive behaviors ranging from hyperactive and impulsive responses to depression and withdrawal;

(iv) Inappropriate types of behavior or feelings under normal circumstances; or

(v) A tendency to develop physical symptoms, pains, or fears associated with personal, social, or school problems.

(c) For a child to be eligible for special education services as a child with an emotional disturbance, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability;

(d) A child who is socially maladjusted may not be identified as having an emotional disturbance unless the child also meets the minimum criteria under subsection (4)(b) of this rule.

(5) Hearing Impairment:

(a) If a child is suspected of having a hearing impairment, the following evaluation shall be conducted:

(A) An audiological assessment by an audiologist licensed by a State Board of Examiners in Speech Pathology and Audiology;

(B) A medical statement or a health assessment statement indicating whether the hearing loss, if conductive, is treatable and whether the use of amplification is contra-indicated;

(C) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

ADMINISTRATIVE RULES

(ii) On the child's developmental progress for a preschool child; and
(D) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having a hearing impairment, the child shall meet one of the following minimum criteria:

(A) The child has a pure tone average loss of 25 dBHL or greater in the better ear for frequencies of 500 Hz, 1000 Hz, and 2000 Hz, or a pure tone average loss of 35 dBHL or greater in the better ear for frequencies of 3000 Hz, 4000 Hz, and 6000 Hz; or

(B) The child has a unilateral hearing impairment with a pure tone average loss of 50 dBHL or greater in the affected ear for the frequencies 500 Hz to 4000 Hz; and

(C) The loss is either sensorineural or conductive if the conductive loss has been determined to be currently untreatable by a physician.

(c) For a child to be eligible for special education services as a child with a hearing impairment, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(6) Mental Retardation:

(a) If a child is suspected of having mental retardation, the following evaluation shall be conducted:

(A) An individually administered standardized intelligence test meeting the reliability and validity standards of the American Psychological Association and administered by a licensed school psychologist, a psychologist licensed by a State Board of Psychological Examiners, or other individual assigned by a school district who has the training and experience to administer and interpret individually administered intelligence tests;

(B) The administration of a valid adaptive behavior scale;

(C) A medical statement or a health assessment statement indicating whether there are any sensory or physical factors that may be affecting the child's educational performance;

(D) A developmental history of the child;

(E) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(F) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having mental retardation, the child shall meet all of the following minimum criteria:

(A) The child's intelligence test score is 2 or more standard deviations below the mean;

(B) The child has deficits in adaptive behavior coexistent with the child's impairment in intellectual functioning;

(C) The child's developmental level or educational achievement is significantly below age or grade norms; and

(D) The child's developmental or educational problems are not primarily the result of sensory disabilities or other physical factors.

(c) For a child to be eligible for special education services as a child with mental retardation, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(7) Orthopedic Impairment:

(a) If a child is suspected of having an orthopedic impairment, the following evaluation shall be conducted:

(A) A medical statement or a health assessment statement indicating a diagnosis of an orthopedic or neuromotor impairment or a description of the motor impairment;

(B) A standardized motor assessment, including the areas of fine motor, gross motor and self-help, when appropriate, by a specialist knowledgeable about orthopedic or neuromotor development;

(C) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(D) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having an orthopedic impairment, the child shall meet all of the following minimum criteria:

(A) The child has a motor impairment that results in deficits in the quality, speed or accuracy of movement. These deficits must be documented by a score of two or more standard deviations below the mean in one or

more of the three motor areas set forth in subsection (7)(a)(B) of this rule, or functional deficits in at least two of the three motor areas; and

(B) The child's condition is permanent or is expected to last for more than 60 calendar days.

(c) For a child to be eligible for special education services as a child with an orthopedic impairment, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(8) Other Health Impairment:

(a) If a child is suspected of having another health impairment, the following evaluation shall be conducted:

(A) A medical statement or a health assessment statement, indicating a diagnosis of a health impairment or a description of the impairment, and a statement that the child's condition is permanent or is expected to last for more than 60 calendar days;

(B) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(C) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having another health impairment, the child shall meet all of the minimum criteria:

(A) The child exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment;

(B) The child's limited strength, vitality or alertness is due to a chronic or acute health problem; and

(C) The child's condition is permanent or expected to last for more than 60 calendar days.

(c) For a child to be eligible for special education services as a child with another health impairment, the eligibility team shall determine that:

(A) The child's disability has an adverse impact

on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(9) Specific Learning Disability:

(a) If a child is suspected of having a specific learning disability, the following evaluation shall be conducted:

(A) An observation by a team member other than the child's regular teacher of the child's academic performance in a regular classroom setting; or in the case of a child less than school age or out of school, an observation by a team member conducted in an age-appropriate environment;

(B) A developmental history, if needed;

(C) An assessment of intellectual ability;

(D) Other assessments of the characteristics of learning disabilities if the child exhibits impairments in any one or more of the following areas: cognition, fine motor, perceptual motor, communication, social or emotional, and perception or memory. These assessments shall be completed by specialists knowledgeable in the specific characteristics being assessed;

(E) A review of cumulative records, previous individualized education programs or individualized family service plans and teacher collected work samples;

(F) If deemed necessary, a medical statement or health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(G) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(H) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having a specific learning disability, the child shall meet all of the following minimum criteria:

(A) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in subsection (9)(b)(B) of this rule when provided with learning experiences appropriate for the child's age and ability levels;

(B) The child has a severe discrepancy between intellectual ability and achievement in one or more of the following areas:

(i) Oral expression;

(ii) Listening comprehension;

(iii) Written expression;

(iv) Basic reading skills;

(v) Reading comprehension;

ADMINISTRATIVE RULES

(vi) Mathematics calculation (when appropriate, includes general readiness skills); or

(vii) Mathematics reasoning; and

(C) The child's severe discrepancy between ability and achievement is not primarily the result of:

(i) A visual, hearing, or motor impairment;

(ii) Mental retardation;

(iii) Emotional disturbance; or

(iv) Environmental, cultural, or economic disadvantage.

(c) A child identified as having a specific learning disability need only exhibit a "discrepancy" and not necessarily a "severe discrepancy" to continue eligibility.

(d) For a child to be eligible for special education services as a child with a specific learning disability, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(10) Traumatic Brain Injury:

(a) If a child is suspected of having a traumatic brain injury, the following evaluation shall be conducted:

(A) A medical statement or a health assessment statement indicating that an event may have resulted in a traumatic brain injury as defined in subsection (b)(A);

(B) A comprehensive psychological assessment using a battery of instruments intended to identify deficits associated with a traumatic brain injury administered by a licensed school psychologist, a psychologist licensed by a State Board of Psychological Examiners, or other individuals who have the training and experience to administer and interpret the tests within the battery;

(C) Other assessments including, but not limited to, motor assessments if the child exhibits motor impairments; communication assessments if the child exhibits communication disorders; and psychosocial assessments if the child exhibits changed behavior. These assessments must be completed by educators knowledgeable in the specific area being assessed;

(D) Other information relating to the child's suspected disability, including pre-injury performance and a current measure of adaptive ability;

(E) An observation in the classroom and in at least one other setting;

(F) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(G) Additional evaluations or assessments that are necessary to identify the child's educational needs.

(b) For a child suspected of having a traumatic brain injury, the child shall meet all of the following minimum criteria:

(A) The child has an acquired injury to the brain caused by an external physical force;

(B) The child's condition shall be permanent or expected to last for more than 60 calendar days;

(C) The child's injury results in an impairment of one or more of the following areas:

(i) Communication;

(ii) Behavior;

(iii) Cognition, memory, attention, abstract thinking, judgment, problem-solving, reasoning, and/or information processing;

(iv) Sensory, perceptual, motor and/or physical abilities.

(c) For a child to be eligible for special education services as a child with a traumatic brain injury, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

(d) Students with brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma, are not eligible under the category of traumatic brain injury but may be eligible under a different category under this rule.

(11) Vision Impairment:

(a) If a child is suspected of having a vision impairment, the following evaluation shall be conducted:

(A) A medical statement by an ophthalmologist or optometrist licensed by a State Board of Examiners indicating that the child has a vision impairment;

(B) Assessments to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and
(C) Additional evaluations or assessments that are necessary to identify the child's educational needs, including a functional assessment of the child's residual visual acuity or field of vision.

(b) For a child suspected of having a vision impairment, the child shall meet one or more of the following minimum criteria:

(A) The child's residual acuity is 20/70 or less in the better eye with correction;

(B) The child's visual field is restricted to 20 degrees or less in the better eye;

(C) The child has an eye pathology or a progressive eye disease which in the opinion of the ophthalmologist is expected to reduce either residual acuity or visual field according to the criteria stated in paragraphs (11)(b)(A) or (B); or

(D) The assessment results of a licensed ophthalmologist or optometrist are inconclusive, or the child demonstrates inadequate use of residual vision.

(c) For a child to be eligible for special education services as a child with vision impairment, the eligibility team shall determine that:

(A) The child's disability has an adverse impact on the child's educational performance; and

(B) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.045, ORS 343.155 & ORS 343.157

Stats. Implemented: ORS 343.157, ORS 343.227, ORS 343.045, ORS 343.155; 20 USC § 1401(a) & 34 CFR 300.7(b)

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0054

Procedures for Complaints as Required by IDEA Regulations

(1) An organization or individual, including an organization or individual from another state, may file with the State Superintendent of Public Instruction a written, signed complaint that the Department of Education, or a sub grantee, including but not limited to a regional program, an education service district or a local education agency is violating or has violated the Individuals with Disabilities Education Act or regulations under that Act.

(2) If a complaint alleges violations outside the scope of the Individuals with Disabilities Education Act, the complainant shall be informed of alternative procedures that are available to address the complainant's allegations.

(3) The complaint must allege a violation that occurred not more than one year before the date that the complaint is received by the Department unless the violation occurred within three years of the date the complaint is received by the Department and:

(a) A longer period is reasonable because the violation is continuing; or

(b) The complainant is requesting compensatory services.

(4) The complaint must include the facts on which the complaint is based. If the facts as alleged by the complainant constitute a violation of the Individuals with Disabilities Education Act:

(a) The Superintendent shall send a copy of the complaint to the responsible division within the state department, local educational agency or sub grantee and request it to respond to the allegations. The Superintendent (or designee) may also initiate attempts to resolve the complaint through mediation or alternative dispute resolution, including local resolution.

(b) The respondent shall furnish any information or documents requested by the Superintendent within ten business days of its receipt of the complaint from the Superintendent unless another time period is specified by the Superintendent. At the same time, the respondent shall send a copy of any narrative response to the complainant. If the complainant does not otherwise have access to confidential information in the response, the respondent shall provide the complainant with the non-confidential portion(s) of the response.

(5) The Superintendent shall give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint or the narrative response submitted by the respondent.

(6) The Superintendent shall investigate the allegations of the complaint to the extent necessary to resolve the matter and at the Superintendent's discretion may:

(a) Conduct an on-site investigation; and

(b) Conduct interviews and review documents as deemed necessary.

ADMINISTRATIVE RULES

(7) If a written complaint is received that is also the subject of a due process hearing under OAR 581-015-0081, or contains multiple issues of which one or more are part of that hearing, the Superintendent shall set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process hearing shall be resolved using the time limit and procedures in this rule.

(8) If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Superintendent must inform the complainant to that effect. A complaint alleging a school district's failure to implement a due process decision must be resolved by the Superintendent.

(9) The Superintendent shall issue a written decision that addresses each allegation in the complaint and contains findings of fact, conclusions, and reasons for the Department's final decision. The decision shall be issued within 60 days of receipt of the complaint or amended complaint, unless exceptional circumstances related to the complaint require an extension. Exceptional circumstances include but are not limited to an extension requested or agreed to by the complainant to pursue local resolution or mediation.

(10) If the Superintendent finds a violation, the Superintendent's written decision shall include any necessary corrective action to be undertaken as well as any documentation to be supplied by any party to ensure that the corrective action has occurred. If the decision is that a school district has failed to provide appropriate services, the Superintendent shall address:

(a) How to remediate the failure to provide those services, including, as appropriate, compensatory education, monetary reimbursement or other corrective action appropriate to the needs of the child; and

(b) Appropriate future provision of services for all children with disabilities.

(11) Parties may seek judicial review of the final order under ORS 183.484. Judicial review may be obtained by filing a petition for review within 60 days of service of the final order with the Marion County Circuit Court or with the Circuit Court for the County where the party resides.

(12) Corrective action ordered by the Superintendent shall be taken within 30 days of the date of the decision, unless another time period is specified by the Superintendent.

(13) At any time during the pendency of the complaint, if the Superintendent determines that there is a strong likelihood that the respondent has significantly breached the Individuals with Disabilities Education Act and that delay may cause irreparable harm, the Superintendent may order interim relief.

(14) If the respondent refuses to voluntarily comply with a plan of correction when so ordered, the Superintendent may take one or more of following actions:

(a) Disapprove in whole or part, the respondent's application for federal funding;

(b) Withhold or terminate further assistance to the respondent for an approved project;

(c) Suspend payments, under an approved project, to a respondent;

(d) Order, in accordance with a final state audit resolution determination, the repayment of specified federal funds; and

(e) Withhold all or part of a district's basic school support in accordance with ORS 327.103.

(15) Before the Superintendent denies or withholds funding or orders reimbursement as provided in Section (14) of this rule, the Superintendent shall notify the respondent of its right to request a hearing in accordance with ORS 183.415.

(a) The hearing request must be made to the Superintendent within 30 days of receiving notice;

(b) The Superintendent shall appoint a hearings officer who will conduct the hearing in accordance with ORS 183.413 to 183.470;

(c) The burden of proof at the hearing is on the Department;

(d) The Superintendent's decision shall be final, subject to appeal to the United States Secretary of Education or the Oregon Court of Appeals.

(16) No person shall suffer retaliation or discrimination for having filed or participated in this complaint procedure. Any person who believes that she or he has suffered retaliation or discrimination may file a complaint under this rule with the Superintendent.

Stat. Auth.: ORS 326

Stats. Implemented: ORS 343.041

Hist.: 1EB 28-1980, f. & ef. 12-23-80; EB 26-1987(Temp), f. & ef. 11-17-87; EB 22-1988, f. & cert. ef. 5-24-88; EB 32-1988, f. & cert. ef. 8-3-88; EB 44-1990, f. & cert. ef. 9-12-90; EB 35-1992(Temp), f. & cert. ef. 11-24-92; EB 8-1993, f. & cert. ef. 3-25-93; ODE 15-1999, f. & cert. ef. 9-24-99, Renumbered from 581-001-0010; ODE 29-2000, f. & cert. ef. 12-11-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0057

Advanced Payment to School Districts for Special Education Programs

(1) In accordance with ORS 343.670, the Department may make advance payments to a school district or education service district that operates a special education program approved by the State Superintendent of Public Instruction.

(2) Advance payments paid by the Oregon Department of Education to the school or education service district shall be made quarterly.

(3) The first three advance payments shall be calculated either upon the district's reimbursement for the prior year or the district's estimated costs for special education for the coming school year, at the discretion of the Department.

(4) The fourth payment shall be based upon the district's approved reimbursement for the current claim less the three advance payments.

(5) In no event will the fourth payment be remitted until the Department has completed the final auditing of a district's claim.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.281

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1979, f. 10-4-79, ef. 10-5-79; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0059

Requirement for Least Restrictive Environment

School districts shall ensure that:

(1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled; and

(2) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.045 & ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0061

Placement of the Child

School districts shall ensure that:

(1) The educational placement of a child with a disability:

(a) Is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;

(b) Is made in conformity with the Least Restrictive Environment (LRE) provisions of OAR 581-015-0059 to 581-015-0062.

(c) Is based on the child's current IEP;

(d) Is determined at least once every 365 days; and

(e) Is as close as possible to the child's home;

(2) The alternative placements under OAR 581-015-0060 are available to the extent necessary to implement the individualized education program for each child with a disability;

(3) Unless the child's IEP requires some other arrangement, the child is educated in the school that he or she would attend if not disabled;

(4) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs; and

(5) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.045 & ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 31-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0062

Nonacademic Settings

(1) School districts shall take steps to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities an equal opportunity for participation in those services and activities.

(2) Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, includ-

ADMINISTRATIVE RULES

ing both employment by the school district and assistance in making outside employment available.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.045 & ORS 343.155
Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 31-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0063

Parent and Adult Student Participation

(1) School districts shall provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child. For IEP and placement meetings, school districts shall also follow the requirements of OAR 581-015-0067.

(2) School districts shall provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend. The written notice shall:

(a) State the purpose, time and place of the meeting and who will attend;

(b) Inform the parent that they may invite other individuals who they believe have knowledge or special expertise regarding the child;

(c) Inform the parent that the team may proceed with the meeting even if the parent is not in attendance;

(d) Inform the parent of whom to contact before the meeting to provide information if they are unable to attend.

(3) The school district shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(4) A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(5) The right to parent participation transfers to an adult student under OAR 581-015-0101.

(6) After the transfer of rights to an adult student under OAR 581-015-0101, the school district shall provide written notice of meetings to the adult student and parent, if the parent can be reasonably located. A parent receiving notice of an IEP meeting is not entitled to attend the meeting unless invited by the adult student or by the school district.

Stat. Auth.: ORS 343.041 & ORS 343.055
Stats. Implemented: ORS 343.164
Hist.: ODE 17-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0066

IEP Team

(1) School districts shall ensure that each IEP Team meeting includes the following participants:

(a) One or both of the child's parents, except as provided in OAR 581-015-0067;

(b) The child where appropriate;

(c) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment, consistent with section (3) of this rule;

(d) At least one special education teacher of the child or, if appropriate, at least one special education provider of the child;

(e) A representative of the school district, who may also be another member of the team, who is:

(A) Qualified to provide, or supervise the provision of, special education;

(B) Knowledgeable about the general curriculum;

(C) Knowledgeable about district resources; and

(D) Authorized to commit district resources and ensure that services set out in the IEP will be provided.

(f) An individual, who may also be another member of the team, who is knowledgeable about the child's disability and who can interpret the instructional implications of the evaluation results;

(g) Other individuals, including related services personnel as appropriate, invited by:

(A) The parent, whom the parent determines to have knowledge or special expertise regarding the child; or

(B) The school district, whom the school district determines to have knowledge or special expertise regarding the child; and

(h) Transition services participants, as described in section (2) of this rule.

(2) Transition services participants shall be as follows:

(a) If a purpose of the meeting is the consideration of transition for a student, the school district shall invite the student. If the student does not attend the meeting, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(b) If a purpose of the meeting is the consideration of transition services for a student, the school district shall also invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school district shall take other steps to obtain the participation of the other agency in the planning of any transition services.

(3) The regular education teacher shall participate, to the extent appropriate, in the development, review, and revision of the child's IEP, including assisting in the determination of:

(a) Necessary modifications to the general curriculum in the regular classroom and participation in the regular education environment;

(b) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child; and

(c) Appropriate positive behavioral interventions and strategies for the child.

(4) For the purposes of section (3) of this rule, "to the extent appropriate" means:

(a) For those portions of the child's IEP that regular education teachers may be responsible for implementing; or

(b) When the regular education teacher's knowledge about the student or about the general education curriculum is necessary for IEP team decision-making.

Stat. Auth.: ORS 343.041, ORS 343.045, ORS 343.055, CFR 300.344, CFR 300.346(d) & Federal Register 12477, 12583.

Stats. Implemented: ORS 343.045 & ORS 343.155
Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0067

Additional Parent and Adult Student Participation Requirements for IEP and Placement Meetings

(1) Parent Participation: School districts shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:

(a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(b) Scheduling the meeting at a mutually agreed on time and place.

(2) Other Methods to Ensure Parent Participation: If neither parent can attend, the school district shall use other methods to insure parent participation, including, but not limited to, individual or conference phone calls or home visits.

(3) Conducting an IEP/Placement Meeting without a Parent in Attendance: An IEP or placement meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend.

(a) If the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

(A) Detailed records of telephone calls made or attempted and the results of those calls;

(B) Copies of correspondence sent to the parents and any responses received; and

(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(b) The Department considers school district attempts to convince parents to attend sufficient if the school district:

(A) Communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice required under OAR 581-015-0063(2), to confirm this arrangement; or

(B) Sends written notice required under OAR 581-015-0063(2), proposing a time and place for the meeting and states in the notice that the parent may request a different time and place, and confirms that the parent received the notice.

(c) "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.

ADMINISTRATIVE RULES

(5) Considering Transition: If a purpose of the meeting is to consider transition services or transition services needs for a student, the written notice required by OAR 581-015-0063(2) shall also:

- (a) Indicate this purpose;
- (b) Indicate that the school district will invite the student; and
- (c) If considering transition services identify any other agency that will be invited to send a representative.

(6) The school district shall give the parent a copy of the individualized education program at no cost to the parent. If the parent does not attend the IEP meeting, the school district shall ensure that a copy is provided to the parent.

(7) The right to parent participation under this rule transfers to an adult student under OAR 581-015-0101.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.045 & ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 17-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0068 Content of IEP

(1) The individualized education program shall include:

(a) A statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum.

(b) A statement of measurable annual goals, including short-term objectives related to:

(A) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum, and

(B) Meeting each of the child's other educational needs that result from the child's disability.

(c) A statement of the specific special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and non-disabled children;

(d) The projected dates for initiation of services and modifications and the anticipated frequency, amount, location and duration of the services and modifications described in subsection (1)(c) of this rule.

(e) An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class and activities described in subsection(1)(c) of this rule.

(f) A statement of any individual modifications and accommodations in the administration of State or district-wide assessments of student achievement, including extended and juried assessments that are needed for the child to participate in the assessment.

(A) A child shall not be exempt from participation in State or district-wide assessment, including extended and juried assessments, because of a disability, unless the parent has requested an exemption under OAR 581-022-0612.

(B) If the IEP team determines that the child will not participate in a general State or district-wide assessment of student achievement (or part of an assessment), a statement of why that assessment is not appropriate for the child and how the child will be assessed.

(C) For the purposes of subsection (f):

(i) "General assessment" means assessment that results in standard scoring, including the administration of at or above level benchmark testing, with or without accommodations, and/or juried assessment.

(ii) "Modification" means substantial changes in what a student is expected to learn and/or demonstrate. The changes are made to provide a student opportunities to participate meaningfully and productively in learning experiences and environments. They include changes in instructional level, content, and performance criteria.

(iii) "Accommodation" means an alteration in how a test is presented to or responded to by the person tested; it includes a variety of alterations in presentation format, response format, setting which the test is taken, timing or scheduling. The alterations do not substantially change level, content or performance criteria. The changes are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known.

(g) A statement of:

(A) How the child's progress toward the annual goals will be measured; and

(B) How the child's parents will be regularly informed, at least as often as parents are informed of their non-disabled children's progress, of:

- (i) Their child's progress toward the annual goals; and
- (ii) The extent to which that progress is sufficient to enable the child to achieve the goals by the annual IEP review date.

(2) For the purposes of transition, the IEP shall include:

(a) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study;

(b) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages; and

(c) Beginning a least one year before a student reaches age 18, or when the district obtains actual knowledge that within one year the student will marry or become emancipated prior to age 18, a statement that the district has informed the student that procedural rights will transfer to the student upon age 18, marriage or emancipation, which ever occurs first.

Stat. Auth.: ORS 343.045, ORS 343.055 & ORS 343.195

Stats. Implemented: ORS 343.045 & ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0075

Prior Written Notice

(1) Prior written notice shall be given to the parent of a child, and to the adult student after rights have transferred, within a reasonable period of time before a school district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

(2) Prior written notice must be given after a decision is made and a reasonable time before that decision is implemented.

(3) The content of the prior written notice shall include:

(a) A description of the action proposed or refused by the school district;

(b) An explanation of why the district proposed or refused to take the action;

(c) A description of any options which the school district considered and reasons why those options were rejected;

(d) A description of each evaluation procedure, test, record, or report which is directly relevant to the proposal or refusal;

(e) A description of any other factors that is relevant to the school district's proposal or refusal; and

(f) A statement that the parents of a child with a disability have procedural safeguards and the means by which a copy of the Notice of Procedural Safeguards may be obtained;

(g) Sources for parents to contact to obtain assistance in understanding their procedural safeguards.

(4) The prior notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to ensure that:

(a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) A reasonable effort is made to aid the parent in understanding the content of the notice; and

(c) There is written evidence that the requirements in subsections (5)(a) and (b) of this rule has been met.

(6) If the proposed action requires prior written notice and written consent, the district may give notice at the same time it requests consent.

Stat. Auth.: ORS 343.045, ORS 343.155 & ORS 343.157

Stats. Implemented: ORS 343.157, ORS 343.227, ORS 343.045, ORS 343.155, 20 USC § 1401(a) & 34 CFR 300.7(b)

Hist.: 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 11-1995, f. & cert. ef. 5-25-95; ODE 18-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

ADMINISTRATIVE RULES

581-015-0079

Notice of Procedural Safeguards

(1) School districts must give parents a copy of the Notice of Procedural Safeguards at a minimum:

- (a) Upon initial referral for evaluation;
- (b) Upon each notice of an IEP meeting;
- (c) Upon reevaluation of the child; and,
- (d) Also to the child, at least a year before the child's 18th birthday.

(2) The procedural safeguards notice must include all of the content provided in the Notice of Procedural Safeguards published by the Department in the following areas:

- (a) Independent educational evaluations;
- (b) Prior written notice;
- (c) Parental consent;
- (d) Access to educational records;
- (e) Opportunity to initiate a due process hearing;
- (f) The child's placement during pendency of due process proceedings;

(g) Procedures for students who are subject to placement in an interim alternative educational setting;

(h) Requirements for unilateral placement by parents of children in private school at public expense;

- (i) Mediation;
- (j) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
- (k) Civil actions;
- (l) Attorney's fees;
- (m) The complaint procedures under OAR 581-015-0050, including a description of how to file a complaint and the timelines under those procedures; and

(n) Transfer of rights at age of majority.

(3) The Notice of Procedural Safeguards must be written in language understandable to the general public.

(4) The Notice of Procedural Safeguards must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to ensure:

- (a) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
- (b) That the parent understands the content of the notice; and
- (c) That there is written evidence that the district has met these requirements.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 343.041

Hist.: ODE 19-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0080

Notice of Hearing, Hearing Rights, and Pre-Hearing Conference

(1) Upon receipt of a written request by a parent, or the school district for a hearing regarding the identification, evaluation, individualized education program, educational placement of the child or the provision of a free appropriate public education to a child, the Superintendent shall:

(a) Appoint a hearings officer, in accordance with OAR 581-015-0096, to conduct the hearing.

(b) Provide the parent with a copy of the Notice of Procedural Safeguards, which includes a statement of hearing rights;

(c) Inform the parties that mediation is available at no cost to the parents or school district; and

(d) Inform the parent of any free or low-cost legal services and other relevant services.

(2) Notice of Hearing:

(a) The hearing officer shall provide a notice to the parties of the hearing. The notice shall be served by registered or certified mail.

(b) The hearing notice shall include:

- (A) A statement of the time and place of the hearing;
- (B) A statement of the authority and jurisdiction under which the hearing is to be held;

(C) A reference to the particular sections of the statutes and rules involved;

(D) A short and plain statement of the matters asserted or charged;

(E) A statement that mediation is available to the parties at no cost from the Department;

(F) A statement of hearing rights as described in subsection (3).

(3) Due Process Hearing Rights: Parties to a due process hearing conducted under OAR 581-015-0080 (Notice of Hearing, Hearing Rights, and

Pre-Hearing Conference) or OAR 581-015-0550 through 581-015-0559 (Discipline for Students with Disabilities) have the following rights:

(a) During the pendency of any due process hearing or judicial appeal, the child shall remain in the present educational placement unless:

(A) The school district and the parent agree otherwise;

(B) If applying for initial admission to a public school, the parent consents to the child's placement in a program provided or selected by the district at the district's expense until all proceedings are completed;

(C) The school district orders a change in placement to an appropriate interim alternative educational setting for up to 45 days due to a weapon, illegal drug, or controlled substance incident; or

(D) The hearing officer orders a change in placement to an appropriate interim alternative educational setting for up to 45 days due to the substantial likelihood of injurious behavior.

(b) Any party to a hearing has the right to:

(A) Be accompanied and advised by counsel and by individuals who have special knowledge or training with respect to the problems of children with disabilities;

(B) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(C) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;

(D) Obtain a written or, at the option of the parents, electronic verbatim record of the hearing at no cost to the parents; and

(E) Obtain a written or, at the option of the parents, electronic findings of fact and hearing decision at no cost to the parents.

(c) The parent involved in a hearing has the right to:

(A) Have the child present who is the subject of the hearing; and

(B) Open the hearing to the public.

(d) The parent may seek reimbursement from court for attorney fees if the parent prevails at the administrative hearing.

(4) Pre-Hearing Conference: The hearing officer shall require the parties to appear in person or by telephone for a pre-hearing conference for the purpose of:

(a) Identifying the issues to be resolved;

(b) Establishing the length of the hearing;

(c) Deciding whether the hearing record will be a written or electronic verbatim record; and

(d) Reviewing the parties' hearing rights and procedures; and

(e) Notifying the parties of the availability of mediation services through the Department.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.155, ORS 343.045 & ORS 343.055

Hist.: 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 29-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; EB 11-1995, f. & cert. ef. 5-25-95; ODE 20-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0081

When Hearing May Be Requested

(1) Parent Requests for a Due Process Hearing

(a) A parent may request a due process hearing when he or she does not agree with the identification, evaluation, educational placement of a child, or the provision of a free appropriate education to a child who may be disabled.

(b) The parent, or the attorney representing the child, shall provide notice to the Oregon Department of Education when requesting a hearing. The notice, which remains confidential) shall include:

(A) The child's name and address;

(B) The name of the school the child is attending;

(C) A description of the disagreement prompting the parent's hearing request, including specific facts about the disagreement; and

(D) Any suggestion the parent has for solving the problem.

(c) Upon request, the Department shall provide a copy of a model form to assist parents in filing a request for a due process hearing.

(d) The Department may not deny or delay a parent's right to a due process hearing for failure to provide this notice.

(2) School District Requests for a Due Process Hearing:

(a) A school district may request a due process hearing regarding identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education to the child.

(b) If the parents of a child with a disability or suspected disability refuse consent for initial evaluation or reevaluation, a school district may request a due process hearing or mediation, if appropriate, to seek an order to conduct the evaluation or reevaluation.

(c) A school district may not request a due process hearing to override the parent's refusal of consent for initial placement in special education.

ADMINISTRATIVE RULES

(d) For a child who is currently receiving special education services, if a parent refuses to cooperate in any activity that the school district deems necessary to provide the child with a free appropriate public education, a school district may request a due process hearing or mediation, if appropriate, to seek an order that the district has complied with its obligations under state and federal special education laws.

(e) When a parent requests an independent educational evaluation or reimbursement for an independent educational evaluation, a school district shall proceed in accordance with OAR 581-015-0094.

(3) Time limitation: A special education due process hearing shall be requested within two years after the date of the act or omission that gives rise to the right to request the hearing.

(4) Information: The school district shall inform a parent of any free or low-cost legal services and other relevant services available in the area if a parent requests the information. Upon request, the Department shall supply school districts with a list of free or low-cost legal services and other relevant services.

Stat. Auth.: ORS 343.045, ORS 343.055 & ORS 343.155
Stats. Implemented: ORS 343.045, ORS 343.155 & ORS 343.165
Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; EB 9-1993, f. & cert. ef. 3-25-93; ODE 20-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0085

Subpoenas and Depositions

(1) Subject to section (2) of this rule, a hearing officer may upon request by either party issue subpoenas to compel the attendance of witnesses. Attorneys for either party may also issue subpoenas consistent with the Oregon Administrative Procedures Act.

(2) Before issuing subpoenas to the requesting party, the hearing officer may require a showing of need, general relevancy and the evidence to be given by the witness to be within the reasonable scope of the proceedings.

(3) On petition of any party, the hearing officer may order the testimony of any material witness to be taken by deposition in the manner prescribed by ORS Chapter 45 for depositions in civil cases. The petition shall include:

- (a) The name and address of the witness whose testimony is desired;
- (b) A showing of materiality of the testimony; and
- (c) A request for an order that the testimony of the witness be taken before an officer named in the petition for that purpose.

(4) If the hearing officer issues an order for the taking of a deposition and the witness resides in this state and is unwilling to appear, the hearing officer may issue a subpoena as provided in section (1) of this rule requiring the witness's appearance before the officer taking the deposition.

(5) Any witness appearing pursuant to subpoena, other than parties or officers or employees of the school district, shall be tendered fees and mileage as prescribed by law in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the fees and mileage to the witness.

(6) Depositions shall only be allowed to perpetuate testimony of witnesses who would be unavailable at the time of the hearing.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.045, ORS 343.155 & ORS 343.165
Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0086

Conduct of Hearing

(1) The hearing shall be conducted by and shall be under the control of the hearing officer appointed under OAR 581-015-0080.

(2) At the discretion of the hearing officer, the hearing shall be conducted in the following manner:

- (a) Statement and evidence of the school district in support of its action;
- (b) Statement and evidence of the parents disputing the school district action;
- (c) Rebuttal testimony.

(3) The hearing officer, counsel or other representatives of the parties, and the parents if the parents are not represented, shall have the right to question or cross-examine any witnesses.

(4) The hearing may be continued with recesses as determined by the hearing officer.

(5) The hearing officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

(6) Exhibits shall be marked, and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the Superintendent as part of the record of the proceedings.

(7) Each hearing shall be conducted at a time and place that is reasonably convenient to the parents and child involved.

Stat. Auth.: ORS 343
Stats. Implemented: ORS 343.045, ORS 343.155 & ORS 343.165
Hist.: 1EB 269, f. 12-22-77, ef. 12-22-77; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0088

Decision of Hearing Officer

(1) The decision of the hearing officer in a contested case shall be made pursuant to ORS 343.167.

(2) The decision shall be entered not later than 45 days after the request for hearing is filed unless a specific extension has been granted by the hearing officer at the request of a party.

(3) A copy of the hearing decision shall be sent to the parent and school district accompanied by a statement describing the method of appealing the decision.

(4) The hearing officer shall submit a copy of the findings and hearing decision to the State Advisory Council for Special Education.

(5) The hearing officer shall write the hearing decision in such a manner so that personally identifiable information shall not be disclosed. No student or parent names shall be used.

(6) The hearing findings and decision shall be made available to the public.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.045, ORS 343.167 & ORS 343.175
Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0093

Hearing Costs

(1) Costs of the Proceedings:

(a) The school district shall reimburse the Department for the hearing officer's costs related to conducting the hearing, including pre-hearing conferences, scheduling arrangements, and other related matters.

(b) The school district shall provide the parent with a written, or at the option of the parent, an electronic verbatim recording of the hearing, within a reasonable time of the close of the hearing.

(2) Attorney Fees: Funds under Part B of the Individuals with Disabilities Education Act may not be used to pay attorney fees or costs of a party related to an action or proceeding under this rule.

Stat. Auth.: ORS 343.045, ORS 343.055 & ORS 343.155
Stats. Implemented: ORS 343.045, ORS 343.155 & ORS 343.167
Hist.: EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0094

Independent Educational Evaluation

(1) A parent of a child with a disability or suspected disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child.

(b) "Public expense" means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(2) If a parent requests an independent educational evaluation at public expense, the school district shall provide information to parents about where an independent educational evaluation may be obtained, and the school district criteria applicable for independent educational evaluations.

(3) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, the qualifications of the examiner, and cost, must be the same as the criteria the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(a) Except for the criteria in subsection (3), a school district may not impose conditions, or timelines related to obtaining an independent educational evaluation at public expense.

(b) The school district shall provide parents an opportunity to demonstrate that unique circumstances justify an independent educational evaluation that does not meet the district's criteria.

ADMINISTRATIVE RULES

(4) If a parent requests an independent education evaluation at public expense, the school district shall, without unnecessary delay, either:

(a) Ensure that an independent educational evaluation is provided at public expense unless the school district demonstrates in a hearing under OAR #581-015-0081 that the evaluation obtained by the parent did not meet school district criteria in accordance with (3); or

(b) Initiate a due process hearing under OAR 581-015-0081 to show that its evaluation is appropriate.

(5) If the school district initiates a hearing and the final decision is that the school district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(6) If the parent requests an independent educational evaluation, the school district may ask why the parent disagrees with the public evaluation. The parent may, but is not required, to provide an explanation. The school district may not unreasonably delay either providing the independent education evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(7) If the parent obtains an independent educational evaluation, the results of the evaluation:

(a) Must be considered by the school district, if it meets criteria, in any decision made with respect to the provision of a free appropriate public education to the child; and

(b) May be presented as evidence at a due process hearing.

(8) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.173, ORS 343.045 & ORS 343.155

Hist.: IEB 269, f. & ef. 12-22-77; IEB 18-1979(Temp), f. & ef. 11-15-79; IEB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 11-1995, f. & cert. ef. 5-25-95; ODE 21-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0097

Procedural Rules for Due Process Hearings

If the Department uses the state Hearing Officer Panel for due process hearings, then the OAR 137-003-0501 through 137-003-0700 apply to the extent consistent with federal law. The Department's interagency agreement with the Hearing Officer Panel will identify delegations of authority and the application of the rules in this section.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0099

Surrogate Parents

(1) School districts shall ensure that the rights of a child with a disability, or suspected of having a disability, are protected by appointing a surrogate parent when:

(a) The parent cannot be identified or located after reasonable efforts; or

(b) The child is a ward of the state and there is reasonable cause to believe that the child has a disability.

(2) The school district shall not appoint a surrogate solely because the parent or adult student to whom rights have transferred is uncooperative or unresponsive to special education needs.

(3) Each school district shall secure nominations of persons to serve as surrogates. The school district shall ensure that each person approved to serve as a surrogate:

(a) Is not an employee of the school district or the Department;

(b) Is not an employee of any other agency involved in the education or care of the child except for an employee of a non-public agency that only provides non-education care for the child;

(c) Is free of any conflict of interest that would interfere with representing the child's special education interests; and

(d) Has knowledge and skills that ensure adequate representation of the child in special education decisions.

(4) An appointed surrogate parent shall have all of the special education rights and procedural safeguards available to the parent.

(5) A surrogate shall not be considered an employee of a school district solely on the basis that the surrogate is compensated from public funds.

(6) The duties of the surrogate parent are to:

(a) Protect the special education rights of the child;

(b) Be acquainted with the child's disability and the child's special education needs;

(c) Represent the child in all matters relating to the identification, evaluation, IEP and educational placement of the child; and

(d) Represent the child in all matters relating to the provision of a free appropriate public education to the child.

(7) A surrogate shall have the same rights granted to a parent in a hearing under OAR 581-015-0080, and the procedures regarding hearings set forth in OAR 581-015-0081 through 581-015-0091 shall apply.

(8) A parent, or an adult student to whom rights have transferred, may give written consent for a surrogate to be appointed.

(a) When a parent or an adult student requests that a surrogate be appointed, the parent or adult student shall retain all parental rights to receive notice under OAR 581-015-0063, 581-015-0067, 581-015-0075, and 581-015-0079 and all of the information provided to the surrogate.

(b) The surrogate, alone, shall be responsible for all matters relating to the special education of the child unless the parent or adult student revokes consent for the surrogate's appointment.

(c) The parent or adult student may revoke consent at any time by providing a written request to revoke the surrogate's appointment.

(9) The school district may change or terminate the appointment of a surrogate when:

(a) The person appointed as surrogate is no longer willing to serve;

(b) Rights transfer to the adult student or the child graduates with a regular diploma;

(c) The child is no longer eligible for special education services;

(d) The legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;

(e) A foster parent is identified who can carry out the role of parent under OAR 581-015-0005;

(f) The parent, who previously could not be identified or located, is now identified or located;

(g) The appointed surrogate is no longer eligible;

(h) The child moves to another school district; or

(i) The child is no longer a ward of the state.

(10) A person appointed as surrogate shall not be held liable for actions taken in good faith on behalf of the parent in protecting the special education rights of the child.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.155 & ORS 343.045

Hist.: IEB 18-1979(Temp), f. & ef. 11-15-79; IEB 5-1980, f. 2-22-80, ef. 2-23-80; EB 9-1992, f. & cert. ef. 4-7-92; EB 11-1995, f. & cert. ef. 5-25-95; ODE 23-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0101

Transfer of Procedural Rights at Age of Majority

(1) When a child with a disability reaches the age of majority under ORS 109.510 or 109.520, or is emancipated pursuant to ORS 419B.550 to 419B.558, the rights accorded to the child's parents under the special education laws transfer to the child. A student for whom rights have transferred is considered an "adult student" under 581-015-0005.

(2) Notwithstanding section (1) of this rule:

(a) Pursuant to a protective proceeding under ORS Chapter 125, the Probate Court may find the child to be incapacitated to make educational decisions and may appoint a guardian to exercise these rights.

(b) Under ORS 419B.223, the Juvenile Court may appoint a surrogate parent to exercise these rights if the child is under wardship.

(3) School districts are not responsible for the costs of a protective proceeding unless the school district is the Petitioner.

(4) Pursuant to OAR 581-015-0099(8), a child to whom rights transfer may request that a surrogate be appointed to exercise the child's special education rights.

(5) This rule applies to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 343.155

Hist.: ODE 24-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0126

Standards for Approval of Private Schools as Contractors with Public Agencies

(1) Private schools that intend to provide early intervention (EI), early childhood special education (ECSE) or special education under a written agreement with a public agency, shall apply annually to the Department's Office of Special Education for approval.

(2) The annual application shall include documentation that the private school meets:

(a) The applicable fire codes of the local or state fire marshal;

(b) Facility occupancy and use standards set forth by the appropriate local building inspectors;

(c) Health standards of the county health department; and

(d) The requirements set by:

(A) OAR 581-022-1420 (emergency plans and safety programs);

ADMINISTRATIVE RULES

(B) OAR 581-022-1430 (asbestos management plans); and

(C) OAR 581-022-1440 (infectious diseases).

(D) In place of requirements (A), (B), and (C) above, private schools providing EI/ECSE services only may submit documentation that the private school meets the safety requirements set by the Child Care Division of the Oregon Department of Employment.

(e) The private school shall maintain commercial general liability insurance with policy limits of at least \$500,000. The private school shall provide the Department with the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy.

(3) The annual application shall include assurances, on a form provided by the Department, that the private school:

(a) Uses curriculum content, teaching practices and management practices that do not violate the constitutional prohibition on religious entanglement;

(b) Implements the EI/ECSE or special education services as described in each child's individualized family service plan or individualized education program;

(c) Has procedures in place regarding staff hiring and evaluation that require:

(A) The careful checking of personal and professional references for all potential employees;

(B) Criminal background checks in compliance with ORS 181.539, 326.603, 326.607 and 342.232 for all potential employees;

(C) A regular schedule of staff evaluations of the competencies of all employees to work with children;

(D) In place of requirements (A), (B) and (C) above, private schools providing EI/ECSE services only may follow the hiring and evaluation requirements set by the Child Care Division of the Oregon Department of Employment;

(d) Maintains the confidentiality of student records consistent with the Family Educational Rights and Privacy Act, 34 CFR § 99 et. seq. and Oregon Administrative Rules relating to student records;

(e) Has a policy of nondiscrimination;

(f) Notifies the Department and the contracting public agency of any written complaint it receives concerning the EI/ECSE or special education programs and services being provided;

(g) Notifies the contracting public agency of the need for any change in a child's educational program and does not make changes in a child's individualized education program or individualized family service plan, the EI/ECSE or special education program or services, or placement, unless the contracting public agency consents to the changes; and

(h) Initiates and convenes individualized education program and individualized family service plan meetings only when this assistance is requested by a written agreement with the contracting public agency;

(i) Evaluates a child only when this assistance is requested by a written agreement with the contracting public agency;

(j) Provides licensed staff in compliance with either paragraphs (A) or (B) or both of this subsection:

(A) EI/ECSE: For private schools providing EI/ECSE for children preschool children, at least one individual who is qualified to provide EI/ECSE and meets the requirements of OAR 581-015-1100(2) and (3) shall be available to serve the population of students described in the application; or

(B) School Age: For private schools providing special education for school age children, at least one individual qualified to provide special education and licensed according to rules established by the Teacher Standards and Practices Commission shall be available to serve the population of students described in the application. Private schools may provide special education and related services to students with disabilities placed by public agencies by employing professionals who are licensed within their own specialties. Pursuant to OAR 584-036-0010, these personnel are not required to hold licensure from the Teacher Standards and Practices Commission.

(k) Provides hours of instruction that meet state standards;

(l) Grants credit toward high school graduation consistent with OAR 581-022-1130 and 581-022-1350(2) and (3);

(m) Ensures that students have the opportunity to participate in district-wide and state-wide assessments of student achievement; and

(n) For school-age programs, meets the state curriculum standards set pursuant to OAR 581-022-1210.

(4) The annual application shall include a plan, on a form provided by the Department, describing the EI/ECSE or special education program for

which the private school requests approval. The plan shall include the following elements:

(a) A description of the population to be provided EI/ECSE or special education programs or services; and

(b) A description of the specific EI/ECSE or special education programs or services that the private school provides.

(5) This rule does not apply to public agencies providing educational programs at treatment centers under ORS 581-015-0044.

Stat. Auth.: ORS 343.041 & ORS 343.055

Stats. Implemented: ORS 343.041 & ORS 343.221

Hist.: IEB 28-1978, f. & ef. 7-20-78; EB 18-1994, f. & cert. ef. 12-15-94; ODE 18-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0131

Process for Approval of a Private School as a Contractor with Public Agencies

(1) A private school applying for initial approval may submit an application to the Department's Office of Special Education at any time pursuant to OAR 581-015-0126. The private school shall be notified by the Department of its approval or denial as quickly as possible but no later than 60 days after receipt of the application. The period of approval of the private school receiving initial approval shall be from the date of notification of approval by the Department until the 15th day of August.

(2) After a private school receives initial approval of an application, subsequent annual applications may consist of amendments to the application originally approved or an assurance on a form provided by the Department that the private school is not making any changes to the approved application.

(3) The Department shall accept a private school's annual application for the subsequent approval by May 1 of each year. The Department shall notify the private school of its decision to renew or deny renewal of approval within 60 days of receipt of the application. The period of approval for a private school requesting approval for the subsequent year shall be one year beginning on the 15th day of August.

(4) An approved private school may make major program changes only with written prior approval from the Department. A major program change consists of any change in the information contained in a private school's approved application:

(a) To request and receive approval for program changes, the private school shall submit an amendment to the current approved application describing the changes proposed and the reasons for the changes. In addition, the amendment shall describe the effect the changes will have on the children currently served under contracts with public agencies;

(b) After submitting an amendment as described in subsection (4)(a) of this rule, the private school may operate the services under the provisions of the amendment with conditional approval until the Department notifies the private school of the approval or denial of the amendment. The Department shall notify the private school of approval or denial within a reasonable period of time, but no more than 90 days after receipt of the amendment by the Department.

Stat. Auth.: ORS 343.041 & ORS 343.055

Stats. Implemented: ORS 343.041 & ORS 343.221

Hist.: IEB 28-1978, f. & ef. 7-20-78; EB 40-1988(Temp), f. & cert. ef. 11-15-88; EB 20-1989, f. & cert. ef. 5-15-89; EB 18-1994, f. & cert. ef. 12-15-94; ODE 18-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0296

Regional Program Services

(1) The resident school district shall maintain the primary responsibility for the education of an eligible school age child, and shall be responsible for all costs beyond the fiscal capacity of the regional program that result from the full implementation of the child's IEP.

(2) The Department, through its contractors and subcontractors, shall maintain the primary responsibility for early intervention and early childhood special education services for eligible children from birth until eligible for kindergarten, and shall be responsible for all costs beyond the fiscal capacity of the regional program which result from full implementation of the child's IFSP.

(3) Eligible children may receive one or more of the following regional services based upon the child's needs according to the IEP or IFSP and available resources of the regional program and agreement of the resident school district or EI/ECSE contractor:

(a) Direct services to the child as determined in the IEP/IFSP by an itinerant specialist up to full-time instruction in a self-contained classroom operated by the regional program;

(b) Consultation to providers of the child's educational or early intervention/early childhood special education program and/or the parents;

(c) Participation in developing the student's IEP or IFSP;

ADMINISTRATIVE RULES

(d) Recommendations for classroom activities, materials, equipment, adaptations and modifications to instruction, and/or assessment;

(e) Evaluation and interpretation of assessment information;

(f) Audiological management;

(g) Inservice for staff and parents; and

(h) Provision of certain related services.

(4) Teachers and therapists employed by the regional program to serve eligible children shall hold the appropriate special education or appropriate state licensure.

(5) Regional programs shall be in compliance with all applicable statutes and administrative rules pertaining to the education of children with disabilities.

Stat. Auth.: ORS 343.236(a)

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0550

Definitions

For the purposes of OAR 581-015-0550 to 581-015-0559, the following definitions apply:

(1) "Behavioral intervention plan" means an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.

(2) "Current educational placement" means the type of educational placement of the child as described in the child's "annual determination of placement" document at the time of the disciplinary removal. It does not mean the specific location or school but the type of placement on the continuum of placement options (e.g. regular classroom with support; regular classroom with resource room support; special class; special school; home instruction, etc.).

(3) "Disciplinary removal" means suspension, expulsion, or other removal from school for disciplinary reasons. It does not include:

(a) Removals by other agencies;

(b) Removals for public health reasons (e.g. head lice, immunizations, communicable diseases, etc.);

(c) In-school suspensions if the child continues to have access to the general curriculum and to special education and related services as described in the child's IEP, and continues to participate with nondisabled children to the extent they would in their current placement; or

(d) Bus suspensions, unless the student's IEP includes transportation as a related service, the district makes no alternative transportation arrangements for the student, and the student does not attend school as a result of the bus suspension.

(4) "Functional behavioral assessment" means an individualized assessment of the student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.

(5) "Suspension" means any disciplinary removal other than expulsion.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0551

Disciplinary Removals for Up to 10 School Days for Children with Disabilities

(1) School districts may suspend children with disabilities from their current educational placement for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. These removals are not considered a change in placement.

(2) During disciplinary removals described in section (1) of this rule:

(a) School districts are not required to provide access to special education and the general curriculum unless students without disabilities are provided access during this time.

(b) School districts are not required to determine whether the child's behavior resulting in disciplinary removal is a manifestation of the child's disability.

(3) For the purpose of counting days of suspensions:

(a) Suspensions of a half day or less are counted as a half day; and

(b) Suspensions of more than a half-day are counted as a whole day.

(4) For the purposes of determining "current educational placement" in subsection (1) of this rule:

(a) Children who received special education services in another state and are found eligible for special education in Oregon shall be treated as if

initially placed in special education in Oregon, and any days of suspension accrued in the former state shall not be counted toward the ten days.

(b) For children who move from one school district to another school district in Oregon, any days of suspension from the former district carry over to the new school district unless the school district does not have actual knowledge of the previous suspensions.

(5) If a parent requests a due process hearing because they disagree with the suspension, the child shall complete the suspension and then return to their current educational placement unless the provisions of OAR 581-015-0552, 581-015-0555 or 581-015-0556 apply, or the parent and school district agree to another placement pending the hearing.

(6) The Department shall provide guidance to school districts on the benefits of conducting functional behavioral assessments and developing behavioral intervention plans for students who are removed from school under this rule.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0552

Additional Disciplinary Removals of up to 10 School Days Each (No Pattern)

(1) School districts may suspend children with disabilities from their current educational placement for additional periods of up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities, if the removals do not constitute a pattern under section (2) of this rule. These removals are not considered a change in placement.

(2) In determining whether removals of additional periods of up to 10 school days constitute a pattern of removals from the child's current educational placement in a school year, school personnel shall consider:

(a) The length of each removal;

(b) The total time of removals; and

(c) The proximity of the removals to one another.

(3) During removals described in section (1) of this rule:

(a) School districts shall provide services that are necessary to enable the child:

(A) To appropriately progress in the general curriculum; and

(B) To appropriately advance toward achieving the goals in the child's IEP.

(b) The services described in subsection (a) of this rule, and the location for delivery of those services may be determined by school personnel, in consultation with the child's special education teacher, or by the child's IEP team.

(c) Within 10 business days of the first day of removal under section

(1) of this rule, school districts shall hold an IEP meeting to:

(A) Develop a plan for conducting a functional behavioral assessment unless a functional behavioral assessment has been completed on the behavior that resulted in the removal; or

(B) If there is a behavioral intervention plan in place, to review the plan if one or more team members believe that revisions are needed.

(d) As soon as practicable after developing a plan for conducting a functional behavioral assessment under subsection (3)(c) of this rule, and completing the assessments required by the plan, the school district shall hold an IEP meeting to develop appropriate behavioral interventions to address the behavior and shall implement those interventions.

(e) School districts are not required to determine whether the behavior resulting in removal is a manifestation of the child's disability.

(f) Upon subsequent removals of up to ten school days that are not a pattern, the IEP team shall review the behavior intervention plan and its implementation to determine if modifications are necessary.

(4) If a parent requests a due process hearing because they disagree with the suspension, the child shall complete the suspension and then return to their current educational placement pending the hearing unless:

(a) The provisions of OAR 581-015-0555 or 581-015-0556 apply; or

(b) The parent and school district agree to another placement.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0553

Disciplinary Removals of More than 10 School Days (Pattern or Consecutive)

(1) A disciplinary removal is considered a change in educational placement and the school district shall follow special education due process procedures if:

ADMINISTRATIVE RULES

(a) The removal will be for more than 10 consecutive school days (e.g. expulsion); or

(b) The child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-0552(2).

(2) If a school district intends to initiate a removal under section (1) of this rule:

(a) School districts shall:

(A) Immediately schedule an IEP meeting for the purposes of subsection (2)(b) of this rule; and

(B) Not later than the date on which the decision to remove a student under section (1) is made:

(i) Provide notice of disciplinary action under OAR 581-021-0065(1) (for a suspension) or 581-021-0070(3) (for an expulsion); and

(ii) Provide notice of procedural safeguards under OAR 581-015-0079.

(b) Immediately or within 10 business days, school districts shall hold an IEP meeting to:

(A) Develop an assessment plan unless a functional behavioral assessment has been completed on the behavior that resulted in the disciplinary removal or, if there is a behavioral intervention plan in place, to review the plan and revise as appropriate;

(B) Determine whether the child's behavior is a manifestation of the child's disability under OAR 581-015-0554; and

(C) Review the child's IEP and placement, and revise as appropriate.

(c) If the IEP team determines that the child's behavior is a manifestation of the student's disability under OAR 581-015-0554, the school district cannot proceed with the disciplinary action under section (1) of this rule. However:

(A) The IEP team may review and revise the child's IEP and placement;

(B) A school district may initiate removal to an interim alternative educational setting under OAR 581-015-0555 for a weapons or drug violation; or

(C) A school district may seek a hearing officer removal under OAR 581-015-0556 for injurious behavior.

(d) If the IEP team determines that the child's behavior is not a manifestation of the student's disability under OAR 581-015-0554, the school district may proceed with disciplinary action applicable to children without disabilities under section (1) of this rule, in the same manner in which it would be applied to children without disabilities. If the school district takes such action applicable to all children, the school district shall:

(A) Ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the school personnel making the final determination regarding the disciplinary action; and

(B) Provide the services, determined by the IEP team, that are necessary to enable the child:

(i) To appropriately progress in the general curriculum; and

(ii) To appropriately advance toward achieving the goals in the child's IEP.

(e) As soon as practicable after developing a plan for conducting a functional behavioral assessment under subsection (2)(b)(A) of this rule, and completing the assessments required by the plan, the school district shall hold an IEP meeting to develop appropriate behavioral interventions to address the behavior and shall implement those interventions.

(f) If a child's educational placement changes as a result of the IEP/placement reviews under subsections (2)(c) or (2)(d) of this rule, the school district shall provide prior written notice of change in placement under OAR 581-015-0075.

(3) If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement related to the disciplinary removal in section (1) of this rule, the child shall complete any suspension under OAR 581-015-0551 or 581-015-0552 and return to their current educational placement unless:

(a) The provisions of OAR 581-015-0555 or 581-015-0556 apply; or

(b) The parent and school district agree to another placement pending the hearing.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0555

Removal to an Interim Alternative Educational Setting by School District (Drugs & Weapons)

(1) Definitions:

(a) "Drug" means illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or otherwise legally possessed. It does not include alcohol or tobacco.

(b) "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school function.

(c) "Weapon" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(d) "Weapon violation" means carrying a weapon to school or to a school function or acquiring a weapon at school.

(2) School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 calendar days in a school year for a drug or weapon violation. This removal is considered a change in placement.

(3) During removals described in subsection (2) of this rule:

(a) School districts shall:

(A) Immediately schedule an IEP meeting for the purposes of subsection (3)(b); and

(B) Not later than the date on which the decision to take that action is made:

(i) Provide notice of disciplinary action under OAR 581-021-0065(1) (for a suspension) or 581-021-0070(3) (for an expulsion); and notice of the school district's decision to remove the child to an interim alternative educational setting under this rule; and

(ii) Provide notice of procedural safeguards under OAR 581-015-0079.

(b) Immediately or within 10 business days, school districts shall convene an IEP meeting to:

(A) Develop an assessment plan unless a functional behavioral assessment has been completed on the behavior that resulted in the removal or, if there is a behavioral intervention plan in place, to review the plan and revise as appropriate;

(B) Determine whether the child's behavior is a manifestation of the child's disability under OAR 581-015-0554; and

(C) Review the child's IEP, and revise as appropriate, and determine the specific interim alternative educational setting, consistent with the requirements of OAR 581-015-0557.

(c) If the IEP team determines that the child's behavior is a manifestation of the student's disability under OAR 581-015-0554, the school district cannot proceed with the disciplinary action under OAR 581-015-0553(1). However:

(A) The school district may continue the child's placement in the interim alternative educational setting until the end of the 45 day period;

(B) The IEP team may review and revise the child's IEP and placement; and

(C) A school district may seek a hearing officer removal under OAR 581-015-0556 for injurious behavior.

(d) If the IEP team determines that the student's behavior is not a manifestation of their disability under OAR 581-015-0554, the school district may proceed with disciplinary action under OAR 581-015-0553(1) applicable to children without disabilities, in the same manner in which it would be applied to children without disabilities. If the school district takes such action applicable to all children, the school district shall:

(A) Ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the school personnel making the final determination regarding the disciplinary action; and

(B) Provide the services, determined by the IEP team, that are necessary to enable the child:

(i) To appropriately progress in the general curriculum; and

(ii) To appropriately advance toward achieving the goals in the child's IEP.

(e) If a child's educational placement changes as a result of the IEP/placement reviews under subsections (2)(c) or (2)(d) of this rule, the school district shall provide prior written notice of change in placement under OAR 581-015-0075.

(f) As soon as practicable after developing a plan for conducting a functional behavioral assessment under subsection (3)(b)(A) of this rule, and completing the assessments required by the plan, the school district shall hold an IEP meeting to develop appropriate behavior interventions to address the behavior and shall implement those interventions.

ADMINISTRATIVE RULES

(4) If a parent requests a due process hearing because of a disagreement with the manifestation determination, removal to the interim alternative educational setting, or any decision about placement related to a disciplinary removal under section (1) of this rule, the child shall:

(a) Complete any suspension under OAR 581-015-0551 or 581-015-0552; and

(b) Remain in the interim alternative educational setting pending the decision of the hearing officer or for 45 calendar days, whichever occurs first; unless:

(A) the parent and school district agree otherwise; or

(B) the provisions of OAR 581-015-0556 apply.

(5) In reviewing a decision to place the child in an interim alternative educational setting for a drug or weapon violation, the hearings officer shall apply the standards in OAR 581-015-0556(3).

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0556

Removal to an Interim Alternative Educational Setting by Hearing Officer (Injurious Behavior)

(1) Definitions:

(a) "Injurious behavior" means behavior that is substantially likely to result in injury to the child or to others.

(b) "Substantial evidence" means beyond a preponderance of the evidence.

(2) School districts may request an expedited due process hearing under OAR 581-015-0559 to obtain a hearing officer's order to remove a child to an interim alternative educational setting for not more than 45 days for injurious behavior. Under these circumstances, the specific interim alternative educational setting may be determined by school personnel in consultation with the child's special education teachers, consistent with the requirements of OAR 581-015-0557, or by the IEP team.

(3) A special education hearing officer may order a change in placement, under section (2) of this rule, if the hearing officer:

(a) Determines that the school district has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the school district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting meets the requirements of OAR 581-015-0557.

(4) During removals described in section (2):

(a) School districts shall:

(A) Immediately schedule an IEP meeting for the purposes of subsection (4)(b); and

(B) Not later than the date on which the decision to take that action is made:

(i) Provide notice of disciplinary action under OAR 581-021-0065(1) (for a suspension) or 581-021-0070(3) (for an expulsion); notice of the school district's decision to remove the child to an interim alternative educational setting under this rule, and, if determined under subsection (2), the specific interim alternative educational placement; and

(ii) Provide notice of procedural safeguards under OAR 581-015-0079.

(b) Immediately or within 10 business days, school districts shall convene an IEP meeting to:

(A) Develop an assessment plan unless a functional behavioral assessment has been completed on the behavior that resulted in the removal or, if there is a behavioral intervention plan in place, to review the plan and revise as appropriate;

(B) Determine whether the child's behavior is a manifestation of the child's disability under OAR 581-015-0554; and

(C) Review the child's IEP, and revise as appropriate, and determine the specific interim alternative educational setting, consistent with the requirements of OAR 581-015-0557, if not already determined under subsection (2) of this rule.

(c) If the IEP team determines that the child's behavior is a manifestation of the student's disability under OAR 581-015-0554, the school district cannot proceed with the disciplinary action under OAR 581-015-0553(1). However:

(A) The school district may continue the child's placement in the interim alternative educational setting until the end of the 45 day period; and

(B) IEP team may review and revise the child's IEP and placement.

(d) If the IEP team determines that the student's behavior is not a manifestation of their disability under OAR 581-015-0554, the school district may proceed with disciplinary action under OAR 581-015-0553(1) applicable to children without disabilities, in the same manner in which it would be applied to children without disabilities. If the school district takes such action applicable to all children, the school district shall:

(A) Ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the school personnel making the final determination regarding the disciplinary action; and

(B) Provide the services, determined by the IEP team, that are necessary to enable the child:

(i) To appropriately progress in the general curriculum; and

(ii) To appropriately advance toward achieving the goals in the child's IEP.

(e) If a child's educational placement changes as a result of the IEP/placement reviews under subsections (4)(c) or (4)(d) of this rule, the school district shall provide prior written notice of change in placement under OAR 581-015-0075.

(f) As soon as practicable after developing a plan for conducting a functional behavioral assessment under subsection (4)(b)(A) of this rule, and completing the assessments required by the plan, the school district shall hold an IEP meeting to develop appropriate behavior interventions to address the behavior and shall implement those interventions.

(5) If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement, the child shall:

(a) Complete any suspension under OAR 581-015-0551 or 581-015-0552; and

(b) Remain in the interim alternative educational setting pending the decision of the hearing officer or for 45 calendar days, whichever occurs first, unless:

(A) The parent and school district agree otherwise, or

(B) The procedures in sections (2) and (3) are repeated.

(6) Nothing in this rule precludes a school district from seeking a court order to remove a child from the child's current educational placement to another placement if the district believes that the maintaining the child in the child's current educational placement is substantially likely to result in injurious behavior.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0558

Protections for Children Not Yet Eligible for Special Education

(1) The provisions of OAR 581-015-0550 through 581-015-0557 apply to children not yet identified as children with disabilities if the school district had knowledge that the child was a child with a disability.

(2) For the purposes of subsection (1) of this rule, a school district "had knowledge" if:

(a) The parent of the child has expressed a concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to school personnel that the child is in need of special education and related services;

(b) The behavior or performance of the child demonstrates the need for special education and related services in relation to eligibility criteria in OAR 581-015-0051;

(c) The parent of the child has requested a special education evaluation of the child; or

(d) The teacher of the child, or other school personnel, has expressed a concern about the behavior or performance of the child to a school district special education representative in accordance with the school district's child find or referral system under OAR 581-015-0037(1).

(3) Notwithstanding subsections (1) and (2) of this rule, a school district will not be considered to have had knowledge that the child was a child with a disability if:

(a) The school district conducted a special education evaluation under OAR 581-015-0559, determined that the child was not eligible, and gave the parent prior written notice of that determination under OAR 581-015-0075; or

(b) The school district determined that a special education evaluation was not necessary and gave the parent prior written notice of that determination under OAR 581-015-0075.

ADMINISTRATIVE RULES

(4) If the school district did not have knowledge, the district may take the same disciplinary actions as applied to children without disabilities who engaged in comparable behaviors. However:

(a) If a special education evaluation is requested or if the school district initiates a special education evaluation, the evaluation shall be conducted in an expedited manner.

(b) Until the evaluation is completed, the child remains in the educational placement determined by school personnel, which can include suspension, expulsion, or placement in alternative education under OAR 581-021-0071.

(c) If, on completion of the evaluation, the child is determined to be a child with a disability, the school district shall conduct an IEP meeting to develop an IEP and determine placement and shall provide special education and related services.

(d) The provisions of OAR 581-015-0550 through 581-015-0557 shall apply beginning on the date of the eligibility determination.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0559

Expedited Due Process Hearings in Disciplinary Actions

(1) When either party requests, an expedited due process hearing shall be held in a dispute over a disciplinary action for a child with a disability if:

(a) The child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding the child's educational placement; or

(b) The school district maintains that it is dangerous for the child to be in the child's current educational placement (placement prior to removal to the interim alternative educational setting) during the pendency of the hearing.

(2) Expedited due process hearings must:

(a) Meet the requirements of OAR 581-015-0080 through 581-015-0093; except that

(A) The time period identified in OAR 581-015-0080 for disclosing evidence to the other party shall be two business days; and

(B) The written decision shall be mailed to the parties within 30 days of the public agency's receipt of the request for the hearing, however the hearing officer may grant an extension of no more than 15 days if the hearing officer finds substantial justification for this extension.

(b) Be conducted by a due process hearing officer who satisfies the requirements of OAR 581-015-0096.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 - ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0568

IEP Team Considerations and Special Factors

(1) In developing, reviewing and revising the child's IEP, the IEP team shall consider:

(a) The strengths of the child and the concerns of the parents for enhancing the education of their child;

(b) The results of the initial or most recent evaluation of the child; and

(c) As appropriate, the results of the child's performance on any general state or district-wide assessment programs;

(2) In developing, reviewing and revising the child's IEP, the IEP team shall consider the following special factors:

(a) The communication needs of the child; and

(b) Whether the child requires assistive technology devices and services.

(3) In developing, reviewing and revising the IEP of children described below, the IEP team shall consider the following additional special factors:

(a) For a child whose behavior impedes his or her learning or that of others, consider strategies, positive behavioral interventions, and supports to address that behavior;

(b) For a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(c) For a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and

(d) For a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication

with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

(4) If, in considering these special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) for the child to receive free appropriate public education, the IEP team shall include a statement to that effect in the child's IEP.

(5) Nothing in OAR 581-015-0068 or this rule shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.155

Stats. Implemented: ORS 343.045 & ORS 343.155

Hist.: ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0601

Age Limitations and Exceptions to FAPE

(1) A district must admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.

(2) A student who receives a regular high school diploma is no longer entitled to FAPE.

(3) If a school district chooses to provide special education to a student with a regular high school diploma, that student remains eligible for FAPE.

(4) The obligation to make a FAPE available to individuals with disabilities 18 through 21 years old who have been convicted as adults and are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement before their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in OAR 581-015-0005(4); or

(b) Had an individualized education program.

(5) For purposes of subsection (4) of this rule,

(a) "Adult correctional facility" means:

(A) A local correctional facility as defined ORS 169.005;

(B) A regional correctional facility as defined in ORS 169.620; or

(C) A Department of Corrections institution as defined in ORS 421.005;

(b) "Identified as being a child with a disability" means has been determined eligible or was involved in the process of determining the individual's disability and eligibility for special education and related services under OAR 581-015-0051; and

(c) "Last educational placement" includes juvenile correctional facilities.

(6) Until January 1, 2006, section (2) of this rule does not apply to individuals who on August 20, 1999:

(a) Were not yet 21 years old;

(b) Had received a regular high school diploma as defined in OAR 581-022-1130; and

(c) Were receiving special education or had an IEP in effect that extended past August 20, 1999.

Stat. Auth.: ORS 343.055

Stats. Implemented: SB 363, Sec. 1 & 2, amending ORS Ch. 399

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0607

Children with Disabilities Covered by Public Insurance

(1) A school district may use the Medicaid or other public insurance benefits programs in which a child with disabilities participates to provide or pay for special education and related services, as permitted under the public insurance program, except as provided in subsection (2) of this section.

(2) With regard to services required to provide FAPE to a child with disabilities, the school district:

(a) May not require parents to sign up or enroll in public insurance programs in order for their child with disabilities to receive FAPE under Part B of the IDEA;

(b) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this chapter, but may pay the cost that the parent otherwise would be required to pay; and

(c) May not use the child's benefits under a public insurance program if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

ADMINISTRATIVE RULES

(B) Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(3) If a school district is unable use a child's public insurance for a specified service required to ensure FAPE, the district may use its Part B funds to pay for the service.

(4) If the parent would incur a cost for the school district's use of public insurance, the district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the public insurance (e.g., the deductible or co-pay amounts).

(5) Proceeds from public insurance will not be treated as program income for purposes of 34 CFR 80.25.

(6) If a school district spends reimbursements from federal funds (e.g., Medicaid) for special education and related services those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions in this chapter.

(7) Nothing in this section should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, or any other public insurance program.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155
Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0608

Children with Disabilities Covered by Private Insurance

(1) With regard to services required to provide FAPE to a child with disabilities, a school district may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this chapter.

(2) Each time the school district proposes to access the parent's private insurance proceeds, it must:

(a) Obtain parent consent in accordance with this rule; and

(b) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(3) If a school district is unable to obtain parental consent to use the parent's private insurance, to ensure FAPE, the district may use its Part B funds to pay for the service.

(4) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the school district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

(5) Proceeds from private insurance will not be treated as program income for purposes of 34 CFR 80.25.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155
Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0805

Definitions

The following definitions apply to Oregon Administrative Rules 581-015-0811 through 581-015-0825 unless the context requires otherwise:

(1) "Talented and gifted children": those children, as defined in ORS 343.395, who require special educational programs or services, or both, beyond those normally provided by the regular school program;

(2) "Parent": A natural or adoptive mother or father, a legally appointed guardian or, if the child has attained the age of majority, the individual student.

(3) "School district": The same meaning as in ORS 330.005 and also includes, where appropriate, an education service district or a consortium of school districts submitting a joint written plan and application to serve talented and gifted children.

(4) "Case study": The information concerning a student used for the selection and placement of the student.

(5) "Selection team": A committee responsible for developing individual case studies and selecting students for placement in programs for the talented and gifted.

(6) "Written plan": The district goals and plan for identifying students and developing services and programs, the timeline for implementation and plan for evaluating progress toward achieving the goals.

(7) "Application": A one-year request for state funds by a school district that specifies goals for the program or service, and goals for students.

Stat. Auth.: ORS 343.045, ORS 343.055 & ORS 343.391 - ORS 343.43
Stats. Implemented: ORS 343.411
Hist.: 1EB 21, f. 1-19-60; 1EB 47, f. 3-4-60; 1EB 21-1978, f. 6-19-78, ef. 6-20-78; 1EB 13-1979, f. 9-21-79, ef. 10-2-79; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0811

District Plans

(1) In any biennium in which the legislature appropriates funds for Talented and Gifted Education, each district shall submit a written plan to the State Superintendent of Public Instruction pursuant to ORS 343.391 to 343.404 to be eligible for a talented and gifted program grant.

(2) The plan may be submitted as part of the first year application for state fund.

(3) The State Superintendent shall notify each school district within 60 days of the submission date as to the plan's approval, disapproval, or need for revision.

Stat. Auth.: ORS 343.045, ORS 343.407 & ORS 343.409
Stats. Implemented: ORS 343.411
Hist.: 1EB 13-1979, f. 9-21-79, ef. 10-2-79; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0816

Application for Grants

(1) In any biennium in which the legislature appropriates funds for Talented and Gifted Education, applications for grants for state reimbursement shall be submitted on or before the first Friday in March of each school year on a form provided by the Department.

(2) The application shall address the standards prescribed in ORS 343.397 and 343.399 and criteria for applications prescribed in OAR 581-015-0820.

(3) The State Superintendent of Public Instruction may reopen the application period if approved applications do not require the disbursement of all available funds.

(4) The State Superintendent of Public Instruction shall notify school districts of the approval or disapproval of their applications within 90 days of the submission date.

Stat. Auth.: ORS 343.399 & ORS 343.409
Stats. Implemented: ORS 343.411
Hist.: 1EB 13-1979, f. 9-21-79, ef. 10-2-79; 1EB 4-1981, f. & ef. 2-5-81; EB 26-1991, f. & cert. ef. 11-29-91; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0820

Selection of Applications and Allocation of Funds

(1) In any biennium in which the legislature appropriates funds for Talented and Gifted Education, the State Advisory Committee for Talented and Gifted Education shall review all applications and submit in rank order its recommendations for approval to the State Superintendent of Public Instruction; its decisions shall be based on the point system described in section (2) of this rule and according to priorities set by the State Superintendent for types of programs or categories of students.

(2) The State Advisory Committee shall use the following point system when evaluating grant applications:

(a) A statement of the school district's present level of special educational programs and services for talented and gifted students and a rationale for the proposed programs and services to be developed and disseminated through the grant project, including how the proposed project addresses the State Superintendent's priorities (5 points);

(b) A description of how the current and proposed programs conform to the district's written plan (5 points);

(c) District policies and procedures for determining student eligibility that demonstrate compliance with OARs 581-015-0835 and 581-022-0403(1) (5 points);

(d) A description of the proposed project, including:

(A) Individual student assessment and evaluative procedures as described in OAR 581-022-0403(2) and tools that will be used to determine the need for programs and services (10 points);

(B) Justification of the purposes and goals of the programs and services to be developed through the project in terms of the student assessment and evaluative procedures and tools used, and the expected outcomes or results for students (25 points);

(C) The organization and operations of the project including management responsibilities and a project timeline (10 points).

(e) A description of the resources and facilities to be used to conduct the project including staffing, materials, equipment and other resources and the justification for the sufficiency of these resources to conduct the project (10 points);

ADMINISTRATIVE RULES

(f) A description of the products to be disseminated and training to be provided through the project. Products may include, but are not limited to, program guides, curriculum materials, and video productions (10 points);

(g) An evaluation design that demonstrates the effectiveness of the project in terms of student learning and organizational effectiveness and efficiency (10 points);

(h) A detailed budget for the project including local and state funds and a justification statement for expenditures (10 points).

(3) Grants will be awarded on an approved cost basis:

(a) The following classes of budgeted costs will be approvable expenditures and may be used to calculate approved program costs:

(A) Costs of personnel and direct service to students;

(B) Costs for contracted direct services to students, such as mentor arrangements, transportation costs, instructional services from private agencies for students;

(C) Supplies and materials purchased for use with students or by program personnel in the development of instruction for students;

(D) Capital expenditures for equipment and materials to be used in the instructional program for identified students;

(E) Inservice training costs for program staff in the development of skills and abilities directly related to the instructional program. Awareness training costs for general staff may also be included.

(b) The approved program cost basis for allocating state funds shall be a percentage arrived at by the ratio of state funds available for any fiscal year in proportion to the total of the approved program costs submitted by applicant districts.

(4) The State Superintendent shall select projects to receive state funds from the rank order list provided by the State Advisory Committee; such projects shall comply with ORS 343.397 through 343.409.

(5) In the case where federal funds are made available for state administered programs, the Department of Education may award these funds to school districts for special projects using the following guidelines:

(a) Awards will be made on a competitive basis, using the procedures and criteria described in sections (1), (2), and (4) of this rule;

(b) Approvable costs will include those items listed in Subsection (3)(a) of this rule, and also may include the costs of identification, professional services, printing and other costs judged to be integral to the proposed project;

(c) Grants will be awarded on a matching basis.

Stat. Auth.: ORS 343.399 & ORS 343.409

Stats. Implemented: ORS 343.411

Hist.: 1EB 21, f. 1-19-60; 1EB 47, f. 3-4-60; 1EB 21-1978, f. 6-19-78, ef. 6-20-78; 1EB 12-1979(Temp), f. & ef. 9-5-79; 1EB 13-1979, f. 9-21-79, ef. 10-2-79; 1EB 21-1979, f. & ef. 11-15-79; 1EB 12-1980, f. & ef. 5-5-80; 1EB 3-1981, f. & ef. 2-5-81; EB 27-1991, f. & cert. ef. 11-29-91; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0825

Quarterly Payments and Accounting for Grants

(1) Districts receiving grants shall be reimbursed by the Oregon Department of Education, in four quarterly installments, and shall be notified of the amount of the first payment at least 30 days prior to that payment

(2) Beginning with the second quarter and each quarter thereafter, districts receiving grants shall report to the Department of Education, on a form provided by the Department, their expenditures of grant funds and any balances unexpended or unencumbered.

(3) If the State Superintendent determines after any quarterly accounting that any portions of the grant awarded to a school district or the district matching funds for an approved project have not been spent or encumbered for that program, such portions shall be recovered by reducing the district's ensuing quarterly payments.

Stat. Auth.: ORS 345

Stats. Implemented: ORS 343.411

Hist.: 1EB 21, f. 1-19-60; 1EB 47, f. 3-4-60; 1EB 21-1978, f. 6-19-78, ef. 6-20-78; 1EB 13-1979, f. 9-21-79, ef. 10-2-79; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0900

Definitions — EI/ECSE Program

For the purposes of OAR 581-015-0910 to 581-015-1125, the definitions in this rule and OAR 581-015-0005 apply.

(1) "Assessment" means the ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility.

(2) "Communication" means receptive or expressive language development.

(3) "Contractor" means the agency designated by the Department to administer the provision of EI and ECSE within selected service areas.

(4) "Department" means the Oregon Department of Education.

(5) "Designated referral and evaluation agency" means the agency in each county designated to be the referral point for parents and others who suspect that a child may need early intervention or early childhood special education, and to be responsible for assuring that all referred children suspected of having a disability receive evaluation for potential eligibility for early intervention and early childhood special education.

(6) "Early childhood special education (ECSE)" means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms, and community childcare or preschool settings, or both.

(7) "Early intervention and early childhood special education assistants" means individuals who implement program activities under the direct supervision of the professional personnel.

(8) "Early intervention and early childhood special education specialists" means professionals who implement or coordinate the implementation of individualized family service plans.

(9) "Early intervention (EI)" means services for preschool children with disabilities from birth until three years of age that are:

(a) Designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child's development;

(b) Selected in collaboration with the parents;

(c) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan.

(d) At no cost to parents; and

(e) Meet all applicable state requirements.

(10) "Educational records" means those records that are:

(a) Directly related to a student; and

(b) Maintained by a primary contractor or subcontractor.

(11) "Evaluation" means the procedures used by qualified personnel to determine;

(a) A child's initial eligibility for EI or ECSE services;

(b) A child's continuing eligibility for EI or ECSE services; and.

(c) The nature and extent of the EI services or ECSE and related services that the child needs.

(12) "Independent educational evaluation (IEE)" means an evaluation conducted by a qualified examiner who is not employed by the Department, the contractor, or subcontractor responsible for the child in question.

(13) "Individualized family service plan (IFSP)" means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each child eligible for services under this chapter.

(14) "Informed clinical opinion" means the acquisition and interpretation of multiple sources of information as part of the evaluation and assessment process. This includes evaluation and assessment results, observation reports, previous testing results, medical data, parent reports, and other evaluative information. A review of this information is used in forming a determination regarding current developmental status and the need for EI.

(15) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's IFSP and working with preschool children with disabilities in one or more of the following developmental areas: communication development, social or emotional development, physical development, including vision and hearing, adaptive development, and cognitive development.

(16) "Monitoring" means activities carried out by the Department and its contractors which measure the subcontractor's compliance with state and federal mandates for the provision of EI and ECSE.

(17) "Natural environment" means settings that are natural or normal for the child's age peers who have no disability.

(18) "Other services" means those services that may be provided to preschool children with disabilities and to their families that are not EI or ECSE services and are not paid for with EI or ECSE funds.

(19) "Parent" means a parent of a preschool child with disabilities and includes a natural or adoptive parent of a child, legal guardian, other than a state agency, an individual acting as a parent in the absence of a parent or guardian, or a surrogate parent who has been appointed in accordance with

ADMINISTRATIVE RULES

OAR 581-015-0935. A foster parent may be treated as a parent without being appointed as a surrogate parent if:

- (a) Parental rights have been terminated by court order, and
- (b) The foster parent:
 - (A) Has an ongoing or intended long-term relationship with the child;
 - (B) Is willing to make educational decisions; and
 - (C) Has no interest that would conflict with the interests of the child.
- (20) "Periodic review" means a review of the IFSP for a child and the child's family. A review shall be conducted every six months or more frequently if conditions warrant. An EI or ECSE program or parent may request a review of the IFSP.

- (21) "Physical development" means gross or fine motor development.
- (22) "Preschool child with disabilities" means all children from:

(a) Birth until three years of age who are eligible for EI services under OAR 581-015-0946(3); or

(b) Three years of age to eligibility for public school who are eligible for ECSE services under OAR 581-015-0943.

(23) "Professional Development Plan" means a written document specifying the name of the employee, the position, current qualifications, current deficits, an accounting of steps to be taken to rectify deficits including timelines, persons responsible, and the final date by which the plan will be complete.

(24) "Public agencies" means school districts and public agency subcontractors for EI and ECSE.

(25) "Related services" includes transportation and such developmental, corrective, and other supportive services, including orientation and mobility services, speech language and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, counseling, social work services, parent counseling and training, school health services and medical services, as may be required to assist children with disabilities, three years of age until the age of eligibility for public school, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions. Medical services shall be for diagnostic and evaluation purposes only.

(26) "Related services personnel" means professionals who consult, supervise, train staff, design curriculum, or implement related services.

(27) "Service coordination" means the activities carried out by a service coordinator to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's EI program and to coordinate access to other services designated on the IFSP.

(28) "Subcontractor" means the agency or agencies selected by the contractor to provide services for EI and ECSE.

(29) "Supervision" means the activities carried out by the Department and its primary contractors to oversee the provision of EI and ECSE services.

(30) "Supervisors" means professionals who supervise and train staff, design curriculum, and administer EI or ECSE programs.

(31) The following words are defined in OAR 581-015-0005:

- (a) "Assistive technology device";
- (b) "Assistive technology service";
- (c) "Children with disabilities";
- (d) "Autism";
- (e) "Communication disorder";
- (f) "Deafblindness";
- (g) "Emotional disturbance";
- (h) "Hearing impairment";
- (i) "Mental retardation";
- (j) "Orthopedic impairment";
- (k) "Other health impairment";
- (l) "Specific learning disability";
- (m) "Traumatic brain injury";
- (n) "Visual impairment";
- (o) "Consent";
- (p) "Day";
- (q) "Department";
- (r) "General curriculum";
- (s) "Health assessment statement";
- (t) "Identification";
- (u) "Individualized education program (IEP)";
- (v) "Mediation";
- (w) "Medical statement";
- (x) "Native language";
- (y) "Order";

- (z) "Participating agency";
 - (aa) "Personally identifiable information";
 - (bb) "Placement";
 - (cc) "Private school";
 - (dd) "Regular school year";
 - (ee) "School district";
 - (ff) "Short term objectives";
 - (gg) "Special education";
 - (hh) "Specially designed instruction";
 - (ii) "Supplementary aids and services";
 - (jj) "Superintendent"; and
 - (kk) "Surrogate parent."
- Stat. Auth.: ORS 343.465 - ORS 343.534
Stats. Implemented: ORS 343.475
Hist: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0935

Surrogate Parents for EI/ECSE

(1) Each contractor or subcontractor serving a child participating in EI or ECSE shall ensure that the rights of the child are protected by appointing a surrogate parent when:

(a) The parent cannot be identified or located after reasonable efforts; or

(b) The child is a ward of the state and there is reasonable cause to believe that the child has a disability.

(2) In determining the need for a surrogate, the contractor or subcontractor shall consider whether it is likely to take any action regarding the child that would require notice under OAR 581-015-0940 to the parents.

(3) Each contractor or subcontractor shall secure nominations of persons to serve as surrogates. The contractor or subcontractor shall ensure that each person approved to serve as surrogate:

(a) Is not an employee of the contractor or subcontractor or the Department;

(b) Is not an employee of any other agency involved in the early intervention, education or care of the child except for an employee of a non-public agency that only provides non-education care for the child;

(c) Is free of any conflict of interest that would interfere with representing the child's early intervention or special education interests; and

(d) Has the necessary knowledge and skills to protect the special education rights of the child.

(4) An appointed surrogate parent shall have all of the special education rights and procedural safeguards available to the parent.

(5) A surrogate shall not be considered an employee of a contractor or subcontractor solely on the basis that the surrogate is compensated from public funds.

(6) The duties of the surrogate parent are to:

(a) Protect the early intervention or special education rights of the child;

(b) Be acquainted with the child's disability and the child's EI or ECSE needs; and

(c) Represent the child in all matters relating to the identification, evaluation and assessment, IFSP services, or the provision of a free appropriate public education to the child receiving ECSE

(7) A surrogate shall have the same rights granted to a parent in a hearing under OAR 581-015-1030 if the identification, evaluation, IFSP or placement of the child is contested.

(8) A parent may give written consent for a surrogate to be appointed. When a parent requests that a surrogate be appointed, the parent retains all parental rights to receive notice under OAR 581-015-0940 and ORS 343.521(20) and all of the information provided to the surrogate. The surrogate, alone, will be responsible for all matters relating to the special education of the child unless the parent revokes consent for the surrogate's appointment. If a parent gives written consent for a surrogate to be appointed, the parent may revoke consent at any time by providing a written request to revoke the surrogate's appointment.

(9) The contractor or subcontractor may change or terminate the appointment of a surrogate when:

(a) The person appointed as surrogate is no longer willing to serve;

(b) The child's EI or ECSE is terminated;

(c) The child is no longer eligible for EI or ECSE services;

(d) The legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;

(e) A foster parent is identified who can carry out the role of parent under OAR 581-015-0900;

(f) The appointed surrogate is no longer eligible;

ADMINISTRATIVE RULES

- (g) The child moves to another subcontractor area; or
- (h) The child is no longer a ward of the state.

(10) A person appointed as surrogate shall not be held liable for actions taken in good faith on behalf of the parent in protecting the special education rights of the child.

(11) The contractor or subcontractor shall not appoint a surrogate solely because the parent is uncooperative or unresponsive to the EI or ECSE needs of the child.

Stat. Auth.: ORS 34, CFR 300.514, ORS 343.155 & ORS 343.045
Stats. Implemented: ORS 343.475 & ORS 343.531
Hist.: EB 12-1993, f. & cert. ef. 3-25-93; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0937

Exceptions to Parental Consent

(1) Parental consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation;

(b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

(c) Conducting evaluation tests, procedures or instruments that are identified on a child's IFSP as a measure for determining progress.

(2) For children age three and above, if the contractor or subcontractor demonstrate reasonable measures to obtain parental consent for reevaluation under OAR 581-015-0939(2) and the child's parents have failed to respond, then parental consent need not be obtained.

(3) For the purposes of (2) of this rule, "reasonable measures" means the contractor or subcontractor has used procedures consistent with OAR 581-015-0966(3).

(4) Parental consent is not required if a hearing officer determines under OAR 581-015-0088 that the evaluation or reevaluation is necessary to ensure that the child is provided with appropriate EI services, or for children in ECSE, a free appropriate public education.

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

581-015-0938

Parent Consent for EI

(1) "Consent" means that:

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent;

(d) The parent understands that consent may be revoked at any time before the completion of the activity or action for which they have given consent. If a parent revokes consent, the revocation is not retroactive. A parent may revoke consent for evaluation or reevaluation that has not yet been conducted.

(2) The contractor or subcontractor shall obtain written parental consent before conducting an initial evaluation or reevaluation.

(3) Written parental consent shall also be obtained prior to the provision of EI services described in the IFSP. The parents of a child eligible for EI services shall determine whether they, their child, or other family members shall accept or decline any EI services, and may decline such a service after first accepting it, without jeopardizing other EI services. If the parents do not provide consent for a particular EI service or withdraw consent after first providing it, that service shall not be provided. The EI services for which parental consent is obtained shall be provided.

(4) If a parent of a child who has been identified as having a disability or who is suspected of having a disability refuses to grant consent for an initial evaluation of the child, the Department may request a hearing under OAR 581-015-1030.

Stat. Auth.: ORS 343.475
Stats. Implemented: ORS 343.475
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0939

Parent Consent for ECSE

(1) "Consent" means that:

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought and the consent describes that activity and lists any records that will be released and to whom;

(c) The parent understands that the granting of consent is voluntary on the part of the parent; and

(d) The parent understands that consent may be revoked at any time before the completion of the activity or action for which they have given consent. If a parent revokes consent, that revocation is not retroactive. A parent may revoke consent for evaluation or reevaluation that has not yet been conducted. A parent may revoke consent for initial ECSE placement before the initiation of that placement.

(2) The contractor or subcontractor shall obtain written parental consent before conducting an initial ECSE evaluation or reevaluation, and before ECSE placement of a child with a disability. Consent for initial evaluation may not be construed as consent for the initial ECSE placement.

(3) Written parental consent also shall be obtained before administering to a child individual intelligence tests and all tests of personality pursuant to OAR 581-021-0030(2)(a).

(4) If a parent refuses to grant consent for an evaluation or reevaluation, the Department of Education shall follow the procedures set forth in OAR 581-015-1030.

(5) A parent's refusal to consent to one service or activity may not be used to deny the parent or child any other service, benefit, or activity of the contractor or subcontractor, except as provided in this rule.

Stat. Auth.: ORS 343.475
Stats. Implemented: ORS 343.475
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0945

EI Evaluation

(1) When evaluating children suspected of being eligible for EI services, school districts shall ensure that the procedures in OAR 581-015-0071, 0072(1)-(8), and 0074 are followed by the agency(ies) conducting the evaluation. In addition, the evaluation shall:

(a) Be conducted by a team representing two or more disciplines or professions, including persons who are knowledgeable about the child;

(b) Assess the child's level of functioning in all the following areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, and adaptive development;

(c) Be based on informed clinical opinion; and

(d) Be completed in time to conduct the initial IFSP meeting within 45 calendar days from the date of referral.

(2) For a child suspected of being eligible for EI, the following evaluation shall be conducted:

(a) A review of existing evaluation data by following the procedures in OAR 581-015-0701; and

(b) For a child suspected of having autism spectrum disorder, deaf-blindness, hearing impairment, orthopedic impairment, or visual impairment, an evaluation in all areas of the suspected disability following OAR 581-015-0051; or

(c) A diagnosis of a physical or mental condition as described under in OAR 581-015-0946(3)(b); or

(d) An evaluation for determining a developmental delay as follows:

(A) At least one norm-referenced, standardized test addressing the child's level of functioning in each of the following areas:

(i) Cognitive development;

(ii) Physical development;

(iii) Communication development;

(iv) Social or emotional development; and

(v) Adaptive development.

(B) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay listed in subsection (2)(d) of this rule;

(C) At least one 20-minute observation of the child;

(D) A review of previous testing, medical data and parent reports; and

(E) Other evaluative information as necessary to determine eligibility.

Stat. Auth.: ORS 343.465 - ORS 343.534
Stats. Implemented: ORS 343.475
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

ADMINISTRATIVE RULES

581-015-0946

EI Eligibility

(1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency shall determine, through a team, whether a child is eligible for EI services by following the procedures in this rule.

(2) The team shall include individuals from two or more disciplines, including persons who are knowledgeable about the child, and the child's parents.

(3) For a child suspected of being eligible for EI services, the child shall meet the following minimum criteria:

(a) The child meets the minimum criteria for one of the following disability categories in OAR 581-015-0051: autism spectrum disorder, deaf-blindness, hearing impairment, orthopedic impairment, or visual impairment; or

(b) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, as documented by a physician licensed by a State Board of Medical Examiners; or

(c) The child experiences a developmental delay and as a result needs EI services. Developmental delay means two standard deviations or more below the mean in one or more of the following developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas:

- (A) Cognitive development;
- (B) Physical development;
- (C) Communication development;
- (D) Social or emotional development;
- (E) Adaptive development.

(4) The team shall prepare an evaluation report and a written statement of eligibility that includes:

(a) All evaluation data considered in determining the child's eligibility;

(b) A determination of whether the child meets the minimum criteria for EI as described in (3) of this part;

(c) A determination of whether:

(A) As a result of the disability, the child needs EI services; or

(B) The child's disability has a high probability of resulting in developmental delay as documented by a physician; and

(d) The signature of each member of the team signifying his or her concurrence or dissent.

(5) For a child who may have disabilities in more than one category, the team need only qualify the child for EI services under one disability category, however:

(a) The child shall be evaluated in all areas of development and areas of suspected disability; and

(b) The child's IFSP shall address all of the child's early intervention needs.

(6) The team shall give the parents a copy of the eligibility statement and evaluation report.

(7) The contractor or subcontractor shall notify the child's resident district upon determination of eligibility for EI services.

(8) Children found eligible under this rule shall be eligible for regional services if they also meet criteria under OAR 581-015-0051 for vision impairment, hearing impairment, autism spectrum disorder, or severe orthopedic impairment.

Stat. Auth.: ORS 343.513

Stats. Implemented: 34 CFR 303.300 - 323 & ORS 343.513

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0960

EI and ECSE Transition

(1) Transition from EI to ECSE or other services:

(a) Before a child reaches the age of eligibility for ECSE, the school district shall obtain parental consent for initial evaluation under OAR 581-015-0939 and conduct an initial evaluation under OAR 581-015-0941.

(b) A transition meeting shall be held at least 90 calendar days before the child's third birthday and shall include:

(A) Discussions with and training of parents regarding future placements and other matters related to the child's transition;

(B) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and

(C) With parental consent, the transmission of information about the child to the early childhood special education subcontractor or other service provider, if different than the child's early intervention subcontractor.

(c) 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 to:

(A) Review and revise the IFSP;

(B) Determine placement; and

(C) Obtain parent consent for initial placement in special education.

This is the initial consent for placement in special education for school-age students.

(2) Transition from ECSE to School-age Special Education Services:

(a) Before a child reaches the age of eligibility for public school, the district shall:

(A) For children previously eligible with a developmental delay and suspected of having a disability under OAR 581-015-0051, conduct an evaluation and determine eligibility for school age special education services; or

(B) For children previously eligible in a disability category under OAR 581-015-0051, continue the child's eligibility for school age special education services. The school district may conduct a reevaluation and reconsider eligibility for special education services.

(b) The school district and contractor or subcontractor shall hold a meeting during the year before the child is eligible to enter public school:

(A) To determine steps to support the child's transition from ECSE to public schooling or other educational setting; and

(B) For a child eligible for school age special education services, to develop an IEP that is in effect at the beginning of the school year.

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: ORS 343.521

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; Administrative Correction 12-1-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0964

Parent Participation — EI/ECSE Program

(1) For a child under age three, contractors or subcontractors shall provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IFSP and placement of the child and the provision of appropriate EI services. For IFSP meetings, contractors and subcontractors shall also follow requirements of OAR 581-051-0966.

(2) For a child age three and older, contractors or subcontractors shall provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IFSP and placement of the child and the provision of a free appropriate public education. For IFSP and placement meetings, contractors and subcontractors shall also follow requirements of OAR 581-015-0966.

(3) Contractors or subcontractors shall provide parents with a written notice of the meeting sufficiently in advance to ensure that parents will have an opportunity to attend. The written notice shall:

(a) State the purpose, time and place of the meeting and who will attend;

(b) Inform the parents that they or the agency may invite other individuals who they believe have knowledge or expertise regarding the child;

(c) Inform the parents of a child age three or older that the team may proceed with the meeting even if the parent is not in attendance; and

(d) Inform the parents of whom to contact before the meeting to provide information if they are unable to attend.

(4) The contractor or subcontractor shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English

(5) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, instructional plans, or coordination of service provision if those issues are not addressed in the child's IFSP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response parent proposal that will be discussed at a later meeting.

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 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0966

Additional Parental Participation Requirements for IFSP and Placement Meetings — EI/ECSE Program

(1) For a child under age three:

(a) Contractors or subcontractors shall schedule IFSP meetings in settings and at times that are convenient to families;

ADMINISTRATIVE RULES

(b) If neither parent can attend, the contractor or subcontractor shall use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits; and

(c) The contents of the IFSP shall be fully explained to the parents and informed written consent obtained from the parents before the provision of EI services described in the plan.

(2) For a child age three and older:

(a) Contractors or subcontractors shall take steps to ensure that one or both of the parents of a child with a disability are present at each IFSP or placement meeting or are afforded the opportunity to participate, including:

(A) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(B) Scheduling the meeting at a mutually agreed on time and place.

(C) If neither parent can attend, the contractor or subcontractor shall use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits;

(b) An IFSP or placement meeting may be conducted without a parent in attendance if the contractor or subcontractor is unable to convince the parents that they should attend. If the contractor or subcontractor proceeds with an IFSP or placement meeting without a parent in attendance, the contractor or subcontractor must have a record of its attempts to arrange a mutually agreed on time and place, such as:

(A) Detailed records of telephone calls made or attempted and the results of those calls;

(B) Copies of correspondence sent to the parents and any responses received; and

(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(c) The Department considers contractor or subcontractor attempts to convince parents to attend sufficient if the contractor or subcontractor:

(A) Communicates directly with the parent and arranges a mutually agreeable time and place, and send written notice required under OAR 581-015-0964 to confirm this arrangement; or

(B) Sends written notice required under OAR 581-015-0964, proposing a time and place for the meeting and stating in the notice that the parent may request a different time and place, and confirms that the parent received the notice.

(C) "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.

(3) The contractor or subcontractor shall give the parent a copy of the IFSP at no cost to the parent. If the parent does not attend the IFSP meeting, the contractor subcontractor shall ensure that a copy is provided to the parent.

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

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.

(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. 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 an 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

581-015-0970

IFSP Content

(1) Contractors or subcontractors shall use IFSP forms and directions published by the Oregon Department of Education.

(2) Oregon Department of Education IFSP forms shall combine the content requirements for IEPs under: Part B of IDEA; IFSPs under Part C of IDEA; and IFSPs under ORS 343.521.

(3) Each individualized family service plan shall contain:

(a) A statement of the child's present level of development, including how the child's disability affects the child's participation in appropriate activities for the child's age. For a child under age three, the statement must include present levels of physical development, cognitive development, communication development, social development and adaptive development.

(b) A statement of annual goals and short-term objectives related to:

(A) Meeting the child's needs that result from the child's disability to enable the child to participate in appropriate activities;

(B) Meeting each of the child's other developmental needs that result from the child's disability.

(c) For a child under age three, a statement of the specific early intervention services to be provided for the child to advance toward attaining the annual goals.

(d) For a child age three, a statement of early childhood special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To participate in appropriate activities and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and nondisabled children.

(e) With concurrence of the family, a statement of the family's resources, priorities, concerns and goals related to enhancing the development of the child.

(f) The projected dates for initiation of services and modifications and the anticipated frequency, location, intensity, method and duration of the services and modifications described in subsection (3)(d) of this rule.

(g) The name of the service coordinator responsible for coordinating the involvement of the family and agencies in implementing early intervention and other services.

(h) For a child under age three, a justification of the extent, if any, to which services will not be provided in a natural environment.

(i) For a child age three and older, an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and activities described in subsection (3)(d) of this rule.

(j) A statement of:

(A) How the child's progress toward annual goals will be measured, including the criteria, procedures and timelines used to determine:

(i) The degree to which progress toward achieving the goals is being made; and

(ii) Whether revisions of the goals or services are necessary.

ADMINISTRATIVE RULES

(B) For a child age three and older, how the child's parents will be regularly informed, at least as often as parents are informed of their nondisabled children's progress, of:

(i) Their child's progress toward annual goals; and

(ii) The extent to which that progress is sufficient to enable the child to achieve the goals by the annual IFSP review date.

(k) The steps to be taken to support the transition of the child from early intervention services to early childhood special education or other appropriate services.

(l) The steps to be taken to support the transition of the child from early childhood special education to public schooling or other education setting.

(m) A statement of other services, such as medical services, that the child may need but are not early intervention or early childhood special education services including the funding sources used in paying for those services or the steps to be taken to secure those services through public or private sources.

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: ORS 343.521

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0972

IFSP Team Consideration and Special Factors

(1) In developing, reviewing and revising the child's IFSP, the IFSP team shall consider:

(a) The strengths of the child and the concerns of the parents for enhancing the development of their child; and

(b) The results of the initial or most recent evaluation of the child.

(2) For children age three and older, in developing, reviewing and revising the child's IFSP the IFSP team shall consider the following special factors:

(a) The communication needs of the child; and

(b) Whether the child requires assistive technology devices and services.

(3) For children age three and older, in developing, reviewing and revising the IFSP of children described below, the IFSP team shall consider the following additional special factors:

(a) For a child whose behavior impedes his or her development or that of others, consider strategies, positive behavioral interventions and supports to address that behavior;

(b) For a child or family with limited English proficiency, consider the language needs of the child and the family as those needs relate to the child's IFSP;

(c) For a child who is blind or visually impaired, instruct the child in pre-literacy or readiness activities related to the use of Braille unless the IFSP determines, after an evaluation of the child, that this instruction is not appropriate for the child;

(d) For a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication mode, developmental level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

(4) If, in considering these special factors, the IFSP team determines that a child needs a particular device or service (including intervention, accommodation or other program modification) for the child to receive free appropriate public education, the IFSP team shall include a statement to that effect in the child's IFSP.

(5) Nothing in 581-015-0970 or this rule shall be construed to require the IFSP team to include information under one component of a child's IFSP that is already contained under another component of the child's IFSP.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055

Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0980

Participants for IFSP Team Meetings and Reviews

(1) Each initial and annual IFSP meeting shall include the following participants:

(a) The child's parents;

(b) The child's EI or ECSE specialist;

(c) A representative of the contractor or subcontractor who may be another member of the team and who is:

(A) Qualified to provide or supervise the provision of EI or ECSE services to meet the unique needs of children with disabilities;

(B) Knowledgeable of typical child development and appropriate activities for infants and young children; and

(C) Knowledgeable about the availability of resources.

(d) For a child eligible for EI services, the service coordinator who is responsible for implementation of the IFSP and may be the child's EI specialist;

(e) For a child who is eligible for ECSE services, the child's preschool teacher if the child is or may be participating in a regular preschool;

(f) Family members and/or advocates as requested by the parents;

(g) Other individuals, including related services personnel as appropriate, invited by the parent, primary contractor, or subcontractor who have knowledge or special expertise regarding the child;

(h) An individual, who may be another member of the team who:

(A) Was involved in conducting the evaluation of the child;

(B) Is knowledgeable about the child's disability; and

(C) Can interpret the developmental or instructional implications of the evaluation; and

(i) A representative of the school district in which the child resides during the year before the child enters school.

(2) The regular preschool teacher shall participate, to the extent appropriate, in the development, review and revision of the child's IFSP, including assisting in the determination of:

(a) Necessary modifications to appropriate preschool activities in the classroom and participation in the preschool environment;

(b) Supplementary aids and services, program modifications or supports for preschool personnel that will be provided for the child; and

(c) Appropriate positive behavioral interventions and strategies for the child.

(3) For the purposes of section (2), "to the extent appropriate" means:

(a) For those portions of the child's IFSP that the regular preschool teacher may be responsible for implementing, or

(b) When the regular preschool teacher's knowledge about the child or about appropriate activities is necessary for IFSP team decision-making.

(4) Each review shall include the participants in subsections (1)(a), (b), and (d) of this rule. When the review indicates any changes in the IFSP, then the individualized meeting shall follow all IFSP procedural requirements.

(5) For the purposes of subsection (1)(h), if such an individual is unable to attend the meeting, arrangements must be made for the person's involvement through other means, including:

(a) Participating in a telephone conference call;

(b) Having a knowledgeable authorized representative attend the meeting; or

(c) Making pertinent records available at the meeting.

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: ORS 343.521

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-0990

Implementation of the IFSP

(1) An IFSP shall:

(a) Be written before EI services or ECSE and related services are provided to the child;

(b) Begin as soon as possible following the meeting; and

(c) Be provided year round for children receiving EI services, unless agreed to otherwise by the parents; or

(d) Be in effect at the beginning of the school year for children receiving ECSE services.

(2) If a child's third birthday occurs during the summer, the child's IFSP team shall determine when services begin under the IFSP.

(3) Contractors and subcontractors shall:

(a) Ensure that the IFSP is available to each regular preschool teacher, EI/ECSE specialist, related service provider and other service provider who is responsible for its implementation; and

(b) Inform each teacher and provider described in (2)(a) of his or her specific responsibilities for implementing the child's IFSP and the specific accommodations, modifications and supports that must be provided for on behalf of the child in accordance with the IFSP.

(4) Contractors or subcontractors shall:

(a) Provide EI or ECSE and related services to a child with a disability in accordance with an IFSP; and

(b) Make a good faith effort to assist the child to achieve the goals and short-term objectives listed in the IFSP. However, no contractor, subcontractor, teacher, specialist, provider or other person shall be held accountable if, despite good faith implementation, a child does not achieve the growth projected in the annual goals and short-term objectives.

(5) Nothing in this rule limits a parent's right to ask for revisions of their child's IFSP or to invoke due process procedures.

Stat. Auth.: ORS 343.465 - ORS 343.534

ADMINISTRATIVE RULES

Stats. Implemented: ORS 343.521
Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1000

Placement and Least Restrictive Environment in ECSE

- (1) Contractors or subcontractors shall ensure that:
 - (a) The placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - (b) To the maximum extent appropriate to the needs of the child, ECSE services are provided in the least restrictive environment as defined in OAR 581-015-0059, including home and community settings in which children without disabilities participate.
- (2) Each child's placement shall be:
 - (a) Determined at least every 365 days;
 - (b) Based on the IFSP; and
 - (c) As close as possible to the child's home.
- (3) Unless the IFSP of a child with a disability requires some other arrangement, the child shall be educated in the public school or public program, if any, that he or she would attend if not disabled.
- (4) The contractor shall ensure that a continuum of alternative placements is available to meet the needs of preschool children with disabilities for special education and related services.
 - (a) The continuum shall include placements in the home, hospitals, institutions, special schools, classrooms, and community childcare or preschool settings.
 - (b) The continuum shall provide for supplementary services to be provided in conjunction with regular preschool placement.
- (5) In determining the least restrictive environment, the team shall consider the continuum of alternative placements and the following:
 - (a) Modifications needed to implement the child's IFSP;
 - (b) The level of support needed by the child;
 - (c) Any potential harmful effect on the child or on the quality of services which he or she needs;
 - (d) A child with a disability shall not be removed from education in age appropriate classrooms or settings solely because of needed modifications.
- (6) The team shall ensure that, to the maximum extent appropriate to the needs of that child, ECSE services are provided in settings in which children without disabilities participate, including nonacademic services and activities.

Stat. Auth.: ORS 343.465 - ORS 343.534
Stats. Implemented: ORS 343.475
Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1008

Discipline of Children with Disabilities for ECSE

- Contractors or subcontractors shall follow the rules and procedures in OAR 581-015-0550 through 0559 for discipline of children with disabilities age three through the age of eligibility for public school with the following definition exceptions:
- (1) "General curriculum" means appropriate activities engaged in by typical children of the same age;
 - (2) "IEP" means IFSP; and
 - (3) "Day" means calendar days excluding weekends, holidays, and ECSE program vacation days.
 - (4) "School district" means contractors or subcontractors.
- 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 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1051

Preschool Children with Disabilities Covered by Public Insurance — ECSE

- (1) A contractor or subcontractor may use the Medicaid or other public insurance benefits programs in which a preschool child participates to provide or pay for special education and related services, as permitted under the public insurance program, except as provided in subsection (2) of this section.
- (2) With regard to services required to provide FAPE to a preschool child with disabilities, the contractor or subcontractor:
 - (a) May not require parents to sign up for or enroll in public insurance programs in order for their child to receive FAPE under Part B of the IDEA;

(b) May not require parents to incur an out-of-pocket expense such as the payment of deductible or co-pay amount incurred in filing a claim for services provided pursuant to this chapter, but may pay the cost that the parent otherwise would be required to pay; and

(c) May not use a child's benefits under a public insurance program if that use would:

- (A) Decrease available lifetime coverage or any other insured benefit;
- (B) Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is receiving ECSE services;
- (C) Increase premiums or lead to the discontinuation of insurance; or
- (D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(3) If a contractor or subcontractor is unable to use a child's public insurance for a specified service required under this chapter, to ensure FAPE the contractor or subcontractor may use its Part B funds to pay for the service.

(4) If the parent would incur a cost for the contractor or subcontractor's use of public insurance, the contractor or subcontractor may use its Part B funds to pay the cost the parents otherwise would have to pay to use the public insurance (e.g., the deductible or co-pay amounts).

(5) Proceeds from public insurance will not be treated as program income for purposes of 34 CFR 80.25.

(6) If a contractor or subcontractor spends reimbursements from federal funds (e.g., Medicaid) for special education and related services, those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions in this chapter.

(7) Nothing in this section should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, or any other public insurance program.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155
Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1052

Preschool Children with Disabilities Covered by Private Insurance

- (1) With regard to services required to provide FAPE to a preschool child with disabilities, a contractor or subcontractor may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this chapter.
- (2) Each time the contractor or subcontractor proposes to access the parent's private insurance proceeds, it must:
 - (a) Obtain parent consent in accordance with this rule; and
 - (b) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.
- (3) If a public agency is unable to obtain parental consent to use the parent's private insurance, to ensure FAPE, the public agency may use its Part B funds to pay for the service.
- (4) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).
- (5) Proceeds from private insurance will not be treated as program income for purposes of 34 CFR 80.25.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055
Stats. Implemented: ORS 343.164, ORS 343.045 & ORS 343.155
Hist.: ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1100

Personnel Standards

- (1) Personnel employed to provide EI or ECSE services shall include:
 - (a) Supervisors;
 - (b) EI and ECSE specialists;
 - (c) Related services personnel; and
 - (d) EI and ECSE assistants.
- (2) Supervisors shall possess a minimum of a masters degree in early childhood, special education or a related field, and have three years experience with infants, toddlers, young children, and families. Supervisors are required to hold a TSPC administrative endorsement or authorization as an Early Childhood Supervisor. Supervisors shall have a professional development plan based on the content of the EI/ECSE competencies. If authorization is required, it shall be completed within 12 months of employment.

ADMINISTRATIVE RULES

(3) EI and ECSE specialists shall possess a minimum of a baccalaureate degree in early childhood, special education or a related field. Specialists shall have a professional development plan based on the content of the EI/ECSE competencies. If authorization is required, it shall be completed within 12 months of employment. Specialists are required to hold one of the following:

- (a) TSPC licensure or endorsement in EI/ECSE;
- (b) TSPC licensure or endorsement in related field; or
- (c) Authorization as an Early Childhood Specialist.

(4) Related services personnel shall possess a minimum of a baccalaureate degree and a valid license necessary to practice in Oregon. Related services personnel who also provide service coordination as outlined in OAR 581-015-1120 are required to have:

- (a) TSPC licensure in their area of discipline; or
- (b) State licensure in their area of discipline; and
- (c) A professional development plan based on the content of the EI/ECSE competencies.

(5) EI and ECSE assistants shall be at least 18 years old, have a high school diploma or equivalent, experience working with young children. EI/ECSE assistants shall have a professional development plan based on the content of the EI/ECSE competencies.

Stat. Auth.: ORS 343.041, ORS 343.055 & ORS 343.221

Stats. Implemented: ORS 343.041

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 10-1997, f. & cert. ef. 6-26-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

581-015-1110

Compliance Monitoring

Contractors and subcontractors involved in the education of preschool children with disabilities shall be monitored by the Department of Education on a regular basis as specified in Oregon's federally approved special education policies and procedures and Part C application to ensure compliance with the requirements of the Individuals with Disabilities Education Act, Oregon Revised Statutes, and Oregon Administrative Rules. Monitoring procedures may include program self-assessment, data collection, analysis and reporting, on-site visits, review of policies and procedures, review of the development and implementation of IFSPs, improvement planning, and auditing federal fund use.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Hist.: EB 4-1995, f. & cert. ef. 1-24-92; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03

Adm. Order No.: ODE 3-2003

Filed with Sec. of State: 3-10-2003

Certified to be Effective: 3-10-03

Notice Publication Date: 12-1-02

Rules Amended: 581-023-0035

Subject: Update for new required codes and description changes in the 2000 Program Budgeting and Accounting Manual. For questions regarding this rule, please contact Doug Kosty at (503) 378-3600, ext. 4494 or e-mail doug.kosti@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

581-023-0035

Budgeting and Accounting for Schools

Rules governing the budgeting and accounting systems for schools and the school systems of accounts are contained in Chapter 2 of the Program Budgeting and Accounting Manual, 2002 Edition, published by the Oregon Department of Education. The State Board of Education adopts this publication to govern budgeting and accounting systems for schools.

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

Stat. Auth.: ORS 326.051 & ORS 327.125

Stats. Implemented: ORS 294.356 & ORS 327.125

Hist.: 1EB 163, f. 2-20-74, ef. 3-15-74; 1EB 234, f. & ef. 6-18-76; 1EB 23-1980(Temp), f. & ef. 9-2-80; 1EB 27-1980, f. & ef. 11-7-80; EB 12-1987, f. & ef. 7-10-87; ODE 5-1999, f. & cert. ef. 1-12-99; ODE 5-2001, f. & cert. ef. 1-29-01; ODE 3-2003, f. & cert. ef. 3-10-03

Adm. Order No.: ODE 4-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 3-14-03

Notice Publication Date:

Rules Adopted: 581-022-1131

Rules Amended: 581-022-0102, 581-022-1350

Subject: The amendments to OAR 581-022-0102 assures that definitions are consistent with the development of a proficiency based educational system; the amendments to OAR 581-022-1350 incorporate requirements of SB 258 into the rule as well as clarify methods for awarding students credit towards meeting diploma requirements; OAR 581-022-1131 establishes methods for awarding students credit.

For questions regarding these rules, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of a 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

581-022-0102

Definitions

The following definitions apply to Oregon Administrative Rules 581-022-0102 through 581-022-0805, unless otherwise indicated by context:

(1) "Applied Arts": Those areas of study related to the design and fabrication of functional objects and/or the acquisition of practical skills (e.g., business education, home economics, industrial arts, vocational education).

(2) "Assessment": Systematic gathering of data with the purpose of appraising and evaluating children's social, physical, emotional, and intellectual development. Activities may include testing to obtain and organize information on student performance in specific subject areas.

(3) "Career Development": The exploration of personal interests and abilities with regard to career selection, and the development of tentative career goals.

(4) "Career Education": A process for improving educational programs to enhance student understanding of and preparation for work and continuing career development.

(5) "Career Endorsement": An endorsement that acknowledges attainment of technical knowledge and skills that leads to industry certification. Career endorsements may be linked to existing industry certifications offered by workforce or postsecondary institutions or developed jointly by the school district and appropriate next step partner.

(6) "Career Learning Frameworks": Planning tools that integrate learning in a career context used to guide the development of a student's education plan and learning experiences. The frameworks may be used to guide the development of career-focused programs. The frameworks describe a broad grouping of careers and related educational requirements, knowledge and skills and concepts, and suggested applications within the broad career path.

(7) "Career-Related Learning Experiences": Structured student activities in the community, the workplace, or in school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning. They include, but are not limited to:

- (a) Workplace mentoring;
- (b) Workplace simulations;
- (c) School-based enterprises;
- (d) Structured work experiences;
- (e) Cooperative work and study programs;
- (f) On-the-job training;
- (g) Apprenticeship programs;
- (h) Service learning; and
- (i) Field-based investigations.

(8) "Career-Related Learning Standards": A demonstration of knowledge and skill in personal management, problem solving, teamwork, communication, career development, and employment foundations.

(9) "Certificate of Advanced Mastery (CAM)": Recognition of student attainment of the following requirements:

- (a) Develop an education plan and build an education profile;
- (b) Meet the performance standard for extended application through a collection of evidence;
- (c) Meet the performance standard for career-related knowledge and skills;

(d) Participate in career-related learning experiences as outlined in the education plan;

(e) Meet specific Certificate of Initial Mastery performance standards in English, mathematics, science, and social sciences through CIM assessment options.

(10) "Collection of Evidence": Evidence collected by the student that demonstrates their ability to apply what they know and can do to new situ-

ADMINISTRATIVE RULES

ations and problems. This collection of evidence will be assessed as a whole, against a standard (set of sufficiency and proficiency criteria).

(11) "Common Curriculum Goals": The knowledge and skills expected of all students as a result of their educational experience; defined by the state as:

(a) The Essential Learning Skills that consist of selected skills in reading, writing, mathematics, listening, speaking, study skills and reasoning (including critical thinking and scientific method); and

(b) The Common Knowledge and Skills in instructional programs as adopted by the State Board of Education.

(12) "Common Knowledge and Skills in Instructional Programs": Facts, concepts, principles, rules, procedures and methods of inquiry associated with specific subject matter areas as adopted by the State Board of Education.

(13) "Common School District": A school district other than a union high school district formed primarily to provide education in all or part of grades K through 12 to pupils residing within the district (ORS 330.005(2)(b)). See section (20) of this rule.

(14) "Community Partnerships": Collaborations to network resources to assist students to meet state and local standards and prepare students for post high school transitions. These partnerships include parents, students, business, education, government and community-based organizations.

(15) "Compliance Indicator": Statement of the action taken by a local district which can be accepted as evidence that the district is in compliance with the intent of a particular state standard.

(16) "Conditionally Standard School": A school that fails to meet the standards but has submitted a plan of correction, approved by the district school board, to the State Superintendent.

(17) "Course Goals": Statements describing the knowledge and skills students are expected to acquire as a result of having completed a course, elementary unit, or grade level.

(18) "Diploma": The document issued by school districts attesting to the holder's having:

(a) Demonstrated competencies the district school board has adopted for graduation;

(b) Completed the state required 22 units of credit and any additional units of credit the district school board specifies;

(c) Completed the requirements for developing an education plan and education profile, building a collection of evidence to demonstrate extended application, demonstrating career-related knowledge and skills, and participating in career-related learning experiences (as defined in 581-022-1130, sections (3)-(6)).;

(d) Completed 12 school years of educational experience beginning with grade 1, or the equivalent as authorized by district school board policies adopted in conformance with these rules.

(19) "District": A common or union high school district (ORS 332.002(2)).

(20) "District Goals": Statements related to State Board of Education goals (OAR 581-022-0201) which describe the local district and community's expectations for student learning.

(21) "District School Board": The board of directors of a common school district or a union high school district (ORS 332.002(1)).

(22) "Education Plan": A formalized plan and a process that involves student activities in planning, monitoring, and managing their own learning as well as their personal and career development in grades 7-12. Through this process students create an education plan for pursuing their own learning in addressing their personal and career interests and post-high school goals and to connect them to activities that will help them achieve their goals and successfully transition to next steps.

(23) "Education Profile": Documentation of the student's progress and achievement toward CIM, CAM, and graduation requirements, goals and other personal accomplishments that are identified in the student's education plan.

(24) "Education Record": has the same meaning as in OAR 581-021-0220(5).

(25) "Elementary School": Any combination of grades K through 8.

(26) "Essential Learning Skills": Skills that are not unique to any one subject area and which students must learn in order to help them acquire other knowledge and skills. They consist of selected skills in reading, writing, mathematics, listening, speaking, study skills and reasoning (including critical thinking and scientific method), as adopted by the State Board of Education.

(27) "Extended Application Standard": The application and extension of knowledge and skills in new and complex situations related to the student's personal and career interests and post-high school goals.

(28) "Global Studies": An area of study for learning about the people and cultures of the world through history, geography and other social studies disciplines.

(29) "High School": Any combination of grades 10 through 12 in districts providing a junior high school containing grade 9; any combination of grades 9 through 12 organized as a separate unit; grades 9 through 12 housed with grades K through 12; grades 7 or 8 through 12, if approved by the Oregon Department of Education.

(30) "Identification Team" referred to as the "Team": A team of at least two district staff who carry out district identification procedures and determine the identification of students under OAR 581-022-0403.

(31) "Junior High School": A secondary school composed of one or more of grades 7, 8, and 9 organized separately from other grades and approved by the Oregon Department of Education.

(32) "Kindergarten": A planned program that provides activities designed to foster the physical, social, emotional, and cognitive development of young children (ORS 336.092 and 336.095).

(33) "Middle School": An organizational unit composed of any combination of grades 5, 6, 7, and 8 organized separately from other elementary grades and identified as a middle school with the Oregon Department of Education.

(34) "Next steps": The education and/or career choices students make after leaving high school, which may include the workforce, community colleges, four-year colleges and universities, private career schools, apprenticeships, and the military.

(35) "Nonstandard School": A school which fails to meet the standards, and which within ninety days of the State Superintendent's notification of deficiencies, fails to submit a plan of correction or adhere to a plan of correction approved by the State Superintendent (ORS 327.103).

(36) "Parent": Has the same definition as in Oregon Revised Statute 343.035(11).

(37) "Planned Course Statement": Course title, course overview, course goals (including essential learning skills, career-related goals and common curriculum goals as set forth in OARs 581-022-0420 and 581-022-0425) and, where appropriate, graduation competence assigned to the course for verification.

(38) "Potential": As used in OAR 581-022-0403(e), the demonstrated capacity to perform at or above the 97th percentile as determined by the team.

(39) "Professional Technical Education": Organized educational programs and support services for occupational preparation and applied academics which blends the interests and aptitudes of youth and adults with the skills and experiences needed for individuals to sustain economic independence, be productive members of society, and enter advanced education and training. Programs at the middle school focus upon understanding technology and the role of work in one's life, the secondary level is organized around families of related occupations, and postsecondary programs provide advanced technical preparation.

(40) "Program": A planned series of interrelated activities or services contributing to the attainment of a goal or set of goals.

(41) "Program Evaluation": A process for making judgments about the philosophy, goals, methods, materials and outcomes of a program to guide program improvement.

(42) "Program Goals" (instructional): Statements describing what students are expected to learn in each district instructional program in any combination of grades K through 12.

(43) "Program Goals" (support): Statements describing program outcomes which support the entire learning system, or one or more of its components, usually stated in terms of services to be performed.

(44) "Program Needs Identification": Procedures, which specify and rank the differences between actual and desired outcomes leading to the consideration of program revision.

(45) "School District": A common or union high school district (ORS 332.002(2)). For the purposes of OARs 581-022-0403, 581-022-0404, and 581-022-0406, school district has the same meaning as in Oregon Revised Statute 343.395(5).

(46) "Standard School": A school, which is in compliance with all of the standards.

(47) "State Standards": State Board Division 22 Administrative Rules for public elementary and secondary schools.

(48) "Student Activity Funds": All money raised or collected by and/or for school-approved student groups, excluding money budgeted in the general fund (referred to as "co-curricular funds" in the Department of Education's Program Budget Manual, 1980 edition).

ADMINISTRATIVE RULES

(49) "Talented and Gifted Students": Those children defined in Oregon Revised Statute 343.395(7).

(50) "Union High School District": A school district, other than a common school district, formed in accordance with ORS 335.210 to 335.485 (ORS 330.005(2)(d)).

(51) "Unit of Credit": Certification of a student's successful completion of classroom or equivalent work (e.g., independent study, work experience, research) in a course of at least 130 clock hours, or equivalent as set out in OAR 581-022-1131.

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

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.011

Hist.: 1EB 19-1980, f. 6-17-80, ef. 7-1-80; 1EB 4-1986, f. 1-23-86, ef. 2-1-86; EB 8-1989, f. & cert. ef. 1-27-89; EB 6-1995, f. & cert. ef. 1-24-95; ODE 7-1999, f. & cert. ef. 1-15-99; ODE 12-2002, f. & cert. ef. 4-15-02; ODE 4-2003, f. & cert. ef. 3-14-03

581-022-1131

Credit Options

(1) A school district shall grant credit for work satisfactorily completed in any district school, including an alternative education program as defined in ORS 336.615 and 336.625, provided the method for accruing credit is described in the student's personal education plan and the student either:

(a) Successfully completes classroom or equivalent work (e.g., required and elective courses, supervised independent study, career-related learning experiences, project based learning) in a course of at least 130 clock hours in accordance with OAR 581-022-0102;

(b) Successfully completes a unit of credit where performance-based criteria acceptable to the school district are identified;

(c) Demonstrates competency or mastery of subject as defined by the school district by any one or more of the following as approved by the district:

(A) Successfully passes an appropriate exam;

(B) Provides sample of work or other evidence which demonstrates equivalent knowledge or skill; and

(C) Provides documentation of prior learning activities or experiences (e.g., certification of training, letters, diplomas, awards, etc.); or

(d) Successfully completes a combination of the requirements set out in subsections (1) (a-c) of this section.

(2) A school district may grant credit for work satisfactorily completed in a GED preparation course of study, however, a school district shall not use the GED Tests or Sub Tests for the purposes of grade placement or promotion, as measures of student progress in instructional programs, as means of awarding academic credit (e.g., Carnegie units), or as a means of awarding alternative credentials to currently enrolled high school students.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 4-2003, f. & cert. ef. 3-14-03

581-022-1350

Alternative Education Programs

(1) In order to provide innovative and more flexible ways of educating children, school districts may establish new alternative education options within the public school system.

(2) School districts shall adopt policies and procedures for the approval and annual evaluation of alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Approval and annual evaluation of such programs shall provide that:

(a) All students receive adequate instruction in state common curriculum goals and academic content standards to meet state benchmarks and performance standards;

(b) All required Oregon Statewide Assessments are administered;

(c) The results of student performance on state assessments are reported annually to students, parents and the school district;

(d) Any private alternative program/school is registered with the Oregon Department of Education under the provisions of OAR 581-021-0072;

(e) The program complies with all rules and statutes applicable to public schools including:

(A) ORS 181.539, 326.603, 326.607 and 342.232 (criminal background checks);

(B) ORS 337.150, 339.141, 339.147 and 339.855 (tuition and fees);

(C) ORS 659.850 and 659.155 (discrimination);

(D) Health and safety statutes and rules; and

(E) Any statute, rule or school district policy that is specified in the contract between the school district board and the private alternative program/school.

(f) The program/school complies with federal law; and

(g) The contract between a school district and a private alternative education program/school must state that non-compliance with a rule or statute under this rule (OAR 581-022-1350) may result in the termination of the contract.

(h) The private alternative education program/school's annual statement of expenditures is reviewed in accordance with ORS 336.635(2);

(i) The private alternative education program/school is in compliance with its contract(s) with the district(s); and

(j) The private alternative education program/school enhances the ability of the district and its students to achieve district and state standards.

(3) School districts shall adopt policies and procedures to approve placing a student in district approved public alternative education programs and district approved private alternative education programs/schools. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include but not be limited to those students identified under ORS 339.250(9) and OAR 581-022-1110(5) (Certificate of Initial Mastery Requirements);

(b) Placement of a student in a public or private alternative education program be made only if the program has been determined by the district, according to district policy, to best serve the student's educational needs and interests, within district and state academic standards;

(c) Placement in a public or private alternative education program be made with the approval of the student's resident school district and attending school district; and

(d) Payment to private alternative education providers be the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current years' average per student net operating expenditure, whichever is lesser.

(4) School districts shall adopt policies and procedures for students, parents or guardians of students residing in the district to request the establishment of alternative education programs with the district.

(5) A school district shall adopt policies and procedures for notification of students, parents or guardians of students of:

(a) The law regarding alternative education programs;

(b) The availability of existing alternative education programs; and

(c) The procedures to request the establishment of new alternative education programs.

(6) School districts shall include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.625, ORS 336.635 & ORS 336.645

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 4-2003, f. & cert. ef. 3-14-03

Oregon Economic and Community Development Department Chapter 123

Adm. Order No.: EDD 1-2003(Temp)

Filed with Sec. of State: 2-20-2003

Certified to be Effective: 2-24-03 thru 6-30-03

Notice Publication Date:

Rules Amended: 123-043-0035, 123-043-0045, 123-043-0055, 123-043-0075

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

Rules Coordinator: Margie N. Druery — (503) 986-0206

123-043-0035

Criteria and Limitations for Funding — Non-Technical Assistance Projects

(1) The intent of the Legislature was to provide funding to municipalities to assist in compliance with the **Safe Drinking Water Act** and the **Clean Water Act**. Therefore, priority is given to projects necessary to ensure that municipal water and wastewater systems comply with the requirements of:

(a) Current drinking water quality standards administered by the Oregon Public Health Services Drinking Water Program; or

ADMINISTRATIVE RULES

(b) Water quality statutes, rules, orders, or permits administered by the Oregon Department of Environmental Quality (DEQ) or the Environmental Quality Commission.

(2) In cases where a municipal water or wastewater system has not been issued a Notice of Non-Compliance with the **Safe Drinking Water Act** or the **Clean Water Act**, the Department may determine that a proposed project is eligible for assistance upon a finding that the following have been met:

(a) A recent letter from the appropriate regulatory authority, typically the Department of Human Services Drinking Water Program Health Services, the Department of Environmental Quality, or their contracted agent, which indicates a high probability that the system owner will soon be notified of non-compliance with either the **Safe Drinking Water Act** or the **Clean Water Act**; or

(b) The Department staff deems it reasonable and prudent that program funding will assist in bringing the drinking water or wastewater system into compliance with the requirements of the **Safe Drinking Water Act**, the **Clean Water Act**, or those requirements proposed to take effect within the next two years.

(3) The Department generally will not award funds to applications for wastewater treatment facilities if the facilities will discharge into water quality limited streams for which the Department of Environmental Quality has not yet established Total Maximum Daily Loads (TMDLs). Consultation with the Department of Environmental Quality will be required to determine if the project can be designed and constructed without establishment of Total Maximum Daily Loads. Water quality limited streams are designated by the Oregon Environmental Quality Commission.

(4) The project must be consistent with the acknowledged local comprehensive plan.

(5) The Department encourages elimination of redundant systems (rationalization) whenever feasible.

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

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 - ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03

123-043-0045

Criteria and Limitations for Funding — Technical Assistance Projects

(1) Technical Assistance awards are available to municipalities of under 5000 population for Technical Assistance planning activities in preparation for a project that is eligible under these rules.

(2) Technical Assistance grants and loans are subject to the following limitations.

(a) Grants up to \$10,000, may be awarded per project.

(b) Loans up to \$20,000 may be awarded per project. Interest shall be at 75 percent of the rate for other Direct Loans consistent with these rules. The Loan term shall not exceed seven years.

(c) No more than \$400,000, or one percent of the value of the Fund, whichever is less, shall be expended from the Fund on Technical Assistance in any biennium. When awarding grants under this rule the Department will not first consider a municipalities' ability to repay a Loan.

(d) The application must meet the requirements listed in 123-043-0075(2).

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

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 - ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03

123-043-0055

Loan and Grant Information

(1) The Department will award financing in a manner that maximizes the use of available resources and maintains the desired credit standards. The Department shall determine the amount, type, interest rate and terms; it may offer an alternate mix or lower amount of assistance than requested. The amount of the award must be the minimum amount necessary to enable the project to proceed; and it may investigate and recommend other sources of funds for all or part of a proposed Project. Projects that are not financially feasible shall not be funded.

(2) If the Project includes a recoverable asset, the Department may require that upon sale of such asset by the Recipient, the grant award or the percentage of total project costs paid with a grant award, whichever is less, shall be repaid to the Fund or be retained by the Recipient in a special fund.

(3) The Department may expend moneys from the Fund for the payment of all costs associated with the issuance of a State Revenue Bond. The Department, in cooperation with the State Treasurer, may issue State Revenue Bonds to fund qualifying Projects in accordance with the limita-

tion on state revenue bond issuance established by the Legislature. The Department may expend moneys from the Fund to establish a debt service reserve to support the credit pledge of a Recipient.

(4) Grants: For non-Technical Assistance Projects the Department shall consider awarding a Grant only after an analysis determines the Applicant's borrowing capacity is insufficient to finance the project and the projected annual residential rate for the system is at least equivalent to a minimum rate as determined by Department policy. The policy shall incorporate the most recent U.S. Census data on median household income and annual adjustments for inflation since the most recent census. A maximum of \$10,000 per hookup per project, inclusive of all Department programs, shall be awarded as grant, subject to the following limitations. Applicants that meet these thresholds shall be eligible for grant awards as follows:

(a) If the median annual household income of the applicant is equal to or less than 70% of the state average median annual household income for the same year: Eligible for a grant up to \$750,000.

(b) If the median annual household income of the applicant is greater than 70% but less than or equal to 80% of the state average median annual household income for the same year: Eligible for a grant up to \$500,000.

(c) If the median annual household income of the applicant is greater than 80% but less than 100% of the state average median annual household income for the same year: Eligible for a grant up to \$250,000.

(d) If the median annual household income of the applicant is equal to or greater than 100% of the state average median annual household income for the same year: Not eligible for a grant.

(5) For Technical Assistance Projects, the Department will consider awarding a Grant without first considering a Loan.

(6) Non cash Grants in the form of Issuance Costs and a Debt Service Reserve for bond bank funded projects may be paid with available and unobligated balances of the Fund .

(7) Loans: Projects are eligible for loans of up to \$11,000,000 per project through a combination of direct and/or bond funded loans. The maximum direct loan is \$1,000,000 per project. The term of a construction loan is typically 20 years but is limited to the usable life of the infrastructure financed, or 25 years, whichever is less. Interest rates of Direct Loans are based on market conditions for similar debt and are set at the time of the award.

(8) For Bond Funded Loans, the Department will pass through the final interest rate of the bond to the borrower. Until a bond is sold, the borrower will pay interest on loan funds drawn down, at the direct loan rate, as set by the Department.

(9) The Loan shall be payable from the general fund and any allowable enterprise funds of the borrower and shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution.

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 - ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03

123-043-0075

Application Review and Approval

(1) To award assistance from the fund for construction projects the Department must make the determinations as follows:

(a) The proposed project is feasible, is the most cost effective solution, and adequately serves the applicable land uses in both the short and long term.

(b) The loan security includes the pledge of utility revenues and/or other revenue funds or payments from any owners of specially benefited properties, and are sufficient, when considered with other security, to assure repayment and the municipality has certified to the Department that there will be adequate funds available to repay any loans made to the municipality from the Fund;

(c) The municipality will require the installation of meters on all new service connections to any distribution lines that may be included in the project.

(d) The municipality will adopt a plan for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a drinking water project;

(e) Moneys in the appropriate accounts of the Fund are or will be available for the project;

(g) The municipality is willing and able to enter into a contract with the Department for repayment as provided in this chapter of administrative rules;

(h) The project is consistent with the requirements governing assistance from the Fund. If the Department determines that the applicant and/or

ADMINISTRATIVE RULES

the proposed project do not meet the requirements of this rule, the Department may reject an application or require further documentation from the applicant; and

(i) Other funds that may be needed to complete the project are available and committed to the project. If a portion of the other funds needed to complete the project is not available at the time an award is made, the award shall be conditional on securing the other needed funds.

(2) To award assistance from the fund for Technical Assistance projects the Department must make the determinations as follows:

(a) The Technical Assistance planning activities must be in preparation for a Project that is eligible under OAR chapter 123-043 and meets the criteria listed in 123-043-0045.

(b) The Applicant has, or has demonstrated the ability to secure, the administrative capacity to undertake and complete the Technical Assistance project.

(c) The Technical Assistance project is ready to proceed upon execution of a contract between the Department and the Applicant.

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 - ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03

Adm. Order No.: EDD 2-2003(Temp)

Filed with Sec. of State: 3-4-2003

Certified to be Effective: 3-4-03 thru 8-29-03

Notice Publication Date:

Rules Adopted: 123-020-0000

Rules Amended: 123-020-0005, 123-020-0010, 123-020-0015, 123-020-0020, 123-020-0025, 123-020-0030, 123-020-0035, 123-020-0040

Rules Suspended: 123-020-0050

Subject: This division of administrative rules describes the process for bring a port formation request to the Economic and Community Development Commission for its approval. The temporary rule is necessary because the old rule is more restrictive than the statute and the Department of Justice has advised the department that its rule must be altered before an application by county order can be allowed. This temporary rule corrects that deficiency.

Rules Coordinator: Margie N. Druery—(503) 986-0206

123-020-0000

Purpose and Scope

This division of administrative rules describes the steps and necessary elements for the Commission to approve the formation of a Port, as required under ORS 285A.627(2).

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0005

Definitions

As used in this division of administrative rules, unless the context requires otherwise:

(1) Applicant means an entity that may legitimately seek and propose the formation of a new Port, and that submits a request for the Commission's approval.

(2) Commission means the State of Oregon Economic and Community Development Commission appointed under ORS 285A.040.

(3) Department means the State of Oregon Economic and Community Development Department as organized under ORS 285A.070.

(4) Port means a municipal corporation organized under ORS chapter 777 or 778, which may be known as a "port authority" or "port district."

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0010

Application

An Applicant for the formation of a Port shall:

(1) Send the following, prior to any official filing with the appropriate county, to Attn: Port Formation Application, Oregon Economic and Community Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem, OR 97301-1280:

(a) A sample of the petition or order to be used for purposes of ORS 198.705 to 198.955, as applicable;

(b) A letter formally requesting formation of the proposed Port;

(c) A legal description and map of the port boundaries; and

(2) The Department may assess and collect an application fee to help cover some or all the costs of reviewing an application. The costs to be covered, the amount of the fee and when it will be assessed will be an adopted Department policy. The Applicant should request the current Department policy on application fees prior to submitting its application.

(3) Materials requested in OAR 123-020-0015 to 123-020-0035.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0015

Criteria

In carrying out its function as statewide coordinating, planning, and research agency for all Ports in the State of Oregon, and to insure the most orderly, efficient, and economical development of the state port system, the Commission, through the Department, will take into consideration and may request information from the Applicant regarding the following:

(1) The need for port services in the territory to be included within the proposed Port;

(2) The adequacy of funding for the proposed Port; and

(3) The orderly development of the proposed Port and its effects upon the development of a state port system.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0020

Need for Port Services

In evaluating the need for port services, the Commission, will take the following into account:

(1) That reasonable alternatives to the formation of a Port have been considered;

(2) That significant adverse effects on other public or private agencies offering similar services within the proposed service area have been considered;

(3) That economic benefits and opportunities such as increased employment, income, and cost savings have been considered; and

(4) That proposed Port boundaries are reasonable in terms of tax assessment and property ownership.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0025

Adequacy of Funding

In reviewing the viability and merits of a proposed Port, the Commission will consider the following, in addition to the latest draft copy of the economic feasibility statement for district formation, if applicable, under ORS 198.749:

(1) A proposed budget of the proposed Port showing, among other things, capital improvements, staffing, and other sums and expenses required to implement and operate the proposed Port for a reasonable period;

(2) Adequacy of the existing tax base and proposed tax rate and the source and amounts of any other revenues estimated to be required; and

(3) Other financial information as may be needed.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0030

Orderly Development of Port and State Port System

The Commission encourages and may in addition to steps outlined in this division of administration rules, seek public views and information on any application for the establishment of a Port, including but not limited to the following issues:

(1) Relationship of the proposed Port activities to locally approved land use plans and the provision of other local public services or utilities;

(2) Coordination with affected environmental, economic, and social agencies, including the impact on affected taxing jurisdictions; and

(3) Effects of the proposed activities on transportation facilities and services.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

ADMINISTRATIVE RULES

123-020-0035

Commission Request for Additional Information

In addition to what is described in this division of administrative rules, the Commission or the Department may request such other relevant facts or information, as is deemed appropriate in considering the formation of a new Port.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0040

Review and Commission Approval or Denial

(1) An Applicant shall not seek, nor shall any agency of a county government do either of the following, until such time as the Commission has approved the formation of the Port:

(a) Conduct a deciding vote on port formation by the governing body of the county; or

(b) Place the question of the Port's formation on the ballot of a special or general election.

(2)(a) Upon receipt of a request under OAR 123-020-0010, the Department shall review the submitted materials and may request additional information that the Department believes necessary for the Commission's deliberation. The Department may assess and collect an application fee to help cover some or all the costs of reviewing an application

(b) Following its review and receipt of any additional information, the Department shall assemble materials and information along with a summary of the proposed Port's advantages and disadvantages relative to OAR 123-020-0015 to 123-020-0030, which may include a recommendation of action.

(c) Department preparations as described in paragraph (b) of this subsection are then submitted to the Director of the Department to be reported to the Commission.

(3) After the Commission has obtained any other information it considers relevant regarding the proposed Port's formation, the Commission's anticipated final consideration of the matter shall appear on a publicly available agenda for an upcoming meeting of the Commission, which:

(a) The Department sends to the Applicant and other interested parties, at least 21 days prior to such a meeting; and

(b) Affords an opportunity for public commentary, consistent with the Commission's normal procedures.

(5) At the meeting described in section (4) of this rule or a subsequent meeting, the Commission shall formally approve or deny the proposed Port's formation as it deems appropriate.

(6) If the Commission denies a Port formation request, it shall indicate the reasons therefore and what remedies, if any, would allow for reconsideration, and the Department shall report these reasons and remedies in writing to the Applicant.

(7) If formation of the Port is approved by the Commission:

(a) The Commission shall issue a formal declaration of its approval, which the Department shall provide to the Applicant and to the Chair of the Board of County Commissioners for the respective county; and

(b) The Applicant shall proceed with and abide by all applicable procedures and requirements under ORS chapters 198 and 777.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110(1)

Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

123-020-0050

Port Division Cooperation

Nothing in these rules should be construed as a hindrance toward port district formations, and any qualified applicant may request and expect full assistance and cooperation of the Ports Division in complying with these requirements.

Stat. Auth.: ORS 777

Stats. Implemented: ORS 198.705 - ORS 198.955

Hist.: EDD 6, f. & ef. 4-30-76; Suspended by EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03

Oregon State Lottery

Chapter 177

Adm. Order No.: LOTT 2-2003(Temp)

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 3-14-03 thru 9-5-03

Notice Publication Date:

Rules Amended: 177-040-0030, 177-040-0051, 177-040-0110, 177-040-0115, 177-040-0120, 177-040-0125, 177-040-0130, 177-040-0160, 177-040-0180, 177-040-0190

Subject: The proposed amendment to OAR 177-040-0051 (Designated Employees) allows Lottery retailers to limit hours of redemption of winning tickets and shares. The proposed amendment to OAR 177-040-0160 (Suspension of OLCC License) strengthens the ability of the Lottery to suspend a retailer's authorization to sell non-video Lottery tickets and shares. This is in addition to the deactivation of the retailer's video lottery terminals when a retailer's OLCC liquor license is suspended. The amendment also sets forth the Lottery's process for investigating a retailer whose OLCC license has been suspended. The remaining amendments are grammar and housekeeping.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-040-0030

Retailer Bond or Letter of Credit

The Director may require a Lottery retailer to post a \$5,000 bond or an irrevocable letter of credit issued by a commercial bank satisfactory to the Director.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: LC 9-1992, f. & cert. ef. 8-26-92; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0051

Designated Employees and Hours of Payment

(1) Each retailer shall designate employees authorized to redeem winning Lottery tickets and shares and the hours that winning Lottery tickets and shares may be redeemed. A retailer may elect to redeem during all of the retailer's business hours of operation. A retailer may also elect to limit the hours that winning Lottery tickets and shares may be redeemed. A retailer electing to limit the hours that Lottery tickets and shares may be redeemed shall post a readily visible sign notifying customers of the limited hours of redemption. Prizes shall be immediately paid in cash or check when a player presents a winning Lottery ticket or share for payment meeting the requirements of these rules. Prizes cannot be paid in tokens, chips, or merchandise.

(2) Notwithstanding section (1) of this rule, once a Lottery retailer validates a winning ticket or share, whether or not it is during the retailer's posted hours of redemption, the retailer must immediately pay it if otherwise authorized by the Lottery or these rules.

Stat. Auth.: ORS 461 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0110

Contract Non-Transferable

A Lottery retailer contract does not have value, and cannot be sold, transferred, or assigned.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0115

Underage Seller

No one under the age of 18 may sell Lottery tickets or shares.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0120

Subsequent Application

When a retailer contract is terminated for any reason, the retailer, or an applicant that is similar to the retailer whose contract was terminated, will be required to wait one year to reapply for a retailer contract. In the Director's sole discretion, the Director may waive all or a portion of the one-year requirement based upon a showing of good cause by the applicant.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

ADMINISTRATIVE RULES

177-040-0125

Termination of Retailer Contract When An Applicant Does Not Qualify As A Key Person

When the Director determines that an applicant does not qualify as a key person, that is grounds for termination of the retailer contract associated with the applicant.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0130

Adding a Location

An existing traditional retailer may apply for and may receive approval for a contract for an additional location prior to that site being open to the public.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0160

Suspension of OLCC License

(1) Any video Lottery retailer whose liquor license has been suspended by the Oregon Liquor Control Commission (OLCC) must immediately notify the Lottery of the suspension.

(2) The Director shall deactivate all video lottery terminals in a retailer's establishment during the period that the OLCC has suspended the retailer's liquor license. Notwithstanding the term of the OLCC suspension, the video lottery terminals shall remain deactivated until the investigation required by section (3) of this rule is completed and acted upon by the Director. The Director may also suspend the sale of all non-video Lottery tickets and shares to the retailer as well. The Director may also deactivate the retailer's computer link to the Lottery and disable the retailer's ability to validate tickets and shares.

(3) The Director shall initiate an investigation by Lottery Security of the suspension of the retailer's liquor license. Lottery Security will report the results of the investigation to the Director. The Director will review the findings of that investigation and the reasons for the suspension by the OLCC. The Director will make an independent determination whether the findings of the investigation and the behavior underlying such suspension constitute grounds for termination of the retailer contract under the Lottery's statutes, rules, and the retailer contract. If they do, the Director may immediately terminate the retailer's contract with the Lottery notwithstanding any reinstatement of the retailer's liquor license by the OLCC.

(4) Upon the reinstatement of the retailer's liquor license by the OLCC, and the review by the Director of the investigation by Lottery Security, the Director may reactivate the retailer's video Lottery terminals (as well as the sale of non-video Lottery tickets and shares to the retailer and the retailer's computer link to the Lottery if they were also suspended) if the findings of the investigation and the behavior underlying the suspension do not constitute grounds for termination of the retailer contract under the Lottery's statutes, rules, and the retailer contract. The Director may also reactivate pending the outcome of the Lottery's own review and investigation.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LC 6-1993, f. & cert. ef. 7-2-93; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0103; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0180

Notice Requirement

Lottery retailers who offer video Lottery games must post in a conspicuous place on the retailer's premises at least one copy of a notice containing information concerning compulsive gambling.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0125; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

177-040-0190

100% Stock Transfer

Any retailer who is other than a sole proprietor must receive prior approval from the Director before selling or otherwise transferring 100 percent of the retailer's interest in the retailer's business entity. If a retailer transfers 100 percent of the retailer's interest in the business entity without submitting written notification to the Director and receiving approval from the Director, the retailer contract shall be terminated and the person who received the interest must apply for a retailer contract. The Director may

give prior approval for the transfer if the person receiving the interest qualifies for a temporary retailer contract or a retailer contract.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03

Parks and Recreation Department Chapter 736

Adm. Order No.: PRD 2-2003

Filed with Sec. of State: 2-27-2003

Certified to be Effective: 2-27-03

Notice Publication Date: 1-1-03

Rules Amended: 736-018-0045

Subject: 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, state park master plans are adopted as rules under OAR 736-018-0045.

The master plan for the Cove Palisades State Park, first adopted in 1981, was recently amended to reflect current information on park resource conditions and public recreation needs. The amended master plan was adopted through the administrative rulemaking process and became effective as a rule on March 22, 2002, although the notice of rulemaking hearings had been filed and published nearly one year earlier, in 2001. That amendment to OAR 736-018-0045 erroneously stated that the new master plan was adopted in 2001, rather than 2002. Therefore, the purpose of this proposed amendment to OAR 736-018-0045 is to correct the date of adoption of the Cove Palisades State Park Master Plan.

Rules Coordinator: Angie Springer—(503) 378-5516

736-018-0045

Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

- (a) Fort Stevens State Park Master Plan, as amended in 2001;
- (b) Cape Lookout State Park;
- (c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;
- (d) Nestucca Spit State Park, renamed as Robert Straub State Park;
- (e) Jessie M. Honeyman State Park;
- (f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor, Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wygant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;
- (g) Molalla River State Park;
- (h) Champoeg State Park;
- (i) Willamette Mission State Park;
- (j) Cascadia State Park;
- (k) Elijah Bristow State Park;
- (l) Cove Palisades State Park Master Plan, as amended in 2002;
- (m) Silver Falls State Park Master Plan, as amended in 1999;
- (n) North Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside;

ADMINISTRATIVE RULES

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park; William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area; and

(y) Illinois River Forks State Park.

(z) Wallowa County State Parks Master Plan, 2000.

(aa) Master Plan for a Proposed New State Park in Washington County, currently unnamed, 2001.

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 1115 Commercial Street NE Suite 1, Salem OR 97301-1002.

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

Stat. Auth.: ORS 390.180(1)(c) & ORS 390.124

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

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03

.....

Adm. Order No.: PRD 3-2003

Filed with Sec. of State: 2-27-2003

Certified to be Effective: 2-27-03

Notice Publication Date: 1-1-03

Rules Amended: 736-018-0045

Subject: 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 master plan for Clay Myers State Natural Area at Whalen Island. 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 a new master plan as a state rule.

The master plan responds to the most current information on park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through a year-long process involving meetings with the general public, a steering committee, affected state and federal agencies and Tillamook County. The County approved a rezone of the park property following public hearings

before the County Planning Commission and Board of Commissioners held in June and July, 2002, and granted conditional use approval of the master plan proposals in August, 2002.

Rules Coordinator: Angie Springer—(503) 378-5516

736-018-0045

Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

(a) Fort Stevens State Park Master Plan, as amended in 2001;

(b) Cape Lookout State Park;

(c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;

(d) Nestucca Spit State Park, renamed as Robert Straub State Park;

(e) Jessie M. Honeyman State Park;

(f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor, Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wygant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;

(g) Molalla River State Park;

(h) Champoeg State Park;

(i) Willamette Mission State Park;

(j) Cascadia State Park;

(k) Elijah Bristow State Park;

(l) Cove Palisades State Park Master Plan, as amended in 2002;

(m) Silver Falls State Park Master Plan, as amended in 1999;

(n) North Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside;

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park; William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate

ADMINISTRATIVE RULES

Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area; and

(y) Illinois River Forks State Park.

(z) Wallowa County State Parks Master Plan, 2000.

(aa) Master Plan for a Proposed New State Park in Washington County, currently unnamed, 2001.

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003.

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 1115 Commercial Street NE Suite 1, Salem OR 97301-1002.

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

Stat. Auth.: ORS 390.180(1)(c) & ORS 390.124

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

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03

Public Utility Commission Chapter 860

Adm. Order No.: PUC 2-2003

Filed with Sec. of State: 3-11-2003

Certified to be Effective: 3-11-03

Notice Publication Date: 1-1-03

Rules Amended: 860-012-0035

Subject: The amended rule delegates general authority to Administrative Law judges to Issue protective orders with language appropriate to the circumstances without first obtaining Commission approval.

Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-012-0035

Administrative Law Judges

(1) The Commission delegates to the Administrative Law Judge (ALJ) authority to:

(a) Regulate the course of hearings including scheduling, recessing, reconvening, and adjourning;

(b) Administer oaths and affirmations;

(c) Issue subpoenas;

(d) Make evidentiary rulings, with or without objection;

(e) Limit, supervise, and control discovery;

(f) Hold appropriate conferences before, during or after hearings;

(g) Decide procedural matters but not to grant motions to dismiss or other motions which involve final determination of the proceedings;

(h) Limit or extend filing periods and grant waivers;

(i) Certify a question to the Commission for consideration and disposition;

(j) Take any other action consistent with the duties of an ALJ;

(k) Upon request by a party, and for good cause shown, issue a protective order which may include language agreed upon by all parties to a proceeding and the ALJ, to limit disclosure of confidential information. Decisions by the ALJ regarding the protective order may be appealed to the Commission pursuant to OAR 860-014-0091.

(2) The ALJ shall conduct a fair and impartial hearing and maintain order. If a person engages in conduct which interferes with this duty, the ALJ may suspend the hearing or exclude the person from the hearing.

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

Stats. Implemented: ORS 756.040, ORS 756.055, & ORS 756.500 - ORS 756.575

Hist.: PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-1989, f. & cert. ef. 7-10-89 (Order No. 89-817); PUC 12-1999, f. & cert. ef. 11-18-99; PUC 2-2003, f. & cert. ef. 3-11-03

Adm. Order No.: PUC 3-2003

Filed with Sec. of State: 3-11-2003

Certified to be Effective: 3-11-03

Notice Publication Date: 1-1-03

Rules Adopted: 860-014-0023

Subject: Defines "Major proceeding" for purposes of ORS 756.518(2); describes other ways a case may qualify as a major proceeding; describes procedures for designating a case a major proceeding and for participation in oral argument.

Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-014-0023

Major Proceeding

(1) For purposes of ORS 756.518(2), a "major proceeding" is a proceeding that has, or is expected to have, a full procedural schedule with written testimony or written comments and that:

(a) Has a substantial impact on utility rates or service quality for energy utilities having more than 50,000 customers or telecommunications utilities having more than 50,000 access lines; or

(b) Has a significant impact on utility customers or the operations of a regulated utility for energy utilities having more than 50,000 customers or telecommunications utilities having more than 50,000 access lines.

(2) A party in a proceeding that does not meet the criteria in section (1) of this rule may petition the ALJ for major case status if the case:

(a) Is likely to result in a significant change in regulatory policy; or

(b) Raises novel questions of fact or law.

(3) When a docket is opened, any party may file a motion with the Administrative Law Judge (ALJ) requesting that the case be classified as a major proceeding.

(a) The motion shall:

(A) Set out with specificity how the case qualifies as a major proceeding under the criteria listed in section (1) of this rule; or

(B) Argue how the case qualifies as a major proceeding under section

(2) of this rule.

(b) Answers to the motion are due within 10 days of filing.

(c) The ALJ shall rule on the motion within 15 days of filing.

(4) If a case is classified as a major proceeding, parties shall schedule a date for oral argument before the Commission at the prehearing conference or as soon thereafter as possible.

(5) Any party to a case may present argument before the Commission if the case is defined as a major proceeding.

(6) The ALJ shall determine the length of each party's presentation to the Commission, the right of any party to rebuttal of any other party's presentation, and the order of presentation.

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

Stats. Implemented: ORS 756.040 & 756.500 - 756.575

Hist.: PUC 19-2002(Temp), f. & cert. ef. 12-6-02 thru 6-4-03; PUC 3-2003, f. & cert. ef. 3-11-03

Adm. Order No.: PUC 4-2003

Filed with Sec. of State: 3-11-2003

Certified to be Effective: 3-11-03

Notice Publication Date: 9-1-02

Rules Amended: 860-032-0002, 860-032-0005

Subject: Requires any person wishing to be included on the Commission's list for notification of formal proceedings to submit his/her electronic mail address, as well as name and mailing address. Reorganizes and rewrites the rule to make it more readable and improve clarity. streamlines the process for issuing certificates of authority by allowing the commission to skip previously required procedural steps in cases where there are no protests to an application for a certificate of authority.

Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-032-0002

Notice and Procedures for a Proceeding Initiated Under Division 032

(1) All notices initiating a proceeding under this Division, including, but not limited to, applications, petitions, complaints, and other pleadings, shall be served on all telecommunications providers and all persons on the Commission's telecommunications mailing list. Any person wishing to be included on the list shall submit his/her name, electronic mail address, and mailing address to the Commission's Administrative Hearings Division. A person need not comply with the requirement of providing an electronic mail address upon the filing with the Commission a written statement of inability to obtain such an address.

ADMINISTRATIVE RULES

(2) Except as otherwise provided, every proceeding under this Division shall follow the procedures in ORS 756.500 et seq. and the Commission's rules of procedure.

(3) Any person submitting information under the Commission's rules may request that the information be held in confidence pursuant to the public records law, ORS 192.500.

Stat. Auth.: ORS 183, ORS 756 & ORS 759
Stats. Implemented: ORS 756.040, ORS 759.020 & ORS 759.025
Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 10-1998, f. & cert. ef. 4-28-98; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 4-2000, f. & cert. ef. 2-9-00; PUC 9-2001, f. & cert. ef. 3-21-01; PUC 4-2003, f. & cert. ef. 3-11-03

860-032-0005

Application for New or Amended Certificate of Authority, or to Transfer Authority

(1) No person shall provide intrastate telecommunications service on a for-hire basis, or transfer a certificate of authority to provide such service, except as authorized by the Commission.

(2) Any person intending to provide intrastate telecommunications service in Oregon, or to transfer a certificate of authority to provide such service, shall file an application, on a form prescribed by the Commission. A copy of the applicable application form is available on the Commission's website.

(3) The applicant(s) shall also submit a copy of the application and any subsequent amendments in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The electronic copy may be an unsigned version of the application. An applicant need not comply with this requirement upon the filing with the Commission a written statement of inability to file an electronic copy.

(4) Applicant(s) must complete all applicable parts of the application. If an application, in any material respect, is incomplete, inaccurate, false, or misleading, the Commission shall reject the application.

(5) An application for a new or amended certificate shall contain:

(a) A request for classification as a telecommunications utility or competitive provider;

(b) The name, mailing address, telephone number, and electronic mail address of the applicant;

(c) A description of the service the applicant seeks to provide, including designation of such service as local exchange, shared, or interexchange service, and a designation of such service as switched or non-switched service, and a description of how applicant will provide such service;

(d) A description of the territory where the service is to be offered. An application to provide local exchange service shall include a description and map of the local exchange service boundaries or a list of the local exchanges to be served;

(e) The names of affiliated interests of the applicant, as defined in OAR 860-032-0001, which are certified to provide or are actually providing telecommunications service in Oregon;

(f) A list of each certificate of authority to provide service in Oregon, which was granted to applicant or to an affiliated interest, whether such certificate is in effect or canceled; and

(g) In addition to the requirements of subsections (5)(a) through (f) of this rule, an application to provide shared service shall:

(A) Describe the user group to whom service will be provided;

(B) List the street address of the building(s) where service will be provided; and

(C) If service will be provided to a user group located in two or more buildings, the application shall include a clear, precise, legible map, of the area to be served.

(6) An application to transfer a certificate of authority shall contain:

(a) The names, mailing addresses, telephone numbers, and electronic mail addresses of the transferor and transferee;

(b) A description of the telecommunications services and service area for which authority is to be transferred; and

(c) The names of affiliated interests of the transferee, as defined in OAR 860-032-0001, which are certified to provide or are actually providing telecommunications service in Oregon.

(7) For all applications:

(a) The Commission shall serve notice of the application as provided in OAR 860-032-0002(1).

(b) Within 20 days of the date of service of the notice, any person may file a protest to an application. The protest shall set forth the grounds for the protest. The protestant(s) shall also submit a copy of the protest in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The electronic copy may be an unsigned version of the protest. A protestant

need not comply with this requirement upon the filing with the Commission a written statement of inability to file an electronic copy.

(c) The Commission may require a person filing a protest to show that it is affected by the application or that its appearance and participation will not unreasonably broaden the issues or burden the record. Failure of the telecommunications utility or cooperative to protest an application to provide local exchange service, other than shared service, shall not be considered consent to the application.

(d) Any protestant shall be made a party to the application proceeding. Other persons may be made a party upon formal request to the Commission and serving copies of the request to the applicant(s) in accordance with OAR 860-013-0021.

(e) The applicant shall serve other parties with copies of amendments and additional information submitted during the application process. If an applicant intends to broaden the authority requested during the application process, it shall file a new application pursuant to sections (2) through (6) of this rule. However, an applicant may narrow its request by serving its amendment on each party.

(f) The Commission may grant or deny an application without hearing, unless a hearing is required by ORS 759.020(4).

(g) If the Commission processes the application without a hearing, the Commission staff may issue to the parties a proposed order that grants or denies the application. Within 15 days of service of any proposed order, any party may file exceptions. Exceptions shall be filed with the Administrative Hearings Division, Commission staff, and all parties. Within 10 days of service of any exceptions, Commission staff and any party may file a reply. In its reply, Commission staff may modify its proposed order in response to the exceptions filed.

(h) A party to the application proceeding may request rehearing or reconsideration of the order, which grants or denies the application, pursuant to ORS 756.561 and OAR 860-014-0095.

(8) For applicants who request classification as a telecommunications utility, all services proposed to be offered by the applicant shall be deemed essential services. However, applicant may accompany the application with a petition to exempt some services pursuant to OAR 860-032-0025 or to price-list some or all services pursuant to OAR 860-032-0035.

(9) The Commission shall review applications for interexchange service or shared service pursuant to ORS 759.020. Applications for local exchange service, other than shared service, shall be reviewed pursuant to ORS 759.020 and 759.050.

(10) For applications for local exchange service, other than shared service, the following apply in addition to provisions of sections (7) through (9) of this rule:

(a) The Commission may apply the public interest criteria from ORS 759.050(2), or the Commission may determine pursuant to ORS 759.020(3) that the affected telecommunications utility is unable to provide service; and

(b) Failure by the telecommunications utility to provide reasonable and adequate local exchange service shall constitute inability to provide service.

(11) Applications to transfer authority to provide telecommunications service are subject to sections (1) through (4) and (6) through (10) of this rule. With Commission approval, a telecommunications provider may transfer a certificate of authority subject to the following requirements:

(a) The transferor may transfer some or all of its authority;

(b) Transferee shall be liable for all fees incurred and reports due by the transferor as of the date the transfer is approved; and

(c) All relevant conditions and restrictions which attend the authority held by the transferor will apply to the certificate held by the transferee.

(d) When the application is granted the transferor will no longer be authorized to provide the telecommunications services that are transferred.

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

Stats. Implemented: ORS 756.040, ORS 759.020, ORS 759.025, ORS 759.030, ORS 759.050, ORS 759.225 & ORS 759.690

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989(Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 23-1990, f. & cert. ef. 12-31-90 (Order No. 90-1918); PUC 9-1991, f. & cert. ef. 7-16-91 (Order No. 91-854); PUC 2-1998, f. & cert. ef. 2-24-98; PUC 10-1998, f. & cert. ef. 4-28-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 4-2000, f. & cert. ef. 2-9-00; PUC 26-2001, f. & cert. ef. 11-5-01; PUC 4-2003, f. & cert. ef. 3-11-03

Real Estate Agency Chapter 863

Adm. Order No.: REA 1-2003(Temp)
Filed with Sec. of State: 2-27-2003

ADMINISTRATIVE RULES

Certified to be Effective: 2-28-03 thru 8-27-03

Notice Publication Date:

Rules Amended: 863-001-0005, 863-015-0010, 863-015-0025, 863-015-0030, 863-015-0040, 863-015-0045, 863-015-0055, 863-015-0065, 863-015-0080, 863-015-0085, 863-015-0090, 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

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 provision of Senate Bill 446. These proposed temporary administrative rules are either (1) required by the legislation, (2) required to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill, or (3) are necessary to further implement the policies and procedures contemplated in the legislation.

Rules Coordinator: Brian DeMarco—(503) 378-4170, ext. 237

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 effect 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

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;

(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

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 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 a 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

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

ADMINISTRATIVE RULES

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. However, the term may include, in addition to the 24 months, 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.

(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

863-015-0040

Licensing; Principal Real Estate Broker

(1) To be eligible for issuance of a principal real estate 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 courses of study for principal real estate broker licensing as prescribed by the Commissioner;

(f) Furnish proof satisfactory to the Commissioner that the applicant has acquired at least three years of active experience as a real estate broker prior to the date of the application for issuance of the license; or

(g) At the discretion of the Real Estate Board, furnish proof of compliance:

(i) 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; or

(ii) That the applicant has a combination of partial fulfillment of the qualifications described by subsections (f) together with real estate related experience, and details the nature of such experience.

(2) Notwithstanding subsections (a) to (h) of section (1), an applicant for a principal real estate broker's license who has graduated from a four-year college or university course 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 (h) 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 technology 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.

(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 (2) and (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. Such a decision by the Real Estate Board shall be requested and received prior to application for examination.

(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

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 courses 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 manager's license and for the actions of the manager's nonlicensed property management employees. A licensed real estate property manager may not authorize an unlicensed individual or another real estate licensee to supervise that manager's licensed activity in the manager's absence, except as provided for in OAR 863-015-0085(1).

(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 courses prior to July 1, 2004, pursuant to the provisions of Section 3, subsection (2), Chapter 300 Oregon laws 2001.

(8) An applicant for a real estate property manager's license under the provisions of ORS 696.022(4) who qualifies for a property manager license under OAR 863-15-0045(1)(a) through (e) but fails to complete 863-15-0045(1)(f) because of the unavailability of designated property manager courses may, nonetheless, be issued a real estate property manager's license, provided that the applicant completes the prescribed designated property manager courses prior to July 1, 2003.

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

ADMINISTRATIVE RULES

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 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 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 to 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 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 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.

(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.

(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 or teleconference courses.

(6) **Course Sponsors.** Sponsors of continuing education courses may:

(a) Sponsors of continuing education courses may 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

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 office of the Agency. If a principal real estate broker voluntarily gives the license to the individual named in the license to return the license to the office of the agency 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 office of the agency.

(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 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 office of the agency.

(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 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

ADMINISTRATIVE RULES

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

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 primary place of business 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.

(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

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 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 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 or 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

ADMINISTRATIVE RULES

863-015-0090

Real Estate Professional Corporations

(1) A real estate licensee may engage in professional real estate activity as a registered real estate professional corporation, if:

(a) The real estate professional corporation is for the professional real estate activity of the individual real estate licensee only;

(b) The real estate broker who applies for registration as a real estate professional corporation complies with the licensing requirements for registration as required by ORS 696.026 and the rules adopted thereunder;

(c) In the case of a real estate broker associated with a principal real estate broker, the applicant submits, as part of the application for registration, a written agreement that the applicant will engage in professional real estate activity only as the agent of the principal real estate broker with whom the applicant intends to be associated. The applicant and the principal broker with whom the applicant is associated shall sign the agreement;

(d) The real estate professional corporation for the real estate licensee has been duly created under ORS Chapter 58; and

(2) The existence of a real estate professional corporation shall not change the responsibility of a real estate broker to act only as the agent of the real estate broker or principal real estate broker with whom such real estate broker is associated.

(3) The existence of a real estate professional corporation shall not change the responsibility of the principal real estate broker, as otherwise required by law, to supervise and control the professional real estate activity of a real estate broker who has registered with the principal broker's real estate professional corporation.

(4) A real estate broker who is registered as a real estate professional corporation shall be licensed in the licensee's name, followed by the abbreviation "P.C." A real estate licensee shall not use forms other than "P.C." to designate "Professional Corporation."

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

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 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; and

(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 file a change of business name registration 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.

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

863-015-0100

Branch Office Registration

(1) Before a principal real estate broker or a real estate broker acting as a sole practitioner engages in professional real estate activity from a branch office, the 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, the broker shall provide a statement to the Commissioner in a form acceptable to the Commissioner that the 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

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) "Agency" means the Real Estate Agency.

(2) "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.

(3) "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.

(4) "Commissioner" means the Real Estate Commissioner.

(5) "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 financial institution is required to be open for the normal conduct of its business, but does not include Saturday, Sunday, or any legal holiday.

(6) "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 a individual who is represented by a real estate licensee or can reasonably be assumed from the circumstances to be represented or seeking representation.

(7) "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.

(8) "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.

(9) "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 (11) 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.

(10) "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 (11) of this rule, unless the context requires otherwise.

(11) "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.

(12) "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.

(13) "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

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

ADMINISTRATIVE RULES

(3) All advertising must be done in the principal real estate broker's, sole practitioner'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 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 express 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 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:

(A) On or near the main entrance of the office location, or on a wall or window immediately adjacent to the entrance; or

(B) 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 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.

(f) A licensee entity 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.

(g) Licensees operating Virtual Office Websites shall only display those listings for which they have obtained authorization pursuant to section (6).

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

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

ADMINISTRATIVE RULES

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 real estate broker acting as a sole practitioner 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

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)
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

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 judgement 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 696.301(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

863-015-0185

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 is 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 from 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 clients trust account and credited to the buyer have been collected and are available for disbursement by the broker. The broker may not use any clients trust funds deposited and credited to any other person in making such a disbursement to the buyer.

ADMINISTRATIVE RULES

(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

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 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.

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

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) Complete and adequate records of professional real estate activity, 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) Real estate brokers associated with a principal real estate broker may maintain and store copies of complete and accurate records of professional real estate activity at the main office of the principal real estate broker.

(c) 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, can-

ADMINISTRATIVE RULES

celed checks, client trust account trust 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

863-025-0010

Definitions

In addition to the definitions used in ORS 696.010 and OAR 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

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;

(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; and

(f) The disclosures required pursuant to OAR 863-025-0015(1)(e).

(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 broker's real estate 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 five 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

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.

ADMINISTRATIVE RULES

(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 must appear in the magnetic coding on the bank 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 owners' 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.

(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 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 manager. The 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 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

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 —

ADMINISTRATIVE RULES

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

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 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 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

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 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 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 manager’s clients’ 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

ADMINISTRATIVE RULES

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

.....
**Secretary of State,
Corporation Division
Chapter 160**

Adm. Order No.: CORP 1-2003

Filed with Sec. of State: 3-14-2003

Certified to be Effective: 4-1-03

Notice Publication Date: 4-1-03

Rules Amended: 160-100-0610

Subject: OAR 160-100-0610 describes the sanctions that may be levied on notaries public for official misconduct. The rule is being clarified to specifically address notaries who abuse the notarial act of protest of commercial paper by protesting non-commercial paper and doing it in a manner other than that specified by the statute.

OAR 160-100-0610 is also amended to address notaries public that claim to be citizens of America, primarily fictional places that do not exist in geopolitical atlases.

OAR 160-100-0610 is also amended to address notaries public that seek to reply to official government correspondence from the Secretary of State and other agencies through certain, specific, documents that have no basis in law or proper procedure.

Rules Coordinator: Thomas E. Wrosch—(503) 986-2208

160-100-0610

Conduct Which Constitutes Official Misconduct

As provided in OAR 160-100-0600, the following conduct constitutes official misconduct, as defined in ORS 194.005, for purposes of refusing to issue, revoke or suspend a notary public's commission pursuant to ORS 194.166, assessing a civil penalty against a person pursuant to ORS 194.980, or issuing an official warning to a person pursuant to ORS 194.985:

(1) A person, who is in the business of making or selling official seals, provided an official seal to a person who did not present to such vendor the original Certificate of Authorization issued by the Secretary of State to the person pursuant to ORS 194.010(2). See ORS 194.010(4)(a). Sanction for First Act of Misconduct: Official warning.

(2) A person performed a notarial act within the state of Oregon when the person was not commissioned as a notary public. See ORS 194.012. Sanction for First Act of Misconduct: Refuse to commission. (Class B Misdemeanor)

(3) A notary public used as an official seal an object that was not a stamp, or was a stamp but the stamp was made of a substance that was inca-

pable of making a legible imprint on paper or was incapable of making an imprint that could be legibly reproduced under a photographic method. See ORS 194.031(1). Sanction for First Act of Misconduct: Official warning.

(4) A notary public, who received the notary public's official seal from a vendor of official seals, did not file with the Secretary of State an imprint of the notary public's official seal and the information required by OAR 160-100-0140 within ten days after the date the notary public received the official seal from the vendor. See ORS 194.031(5). Sanction for First Act of Misconduct: Official warning.

(5) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not personally deliver or mail to the Secretary of State a written notice of that fact within ten days after the date the notary public discovered that the notary public's official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable. See ORS 194.031(6) and OAR 160-100-0160(1). Sanction for First Act of Misconduct: Official warning.

(6) A notary public used the notary public's seal embosser in lieu of the notary public's official seal. See ORS 194.031(7) and OAR 160-100-0130(1). Sanction for First Act of Misconduct: Official warning.

(7) A notary public performed a notarial act in another state pursuant to the authority of the notary public's Oregon commission. See ORS 194.043. Sanction for First Act of Misconduct: Official warning.

(8) A notary public did not deliver or mail to the Secretary of State a written notice of change of address within 30 days after the date the notary public changed the notary public's residence or business street or mailing address. See ORS 194.047 and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(9) A notary public performed a notarial act using a new name different than the notary public's name as it appeared on the notary public's written commission. See ORS 194.052(1). Sanction for First Act of Misconduct: Official warning.

(10) A notary public did not deliver or mail to the Secretary of State a written notice of change of name within 30 days after the date the notary public's name changed. See ORS 194.052(2) and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(11) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) but in the certificate did not identify the negotiable instrument protested, certify that due presentment was made or the reason why presentment was excused, or certify that the instrument protested was dishonored by nonacceptance or nonpayment, as required by ORS 73.0505(2). See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(12) A notary public did not keep a record of all certificates of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) issued by the notary public during the term of a commission. See ORS 194.090. Sanction for First Act of Misconduct: Official warning.

(13) A notary public performed an acknowledgment of a document executed by a corporation of which the notary public was a shareholder, director, officer or employee at the time of the notarization when the notary public was a party to the document either in an individual or representative capacity. See ORS 194.100(2)(a). Sanction for First Act of Misconduct: Official warning.

(14) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) that was owned or held for collection by a corporation of which the notary public was a shareholder, director, officer or employee of a corporation at the time of the notarization when the notary public was a party to the negotiable instrument in an individual capacity. See ORS 194.100(2)(b). Sanction for First Act of Misconduct: Official warning.

(15) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) of a non-commercial or other document that does not fit the definition of negotiable instrument as defined in ORS 73.0104. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(16) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) in a manner not in accordance with ORS 73.0505. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(17) A notary public did not provide, keep, maintain or protect a chronological journal of notarial acts performed by the notary public during the term of a commission. See ORS 194.152(1). Sanction for First Act of Misconduct: Official warning.

(18) A notary public whose commission was terminated because of expiration and who did not reapply did not arrange for the storage of his/her notarial records, file a statement with Secretary of State or destroy the

ADMINISTRATIVE RULES

notary public's official seal and official seal embosser, if any. See ORS 194.154 and OAR 160-100-0300. Sanction for First Act of Misconduct: Official warning.

(19) A notary public whose commission terminated because of resignation did not arrange for the storage of his/her notarial records, file a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0320. Sanction for First Act of Misconduct: Official warning.

(20) A notary public whose commission terminated because of revocation did not file his/her notarial records, a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0330. Sanction for First Act of Misconduct: \$500.

(21) A notary public whose commission terminated because of expiration and who filed an application for a new commission within 30 days after the date of termination but was not issued a new commission within 90 days after the date of termination, did not dispose of the notary public's notarial records in accordance with OAR 160-100-0310 within 90 days after the date of termination. See ORS 194.154(3). Sanction for First Act of Misconduct: Official warning.

(22) A notary public notarized a document in which the notary public signed or was named other than as a notary public. See ORS 194.158(1). Sanction for First Act of Misconduct: Official warning.

(23) A notary public endorsed or promoted a product, service, contest or other offering by using the notary public's title or official seal. See ORS 194.158(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(24) A notary public made a representation that the notary public had powers, qualifications, rights or privileges that the notary public did not have. See ORS 194.162(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(25) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement the statement: "I am not licensed to practice law in the state of Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice." This should be written in the same language used in the advertisement and in English and prominently displayed. See ORS 194.162(3)(a) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(26) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement a list of notarial fees specified in OAR 160-100-0410. See ORS 194.162(3)(b) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(27) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not display the statement and list of notarial fees required by ORS 194.162(3) in a conspicuous place in the notary public's place of business. See ORS 194.162(4) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(28) A notary public used the term "notario publico" or a non-English equivalent term in a business card, advertisement, notice, sign or in any other manner which misrepresents the authority of the notary public. See ORS 194.162(5). Sanction for First Act of Misconduct: Official warning.

(29) A notary public who charged a fee for traveling to perform a notarial act did not explain to the person who requested the notarial act that the traveling fee was in addition to the fee to perform the notarial act or was not required by law, or did not obtain in advance the agreement of the person who requested the notarial act to the amount of the traveling fee. See ORS 194.164(2). Sanction for First Act of Misconduct: Official warning.

(30) A notary public, except a notary public who filed with the Secretary of State a statement waiving the right to charge a notary fee, did not comply with the fee display requirements specified in OAR 160-100-0410. See ORS 194.164(3). Sanction for First Act of Misconduct: Official warning.

(31) A notary public failed to maintain the qualifications to be a notary public required under ORS 194.022. See ORS 194.166(1). Sanction for First Act of Misconduct: Revocation of commission.

(32) A notary public purports to be a citizen of a country other than one officially recognized by the United States Department of State. See ORS 194.005(3). Sanction for First Act of Misconduct: Official warning.

(33) A notary public or notary public applicant made a substantial and material misstatement or omission of fact in an application submitted to the Secretary of State. See ORS 194.166(2). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(34) A notary public or notary public applicant was convicted of a felony, or of a lesser offense incompatible with the duties of a notary public. See ORS 194.166(4) and OAR 160-100-0510. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(35) A notary public or a notary public applicant had a professional license that was issued by a governmental entity revoked, suspended, restricted or denied for misconduct, dishonesty or a cause substantially relating to the duties or responsibilities of a notary public. See ORS 194.166(5). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(36) A notary public was judicially determined to be liable for damages in a suit for fraud or misrepresentation or in a suit for failing to discharge fully and faithfully the duties as a notary public. See ORS 194.166(6). Sanction for First Act of Misconduct: Revocation of commission.

(37) A notary public used a false or misleading advertisement in which the notary public represented that the notary public had powers, qualifications, rights or privileges that the office of notary public does not have, including but not limited to the power to counsel on immigration matters. See ORS 194.166(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(38) A notary public engaged in the unauthorized practice of law. See ORS 194.166(8). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(39) A notary public charged a notary fee that was more than the maximum fee specified in OAR 160-100-0400. See ORS 194.166(9). Sanction for First Act of Misconduct: \$500 civil penalty.

(40) A notary public committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another. See ORS 194.166(11). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(41) A notary public executed a notarial certificate that contained a statement known to the notary public to be false. See ORS 194.166(13). Sanction for First Act of Misconduct: \$500 civil penalty.

(42) A notary public used an official seal or official seal embosser that did not conform to ORS 194.031, OAR 160-100-0100 and 160-100-0120 to perform a notarial act. See ORS 194.166(14). Sanction for First Act of Misconduct: Official warning.

(43) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person acknowledging a document as defined in ORS 194.505(1) in the presence of the notary public was the person whose signature was on the document. See ORS 194.515(1). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(44) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person verifying a statement by oath or affirmation as defined in ORS 194.505(3) in the presence of the notary public is the person whose signature was on the statement. See ORS 194.515(2). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(45) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the signature on a document was the signature of the person signing the document in the presence of the notary public and named in the document. See ORS 194.515(3). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(46) A notary public did not determine from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) that the copy of a document presented to the notary public was a complete and correct transcription or reproduction of the document presented. See ORS 194.515(4). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(47) A notary public did not determine or from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) the identity of the negotiable instrument, that presentment was required and made, or that presentment was excused and not made and the reason why presentment was excused, that the instrument was dishonored by nonacceptance or nonpayment, or all or any combination of the above. See ORS 194.515(5). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

ADMINISTRATIVE RULES

(48) A notary public did not evidence a notarial act by issuing a notarial certificate as defined in ORS 194.005(5) containing the signature of the notary public, the title of the notary public, the date the notary public's commission expires, the date the notary public performed the notarial act, the name of the governmental jurisdiction in which the notarial act was performed, the official seal of the notary public, and, if a United States commissioned officer on active duty, then also the notary public's military rank. See ORS 194.565(1). Sanction for First Act of Misconduct: Official warning.

(49) A notary public did not evidence a notarial act by a notarial certificate as defined in ORS 194.005(5) in a form prescribed by a law of the United States or of the State of Oregon or, if not prescribed, then in a form permitted by ORS 194.575 or in a form designed by the notary public that describes the acts of the notary public and such acts meet all of the requisite elements of the notarial act. See ORS 194.565(2). Sanction for First Act of Misconduct: Official warning.

(50) A notary public engaged in any other act or omission involving any act prohibited or mandated by ORS 194.005 to 194.200, 194.505 to 194.595 or any rule adopted by the Secretary of State or any other law governing notarization. See ORS 194.005(8). Sanction for First Act of Misconduct: \$500 civil penalty.

(51) A notary public did not use the notary public's official seal in performing a notarial act. See OAR 160-100-0110(1). Sanction for First Act of Misconduct: Official warning.

(52) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but did not place an imprint of the official seal or official seal embosser on a notarial certificate. See OAR 160-100-0110(2) and 160-100-0130(2). Sanction for First Act of Misconduct: Official warning.

(53) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but placed an imprint of the official seal or official seal embosser over any signature in a document to be notarized or in a notarial certificate or over any writing in a notarial certificate. See OAR 160-100-0110(3) and 160-100-0130(3). Sanction for First Act of Misconduct: Official warning.

(54) A notary public used the notary public's official seal or official seal embosser for a purpose other than to perform a notarial act. See OAR 160-100-0110(5) and 160-100-0130(5). Sanction for First Act of Misconduct: Official warning.

(55) A notary public permitted another person to use the notary public's official seal or official seal embosser. See OAR 160-100-0110(6) or 160-100-0130(6). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(56) A notary public used another notary public's official seal or official seal embosser or an object in lieu of the notary public's official seal or official seal embosser to perform a notarial act. See OAR 160-100-0110(7) and 160-100-0130(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(57) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement, under oath or affirmation within ten days after the date the notary public discovered that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable. See OAR 160-100-0150(1). Sanction for First Act of Misconduct: Official warning.

(58) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement containing the information required by OAR 160-100-0150(2). See OAR 160-100-0150(2). Sanction for First Act of Misconduct: Official warning.

(59) A notary public, who was issued a duplicate Certificate of Authorization pursuant to OAR 160-100-0150 and 160-100-0160, did not file with the Secretary of State an imprint of the notary public's seal and duplicate Certificate of Authorization within ten days after the notary public received the completed duplicate Certificate of Authorization from a vendor of official seals. See OAR 160-100-0150(4) and 160-100-0160(3). Sanction for First Act of Misconduct: Official warning.

(60) A notary public who subsequently reacquired possession of a lost, misplaced, destroyed or otherwise unusable Certificate of Authorization did not file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquired possession of the unusable Certificate of Authorization. See OAR 160-100-0150(5). Sanction for First Act of Misconduct: Official warning.

(61) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not file with the Secretary of State a written statement containing the information required

by OAR 160-100-0160(2). See OAR 160-100-0160(2) Sanction for First Act of Misconduct: Official warning.

(62) A notary public who subsequently reacquired possession of a lost or misplaced official seal did not file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquired possession of the lost or misplaced official seal. See OAR 160-100-0160(4). Sanction for First Act of Misconduct: Official warning.

(63) A notary public used a notarial journal that was not in the form required by OAR 160-100-0200. See OAR 160-100-0200. Sanction for First Act of Misconduct: Official warning.

(64) A notary public did not enter in a notarial journal the information about each notarial act performed by the notary public required by OAR 160-100-0210. See OAR 160-100-0210. Sanction for First Act of Misconduct: Official warning.

(65) A notary public recorded information about multiple notarial acts performed by the notary public in a manner that did not comply with the requirements of OAR 160-100-0220. See OAR 160-100-0220. Sanction for First Act of Misconduct: Official warning.

(66) A notary public used a record of protests that did not contain the information about each certificate of dishonor issued by the notary public required by OAR 160-100-0240. See OAR 160-100-0240. Sanction for First Act of Misconduct: Official warning.

(67) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the notary public's record of protests and any other notarial records relating only to protests of commercial paper in accordance with OAR 160-100-0350 within 30 days after the date of termination. See OAR 160-100-0350(1). Sanction for First Act of Misconduct: Official warning.

(68) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the statement required by OAR 160-100-0350(2) within 30 days after the date of termination. See OAR 160-100-0350(2). Sanction for First Act of Misconduct: Official warning.

(69) A notary public who entered into an agreement with an employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) did not retain a written copy of the agreement or make such available upon request of the Secretary of State. See OAR 160-100-0360. Sanction for First Act of Misconduct: Official warning.

(70) A notary public who was convicted for a felony or lesser offense incompatible with the duties of a notary public did not file a statement with the Secretary of State within 30 days of conviction. See OAR 160-100-0500. Sanction for First Act of Misconduct: \$500 civil penalty.

(71) A notary public who submits the following types of documents to the Secretary of State in reply to correspondence from the Secretary of State or other government agency or seeks to initiate proceedings through the following document types:

(a) Conditional Acceptance, or a similar document purporting to "conditionally accept" presentment of an official document, and demanding proof of a list of claims in order to fully accept the official document.

(b) Affidavit in Support of Conditional Acceptance, or a similar document purporting to attest to the facts of a document described in paragraph (71)(1) and signed by the same notary public who is attesting.

(c) Notice of Dishonor, or a similar document purporting to give notice that a Conditional Acceptance (see paragraph (71)(1)) has not been accepted by the government agency to which it was sent and thereby was dishonored.

(d) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official document sent to the notary public by the Secretary of State or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(e) Notice of Protest, or a similar document purporting to be a Protest of Commercial Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under Oregon Revised Statute Chapter 73 and subject to the laws stated therein regarding dishonor and protest.

(f) Other documents attempting to apply Oregon Revised Statute Chapter 73 to non-negotiable instruments or other documents not included in the scope of said chapter.

(g) Other document type purporting to follow the Uniform Commercial Code (U.C.C.), and not related to an Oregon Revised Statute Ch. 79 filing.

ADMINISTRATIVE RULES

(h) Other document type purporting to be according to Oregon Revised Statute Ch. 79 that does not constitute filing under ORS Ch. 79.0516. See ORS 194.166. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

Stat. Auth.: ORS 194
Stats. Implemented: ORS 194.166 & ORS 194.980
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0610; CORP 1-2003, f. 3-14-03, cert. ef. 4-1-03

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

Adm. Order No.: ELECT 1-2003(Temp)
Filed with Sec. of State: 2-27-2003
Certified to be Effective: 2-27-03 thru 8-24-03
Notice Publication Date:
Rules Amended: 165-022-0020

Subject: The amendment makes several changes to the fee matrix for county voters' pamphlets. Currently, the matrix bases the fee on the number of registered voters in the electoral district. First the amendments will change fees charged to candidates and those persons filing measure arguments when districts cross county lines, so that the fee charged to appear in any county voters' pamphlet is based only on the number of registered voters within that county and zone. Second, if a candidate is elected by zone, the fee will be based only on the number of registered voters in the zone. Finally, the thresholds for each fee are changed, with the size of the electoral district for the highest fee increased from 25,000 to 50,000 active registered voters. Each change to the matrix reduces the fee that would be charged to candidates and those filing measure arguments in those specific circumstances.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-022-0020

Filing Fees for Statements and Arguments

(1) Filing fees or signature petitions for statements and arguments shall be filed with the county clerk at the time of submitting the arguments or statements.

(2) A verified signature petition may be substituted for the appropriate filing fee for measure arguments (ORS 251.355). The petition shall be submitted on forms prescribed by the county clerk.

(3) The filing fees for candidate statements and measure arguments shall be based upon the electoral district's active voter registration as of January 1st of the election year.

(4) The filing fees for shall be: [Table not included. See ED. NOTE.]

(5) Refunds of filing fees shall conform to ORS 251.325(2) and the procedures established by the county clerk.

(6) As used in this rule, "electoral district" means the county, city or district in which the candidate or measure appears on a ballot, or, if a candidate is elected by zone or subdistrict of the county, city or district, the zone or subdistrict in which the candidate is on a ballot.

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

Stat. Auth.: ORS 251
Stats. Implemented: ORS 251.325, ORS 251.335 & ORS 251.355
Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-060-3020; ELECT 1-2002, f. & cert. ef. 2-25-02; ELECT 1-2003(Temp), f. & cert. ef. 2-27-03 thru 8-24-03

**Teacher Standards and Practices Commission
Chapter 584**

Adm. Order No.: TSPC 2-2003(Temp)
Filed with Sec. of State: 3-10-2003
Certified to be Effective: 3-10-03 thru 9-5-03
Notice Publication Date:
Rules Adopted: 584-017-0041

Subject: Grants teachers education institutions authority to determine teaching competency if the required 15 weeks of student teaching cannot be met due to a shortened school year imposed on school districts by budget constraints.

Rules Coordinator: Janet Madland—(503) 373-1060

584-017-0041

Waivers for Student Teaching Requirements

(1) An institution may petition the Executive Director for a temporary waiver of OAR 584-017-0180 in the event candidates for teacher licensure are unable to complete the student teaching timeline requirements due to early school district closure subject to the following requirements:

(a) The Institution must stipulate that criteria have been developed for evaluation of student teacher candidates unable to complete the full 15 weeks;

(b) The school districts where student teachers are placed must be identified;

(c) The number of candidates affected by the early closures is identified; and

(d) The institution agrees to report all the above information within the 2002-2003 annual report.

(2) Institutions acquiring approval for a temporary waiver shall not be considered to have made a minor or major modification to their approved program for the 2002-2003 academic year.

(3) The Executive Director shall provide the Commission with all requested and approved temporary waivers no later than the August 2003 Commission meeting.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.147
Hist: TPSC 2-2003(Temp), f. & cert. ef. 3-10-03 thru 9-5-03

**Water Resources Department
Chapter 690**

Adm. Order No.: WRD 1-2003
Filed with Sec. of State: 3-14-2003
Certified to be Effective: 3-14-03
Notice Publication Date: 11-1-02

Rules Adopted: 690-205-0035, 690-205-0045, 690-205-0055, 690-205-0075, 690-205-0085, 690-205-0095, 690-205-0110, 690-205-0120, 690-240-0200, 690-240-0210, 690-240-0220, 690-240-0240, 690-240-0250, 690-240-0260, 690-240-0270, 690-240-0280
Rules Amended: 690-200-0050, 690-205-0005, 690-205-0020, 690-240-0010, 690-240-0020, 690-240-0035, 690-240-0055, 690-240-0065

Rules Renumbered: 690-205-0030 to 690-205-0145, 690-205-0040 to 690-205-0155, 690-205-0050 to 690-205-0175, 690-205-0060 to 690-205-0185, 690-205-0080 to 690-205-0210, 690-240-0075 to 690-240-0320, 690-240-0080 to 690-240-0330, 690-240-0082 to 690-240-0340, 690-240-0085 to 690-240-0355, 690-240-0110 to 690-240-0420, 690-240-0115 to 690-240-0430, 690-240-0120 to 690-240-0450, 690-240-0130 to 690-240-0475, 690-240-0131 to 690-240-0485, 690-240-0139 to 690-240-0540, 690-240-0145 to 690-240-0550, 690-240-0150 to 690-240-0560, 690-240-0160 to 690-240-0590, 690-240-0165 to 690-240-0600, 690-240-0170 to 690-240-0610

Rules Ren. & Amended: 690-205-0070 to 690-205-0200, 690-240-0090 to 690-240-0375, 690-240-0095 to 690-240-0395, 690-240-0100 to 690-240-0410, 690-240-0118 to 690-240-0440, 690-240-0126 to 690-240-0460, 690-240-0132 to 690-240-0500, 690-240-0135 to 690-240-0510, 690-240-0137 to 690-240-0525, 690-240-0155 to 690-240-0580, 690-240-0175 to 690-240-0630, 690-240-0180 to 690-240-0640

Subject: As part of the Ground Water Act of 1955, the Department is authorized to regulate and license well constructors. (ORS 537.747). Under previous law, after license was issued, a well constructor could simply renew a license by paying a statutorily determined fee.

In 2001, the Legislative Assembly passed Senate Bill 579 (Chapter 496, Oregon Law 2001) establishing a well constructor continuing education program. The bill is codified in ORS 537.765. The goal of the continuing education program is to maintain a high level of competence in well constructors, which in turn helps to ensure wells

ADMINISTRATIVE RULES

are constructed in a manner that protects the ground water resource. Among other modifications, the 2001 legislation:

- Established a Well Constructors Continuing Education Committee to make recommendations to the Water Resources Commission for the continuing education program;
- Directed the Water Resources Commission to adopt rule necessary for the administration of a continuing education program for licensed well constructors; and
- Required continuing education for the renewal of well constructor's license on or after June 30, 2005.

The legislation establishing the well constructor continuing education program sunsets January 2, 2008. The rules adopted by the Water Resources Commission implement the continuing education program established in Senate Bill 579 (Chapter 496, Oregon Laws 2001). Specifically, the rules added necessary definitions and clarify the continuing education requirements, and documentation; course approval and assignment of continuing education credits; course sponsor requirements; and appeal rights and waivers.

Rules Coordinator: Adam Sussman—(503) 378-8455, ext. 297

690-200-0050

Definitions

The Water Resources Commission uses the definitions of the words listed below in the administration and enforcement of Oregon's Ground Water Law and the Rules and Regulations for the Construction and Alteration of Wells. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove a well from service by completely filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing, is effectively and permanently prevented. If a portion of a well is to be abandoned in order to prevent commingling, waste, or loss of artesian pressure, the abandonment shall conform with the requirements of OAR chapter 690, division 220 for water supply wells. This term is synonymous with "decommission."

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Access Port" means a minimum 1/2-inch tapped hole and plug or a 1/2-inch capped pipe welded onto the casing in the upper portion of a water supply well, or a minimum 1/2 inch dedicated probe/transducer pipe to permit entry of water-level measuring devices into the water supply well in order to determine the water level.

(4) "Air Gap" means a complete physical break between the outlet end of the discharge pipe or other conduit and the discharged substance. The break shall be at least twice the inside diameter of the pipe or conduit. (Back-siphon prevention)

(5) "Airline" means a water level measuring device consisting of a pressure gauge attached to an airtight line or pipe of known length, within the water supply well bore, extending from land surface to below the pumping level. The device will allow the water level to be computed by measuring the stable air pressure remaining in the line after completely purging water from within the line.

(6) "Air/Vacuum Relief Valve" means a device to automatically relieve or break vacuum. (Back-siphon prevention)

(7) "Altering a Well" means the deepening, reaming, hydrofracturing, casing, re-casing, perforating, re-perforating, installation of liner pipe, packers, seals, and any other material change in the design or construction of a well.

(8) "Annular Space" means the space between the drillhole wall and the outer well casing.

(9) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature (see Figure 200-2).

(10) "Artesian Aquifer" means a confined aquifer in which ground water is under sufficient head to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface, the well is a flowing artesian well (see Figure 200-2).

(11) "Artesian Water Supply Well" means a water supply well in which ground water is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land sur-

face. If the water level stands above land surface the well is a flowing artesian water supply well.

(12) "Automatic Low-Pressure Drain" means a self-activating device designed and constructed to intercept incidental leakage and drain that portion of an irrigation pipeline or any other method of conveyance whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down. (Back-siphon prevention)

(13) "Back-Siphon Prevention Device" means a safety device used to prevent water pollution or contamination by preventing flow of a mixture of water and/or chemicals in the opposite direction of that intended. (Back-siphon prevention)

(14) "Bored Well" means a well constructed with the use of earth augers turned either by hand or by power equipment.

(15) "Buried Slab Type Well" means a dug well in which well casing is used to case the upper hole. A slab, sealed with cement grout, is placed between the upper hole and lower drillhole, and the remainder of the annulus is filled with concrete.

(16) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of ground water.

(17) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall to prevent the inflow and movement of surface water or shallow ground water in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures.

(18) "Check Valve" means a certified device designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (Back-siphon prevention)

(19) "Chemigation" means the method of applying agricultural chemicals and fertilizer through an irrigation system.

(20) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(21) "Commission" means the Oregon Water Resources Commission.

(22) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(23) "Community Well" means a water supply well, whether publicly or privately owned, which serves or is intended to serve more than three residences or other connections for the purpose of supplying water for drinking, culinary, or household uses.

(24) "Confined Animal Feeding or Holding Area" means the concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, swine, and dairy confinement areas, slaughterhouse or shipping terminal holding pens where the animal waste is allowed to build up on the ground. Pastures and areas adjacent to buildings where animals and animal waste is confined by a physical barrier such as concrete are exempt.

(25) "Confining Formation" means the "impermeable" stratum immediately overlying an artesian (confined) aquifer (see Figure 200-2).

(26) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, such materials as basalt, sandstone, shale, hard claystone, and granite.

(27) "Contamination" means an impairment of water quality by chemicals, radionuclides, biologic organisms or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

(28) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of ground water, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(29) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(30) "Continuing Education Course" means a formal offering of instruction or information to licensees that provides continuing education credits.

(31) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

ADMINISTRATIVE RULES

(32) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(33) "Department" means the Oregon Water Resources Department.

(34) "Director" means the Director of the Department or the Director's authorized representatives.

(35) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(36) "Domestic Well" means a water supply well used to serve no more than three residences for the purpose of supplying water for drinking, culinary, or household uses, and which is not used as a public water supply.

(37) "Drawdown" means the difference in vertical distance between the pumping level and the static water level in a well.

(38) "Drive Point Well" means a well constructed by driving into the ground a well-point fitted to the end of a pipe section or series of pipe sections.

(39) "Dug Well" means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well)

(40) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(41) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(42) "Filter Pack Well" means a well in which the area immediately surrounding the well screen or perforated pipe within the water-producing zone is filled with graded granular material.

(43) "Geologic Formation" means an igneous, sedimentary, or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation."

(44) "Geologist" means an individual registered by the State of Oregon to practice geology.

(45) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are not monitoring wells as defined below. Various classes and examples of geotechnical holes are listed in 690-240-0035(6) - (9).

(46) "Grout" means approved cement, concrete, or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(47) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(48) "Hand dug well" means a well in which the borehole is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well)

(49) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(50) "Hazardous Waste" means a substance as defined by ORS 466.005.

(51) "Hazardous Waste Disposal Site" means a geographical site in which or upon which hazardous waste is disposed.

(52) "Hazardous Waste Storage Site" means the geographical site upon which hazardous waste is stored.

(53) "Hazardous Waste Treatment Site" means the geographical site upon which or a facility in which hazardous waste is treated.

(54) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include but are not limited to, naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(55) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a water supply well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for

which no surface seal was required. A well in which the casing seal, sanitary seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(56) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(57) "Hydrofracturing" means the use of high pressure liquid, sand, packers or other material to open or widen fractures in consolidated formations for the purpose of increasing well yield.

(58) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(59) "Impermeable Sealing Material" means cement, concrete, or bentonite which is used to fill the open annulus between the lower and upper sealing intervals.

(60) "Inspection Port" means an orifice or other viewing device from which the low-pressure drain and check valve may be observed.

(61) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(62) "Leakage" means movement of surface and/or subsurface water around the well casing or seal.

(63) "Liner Pipe" means the inner tubing, pipe, or conduit installed inside the well casing or lower well bore. The liner pipe is used to protect against caving formations and is not permanently affixed to the drillhole wall or casing.

(64) "Lower Drillhole" means that part of the well bore extending below the surface seal interval in a well.

(65) "Mineralized Water" means any naturally occurring ground water containing an amount of dissolved chemical constituents limiting the beneficial uses to which the water may be applied.

(66) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of ground water.

(67) "Municipal or Quasi-Municipal Well" means a water supply well owned by a municipality or nonprofit corporation that may be used as a community or public water supply.

(68) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(69) "Other Hole" means a hole other than a water supply well, a monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials, through which ground water can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Other holes are regulated under OAR 690-240. Examples of other holes are listed in 690-240-0030.

(70) "Perched Ground Water" means ground water held above the regional or main water table by a less permeable underlying earth or rock material (see Figure 200-2).

(71) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(72) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(73) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(74) "Piezometer" means a type of monitoring well designed solely to obtain ground water levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with "observation well." (See OAR 690-240)

(75) "Pitless Adaptor" means a commercially manufactured unit or device designed for attachment to one or more openings through a well casing, which will permit water service pipes to pass through the wall of a well casing or extension thereof and prevent entrance of contaminants into the well or ground water.

(76) "Pitless Unit" means a commercially manufactured unit extending the upper terminal of the well casing to above land surface, constructed and installed so as to prevent the entrance of contaminants into the well and to protect the ground water supply, conduct water from the well, and provide full access to the well and water system parts therein.

(77) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(78) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof

ADMINISTRATIVE RULES

will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(79) "Potentiometric Surface" means the level to which water will rise in tightly cased artesian wells (see Figure 200-2).

(80) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(81) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(82) "Public-at-Large" means a person not actively engaged in the well industry.

(83) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such a system has more than three service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by ten or more individuals per day or is a facility licensed by the Oregon Health Division.

(84) "Public Well" means a water supply well, whether publicly or privately owned, other than a municipal well, where water is provided for or is available through the single user for public consumption. This includes, but is not limited to, a school, a farm labor camp, an industrial establishment, a recreational facility, a restaurant, a motel, or a group care home.

(85) "Pumping Level" means the level of the water surface in a well while it is being pumped or bailed.

(86) "Pump Test" means the procedure involving pumping water for a specified period of time to determine the yield characteristics of an aquifer.

(87) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(88) "Remediation Well" means a well used for extracting contaminants and/or contaminated ground water from an aquifer. This term is synonymous with "extraction well" and "recovery well."

(89) "Respondent" means the person against whom an enforcement action is taken.

(90) "Responsible Party" means the person or agency that is in charge of construction or maintenance and is either in violation as specified in a notice of violation or who may benefit from that violation.

(91) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(92) "Revoke" means termination of a well constructor's license.

(93) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(94) "Sanitary Seal" means a tight fitting properly sized threaded, welded, or gasketed cap placed on the top of the permanent well casing to prevent entry of water and foreign material.

(95) "Sealant": See Grout

(96) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.005 mm in diameter.

(97) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(98) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(99) "Stratum" means a bed or layer of a formation that consists throughout of approximately the same type of consolidated or unconsolidated material.

(100) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which ground water is sought or encountered.

(101) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(102) "System Interlock" means an interlocking mechanism used to link irrigation pumps and chemical injection units, other pumps, or supply tanks so designed that in the event of irrigation pump malfunction or failure, shutdown of the chemical injection units will occur. (Back-siphon prevention)

(103) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(104) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(105) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or ground water point source used for the emplacement or discharge of fluids.

(106) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(107) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(108) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground or surface water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(109) "Water Supply Well Constructor" means any person who has a current, effective water supply well constructor license issued in accordance with ORS 537.747(3).

(110) "Water Supply Well Drilling Machine" means any power-driven driving, jetting, percussion, rotary, boring, digging, augering machine, or other equipment used in the construction or alteration of water supply wells.

(111) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body (see Figure 200-2).

(112) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

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

Stat. Auth.: ORS 536.027, ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 9, f. & ef. 12-9-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 12-1982, f. & ef. 12-14-82; Renumbered from 690-060-0050 & 690-064-0000 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 21-1990, f. & cert. ef. 12-14-90; WRD 1-1991, f. & cert. ef. 2-8-91; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0005

License or Permit Required to Construct Water Supply Wells

(1) Unless otherwise provided in these rules, any person who constructs, alters or abandons water supply wells for another person shall have a Water Supply Well Constructor license or work under the supervision of a licensed Water Supply Well Constructor.

(2) If a person advertises services and/or enters into contracts for the construction, alteration or abandonment of water supply wells for another person, that person shall furnish a \$4,000 Water Supply Well Constructor Bond or Irrevocable Letter of Credit to the Water Resources Commission and must be a licensed water supply well constructor. This bond or letter of credit is separate from the bond or letter of credit required for construction of monitoring wells.

(3) A property owner who constructs, alters, or abandons a water supply well on their own property shall have a Landowner Well Permit as described in OAR 690-205-0175 for each water supply well on which work is done.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0020

Water Well Constructor License, Experience Requirements and Trainee Card

(1) License. To qualify for a Water Supply Well Constructor License, a person shall:

(a) Be at least 18 years old;

(b) Pass a written examination;

ADMINISTRATIVE RULES

(c) Have a minimum of one year experience (52 weeks), during the previous 36 month period, in water supply well construction, conversion, alteration, or abandonment. This experience shall include the operation of well drilling machinery for water supply well construction, alteration, conversion, or abandonment on a minimum of fifteen water supply wells or a demonstration of equivalent experience in the operation of well drilling machinery. The following are acceptable as evidence of experience:

(A) Water supply well reports, or rough well logs with applicants' name entered, for each of the 15 wells. The name, address, and telephone number of the person responsible for the construction of each well shall be included on each report or log.

(B) Income tax returns showing source of drilling income for a period of time, or worker's compensation account information or the equivalent may be established to satisfy the 52 weeks of active construction requirement.

(C) Any other evidence the Director may deem suitable.

(D) A license held in another state shall not substitute for required evidence of experience.

(d) Pay a license fee.

(2) Trainee. If an applicant passes the written water supply well constructor examination, but cannot meet the experience requirement, the Commission may issue a trainee card. To qualify for a water supply well constructor trainee card, a person must:

(a) Be at least 18 years old;

(b) Pass a written examination; and

(c) Be supervised by a person who holds a Water Supply Well Constructor License.

(3) A trainee card is valid for three (3) years from the date the exam was passed.

(4) Supervision as it relates to any person who holds a Water Well Constructor Trainee Card:

(a) A trainee may operate a cable tool drilling machine without a licensed water supply well constructor physically present at the well site only if:

(A) The licensed constructor can reach the well site within two hours if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(b) A licensed constructor must physically be on the site at all times when a cable tool drilling machine is:

(A) Drilling within a flowing artesian well;

(B) Setting or advancing casing;

(C) Setting liner;

(D) Perforating casing;

(E) Setting well screens;

(F) Placing packers;

(G) Placing casing seals;

(c) A trainee may operate a non-cable tool water supply well drilling machine without a licensed water supply well constructor physically present at the well site only during the following events:

(A) Air test or pump test of the well;

(B) Gravel packing operations;

(C) Developing a completed well;

(D) Removal of the drill stem from the well.

(d) Activities under subsection (4)(c)(A)-(D) of this rule shall proceed only if:

(A) The licensed constructor can reach the site within one hour if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(e) An authorized representative of the Department in whose jurisdiction the water supply well is being constructed has the authority to:

(A) Grant an extension to the time limits stated above when a request, showing good cause, is received from the bonded constructor in advance for each particular well; and

(B) Place additional restrictions on the trainee, including requiring the constructor to be on the site at all times while the drilling machine is operating, when the authorized Department representative determines that either the drilling environment or the knowledge and/or experience of the trainee warrant closer supervision.

(f) For a trainee to operate a water supply well drilling machine without a licensed water supply well constructor present, the trainee's card must be endorsed with the name of the bonded water supply well constructor responsible for the construction of the water supply well.

(5) Other supervision requirements for persons not licensed or permitted to construct water supply wells, or who do not hold a water supply well trainee card:

(a) Persons who are in the act of constructing, altering, converting or abandoning water supply wells must be supervised by a licensed Water Supply Well Constructor who is physically present at the well site at all times during construction, alteration, conversion, or abandonment activity.

(b) The supervising Water Supply Well Constructor is responsible for all applicable statutes and rules in construction, alteration, conversion, or abandonment of the water supply well.

(6) Persons who satisfy all requirements of ORS 537.747(3) shall be issued a Water Supply Well Constructor's License. The responsibilities for issuing and securing a Water Supply Well Constructor License or trainee card are listed in subsections (a) and (b) of this section.

(a) The water supply well constructor license applicant is responsible for:

(A) Completing an application or renewal form for a new or renewed license or trainee card;

(B) Submitting the application or renewal form to the Water Resources Department along with the required fees;

(C) Carrying the license or trainee card whenever constructing, altering, converting, or abandoning any water supply well; and

(D) Providing the Water Resources Department, within 30 days, notification of any change of mailing address.

(E) Providing the Water Resources Department documentation satisfying the continuing education requirements set forth in OAR 690-205-0035 through 690-205-0120.

(b) The Water Resources Department is responsible for:

(A) Designing and providing Water Supply Well Constructor license(s) and trainee cards;

(B) Designing and providing application forms and renewal forms for licenses and application forms for trainee cards;

(C) Processing applications and renewals for licenses and applications for trainee cards;

(D) Returning incomplete application and renewal forms to applicants for completion; and

(E) Sending new and renewed licenses to applicants who have completed the application or renewal form and submitted the required fee. This does not preclude refusal to renew as outlined in OAR 690-205-0025(4).

(7) Bonded water supply well constructor. For a person to possess a bonded Water Supply Well Constructor's License, the person must provide to the Department a properly executed water supply well constructor's bond or irrevocable letter of credit. The Water Resources Department shall indicate on the constructor's license a bonded classification.

(8) Representatives of the Water Resources Department may ask anyone constructing, altering, or abandoning a water supply well to present their license or trainee card as proof of eligibility to construct, alter, convert, or abandon water supply wells in the State of Oregon. Licensed individuals shall display their license or trainee card and photo identification when they are requested to do so by Water Resources Department personnel.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0035

Continuing Education Committee

A Continuing Education Program and Continuing Education Committee are established under chapter 496, Oregon Laws 2001 (ORS 537.765). The duties of the Well Constructors Continuing Education Committee are to review and approve continuing education courses and assign continuing education credits.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0045

Continuing Education Requirement

(1) As of June 30, 2005, each individual licensed under ORS 537.747 is required to obtain a minimum of 14 continuing education credits (CECs) during each licensing period regardless of the number of licenses or endorsements held. Continuing education credits may be obtained through clinics, schools, professional organizations, seminars, lectures or other continuing education courses that relate to the practice of well construction and are approved by the Continuing Education Committee.

ADMINISTRATIVE RULES

(2) A minimum of two (2) CECs shall pertain to ground water and well construction statutes under ORS 537.505 to 537.795 and 537.992, and administrative rules under OAR 690-200 through 690-240 during each licensing period.

(3) A maximum of eight (8) CECs may be obtained through approved safety/first aid/CPR/Hazardous Materials courses during each licensing period. Of the eight (8) CECs, a maximum of four (4) CECs may be obtained through Hazardous Materials training courses and a maximum of four (4) CECs may be obtained through safety/first aid/CPR courses.

(4) Exhibitions shall count as one (1) CEC per approved exhibition attended and shall not exceed two (2) CECs per licensing period.

(5) Licensees may count approved CECs accumulated after January 1, 2002, for their first license renewal that requires CECs.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0055

Documentation

(1) Each licensee is responsible for maintaining their own continuing education records. Except as provided in OAR 690-205-0110(2), each licensee shall provide the Department with evidence of compliance with the continuing education requirement on a form approved by the Continuing Education Committee prior to or at the time of license renewal.

(2) Licensees who do not provide documentation of completion of the continuing education requirement or receive a waiver shall not have their license(s), or appropriate endorsement(s), renewed until this requirement is satisfied.

(3) Licensees who provide documentation of completion of the continuing education requirement within the 12 months after their license or endorsement expires may either pay the \$100 late penalty fee or requalify for a new water supply well constructor license or endorsement in accordance with ORS 537.747(3). If a licensee fails to provide documentation of completion of the continuing education requirement within 12 months after expiration of their license or endorsement the person must comply with the requirements of ORS 537.747(3) for a new water supply well constructor license or endorsement.

(4) CECs acquired during a renewal period in excess of the minimum CECs required may not be applied to future licensing periods.

(5) When an individual obtains a new water supply well constructor license that expires within 14 months or less, the continuing education requirement shall be prorated such that only seven (7) CECs are required at the first renewal. Of the seven (7) required CECs:

(a) A maximum of two (2) CECs may be in Hazardous Materials training;

(b) A maximum of two (2) CECs may be in safety/first aid/CPR; and

(c) A minimum of one (1) CEC shall pertain to ground water and well construction statutes under ORS 537.505 to 537.795 and 537.992, and administrative rules under OAR 690-200 through 690-240.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0075

Approved Course List/Course Approval and Assignment of CECs

(1) The Department shall maintain a Continuing Education Committee-approved list of courses. The list shall include, but not be limited to, the course title, class location and date, cost, (if applicable), and CECs assigned.

(2) The Continuing Education Committee shall evaluate all courses related to continuing education for well constructors and may assign CECs. The Continuing Education Committee shall notify the course sponsor in writing of the results of their evaluation of the course material. The following criteria may be utilized to evaluate and assign CECs:

(a) Course agenda and how well the subject relates to water well construction and other borings regulated by the Department;

(b) Instructor qualifications;

(c) Subject difficulty;

(d) Student course evaluations, if applicable; and

(e) Other information as appropriate.

(3) A licensee who is also the instructor of an approved continuing education course shall be entitled to double CECs for that course. A licensee who is also the instructor of an approved course, shall receive CECs for the course once during a single renewal period, regardless of the number of times a course is presented.

(4) The following courses do not require pre-approval by the Continuing Education Committee:

(a) First Aid and CPR, provided the instructor is certified by the American Red Cross, or has certification accepted by the American Red Cross;

(b) Occupational Safety and Health Administration (OSHA) approved Hazardous Materials Training; and

(c) OSHA approved courses pertaining to the well construction industry.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0085

Course Sponsor Requirements

(1) Course sponsors shall submit a completed application for approval to the Continuing Education Committee on a form(s) provided by the Department at least 45 days prior to the date the course is to be presented. Approved sponsors shall:

(a) Advertise the course to the satisfaction of the Continuing Education Committee;

(b) Provide the Department with a certified class roster within 30 days after completion of the course;

(c) Provide documentation of completion to each qualifying attendee that shall include at a minimum: course title, course date(s), number of approved credits, and instructor and/or sponsor signature; and

(d) Maintain the certified class roster for two years.

(2) All clinics, courses, classes, workshops, and seminars shall be open to anyone who wants to attend. This does not preclude a sponsor from imposing reasonable requirements for attendance such as fees, maximum occupancy limits, and requiring attendees to provide their own safety equipment.

(3) Course approval and assigned CECs shall be effective for two years as long as the course remains the same. The Continuing Education Committee shall be notified in writing by the course sponsor, 45 days in advance of each time an approved continuing education course is presented. Such notification shall include the course title, date, class location, cost (if applicable), number of credits assigned, and a statement that the program has not changed from the course previously approved by the Continuing Education Committee.

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

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0095

Loss of Approval

The Continuing Education Committee may withdraw or suspend approval of a course if it is determined that any of the following has occurred:

(1) The course content has changed without notice to the Continuing Education Committee;

(2) The course was not advertised to the satisfaction of the Continuing Education Committee;

(3) Documentation of completion has been issued to an individual who did not attend or complete the course in accordance with the provisions under which the course was approved;

(4) Documentation of completion was not given to all individuals who satisfactorily completed the course in accordance with the provisions under which the course was approved;

(5) A certified class roster was not maintained by the sponsor for two years;

(6) Fraud or misrepresentation has occurred with the application for course approval, maintenance of records, teaching method, course content, or issuance of certificates for a course; or

(7) Any other factor the Continuing Education Committee deems appropriate.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0110

Courses Taken Without Prior Approval

(1) Except as provided in OAR 690-240-0210(5), a licensee may request that the Continuing Education Committee assign CECs for courses taken without prior approval within the current licensing period.

(2) The licensee shall supply verification of attendance, a course outline, and a written explanation as to why prior approval was not obtained. This information must be received in the Salem office of the Department no

ADMINISTRATIVE RULES

later than May 15 of the year that their license or appropriate endorsement expires.

(3) Courses taken without prior approval shall be evaluated by the Continuing Education Committee on a case-by-case basis using the criteria outlined in OAR 690-205-0075(2). This shall not apply to courses that do not require pre-approval under OAR 690-205-0075(4).

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0120

Waivers

(1) The Director may waive the continuing education requirements for a licensed water supply well constructor upon written request demonstrating inability to attend continuing education courses because of health, military duty or other circumstances beyond the control of the constructor.

(2) Licensees who are denied a waiver may appeal to the Commission by filing a written exception with the Department within 60 days of service of the Director's order.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-205-0145

Contracting for Services

Only Oregon licensed and bonded water supply well constructors may advertise services or enter into a contract, either written or oral, to construct, alter, convert, or abandon a water supply well. Any written bid for a project which includes the construction, alteration, conversion, or abandonment of a water supply well must provide:

(1) A bid or estimate for the work associated with water supply well construction signed by a water supply well constructor, who is licensed and bonded in the State of Oregon; and

(2) A statement by the licensed and bonded water supply well constructor that the work will be completed in accordance with Oregon Ground Water Law (ORS Chapter 537) and the Rules and Regulations for the Construction, Maintenance, and Abandonment of Water Supply Wells in Oregon (OAR chapter 690, divisions 200 - 230).

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0030

690-205-0155

Water Supply Well Constructor and Landowner Well Bonds or Letters of Credit

(1) The Water Resources Commission shall only accept bonds from corporations licensed by the Oregon Department of Insurance and Finance to issue fidelity and surety insurance. The Water Resources Department shall only accept irrevocable letters of credit from a bank as described in ORS 706.008.

(2) If the issuing corporation cancels a bond, the corporation shall provide notice of cancellation to the Water Resources Department by registered or certified mail. If the issuing bank cancels a letter of credit, the bank shall provide notice of cancellation to the Water Resources Department by registered or certified mail. The cancellation shall not take effect earlier than the 30th day after the date of mailing in accordance with ORS 742.366(2).

(3) When issuing a final enforcement order that may place a bond or irrevocable letter of credit in jeopardy, the Director may mail a copy of the order to the address of record of the surety company issuing the bond, or the bank issuing the irrevocable letter of credit.

(4) All water supply wells shall be constructed under a bond or irrevocable letter of credit. The bond or letter of credit shall cover construction, alteration, conversion, or abandonment for each well under that bond or letter of credit for a period of three years after the date the well report is filed with the commission, whether or not the bond or letter of credit has been subsequently canceled.

(5) Water supply wells and monitoring wells are covered under separate bonds.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0024; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0040

690-205-0175

Landowner Well Construction Permit, Fee and Bond

(1) The Water Resources Commission requires a permit, permit fee, and bond or irrevocable letter of credit, for each water supply well constructed, altered, converted, or abandoned by a landowner, unless the landowner is a licensed and bonded water supply well constructor. The landowner permit and bond must be obtained prior to beginning work on a well.

(2) To receive a Landowner Well permit, a person must submit the following to the Director:

(a) A completed application form provided by the Commission, containing:

- (A) The property owner's name, address and telephone number;
- (B) The surety company's name, address and telephone number;
- (C) The proposed location of the well by township, range, section, tax-lot number if assigned, and street address;
- (D) The proposed use of the water supply well; and
- (E) The type of proposed work; and
- (F) Well design plan on form approved by the Department.

(b) A properly executed landowner's water supply well bond or irrevocable letter of credit for \$2000 to the State of Oregon; and

(c) A \$25 permit fee.

(3) Only the owner of record, a member of the immediate family of the owner of record, or a full time employee of the owner of record, (whose main duties are other than the construction of wells), may operate a well drilling machine under a landowner's permit.

(4) A landowner permit issued pursuant to these rules shall expire six months from the date of issuance.

(a) A water well report shall be submitted within 30 days of expiration of the landowner permit, or within 30 days of completion of the well, whichever occurs first.

(5) If the landowner permit expires, a landowner may reapply for a new landowner permit by complying with the requirements described in sections (1), (2) and (3) of this rule.

(6) The Department may deny a landowner permit if it is determined that the construction, alteration, abandonment, or conversion of the proposed well is a health threat, a health hazard, a source of contamination, or a source of waste of the ground water resource.

Stat. Auth.: ORS 183, ORS 536, ORS 537 & ORS 540
Stats. Implemented: ORS 183, ORS 536, ORS 537 & ORS 540
Hist.: WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0026; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0050

690-205-0185

Water Supply Well Drilling Machines

(1) All water supply well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded water supply well constructor's license number, the name of the bonded water supply well constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the vehicle. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded water supply well constructor shall be removed from the drilling machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0030 & 690-060-0035; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0060

690-205-0200

Water Supply Well Construction Notice Required (Start Card)

(1) Each bonded water supply well constructor licensed to operate in the State of Oregon and each landowner holding a landowner's permit shall provide notice as required in ORS 537.762 before commencing the construction, alteration, or abandonment of any water supply well or conversion of any monitoring well, geotechnical hole, or other hole to a water supply well. The start card shall contain the following information:

- (a) Name and mailing address of the landowner;
- (b) Street address of the well;
- (c) The approximate location of the water supply well; and

ADMINISTRATIVE RULES

(d) The proposed depth, diameter, and purpose or use if the well is new, altered, or converted.

(2) All start cards for new water supply wells or conversion of monitoring wells, geotechnical holes, or other holes by a licensed and bonded water supply well constructor shall be submitted with a \$75 start card fee. OAR 690-205-0175 shall apply to landowners who construct, alter, convert, or abandon a water supply well.

(3) Forms for making these reports and submitting fees shall be furnished by the Water Resources Department.

(4) Each start card shall be mailed, hand-delivered during regular business hours or transmitted by Department-approved electronic submittal to the Water Resources Department in Salem no later than the day construction, conversion, alteration, or abandonment is commenced.

(a) Start cards submitted electronically shall be submitted before commencing construction, alteration, conversion or abandonment of any water supply well.

(5) In addition to the start card required under (4) of this rule, the constructor shall provide a legible copy of the start card to the Oregon Water Resources Department (OWRD) region office within which the water supply well is being constructed, altered, converted, or abandoned before commencing the construction, alteration, conversion or abandonment of any water supply well, using one of the following options:

(a) By regular mail no later than three (3) calendar days (72 hours) prior to commencement of work; or

(b) By hand delivery, during regular office hours, before commencing the construction, alteration, conversion or abandonment of any water supply well or

(c) By facsimile transmission (FAX) before commencing the construction, alteration, conversion or abandonment of any water supply well. If this method is used, a legible copy of the start card shall also be mailed, or delivered to the appropriate OWRD region office no later than the day work is commenced.

(d) Start cards submitted electronically under Section (4)(a) of this rule have satisfied the notification requirement to the OWRD region office.

(6) If a start card has been filed under section (4) and (5) of this rule and additional wells are required on the same or contiguous tax lot and for the same landowner, then start cards for the additional wells shall be filed no later than the day work begins.

(7) The Director or region office may provide an alternative means of notification. If an alternative means of notification is used, the start card shall be mailed or delivered to the region office within one week of beginning work on the water supply well. A water supply well constructor whose license has been restricted by order shall provide notice as stipulated in the order.

(8) Once received by the Department, the start card shall be confidential for a period of one year after it is received or until the water supply well report required by OAR 690-205-0210 is received, whichever is shorter.

(9) The start card may be used in an administrative enforcement action at any time, including the period of confidentiality. Once the start card is used for enforcement reasons, it is no longer confidential.

NOTE: WRD region office fax numbers are listed in Table 205-1. Region boundaries are shown in Figure 205-1.

[ED. NOTE: Tables and Figures referenced are available from the agency.]

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0035; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-1989(Temp), f. & cert. ef. 9-29-89; WRD 10-1989, f. & cert. ef. 11-20-89; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0070

690-205-0210

Well Report Required (Water Supply Well Log)

(1) A water well report (water well log) shall be prepared for each water supply well constructed, altered, converted, or abandoned. This requirement includes unsuccessful wells and wells exempt from appropriation permit requirements under ORS 537.545. The log shall be certified as correct by signature of the water supply well constructor constructing the water supply well. The completed log shall also be certified by the bonded water supply well constructor responsible for construction of the well. A water well report must be submitted by each bonded constructor (if drilling responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the

water supply well constructor, and the second copy shall be given to the customer who contracted for the construction of the water supply well.

(3) The bonded water supply well constructor shall file the water well log with the Director within 30 days after the completion of the construction, alteration, conversion or abandonment of the water supply well.

(4) The trainee or water supply well constructor operating the water supply well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the water supply well. This log shall be available for inspection by the Watermaster, or other authorized agent of the Water Resources Department at any time before the water well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a water supply well, this fact shall be entered on the water well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the water supply well report.

(7) The report of water well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

(a) Name and Address of Landowner;

(b) Started/Completed date;

(c) Location of the well by county, township, range, section, tax lot number if assigned, street address and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);

(d) Start card number;

(e) Well identification label number (well tag number);

(f) Use of well;

(g) Type of work;

(h) Temperature of water; and

(i) Such additional information as required by the Department.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0040; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0080

690-240-0010

Definitions

The following definitions apply to terms as used in monitoring well, geotechnical hole and other hole rules, OAR 690-240-0005 to 690-240-0640. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove all or any portion of a monitoring well from service by filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing is effectively and permanently prevented. This term is synonymous with "decommission".

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Altering a Well" means the deepening, installation of seals, adding, removing or replacing casing, and any other material change in the design or construction of a well.

(4) "Annular Space" means the space between the drillhole wall and the outer well casing.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature. (Figure 240-1)

(6) "Area of Known or Reasonably Suspected Contamination" means a site that is currently under investigation by the Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, or other state or federal agency for the presence of contaminants, or a site where a prudent person would suspect contamination after conducting an appropriate inquiry consistent with good commercial or customary practice as to the nature of the property.

(7) "Artesian Aquifer" means a confined aquifer in which ground water is under sufficient head to rise above the level at which it was first encountered whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian well. (Figure 240-1)

(8) "Artesian Monitoring Well" means a monitoring well in which ground water is under sufficient pressure to rise above the level at which it

ADMINISTRATIVE RULES

was first encountered, whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian monitoring well.

(9) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of ground water.

(10) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall, above the filter pack seal, to prevent the inflow and movement of surface water or shallow ground water in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures.

(11) "Civil Engineer" means an individual registered by the State of Oregon to practice civil engineering.

(12) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(13) "Commission" means the Oregon Water Resources Commission.

(14) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(15) "Confining Formation" means the "impermeable" stratum immediately overlying an artesian (confined) aquifer. (Figure 240-1)

(16) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, materials such as basalt, sandstone, shale, hard claystone, and granite.

(17) "Contamination" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in ground water or that occurs naturally but at a lower concentration.

(18) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of ground water, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(19) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(20) "Continuing Education Course" means a formal offering of instruction or information to licensees that provides continuing education credits.

(21) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(22) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(23) "Department" means the Oregon Water Resources Department.

(24) "Director" means the Director of the Department or the Director's authorized representatives.

(25) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(26) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(27) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(28) "Filter Pack" means the granular material placed in the annular space between the well screen and the borehole.

(29) "Filter Pack Seal" means the fine grained sand or dry bentonite which is placed in the annulus above the filter pack and prevents grout infiltration into the filter pack.

(30) "Geologic Formation" means an igneous, sedimentary or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation".

(31) "Geologist" means an individual registered by the State of Oregon to practice geology.

(32) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are

not monitoring wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6) - (9).

(33) "Grout" means approved cement, concrete or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(34) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(35) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(36) "Hazardous Waste" means a substance as defined by ORS 466.005.

(37) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include, but are not limited to naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(38) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a monitoring well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, filter pack seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(39) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(40) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(41) "Impermeable Sealing Material" means cement or bentonite which is used to fill the open annulus.

(42) "Leakage" means movement of surface and/or subsurface water around the well casing or seal.

(43) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of ground water.

(44) "Monitoring Well Constructor" means any person who has a current, effective monitoring well constructor license issued in accordance with ORS 537.747(3).

(45) "Monitoring Well Drilling Machine" means any driving, jetting, percussion, rotary, boring, auguring, or other equipment used in the construction, alteration, or abandonment of monitoring wells.

(46) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(47) "Other Hole" means a hole other than a water supply well, monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials through which ground water can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Examples of other holes are listed in OAR 690-240-0030.

(48) "Perched Ground Water" means ground water held above the regional or main water table by a less permeable underlying earth or rock material. (Figure 240-1)

(49) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(50) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(51) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(52) "Piezometer" means a type of monitoring well designed to obtain ground water levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with observation well.

ADMINISTRATIVE RULES

(53) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(54) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(55) "Potentiometric Surface" means the level to which water will rise in tightly cased wells. (Figure 240-1)

(56) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(57) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(58) "Public-at-Large" means a person not actively engaged in the well industry.

(59) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(60) "Remediation Well" means a well used for extracting contaminated ground water from an aquifer. This term is synonymous with "extraction well" and "recovery well".

(61) "Respondent" means the person against whom an enforcement action is taken.

(62) "Responsible Party" means the person or agency that is in charge of construction or maintenance, or the landowner of record and is either in violation as specified in a notice of violation or who may benefit from that violation.

(63) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(64) "Revoke" means termination of a well constructor's license.

(65) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(66) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.002 mm in diameter.

(67) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(68) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(69) "Stratum" means a bed or layer of a formation that consists throughout of approximately the same type of consolidated or unconsolidated material.

(70) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(71) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(72) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(73) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(74) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(75) "Water Supply Well Constructor" means any person who has a current, effective water supply well constructor license issued in accordance with ORS 537.747(3).

(76) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body. (See Figure 240-1)

(77) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or

exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

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

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0020

Delegation Conditions

In order for the Director to delegate responsibility for monitoring wells, geotechnical holes and other holes to another agency, construction, operation or use, maintenance, and abandonment standards developed by that agency pursuant to OAR 690-240-0015 shall include, but not be limited to, provisions to address the following factors:

(1) Reporting well or hole location.

(2) Reporting intended use of the well or hole.

(3) Reporting well or hole design or construction.

(4) Assigning responsibility for compliance.

(5) Protecting ground water through minimum standards for the construction, operation or use, maintenance, and abandonment of the monitoring well, geotechnical hole or other hole that provide ground water protection equivalent to that provided by OAR 690-240-0005 to 690-240-0540.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0035

Geotechnical Holes: General Performance and Responsibility Requirements

(1) Excavations that are dug to evaluate subsurface data are geotechnical holes. Geotechnical holes may be either cased or uncased and are constructed to evaluate subsurface data or information (geologic, hydrogeologic, chemical, or other physical characteristics). Geotechnical holes are not "wells" because their construction and/or duration of use are different than wells and therefore are not subject to the same requirements as wells. Geotechnical holes are broken into the following classifications:

(a) Temporary (abandoned within 72 hours) geotechnical holes;

(b) Cased permanent geotechnical holes;

(c) Uncased permanent geotechnical holes; or

(d) Slope stability geotechnical holes.

(2) A geotechnical hole report, signed by the responsible professional, must be submitted to the department if any of the criteria listed in subsections (a) through (d) below is met. The geotechnical hole is:

(a) Greater than 18 feet deep; or

(b) Within 50 feet of a water supply or monitoring well; or

(c) Used to make a determination of water quality; or

(d) Constructed in an area of known or reasonably suspected contamination.

(3) Geotechnical holes greater than ten feet in depth and less than eighteen feet in depth that do not meet any of the criteria spelled out in OAR 690-240-0035(2) shall have a professional person as described in OAR 690-240-0035(4)(c) responsible for the construction and abandonment of the geotechnical hole but do not require a 'Geotechnical Hole Report' to be filed.

(4)(a) Although enforcement actions may be exercised against other parties, the landowner of the property where the geotechnical hole is constructed is ultimately responsible for the condition, use, maintenance, and abandonment of the geotechnical hole;

(b) Conversion of a geotechnical hole to a water supply or monitoring well shall be considered by the Water Resources Department on a case by case basis;

(c) When a geotechnical hole report is required, or if it is between 10' and 18', any person (professional) who is responsible for the construction, alteration or abandonment of a geotechnical hole shall have one of the following certifications:

(A) A current Oregon Monitoring Well Constructor License;

(B) A current Oregon Water Supply Well Constructor License;

(C) Be registered by the State of Oregon as a Professional Geologist;

or,

(D) Be registered by the State of Oregon as a Professional Civil Engineer.

ADMINISTRATIVE RULES

(d) The professional shall show proof of license or registration and a current photo identification to Department employees upon request.

(e) In order to protect the ground water resource, all geotechnical holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of ground water, or loss of artesian pressure.

(f) If the geotechnical hole is completed above ground, it shall have a minimum casing height of one foot above finished grade and a lockable cap with lock shall be attached to the top of the casing. If a geotechnical hole, except a slope stability hole, is completed flush with the land surface, a lockable watertight cap with lock, shall be attached to the top of the casing. A vault or monument designed to be watertight, level with the ground surface, shall be installed to prevent the inflow of surface water. The cover must be designed to withstand the maximum expected loadings.

(5)(a) A 'Geotechnical Hole Report' shall be prepared for each geotechnical hole, including unsuccessful geotechnical holes, constructed, altered, converted, or abandoned if the hole meets any of the requirements of OAR 690-240-0035(2) above.

(b) The 'Geotechnical Hole Report shall be filed with the Department within 30 days of the completion of the geotechnical hole;

(c) The report shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the professional, and the second copy shall be given to the landowner or customer who contracted for the construction of the geotechnical hole;

(d) In the event any drilling equipment or other tools are left in a geotechnical hole the professional shall enter this fact on the Geotechnical Hole Report;

(e) A copy of any special authorizations or special standards issued by the Director shall be attached to the Geotechnical Hole Report. See OAR 690-240-0006 for information concerning special standards;

(f) The report of geotechnical hole construction shall include, as a minimum, the following:

(A) Landowner name and address;

(B) Started/Completed date;

(C) Location of hole by county, township, range, section, tax lot number (if available), street address and either the 1/4, 1/4 section or latitude and longitude as established by a global positioning system (GPS).

(D) Use of geotechnical hole;

(E) Type of geotechnical hole;

(F) Depth;

(G) Map showing location of geotechnical hole on site must be attached and shall include an approximate scale and a north arrow;

(H) General hydrologic and geologic information as indicated on the Geotechnical Hole Report; and

(I) Such additional information as required by the Department.

(6) Temporary geotechnical holes:

(a) Temporary geotechnical holes include but are not limited to: drive points, soil and rock borings, temporary sample holes, permeability test holes, and soil vapor holes;

(b) Temporary geotechnical holes shall be abandoned within 72 hours of initial construction;

(c) Any temporary casing that has been installed shall be removed as part of the abandonment.

(7) Cased permanent geotechnical holes:

(a) Cased permanent geotechnical holes include but are not limited to: gas migration holes, cathodic protection holes, and vapor extraction holes;

(b) If permanent casing is installed in a geotechnical hole, it shall meet the casing requirements in OAR 690-240-0430, 690-210-0210, or 690-210-0190 and the sealing requirements in 690-240-0475.

(8) Uncased permanent geotechnical holes:

(a) Uncased permanent geotechnical holes include but are not limited to: pneumatic and electrical piezometers;

(b) Temporary casing can be used during the construction of the uncased permanent geotechnical hole but must be removed prior to completion. Surface casing (5 feet maximum) may be installed for placement of logging or recording equipment.

(9) Slope stability holes. All holes constructed for studying, monitoring movement of landslide features, or dewatering landslides or other mass-wasting features shall be considered slope stability holes. Such holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of ground water. Slope stability holes in areas of known or reasonably suspected contamination shall be constructed to meet monitoring well standards. Slope stability holes that are

used to obtain ground water levels shall be constructed to meet piezometer standards under OAR 690-240-0525.

(10) Geotechnical Holes abandonment:

(A) Geotechnical holes shall be abandoned so that they do not:

(a) Connect water bearing zones or aquifers;

(B) Allow water to move vertically with any greater facility than in the undisturbed condition prior to construction of the geotechnical hole; or

(C) Allow surface water to enter the hole.

(b) Temporary geotechnical holes constructed to collect a water quality sample shall be abandoned in accordance with OAR 690-240-0510.

Stat. Auth.: ORS 537.780

Stats. Implemented:

Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0055

License Required to Construct Monitoring Wells

(1) Unless otherwise provided in these rules, any person who constructs, alters or abandons monitoring wells for another person shall have a Monitoring Well Constructor License or work under the supervision of a licensed Monitoring Well Constructor.

(2) If a person advertises services and/or enters into contracts for the construction, alteration or abandonment of monitoring wells for another person, that person shall furnish a \$4,000 Monitoring Well Constructor Bond or Irrevocable Letter of Credit to the Water Resources Commission and must be a licensed monitoring well constructor. This bond or letter of credit is separate from the bond or letter of credit required for construction of water supply wells.

(3) A property owner who constructs, alters, or abandons a monitoring well on their own property shall have a Landowner Well Permit as described in OAR 690-240-0340 for each monitoring well on which work is done.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0065

Monitoring Well Constructor License, Experience Requirements and Trainee Card

(1) License. To qualify for a Monitoring Well Constructor License, a person shall:

(a) Be at least 18 years old;

(b) Pass a written examination;

(c) Have a minimum of one year experience (52 weeks), during the previous 36 month period, in monitoring well construction, alteration, or abandonment. This experience shall include the operation of well drilling machinery for monitoring well construction, alteration, conversion, or abandonment on a minimum of fifteen monitoring wells or a demonstration of equivalent experience in the operation of well drilling machinery. The following are acceptable as evidence of experience:

(A) Monitoring well reports or rough well logs with applicant's name entered for each of the 15 wells. The name, address and telephone number of the person responsible for the construction of each monitoring well shall be included on each report or log;

(B) Income tax returns showing source of drilling income for a period of time, or worker's compensation account information or the equivalent may be established to satisfy the one year of active construction requirement;

(C) Any other evidence the Director may deem suitable;

(D) A license held in another state shall not substitute for required evidence of experience.

(d) Pay a license fee.

(2) Trainee. If an applicant passes the written monitoring well constructor examination, but cannot meet the experience requirement the Commission may issue a trainee card. To qualify for a monitoring well constructor trainee card, a person must:

(a) Be at least 18 years old;

(b) Pass a written examination; and

(c) Be supervised by a person who holds a Monitoring Well Constructor License.

(3) A trainee card is valid for three (3) years from the date the exam was passed.

(4) Supervision as it relates to any person who holds a Monitoring Well Constructor Trainee Card:

ADMINISTRATIVE RULES

(a) A trainee may operate a cable tool monitoring well drilling machine without a licensed monitoring well constructor physically present at the well site only if:

(A) The licensed constructor can reach the well site within two hours if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(b) A licensed constructor must physically be on the site at all times when a cable tool drilling machine is:

(A) Drilling within a flowing artesian well;

(B) Setting or advancing casing;

(C) Setting liner;

(D) Perforating casing;

(E) Setting well screens;

(F) Placing packers;

(G) Drilling into, through, or below ground water suspected or known to be contaminated; and

(H) Placing casing seals.

(c) A trainee may operate a non-cable tool monitoring well drilling machine without a licensed monitoring well constructor physically present at the well site only during removal of the drill stem from the monitoring well.

(d) Activities under subsection (3)(c) of this rule shall proceed only if:

(A) The licensed constructor can reach the site within one hour if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(e) An authorized representative of the Department in whose jurisdiction the monitoring well is being constructed has the authority to:

(A) Grant an extension to the time limits stated above when a request, showing good cause, is received from the bonded constructor in advance for each particular well; and

(B) Place additional restrictions on the trainee, including requiring the constructor to be on the site at all times while the drilling machine is operating, when the Department representative determines that either the drilling environment or the knowledge and/or experience of the trainee warrant closer supervision.

(f) For a trainee to operate a monitoring well drilling machine without a licensed monitoring well constructor present, the trainee's card must be endorsed with the name of the bonded monitoring well constructor responsible for the construction of the monitoring well.

(5) Other supervision requirements for persons not licensed or permitted to construct monitoring wells, or who do not hold a monitoring well trainee card:

(a) Persons who are in the act of constructing, altering, converting or abandoning monitoring wells must be supervised by a licensed Monitoring Well Constructor who is physically present at the well site at all times during construction, alteration, conversion, or abandonment activity.

(b) The supervising Monitoring Well Constructor is responsible for all applicable statutes and rules in construction, alteration, conversion, or abandonment of the monitoring well.

(6) Persons who satisfy all requirements of ORS 537.747(3) shall be issued a Monitoring Well Constructor's License. The responsibilities for securing and issuing a Monitoring Well Constructor License or trainee card are listed in subsections (a) and (b) of this section.

(a) The monitoring well constructor license applicant is responsible for:

(A) Completing an application or renewal form for a new or renewed license or trainee card;

(B) Submitting the application or renewal form to the Water Resources Department along with the required fees;

(C) Carrying the license or trainee card whenever constructing, altering, converting, or abandoning any monitoring well; and

(D) Providing the Water Resources Department, within 30 days, notification of any change of mailing address.

(E) Providing the Water Resources Department documentation satisfying the continuing education requirements set forth in OAR 690-240-0200 through 690-240-0280.

(b) The Water Resources Department is responsible for:

(A) Designing and providing Monitoring Well Constructor licenses and trainee cards;

(B) Designing and providing application forms and renewal forms for licenses and application forms for trainee cards;

(C) Processing applications and renewals for licenses and applications for trainee cards; and

(D) Returning incomplete application and renewal forms to applicants for completion.

(E) Sending new and renewed licenses to applicants who have completed the application or renewal form and submitted the required fee. This does not preclude refusal to renew as outlined in OAR 690-240-0070(4).

(7) Bonded monitoring well constructor. For a person to possess a bonded Monitoring Well Constructor's License, the person shall provide to the Department a properly executed monitoring well constructor's bond or irrevocable letter of credit. The Water Resources Department shall indicate on the constructor's license a bonded classification.

(8) Representatives of the Water Resources Department may ask anyone constructing, altering, or abandoning a monitoring well to present their license or trainee card as proof of eligibility to construct, alter, convert, or abandon monitoring wells in the State of Oregon. Licensed individuals shall display their license or trainee card and photo identification when they are requested to do so by Water Resources Department personnel or other agency personnel to whom monitoring well regulation has been delegated.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0200

Continuing Education Committee

A Continuing Education Program and Continuing Education Committee are established under chapter 496, Oregon Laws 2001 (ORS 537.765). The duties of the Well Constructors Continuing Education Committee are to review and approve continuing education courses and assign continuing education credits.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0210

Continuing Education Requirement

(1) As of June 30, 2005, each individual licensed under ORS 537.747 is required to obtain a minimum of 14 continuing education credits (CECs) during each licensing period regardless of the number of licenses or endorsements held. Continuing education credits may be obtained through clinics, schools, professional organizations, seminars, lectures or other continuing education courses that relate to the practice of well construction and are approved by the Continuing Education Committee.

(2) A minimum of two (2) CECs shall pertain to ground water and well construction statutes under ORS 537.505 to 537.795 and 537.992, and administrative rules under OAR 690-200 through 690-240 during each licensing period.

(3) A maximum of eight (8) CECs may be obtained through approved safety/first aid/CPR/Hazardous Materials courses during each licensing period. Of the eight (8) CECs, a maximum of four (4) CECs may be obtained through Hazardous Materials training courses and a maximum of four (4) CECs may be obtained through safety/first aid/CPR courses.

(4) Exhibitions shall count as one (1) CEC per approved exhibition attended and shall not exceed two (2) CECs per licensing period.

(5) Licensees may count approved CECs accumulated after January 1, 2002, for their first license renewal that requires CECs.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0220

Documentation

(1) Each licensee is responsible for maintaining their continuing education records. Except as provided in OAR 690-240-0270(2), each licensee shall provide the Department with evidence of compliance with the continuing education requirement on a form approved by the Continuing Education Committee prior to or at the time of license renewal.

(2) Licensees who do not provide documentation of completion of the continuing education requirement or receive a waiver shall not have their license(s), or appropriate endorsement(s), renewed until this requirement is satisfied.

(3) Licensees who provide documentation of completion of the continuing education requirement within the 12 months after their license or endorsement expires may either pay the \$100 late penalty fee or requalify for a new monitoring well constructor license or endorsement in accordance with ORS 537.747(3). If a licensee fails to provide documentation of completion of the continuing education requirement within 12 months after expiration of their license or endorsement the person must comply with the

ADMINISTRATIVE RULES

requirements of ORS 537.747(3) for a new monitoring well constructor license or endorsement.

(4) CECs acquired during a renewal period in excess of the minimum CECs required may not be applied to future licensing periods.

(5) When an individual obtains a new monitoring well constructor license that expires within 14 months or less, the continuing education requirement shall be prorated such that only seven (7) CECs are required at the first renewal. Of the seven (7) required CECs:

(a) A maximum of two (2) CECs may be in Hazardous Materials training;

(b) A maximum of two (2) CECs may be in safety/first aid/CPR; and

(c) A minimum of one (1) CEC shall pertain to ground water and well construction statutes under ORS 537.505 and 537.992, and administrative rules under OAR 690-200 through 690-240.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0240

Approved Course List/Course Approval and Assignment of CECs

(1) The Department shall maintain a Continuing Education Committee-approved list of courses. The list shall include, but not be limited to, the course title, class location and date, cost, (if applicable), and CECs assigned.

(2) The Continuing Education Committee shall evaluate all courses related to continuing education for well constructors and may assign CECs. The Continuing Education Committee shall notify the course sponsor in writing of the results of their evaluation of the course material. The following criteria may be utilized to evaluate and assign CECs:

(a) Course agenda and how well the subject relates to monitoring well construction and other borings regulated by the Department;

(b) Instructor qualifications;

(c) Subject difficulty;

(d) Student course evaluations, if applicable; and

(e) Other information as appropriate.

(3) A licensee who is also the instructor of an approved continuing education course shall be entitled to double CECs for that course. A licensee who is also the instructor of an approved course, may only receive CECs for the course once during a single renewal period, regardless of the number of times a course is presented.

(4) The following courses do not require pre-approval by the Continuing Education Committee:

(a) First Aid and CPR, provided the instructor is certified by the American Red Cross, or has certification accepted by the American Red Cross;

(b) Occupational Safety and Health Administration (OSHA) approved Hazardous Materials Training; and

(c) OSHA approved courses pertaining to the well construction industry.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0250

Course Sponsor Requirements

(1) Course sponsors shall submit a completed application for approval to the Continuing Education Committee on a form(s) provided by the Department at least 45 days prior to the date the course is to be presented. Approved sponsors shall:

(a) Advertise the course to the satisfaction of the Continuing Education Committee;

(b) Provide the Department with a certified class roster within 30 days after completion of the course;

(c) Provide documentation of completion to each qualifying attendee that shall include at a minimum: course title, course date(s), number of approved credits, and instructor and/or sponsor signature; and

(d) Maintain the certified class roster for two years.

(2) All clinics, courses, classes, workshops, and seminars shall be open to anyone who wants to attend. This does not preclude a sponsor from imposing reasonable requirements for attendance such as fees, maximum occupancy limits, and requiring attendees to provide their own safety equipment.

(3) Course approval and assigned CECs shall be effective for two years as long as the course remains the same. The Continuing Education Committee shall be notified in writing by the course sponsor, 45 days in advance of each time an approved continuing education course is presented. Such notification shall include the course title, date, class location, cost

(if applicable), number of credits assigned, and a statement that the program has not changed from the course previously approved by the Continuing Education Committee.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0260

Loss of Approval

The Continuing Education Committee may withdraw or suspend approval of a course if it is determined that any of the following has occurred:

(1) The course content has changed without notice to the Continuing Education Committee;

(2) The course was not advertised to the satisfaction of the Continuing Education Committee;

(3) Documentation of completion has been issued to an individual who did not attend or complete the course in accordance with the provisions under which the course was approved;

(4) Documentation of completion was not given to all individuals who satisfactorily completed the course in accordance with the provisions under which the course was approved;

(5) A certified class roster was not maintained by the sponsor for two years;

(6) Fraud or misrepresentation has occurred with the application for course approval, maintenance of records, teaching method, course content, or issuance of certificates for a course; or

(7) Any other factor the Continuing Education Committee deems appropriate.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0270

Courses Taken Without Prior Approval

(1) Except as provided in OAR 690-240-0210(5), a licensee may request that the Continuing Education Committee assign CECs for courses taken without prior approval within the current licensing period.

(2) The licensee shall supply verification of attendance, a course outline, and a written explanation as to why prior approval was not obtained. This information must be received in the Salem office of the Department no later than May 15 of the year that their license or appropriate endorsement expires.

(3) Courses taken without prior approval shall be evaluated by the Continuing Education Committee on a case-by-case basis using the criteria outlined in OAR 690-240-0240(2). This shall not apply to courses that do not require pre-approval under OAR 690-240-0240(4).

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0280

Waivers

(1) The Director may waive the continuing education requirements for a licensed monitoring well constructor upon written request demonstrating inability to attend continuing education courses because of health, military duty or other circumstances beyond the control of the constructor.

(2) Licensees who are denied a waiver may appeal to the Commission by filing a written exception with the Department within 60 days of service of the Director's order.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 1-2003, f. & cert. ef. 3-14-03

690-240-0320

Contracting for Services

Only Oregon licensed and bonded monitoring well constructors may advertise services or enter into a contract, either written or oral, to construct, alter, convert, or abandon a monitoring well. Any written bid for a project which includes the construction, alteration, conversion, or abandonment of a monitoring well must provide:

(1) A bid or estimate for the work associated with monitoring well construction signed by a monitoring well constructor, who is licensed and bonded in the State of Oregon.

(2) A statement by the licensed and bonded monitoring well constructor that the work will be completed in accordance with Oregon Ground Water Law (ORS chapter 537) and the Rules for the Construction, Maintenance, Alteration, Conversion, and Abandonment of Monitoring

ADMINISTRATIVE RULES

Wells, Geotechnical Holes, and Other Holes in Oregon (OAR chapter 690, division 240).

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0075

690-240-0330

Monitoring Well Constructor and Landowner Well Bonds or Letters of Credit

(1) The Water Resources Department shall accept bonds only from corporations licensed by the Oregon Department of Insurance and Finance to issue fidelity and surety insurance. The Water Resources Department shall accept irrevocable letters of credit only from a bank as described in ORS 706.008.

(2) If the issuing corporation cancels a bond, the corporation shall provide notice of cancellation to the Water Resources Department by registered or certified mail. If the issuing bank cancels a letter of credit, the bank shall provide notice of cancellation to the Water Resources Department by registered or certified mail. The cancellation shall not take effect earlier than the 30th day after the date of mailing in accordance with ORS 742.366(2).

(3) When issuing a final enforcement order that may place a bond or irrevocable letter of credit in jeopardy, the Director may mail a copy of the order to the address of record of the surety company issuing the bond, or the bank issuing the irrevocable letter of credit.

(4) All monitoring wells shall be constructed under a bond or irrevocable letter of credit. The bond or letter of credit shall cover construction, alteration, conversion, or abandonment for each well under that bond or letter of credit for a period of three years after the date the well report is filed with the commission, whether or not the bond or letter of credit has been subsequently canceled.

(5) Water supply wells and monitoring wells are covered under separate bonds.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0080

690-240-0340

Landowner Well Construction Permit, Fee and Bond

(1) The Water Resources Commission requires a permit, permit fee, and bond or irrevocable letter of credit, for each monitoring well constructed, altered, converted, or abandoned by a landowner, unless the landowner is a licensed and bonded monitoring well constructor.

(2) To receive a Landowner Well permit, a person must submit the following to the Director:

(a) A completed application form provided by the Commission, containing, as a minimum:

- (A) The property owner's name, address and telephone number;
- (B) The surety company's name, address and telephone number;
- (C) The proposed location of the well by township, range, section, tax-lot number if assigned, and street address;
- (D) The proposed use of the monitor well; and
- (E) The type of proposed work; and
- (F) Well design plan on form approved by the Department.

(b) A properly executed landowner's monitoring well bond or irrevocable letter of credit for \$2000 to the State of Oregon; and

(c) A \$25 permit fee.

(3) Only the owner of record, a member of the immediate family of the owner of record, or a full time employee of the owner of record, (whose main duties are other than the construction of wells), may operate a well drilling machine under a landowner's permit.

(4) A landowner permit issued pursuant to these rules shall expire six months from the date of issuance.

(a) A monitor well report shall be submitted within 30 days of expiration of the landowner permit, or within 30 days of completion of the well, whichever occurs first.

(5) If the landowner permit expires, a landowner may reapply for a new landowner permit by complying with the requirements described in sections (1), (2) and (3) of this rule.

(6) The Department may deny a landowner permit if it is determined that the construction, alteration, abandonment, or conversion of the proposed well is a health threat, a health hazard, a source of contamination, or a source of waste of the ground water resource.

Stat. Auth.: ORS 183, ORS 536, ORS 537 & ORS 540

Stats. Implemented:
Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0082

690-240-0355

Monitoring Well Drilling Machines

(1) All monitoring well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded monitoring well constructor's license number, the name of the bonded monitoring well constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the vehicle. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded monitoring well constructor shall be removed from the drilling machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0085

690-240-0375

Monitoring Well Construction Notice Required (Start Card)

(1) Each bonded monitoring well constructor licensed to operate in the State of Oregon and each landowner holding a landowner's permit shall provide notice as required in ORS 537.762 before commencing the construction, alteration, or abandonment of any monitoring well or conversion of any other hole, geotechnical hole, or water supply well to a monitoring well. The start card shall contain the following information:

- (a) Name and mailing address of the landowner;
- (b) Street address of the well;
- (c) The approximate location of the monitoring well; and
- (d) The proposed depth, diameter, and purpose or use if the well is new, altered, or converted.

(2) All start cards for new monitoring wells or conversion of other holes, geotechnical holes, or water supply wells by a licensed and bonded monitoring well constructor shall be submitted with a \$75 start card fee. A start card fee is not required to abandon a monitoring well. OAR 690-240-0340 shall apply to landowners who construct, alter, convert, or abandon a monitoring well.

(3) Forms for making these reports and submitting fees shall be furnished by the Water Resources Department.

(4) Each start card shall be mailed, hand-delivered during regular business hours or transmitted by Department-approved electronic submittal to the Water Resources Department in Salem no later than the day construction, conversion, alteration, or abandonment is commenced.

(a) Start cards submitted electronically shall be submitted before commencing construction, alteration, conversion or abandonment of any monitoring well.

(5) In addition to the start card required under section (4) of this rule, the constructor shall provide a legible copy of the start card to the Oregon Water Resources Department (OWRD) region office within which the monitoring well is being constructed, altered, converted or abandoned before commencing the construction, alteration, conversion or abandonment of any monitoring well, using one of the following options:

(a) By regular mail no later than three (3) calendar days (72 hours) prior to commencement of work; or

(b) By hand delivery, during regular office hours, before commencing the construction, alteration, conversion or abandonment of any monitoring well; or

(c) By facsimile transmission (FAX) before commencing the construction, alteration, conversion or abandonment of any monitoring well. If this method is used, a legible copy of the start card shall also be mailed or delivered to the appropriate OWRD region office no later than the day work is commenced.

(d) Start cards submitted electronically under Section (4)(a) of this rule have satisfied the notification requirement to the OWRD region office.

(6) If a start card has been filed under section (4) and (5) of this rule and additional wells are required on the same or contiguous tax lot and for the same landowner, then start cards for the additional wells shall be filed no later than the day work begins.

(7) The Director or region office may provide an alternate means of notification. If an alternative means of notification is used, the start card

ADMINISTRATIVE RULES

shall be mailed or delivered to the region office within one week of beginning work on the monitoring well. A monitoring well constructor whose license has been restricted by order shall provide notice as stipulated in the order.

(8) Once received by the Department, the start card shall be confidential for a period of one year after it is received or until the monitoring well report required by OAR 690-240-0395 is received, whichever is shorter.

(9) The start card may be used in an administrative enforcement action at any time, including the period of confidentiality. Once the start card is used for enforcement reasons, it is no longer confidential.

NOTE: Region office fax and telephone numbers are listed in Table 240-2. Water Resources Department Regional boundaries are shown in Figure 240-2.
[ED. NOTE: Tables and Figures referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0090

690-240-0395

Monitoring Well Report Required (Monitoring Well Log)

(1) A monitoring well report shall be prepared for each monitoring well constructed, altered, converted, or abandoned including unsuccessful monitoring wells. The log shall be certified as correct by signature of the monitoring well constructor constructing the monitoring well. The completed log shall also be certified by the bonded monitoring well constructor responsible for construction of the monitoring well. A monitoring well report must be submitted by each bonded constructor (if drilling responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the monitoring well constructor, and the second copy shall be given to the customer who contracted for the construction of the monitoring well.

(3) The bonded monitoring well constructor shall file the monitoring well log with the Director within 30 day after the completion of the construction, alteration, conversion, or abandonment of the monitoring well.

(4) The trainee or monitoring well constructor operating the monitoring well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the monitoring well. This log shall be available for inspection by the Watermaster or other authorized agent of the Water Resources Department or other delegated agency representative at any time before the monitoring well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a monitoring well this fact shall be entered on the monitoring well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the monitoring well report.

(7) The report of monitoring well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

- (a) Name and Address of Landowner;
- (b) Started/Completed date;
- (c) Location of the well by county, township, range, section, tax lot number if assigned, street address, and either the 1/4, 1/4 section, or Latitude and Longitude as established by a global positioning system (GPS).
- (d) Start card number;
- (e) Well identification label number (well tag number);
- (f) Use of well;
- (g) Type of work;
- (h) Type and amount of sealant used and measured weight of the grout slurry as required in OAR 690-240-0475(2)(g);
- (i) Temperature of water;
- (j) Map showing location of monitoring well on site, must be attached and shall include an approximate scale and a north arrow;

(k) Such additional information as required by the Department.
Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0095

690-240-0410

Monitoring Well Construction: General

(1) Monitoring well components, including well screens, casings and annular sealant should be selected based on known site characteristics to ensure the well will last for the duration of the monitoring program.

(2) No monitoring well shall be used for domestic, public water supply, industrial, commercial, or agricultural purposes unless it meets the minimum construction standards for water supply wells, OAR 690-200 to 690-230.

(3) No completed monitoring well shall interconnect aquifers, including low yielding aquifers.

(4) The start card number shall be permanently attached, stamped or engraved on the outer well casing or permanent protective well cover, not on a removable cap.

(5) No monitoring well shall be constructed as a multiple completion well without prior special standard approval as specified in OAR 690-240-0006.

(6) Horizontal wells shall only be constructed with prior special standard approval only as specified in OAR 690-240-0006.

(7) The borehole diameter shall be at least four inches larger than the nominal casing diameter except as noted in OAR 690-240-0525 concerning piezometers. If the monitoring well is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least four inches larger than the nominal diameter of the casing to be installed, except as noted in OAR 690-240-0525 concerning piezometers.

(8) Materials which foster or promote undesirable organic growth or have the potential to degrade water quality shall not be employed in the construction of the monitoring well.

(9) After completion, the landowner is responsible for maintaining the well in an approved condition. If the well is damaged, the well protection system and casing shall be restored as prescribed by these rules. If the well is damaged beyond repair, the well shall be properly abandoned in accordance with OAR 690-240-0510.

(10) A well identification label shall be attached to every new well and to every altered or repaired well that does not already have a label. The label must be easily visible on the outside of the casing on an above grade completion and inside the vault of a flush grade monument. (See Appendix 1) In cases where a geotechnical hole or other hole is converted into a monitor well, a well identification label must be attached to the completed well in the same fashion as required for a new or altered well.

(11) Any deviation from these rules requires special standard approval as specified under OAR 690-240-0006.

[ED. NOTE: Appendix referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0100

690-240-0420

Well Protection

(1) Every monitoring well shall be capped and protected using one of the following methods:

(a) If the well is cased with metal and completed above the ground surface, a lockable cap with lock shall be attached to the top of the casing;

(b) If the well is completed above the ground surface, and is not cased with metal, a metal protective casing shall be installed around the well. The protective casing shall extend at least six inches above the top of the well casing and at least two feet into the ground. A cap shall be attached to the top of the well casing and a lockable lid with lock shall be attached to the top of the protective casing; and

(c) If the well is completed below ground surface, a lockable, watertight cap with lock shall be attached to the top of the casing. A vault or monument, designed to be watertight, level with the ground surface, shall be installed to prevent the inflow of surface water. The cover must be designed to withstand the maximum expected loadings.

(2) All wells completed above ground shall have a minimum casing height of one foot above finished grade and shall be protected from damage by three metal posts at least three inches in diameter, set in and filled with concrete. The protective posts shall be installed in a triangular array around the casing and at least two feet from it. Each post shall extend at least three feet above and three feet below the ground surface.

(3) If the well is to be protected by other surface protection methods, the bonded constructor shall obtain special standards from the Department as specified in OAR 690-240-0006.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

ADMINISTRATIVE RULES

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0110

690-240-0430

Casing

(1) The constructor shall consider the following factors when selecting monitoring well casing:

(a) The casing installed shall not be readily reactive with the subsurface environment according to best available knowledge;

(b) The casing installed shall not adversely affect or interfere with the chemical, physical, radiological, or biological constituents of interest according to best available knowledge;

(c) The collapse strength of all casing used in monitoring well construction must be great enough to withstand the pressure exerted by the annular seal during seal placement, including heat of hydration.

(2) All monitoring well casing shall conform to at least 304 or 316 stainless steel, polytetrafluoroethylene PTFE, Schedule 40 PVC casing, or other casing materials rated and approved by ASTM for monitoring well construction.

(3) All casing installed shall be in new or like new condition, being free of pits or breaks, and shall be cleaned of foreign materials and contaminants prior to installation, unless removed from the manufacturer's packaging on site.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0115

690-240-0440

Additional Standards for Artesian Monitoring Wells

(1) Monitoring wells penetrating into an artesian aquifer shall have an upper oversize drillhole at least four inches greater in diameter than the nominal diameter of the permanent well casing except as noted in OAR 690-240-0525 concerning piezometers. Watertight unperforated casing shall extend and be sealed, according to OAR 690-240-0475, at least five feet into the confining formation immediately overlying the artesian water-bearing zone.

(2) If an artesian monitoring well flows at land surface, the well shall be equipped with a control valve and a watertight mechanical cap, threaded or welded, so that all flow of water from the well can be completely stopped.

(3) All flowing artesian monitoring wells shall be equipped with a pressure gauge placed on a dead-end line. A petcock valve shall be placed between the gauge and well casing.

(4) All flowing artesian monitoring wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well report.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0118

690-240-0450

Cleaning

(1) All drill cuttings and fluids from drilling, cleaning and development shall be properly managed during construction, alteration or abandonment to protect ground water from contamination.

(2) The landowner or the landowner's agent is responsible for management of drill cuttings and fluids left on site after well construction, alteration or abandonment is completed.

(3) To prevent cross-contamination between wells, the drill rig and all drilling equipment shall be cleaned before and after well construction by one of the following methods:

(a) Detergent washing and rinsing with potable water;

(b) High pressure hot water cleaning;

(c) Steam cleaning; or

(d) Other methods as approved by the Water Resources Department.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0120

690-240-0460

Monitoring Well Screen, Filter Pack, and Filter Pack Seal

(1) The screen and filter pack, when properly designed and installed, allows a water quality sample to be collected that is representative of water in the formation.

(2) The well screen shall:

(a) Be commercially fabricated and constructed of material that is not knowingly readily reactive with the subsurface environment;

(b) Have a collapse strength great enough to withstand the pressures exerted during construction and development of the monitoring well;

(c) Be in new or like new condition, being free of pits or breaks;

(d) Be cleaned using methods outlined in OAR 690-240-0450(3); and

(e) Be centered in the borehole.

(3) The use of lead packers with the screen sections is prohibited.

(4) A bottom cap or end plug shall be attached to each well casing.

(5) The filter pack shall:

(a) Consist of clean, chemically inert, well rounded material;

(b) Not extend more than three feet above the top or one foot below the bottom of the well screen; and

(c) Be placed in such a manner as to ensure placement opposite the well screen without bridging or size segregation.

(6) The filter pack seal shall consist of:

(a) A two foot thick layer of fine grained sand above the filter pack if a grout or grout slurry is used; and/or

(b) A minimum of a three foot thick layer of dry bentonite. If a grout slurry is to be used as the annular seal, the bentonite shall be adequately hydrated prior to placement of the annular seal to prevent grout infiltration into the filter pack.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0126

690-240-0475

Well Seals

(1) Proper seal placement is essential to minimize the potential for movement of water and contaminants from the surface, or other waterbearing zones, into the monitoring well. Appropriate sealing materials may vary depending on the site characteristics and the substances being monitored. Well seals shall consist of a physically and chemically stable hydrated grout slurry composed of:

(a) Neat cement; or

(b) Sodium bentonite; or

(c) A cement-bentonite grout mixture containing no more than five percent bentonite by dry weight; or

(d) Sodium bentonite granules, pellets or chips placed in an unhydrated state, and subsequently hydrated downhole.

(2) Grout slurries shall be mixed in the proper proportions and placed in the bore hole in such a manner as to prevent excessive shrinkage, water loss, chemical breakdown, bridging or invasion into the filter pack. The following procedures shall be utilized if a grout slurry is to be the sealing material:

(a) Neat cement used for grouting shall be American Petroleum Institute Class A or B, or ASTM C-150 Type I or II neat cement with no additives, mixed in the proportion of 5.2 gallons of water per standard 94 pound sack and having a mud weight of approximately 15.6 pounds per gallon;

(b) Bentonite used as a slurry for grouting shall be a high solids granular sodium bentonite mixed according to the manufacturer's directions, having a minimum mud weight of at least 9.5 pounds per gallon, and containing at least 20 percent solids. Mixing methods should be used which prevent the slurry from being excessively lumpy;

(c) When a mixture of cement and bentonite is used as a slurry for grouting, the cement shall be American Petroleum Institute Class A or B, or ASTM C-150 Type I or II neat cement. The slurry shall be no more than five percent, by dry weight of cement, sodium bentonite gel powder (3.75 pounds of bentonite per sack of cement). For each pound of bentonite added, up to an additional 0.7 gallons of water shall be added to the original neat cement mix. The water and bentonite shall be mixed first, and then the cement added to the bentonite slurry. The cement-bentonite mixture shall have a mud weight of approximately 14.1 pounds per gallon;

(d) Prior to placing grout in the annular space, the grout slurry weight shall be measured by ASTM Test Method D-4380-84. Grout slurry shall not be placed in the annular space until the grout slurry weight is within ten percent of the weight specified in subsection (2)(a), (b) or (c) of this rule;

ADMINISTRATIVE RULES

(e) Grout slurries shall be placed from the bottom of the annular space upward in such a manner as to completely fill the sealing interval. Grout slurries shall begin at the top of the filter pack seal overlying the filter pack and extend to the bottom of the surface seal. If the grout slurry is intended to serve as the surface seal, it shall extend to land surface;

(f) Grout slurries shall be placed through a side discharge grout pipe by gravity flow or by pumping to ensure positive placement without bridging or wash-out of previously placed annular materials. The discharge end of the grout pipe shall remain submerged in the grout throughout the sealing operation;

(g) Prior to discontinuing placement of grout in the annular space, grout slurry returns from the annular space shall be measured by ASTM Test Method D-4380-84. Placement of grout slurry in the annular space shall continue until the returns are within ten percent of the weight specified in subsection (2)(a), (b) or (c) of this rule.

(3) Bentonite used in an unhydrated form shall be sodium bentonite granules, pellets or chips. Unhydrated bentonite shall be specifically designed for sealing wells and be within industry tolerances for dry western sodium bentonite. Bentonite shall be free of polymers that promote bacterial growth. The following procedures shall be adhered to if dry bentonite is used for sealing:

(a) Dry, poured bentonite seals shall only be used if the depth to the bottom of the seal is less than fifty feet and the standing water column in the bore hole or annular space is less than twenty-five feet deep at the time of seal placement. Only sodium bentonite chips manufactured to be greater than 1/4 inch or tablets shall be used below the water level in the sealing interval;

(b) Pour rate shall be three minutes or slower per 50 pound sack in the water-filled portion of the annulus;

(c) A sounding or tamping tool shall be used in the bore hole or annular space during pouring to measure fill rate and to break up possible bridges or cake formation;

(d) Care shall be taken to minimize the introduction of bentonite dust into the sealing interval;

(e) In a dry sealing interval, bentonite shall be hydrated with potable water in two foot lifts to ensure activation.

(4) The estimated and actual volume of sealing material used shall be calculated and reported to the Department.

[Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented:

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0130

690-240-0485

Monitoring Well Development

(1) The monitoring well development shall not affect the integrity of the casing or seal. Monitoring well development shall not occur prior to 24 hours after annular seal placement if cement grout or a bentonite grout slurry is used, or 12 hours after annular seal placement if dry bentonite is used. The well may be developed prior to placement of the annular sealing material.

(2) The monitoring well development should:

(a) Remove any water or drilling fluid introduced into the well during drilling;

(b) Stabilize the filter pack and formation materials opposite the well screen;

(c) Minimize the amount of fine-grained sediment entering the well; and

(d) Maximize well efficiency.

(3) As long as the well is not altered, the monitoring well development may be performed by other than a licensed and bonded monitoring well constructor.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0131

690-240-0500

Completion of Monitoring Wells

(1) A monitoring well constructor or permitted landowner constructing their own well shall not remove the drilling machine from a monitoring well site, unless it is immediately replaced by another monitoring well drilling machine in operating condition, prior to completion or abandonment of the monitoring well in compliance with OAR 690-240-0005 through 690-240-0540.

(2) Installation of the protective metal posts does not require a monitoring well constructor's license, providing the surface seal is not disturbed.

(3) Installation of the protective posts described in OAR 690-240-0420 shall be completed within one week of placement of the seal.

(4) If installation of the protective measures as described in OAR 690-240-0420 are not completed within 24 hours of seal placement, the monitoring well shall be marked using one of the following methods:

(a) Placement of three stakes around the well connected with fluorescent survey tape;

(b) Placement of construction barricades around the well; or

(c) Use of other protective measures as approved by the Water Resources Department.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0132

690-240-0510

Abandonment of Monitoring Wells

Proper abandonment of monitoring wells will prevent both vertical movement of water within the well bore and infiltration of surface water into the well:

(1) In areas where ground water contamination has been identified, except as described in number (4) below, abandonment shall require the borehole to be completely redrilled to a minimum of the original diameter. All casing, screen, annular sealing material, drill cuttings, debris, and filter pack material shall be removed prior to sealing.

(2) In areas where ground water contamination has not been identified, if it can be verified that the monitoring well was constructed in accordance with these rules, it shall be abandoned by filling the well from the bottom up with an approved sealant as described in OAR 690-240-0475. The casing shall then be removed below grade, as compatible with local site conditions and land practices. The following are acceptable methods of original well construction verification:

(a) A well report in accordance with OAR 690-240-0395;

(b) Well construction information submitted to the Oregon Department of Environmental Quality;

(c) Information obtained through down-hole geophysical logging; or

(d) Other information as approved by the Water Resources Department.

(3) In areas where ground water contamination is not present, and if the monitoring well construction cannot be verified by means listed in section (2) of this rule, the well shall be abandoned according to section (1) of this rule.

(4) In contaminated areas where remediation has occurred, an approved special standard is required to abandon a well unless it is abandoned according to section (1) of this rule. Abandonment procedures will be considered on a case by case basis. The Department will consult with the state or federal agency that supervised the remediation in determining the appropriate abandonment method. In cases where there was no agency oversight, the Department will consider any information supplied by the licensed and bonded monitor well driller in determining the appropriate abandonment procedure.

(5) Grout slurries shall be placed from the bottom up by a grout pipe to avoid segregation or dilution of the sealant. The discharge end of the grout pipe shall be submerged in the grout to avoid breaking the seal while filling the annular space. Grout slurries used to abandon monitoring wells shall conform to the requirements of OAR 690-240-0475.

(6) The abandonment procedure shall be recorded on a form provided by or previously approved in writing by the Department. The form shall include, as a minimum, all the requirements as listed in OAR 690-240-0395, plus:

(a) Method of abandonment;

(b) If assigned, the well identification number, original start card number, and owner's well number of the abandoned well.

(7) When abandoning artesian monitoring wells, in addition to sections (1)-(6) of this rule, the flow shall be confined or restricted by cement grout applied under pressure, or by the use of a suitable well packer, or a wooden plug placed at the bottom of the confining formation immediately above the artesian water bearing zone. An approved sealant shall be used to fill the well to land surface as specified in OAR 690-240-0475.

(8) Monitoring wells that were constructed under special standards will require the abandonment method to be approved by the Department.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

ADMINISTRATIVE RULES

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0135

690-240-0525

Piezometers

It is prohibited to construct a piezometer in an area of known or reasonably suspected contamination.

NOTE: The Water Resources Department and the Department of Environmental Quality have information sources to use in determining if contaminants are present. Customary drilling practice as conducted by licensed professional must be included as part of the appropriate inquiry to determine if contaminants are present or reasonably suspected.

(1) Piezometers shall be constructed to meet current monitoring well rules except for the following:

(a) Borehole size with depth requirements:

(A) For piezometers with a sealing depth less than 50 feet deep, the borehole diameter shall be at least two and one half inches (2.5") larger than the nominal casing diameter. If the piezometer is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least 2.5 inches larger than the nominal diameter of the casing to be installed;

(B) For piezometers with a sealing depth greater than 50 feet deep, the borehole diameter shall be at least three inches larger than the nominal casing diameter. If the piezometer is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least 3 inches larger than the nominal diameter of the casing to be installed.

(b) Surface Completion:

(A) If the piezometer is completed above ground, it shall have a minimum casing height of one foot above finished grade and a lockable cap with lock shall be attached to the top of the casing. If vulnerable to damage, the piezometer shall be protected as described in OAR 690-240-0420;

(B) If the piezometer is completed below ground surface, a lockable, watertight cap, with lock, shall be attached to the top of the casing. A vault or monument designed to be watertight, level with the ground surface, shall be installed to prevent the inflow of surface water. The cover must be designed to withstand the maximum expected loadings.

(c) If an artesian piezometer flows at land surface, it shall be equipped with a control valve or a watertight mechanical cap, so that all flow of water from the well can be completely stopped. Flowing artesian piezometers are not required to be equipped with a pressure gauge placed on a dead-end line or a petcock valve;

(d) The special cleaning and drill cutting storage requirements in OAR 690-240-0450 shall not apply to piezometers because they may not be constructed in areas of known or reasonably suspected contamination. However, all equipment and materials used in the construction of a piezometer shall be free of foreign materials and contaminants prior to entry into the well;

(e) Use of commercially fabricated screens are not required for piezometers. The screens installed shall be in new or like new condition, being free of pits or breaks, and shall be free of foreign materials and contaminants prior to installation;

(f) The filter pack requirements of OAR 690-240-0460(5) shall not apply to piezometers because they are not constructed in areas of known or reasonably suspected contamination;

(g) A minimum three foot annular seal is required. If a grout slurry is used, the filter pack seal requirements of 690-240-0460(6) apply. If a piezometer is completed with a flush monument, the annular seal shall extend a minimum of three feet below the monument seal.

Stat. Auth.: ORS 537.780

Stats. Implemented:

Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0137

690-240-0540

Direct Push Monitoring Wells and Piezometers

(1) Monitoring wells and piezometers that are installed using direct push technology shall comply with the applicable standards in these rules for reporting, casing, screening, filter pack, filter pack placement, filter pack seal, development, surface seal, cleaning, protection, marking, and completion.

(2) Monitoring wells and piezometers that are installed using direct push technology shall also comply with the following standards:

(a) Only prepacked screens shall be used; and

(b) The outside diameter of the borehole shall be a minimum of one inch greater than the outside diameter of the well casing; and

(c) Granular bentonite shall not be used in the sealed interval below the static water level; and,

(d) Wells and piezometers shall not be constructed through more than one water bearing formation and shall not be greater than 50 feet in depth unless a special standard is obtained.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0139

690-240-0550

Evidence of Failure

Evidence of failure to comply with the requirements of OAR 690-240, special standards as described in OAR 690-240-0006, or those standards of a state agency to which the Director has delegated direct responsibility under OAR 690-240-0016 shall include, but not be limited to, the following:

(1) A specific standard to which the Director has agreed is violated.

(2) Evidence that contamination is occurring as a result of a monitoring well, geotechnical hole, or other hole construction.

(3) Evidence that a monitoring well, geotechnical hole, or other hole, due to its construction, is causing or contributing to the loss of artesian pressure within an aquifer.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0145

690-240-0560

Investigation of Alleged Violations

(1) The Water Resources Director, upon the Director's own initiative, or upon complaint alleging violation of statutes, standards or rules governing licensing of monitoring well constructors and/or, construction, alteration, conversion, maintenance, or abandonment of monitoring wells, geotechnical holes or other holes may cause an investigation to determine whether a violation has occurred. If the investigation indicates that a violation has occurred, the Director shall notify the persons believed responsible for the violation including but not limited to:

(a) Any monitoring well constructor involved;

(b) The landowner, if the violation involves construction, alteration, conversion, maintenance, operation or abandonment of a well, geotechnical hole, or other hole;

(c) The agency that has been delegated authority over a particular class of wells, geotechnical holes, or other holes and/or

(d) Any registered geologist or civil engineer in construction, alteration, or abandonment of a geotechnical hole.

(2) Enforcement and civil penalty assessment for "other than well constructors" is described in OAR 690-260.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0150

690-240-0580

Enforcement Actions

(1) If, after notice and opportunity for hearing under ORS 183.310 to 183.550 the Director determines that one or more violations have occurred, the Director may impose one or more of the following:

(a) Provide a specified time for remedy;

(b) Assess a civil penalty in accordance with the schedule of civil penalties in OAR 690-240-0640;

(c) Suspend, revoke, or refuse to renew the license(s) when one or more persons responsible for the violation hold a monitoring well constructor's license;

(d) Require that a person whose license has been refused renewal pass the monitoring well constructor examination before a new license is issued or the current license is renewed;

(e) Impose any reasonable conditions on the monitoring well constructor's license to ensure correction of the violation and future compliance with the law. These conditions may include but are not limited to:

(A) Fulfilling any outstanding obligations which are the result of administrative action before the constructor can offer any services or construct, alter, convert, or abandon any monitoring well;

(B) Requiring additional advance notice to be given to the Department of construction, alteration or abandonment of any monitoring well;

(C) Requiring a seal placement notice be given to the Department up to 72 hours in advance of placing the seal; or

(D) Any other conditions the Director deems appropriate.

ADMINISTRATIVE RULES

(f) Order the landowner to repair or meet other conditions on use of the well, or order discontinuance of the use and order proper abandonment pursuant to ORS 537.775;

(g) Make demand on the monitoring well constructor's bond or the landowner's bond. This may occur only if the Director has given the notice required in OAR 690-240-0560 to the persons responsible for the violation within three years after the date the monitoring well report is filed with the Department. If no monitoring well report has been filed, the three year limitation shall not apply until such time as a well report is filed; or

(h) Take any other action authorized by law.

(2) An order may specify a schedule of escalating or cumulative sanctions to be assessed on specified dates until the violation has been satisfactorily corrected.

(3) Any monitoring well constructor whose license is suspended or revoked shall be considered not licensed during the period of suspension or revocation. The appropriate provisions of OAR 690-240 shall apply.

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0155

690-240-0590

Multiple Violations and Consolidation of Proceedings

In cases of multiple or continuing violations, each occurrence of substantially the same activity and each days continuance of a violation after the responsible party has been notified is a separate and distinct violation. Administrative enforcement proceedings for multiple violations may be consolidated into a single proceeding.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0160

690-240-0600

Factors Affecting Selection of Type and Degree of Enforcement

In selecting the appropriate type and degree of enforcement, the Director may consider the following factors:

(1) Whether the constructor's file demonstrates a pattern of prior similar violations;

(2) Whether the respondent has cooperated in attempting correction of any violation in a timely fashion;

(3) The gravity and magnitude of the violation, including whether there is an immediate or long-term threat to human health or the ground water resource;

(4) Whether the damage to the ground water resource is reversible;

(5) Whether the violation in the instances cited was repeated or continuous;

(6) Whether a cause of the violation was an unavoidable accident;

(7) The opportunity and degree of difficulty to correct the violation;

(8) The cost to the Department, except for travel costs and the initial field investigation, in attempting to gain voluntary compliance of the cited violation. The costs may be considered until the Department receives respondent's answer to the written notice and opportunity for hearing; and

(9) Any other relevant factor.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0165

690-240-0610

Change in Enforcement Status

(1) In the interest of achieving compliance, the Director at any time may reevaluate the status of the violation(s) and take appropriate action, including reduction of the enforcement level or remission of all or part of any civil penalties assessed.

(2) The Director may terminate proceedings against a monitoring well constructor if the constructor provides acceptable evidence that:

(a) The landowner does not permit the constructor to be present at any inspection made by the Director; or

(b) That the constructor is capable of complying with recommendations made by the Director, but the landowner does not permit the constructor to comply. In such cases, the landowner is responsible for bringing the well into compliance pursuant to ORS 537.535, and if the landowner was not a party to the original enforcement proceeding the Director may initiate a proceeding to ensure that the landowner does so.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0170

690-240-0630

Assessment of Civil Penalties

Under OAR 690-240-0580(1) the Director may at any time select the most appropriate enforcement tool, including assessment of civil penalties, to gain compliance. However, the Director shall not impose a civil penalty if compliance has been achieved in another manner prior to final decision in the proceeding.

Stat. Auth.: ORS 537 & ORS 742

Stats. Implemented: ORS 537 & ORS 742

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0175

690-240-0640

Schedule of Civil Penalties

(1) The amount of civil penalty shall be determined consistent with the following schedule:

(a) Not less than \$25 nor more than \$250 for each occurrence defined in these rules as a minor violation;

(b) Not less than \$50 nor more than \$1,000 for each occurrence defined in these rules as a major violation;

(c) First occurrence, in a calendar year, of a missing or late start card fee shall be \$150;

(d) Second occurrence, in a calendar year, of a missing or late start card fee shall be \$250; and

(e) Third, and each subsequent, occurrence, in a calendar year, of a missing or late start card fee shall be \$250 and may include suspension of the monitoring well constructor's license, and any other action authorized by law.

(2) For purposes of assessing a civil penalty, the start card fee referred to in subsections (1)(c), (d), and (e) of this rule shall not be considered late if it is received in the Salem office of the Water Resources Department within five days of the receipt of the start card, provided the start card was submitted in a timely manner as defined in OAR 690-240-0375.

(3) Table 240-3 lists minor violations related to monitoring well construction and geotechnical holes. All other violations are declared to be major.

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

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795

Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0180

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
104-080-0000	1-15-03	Amend	2-1-03	125-045-0110	12-27-02	Amend	2-1-03
104-080-0010	1-15-03	Amend	2-1-03	125-045-0120	12-27-02	Amend	2-1-03
104-080-0020	1-15-03	Amend	2-1-03	125-045-0130	12-27-02	Amend	2-1-03
104-080-0021	1-15-03	Amend	2-1-03	125-045-0140	12-27-02	Amend	2-1-03
104-080-0022	1-15-03	Amend	2-1-03	125-045-0150	12-27-02	Amend	2-1-03
104-080-0023	1-15-03	Amend	2-1-03	125-045-0160	12-27-02	Amend	2-1-03
104-080-0024	1-15-03	Amend	2-1-03	125-055-0100	12-31-02	Adopt(T)	2-1-03
104-080-0025	1-15-03	Amend	2-1-03	125-055-0105	12-31-02	Adopt(T)	2-1-03
104-080-0026	1-15-03	Amend	2-1-03	125-055-0110	12-31-02	Adopt(T)	2-1-03
104-080-0027	1-15-03	Amend	2-1-03	125-055-0115	12-31-02	Adopt(T)	2-1-03
104-080-0028	1-15-03	Amend	2-1-03	125-055-0120	12-31-02	Adopt(T)	2-1-03
104-080-0030	1-15-03	Amend	2-1-03	125-055-0125	12-31-02	Adopt(T)	2-1-03
104-080-0040	1-15-03	Amend	2-1-03	125-055-0130	12-31-02	Adopt(T)	2-1-03
104-080-0050	1-15-03	Amend	2-1-03	125-500-0000	12-27-02	Amend	2-1-03
104-080-0060	1-15-03	Amend	2-1-03	125-500-0005	12-27-02	Amend	2-1-03
104-080-0070	1-15-03	Amend	2-1-03	125-500-0010	12-27-02	Amend	2-1-03
105-040-0020	1-13-03	Amend(T)	2-1-03	137-008-0000	3-1-03	Amend	4-1-03
105-040-0040	1-13-03	Amend(T)	2-1-03	137-009-0000	12-12-02	Amend(T)	1-1-03
122-065-0030	1-2-03	Adopt(T)	2-1-03	137-009-0005	12-12-02	Amend(T)	1-1-03
123-020-0000	3-4-03	Adopt(T)	4-1-03	137-009-0010	12-12-02	Amend(T)	1-1-03
123-020-0005	3-4-03	Amend(T)	4-1-03	137-009-0015	12-12-02	Suspend	1-1-03
123-020-0015	3-4-03	Amend(T)	4-1-03	137-009-0020	12-12-02	Suspend	1-1-03
123-020-0020	3-4-03	Amend(T)	4-1-03	137-009-0025	12-12-02	Suspend	1-1-03
123-020-0025	3-4-03	Amend(T)	4-1-03	137-009-0030	12-12-02	Suspend	1-1-03
123-020-0030	3-4-03	Amend(T)	4-1-03	137-009-0035	12-12-02	Suspend	1-1-03
123-020-0035	3-4-03	Amend(T)	4-1-03	137-009-0040	12-12-02	Suspend	1-1-03
123-020-0040	3-4-03	Amend(T)	4-1-03	137-009-0045	12-12-02	Amend(T)	1-1-03
123-020-0050	3-4-03	Suspend	4-1-03	137-009-0055	12-12-02	Suspend	1-1-03
123-043-0035	2-24-03	Amend(T)	4-1-03	137-009-0060	12-12-02	Adopt(T)	1-1-03
123-043-0045	2-24-03	Amend(T)	4-1-03	137-009-0065	12-12-02	Adopt(T)	1-1-03
123-043-0055	2-24-03	Amend(T)	4-1-03	137-009-0100	12-12-02	Adopt(T)	1-1-03
123-043-0075	2-24-03	Amend(T)	4-1-03	137-009-0120	12-12-02	Adopt(T)	1-1-03
123-135-0000	12-10-02	Amend	1-1-03	137-083-0000	3-1-03	Adopt	4-1-03
123-135-0010	12-10-02	Amend	1-1-03	137-083-0010	3-1-03	Adopt	4-1-03
123-135-0020	12-10-02	Amend	1-1-03	137-083-0020	3-1-03	Adopt	4-1-03
123-135-0030	12-10-02	Amend	1-1-03	137-083-0030	3-1-03	Adopt	4-1-03
123-135-0040	12-10-02	Amend	1-1-03	137-083-0040	3-1-03	Adopt	4-1-03
123-135-0050	12-10-02	Amend	1-1-03	137-083-0050	3-1-03	Adopt	4-1-03
123-135-0060	12-10-02	Amend	1-1-03	141-030-0010	1-1-03	Amend	2-1-03
123-135-0070	12-10-02	Amend	1-1-03	141-030-0015	1-1-03	Amend	2-1-03
123-135-0080	12-10-02	Amend	1-1-03	141-030-0025	1-1-03	Amend	2-1-03
123-135-0087	12-10-02	Adopt	1-1-03	141-030-0034	1-1-03	Amend	2-1-03
123-135-0090	12-10-02	Amend	1-1-03	141-030-0035	1-1-03	Amend	2-1-03
123-135-0100	12-10-02	Amend	1-1-03	141-030-0036	1-1-03	Amend	2-1-03
123-135-0110	12-10-02	Amend	1-1-03	141-030-0037	1-1-03	Amend	2-1-03
123-155-0000	12-2-02	Adopt	1-1-03	141-030-0038	1-1-03	Amend	2-1-03
123-155-0100	12-2-02	Adopt	1-1-03	141-030-0039	1-1-03	Amend	2-1-03
123-155-0150	12-2-02	Adopt	1-1-03	141-030-0040	1-1-03	Adopt	2-1-03
123-155-0200	12-2-02	Adopt	1-1-03	141-035-0005	1-1-03	Amend	2-1-03
123-155-0250	12-2-02	Adopt	1-1-03	141-035-0010	1-1-03	Amend	2-1-03
123-155-0270	12-2-02	Adopt	1-1-03	141-035-0013	1-1-03	Adopt	2-1-03
123-155-0300	12-2-02	Adopt	1-1-03	141-035-0015	1-1-03	Amend	2-1-03
123-155-0400	12-2-02	Adopt	1-1-03	141-035-0020	1-1-03	Amend	2-1-03
125-020-0610	2-24-03	Amend	4-1-03	141-035-0025	1-1-03	Amend	2-1-03
125-045-0100	12-27-02	Amend	2-1-03	141-035-0030	1-1-03	Amend	2-1-03
125-045-0105	12-27-02	Amend	2-1-03	141-035-0035	1-1-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-035-0040	1-1-03	Amend	2-1-03	141-085-0025	1-15-03	Amend	1-1-03
141-035-0045	1-1-03	Amend	2-1-03	141-085-0027	1-15-03	Adopt	1-1-03
141-035-0046	1-1-03	Repeal	2-1-03	141-085-0028	1-15-03	Adopt	1-1-03
141-035-0047	1-1-03	Amend	2-1-03	141-085-0029	1-15-03	Adopt	1-1-03
141-035-0048	1-1-03	Adopt	2-1-03	141-085-0030	1-15-03	Repeal	1-1-03
141-035-0050	1-1-03	Amend	2-1-03	141-085-0031	1-15-03	Adopt	1-1-03
141-035-0055	1-1-03	Amend	2-1-03	141-085-0032	1-15-03	Repeal	1-1-03
141-035-0060	1-1-03	Amend	2-1-03	141-085-0034	1-15-03	Adopt	1-1-03
141-035-0065	1-1-03	Amend	2-1-03	141-085-0035	1-15-03	Repeal	1-1-03
141-035-0070	1-1-03	Amend	2-1-03	141-085-0036	1-15-03	Adopt	1-1-03
141-040-0005	1-1-03	Amend	2-1-03	141-085-0040	1-15-03	Repeal	1-1-03
141-040-0010	1-1-03	Amend	2-1-03	141-085-0050	1-15-03	Repeal	1-1-03
141-040-0020	1-1-03	Amend	2-1-03	141-085-0055	1-15-03	Repeal	1-1-03
141-040-0030	1-1-03	Amend	2-1-03	141-085-0060	1-15-03	Repeal	1-1-03
141-040-0035	1-1-03	Amend	2-1-03	141-085-0064	1-15-03	Adopt	1-1-03
141-040-0040	1-1-03	Amend	2-1-03	141-085-0065	1-15-03	Repeal	1-1-03
141-040-0200	1-1-03	Amend	2-1-03	141-085-0066	1-15-03	Adopt	1-1-03
141-040-0210	1-1-03	Repeal	2-1-03	141-085-0070	1-15-03	Amend	1-1-03
141-040-0211	1-1-03	Amend	2-1-03	141-085-0075	1-15-03	Amend	1-1-03
141-040-0212	1-1-03	Amend	2-1-03	141-085-0079	1-15-03	Adopt	1-1-03
141-040-0214	1-1-03	Amend	2-1-03	141-085-0080	1-15-03	Amend	1-1-03
141-040-0220	1-1-03	Amend	2-1-03	141-085-0085	1-15-03	Amend	1-1-03
141-045-0005	1-1-03	Amend	2-1-03	141-085-0090	1-15-03	Amend	1-1-03
141-045-0010	1-1-03	Amend	2-1-03	141-085-0095	1-15-03	Adopt	1-1-03
141-045-0015	1-1-03	Adopt	2-1-03	141-085-0096	1-15-03	Adopt	1-1-03
141-045-0020	1-1-03	Repeal	2-1-03	141-085-0101	1-15-03	Repeal	1-1-03
141-045-0021	1-1-03	Adopt	2-1-03	141-085-0110	1-15-03	Repeal	1-1-03
141-045-0024	1-1-03	Repeal	2-1-03	141-085-0115	1-15-03	Amend	1-1-03
141-045-0031	1-1-03	Amend	2-1-03	141-085-0120	1-15-03	Repeal	1-1-03
141-045-0041	1-1-03	Amend	2-1-03	141-085-0121	1-15-03	Adopt	1-1-03
141-045-0061	1-1-03	Amend	2-1-03	141-085-0125	1-15-03	Repeal	1-1-03
141-045-0100	1-1-03	Amend	2-1-03	141-085-0126	1-15-03	Adopt	1-1-03
141-045-0105	1-1-03	Amend	2-1-03	141-085-0130	1-15-03	Repeal	1-1-03
141-045-0115	1-1-03	Amend	2-1-03	141-085-0131	1-15-03	Adopt	1-1-03
141-045-0120	1-1-03	Amend	2-1-03	141-085-0135	1-15-03	Repeal	1-1-03
141-045-0121	1-1-03	Adopt	2-1-03	141-085-0136	1-15-03	Adopt	1-1-03
141-045-0122	1-1-03	Adopt	2-1-03	141-085-0140	1-15-03	Repeal	1-1-03
141-045-0123	1-1-03	Adopt	2-1-03	141-085-0141	1-15-03	Adopt	1-1-03
141-045-0124	1-1-03	Adopt	2-1-03	141-085-0145	1-15-03	Repeal	1-1-03
141-045-0125	1-1-03	Amend	2-1-03	141-085-0146	1-15-03	Adopt	1-1-03
141-045-0126	1-1-03	Adopt	2-1-03	141-085-0150	1-15-03	Repeal	1-1-03
141-045-0130	1-1-03	Amend	2-1-03	141-085-0151	1-15-03	Adopt	1-1-03
141-045-0150	1-1-03	Amend	2-1-03	141-085-0155	1-15-03	Repeal	1-1-03
141-045-0155	1-1-03	Amend	2-1-03	141-085-0156	1-15-03	Adopt	1-1-03
141-045-0160	1-1-03	Amend	2-1-03	141-085-0160	1-15-03	Repeal	1-1-03
141-045-0170	1-1-03	Amend	2-1-03	141-085-0161	1-15-03	Adopt	1-1-03
141-045-0180	1-1-03	Amend	2-1-03	141-085-0165	1-15-03	Repeal	1-1-03
141-045-0185	1-1-03	Adopt	2-1-03	141-085-0166	1-15-03	Adopt	1-1-03
141-085-0005	1-15-03	Amend	1-1-03	141-085-0170	1-15-03	Repeal	1-1-03
141-085-0006	1-15-03	Adopt	1-1-03	141-085-0171	1-15-03	Adopt	1-1-03
141-085-0010	1-15-03	Amend	1-1-03	141-085-0175	1-15-03	Repeal	1-1-03
141-085-0015	1-15-03	Amend	1-1-03	141-085-0176	1-15-03	Adopt	1-1-03
141-085-0018	1-15-03	Adopt	1-1-03	141-085-0180	1-15-03	Repeal	1-1-03
141-085-0020	1-15-03	Amend	1-1-03	141-085-0240	1-15-03	Amend	1-1-03
141-085-0022	1-15-03	Adopt	1-1-03	141-085-0242	1-15-03	Repeal	1-1-03
141-085-0024	1-15-03	Adopt	1-1-03	141-085-0244	1-15-03	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-085-0246	1-15-03	Amend	1-1-03	141-089-0091	1-15-03	Repeal	1-1-03
141-085-0248	1-15-03	Amend	1-1-03	141-089-0100	1-15-03	Adopt	1-1-03
141-085-0250	1-15-03	Amend	1-1-03	141-089-0105	1-15-03	Adopt	1-1-03
141-085-0252	1-15-03	Amend	1-1-03	141-089-0110	1-15-03	Adopt	1-1-03
141-085-0254	1-15-03	Amend	1-1-03	141-089-0115	1-15-03	Adopt	1-1-03
141-085-0256	1-15-03	Amend	1-1-03	141-089-0120	1-15-03	Adopt	1-1-03
141-085-0257	1-15-03	Adopt	1-1-03	141-089-0125	1-15-03	Adopt	1-1-03
141-085-0258	1-15-03	Repeal	1-1-03	141-089-0130	1-15-03	Adopt	1-1-03
141-085-0260	1-15-03	Repeal	1-1-03	141-089-0135	1-15-03	Adopt	1-1-03
141-085-0262	1-15-03	Amend	1-1-03	141-089-0140	1-15-03	Adopt	1-1-03
141-085-0263	1-15-03	Adopt	1-1-03	141-089-0145	1-15-03	Adopt	1-1-03
141-085-0264	1-15-03	Amend	1-1-03	141-089-0150	1-15-03	Adopt	1-1-03
141-085-0266	1-15-03	Amend	1-1-03	141-089-0155	1-15-03	Adopt	1-1-03
141-085-0300	1-15-03	Repeal	1-1-03	141-089-0160	1-15-03	Adopt	1-1-03
141-085-0306	1-15-03	Repeal	1-1-03	141-089-0165	1-15-03	Adopt	1-1-03
141-085-0310	1-15-03	Repeal	1-1-03	141-089-0170	1-15-03	Adopt	1-1-03
141-085-0315	1-15-03	Repeal	1-1-03	141-089-0175	1-15-03	Adopt	1-1-03
141-085-0320	1-15-03	Repeal	1-1-03	141-089-0180	1-15-03	Adopt	1-1-03
141-085-0325	1-15-03	Repeal	1-1-03	141-089-0185	1-15-03	Adopt	1-1-03
141-085-0330	1-15-03	Repeal	1-1-03	141-089-0190	1-15-03	Adopt	1-1-03
141-085-0335	1-15-03	Repeal	1-1-03	141-089-0195	1-15-03	Adopt	1-1-03
141-085-0340	1-15-03	Repeal	1-1-03	141-089-0200	1-15-03	Adopt	1-1-03
141-085-0345	1-15-03	Repeal	1-1-03	141-089-0205	1-15-03	Adopt	1-1-03
141-085-0350	1-15-03	Repeal	1-1-03	141-089-0210	1-15-03	Adopt	1-1-03
141-085-0355	1-15-03	Repeal	1-1-03	141-089-0215	1-15-03	Adopt	1-1-03
141-085-0360	1-15-03	Repeal	1-1-03	141-089-0220	1-15-03	Adopt	1-1-03
141-085-0365	1-15-03	Repeal	1-1-03	141-089-0225	1-15-03	Adopt	1-1-03
141-085-0400	1-15-03	Amend	1-1-03	141-089-0230	1-15-03	Adopt	1-1-03
141-085-0406	1-15-03	Amend	1-1-03	141-089-0235	1-15-03	Adopt	1-1-03
141-085-0410	1-15-03	Amend	1-1-03	141-089-0240	1-15-03	Adopt	1-1-03
141-085-0415	1-15-03	Repeal	1-1-03	141-089-0245	1-15-03	Adopt	1-1-03
141-085-0421	1-15-03	Amend	1-1-03	141-089-0250	1-15-03	Adopt	1-1-03
141-085-0425	1-15-03	Amend	1-1-03	141-089-0255	1-15-03	Adopt	1-1-03
141-085-0430	1-15-03	Amend	1-1-03	141-089-0260	1-15-03	Adopt	1-1-03
141-085-0436	1-15-03	Amend	1-1-03	141-089-0265	1-15-03	Adopt	1-1-03
141-085-0440	1-15-03	Amend	1-1-03	141-089-0270	1-15-03	Adopt	1-1-03
141-085-0445	1-15-03	Amend	1-1-03	141-089-0275	1-15-03	Adopt	1-1-03
141-085-0610	1-15-03	Amend	1-1-03	141-089-0280	1-15-03	Adopt	1-1-03
141-085-0620	1-15-03	Amend	1-1-03	141-089-0285	1-15-03	Adopt	1-1-03
141-085-0630	1-15-03	Amend	1-1-03	141-089-0290	1-15-03	Adopt	1-1-03
141-085-0640	1-15-03	Amend	1-1-03	141-089-0295	1-15-03	Adopt	1-1-03
141-085-0650	1-15-03	Amend	1-1-03	141-089-0300	1-15-03	Adopt	1-1-03
141-085-0660	1-15-03	Amend	1-1-03	141-089-0305	1-15-03	Adopt	1-1-03
141-089-0005	1-15-03	Repeal	1-1-03	141-089-0310	1-15-03	Adopt	1-1-03
141-089-0010	1-15-03	Repeal	1-1-03	141-122-0010	1-1-03	Amend	2-1-03
141-089-0015	1-15-03	Repeal	1-1-03	141-122-0020	1-1-03	Amend	2-1-03
141-089-0020	1-15-03	Repeal	1-1-03	141-122-0030	1-1-03	Amend	2-1-03
141-089-0030	1-15-03	Repeal	1-1-03	141-122-0040	1-1-03	Amend	2-1-03
141-089-0040	1-15-03	Repeal	1-1-03	141-122-0050	1-1-03	Amend	2-1-03
141-089-0050	1-15-03	Repeal	1-1-03	141-122-0060	1-1-03	Amend	2-1-03
141-089-0060	1-15-03	Repeal	1-1-03	141-122-0070	1-1-03	Amend	2-1-03
141-089-0065	1-15-03	Repeal	1-1-03	141-122-0080	1-1-03	Amend	2-1-03
141-089-0070	1-15-03	Repeal	1-1-03	141-122-0090	1-1-03	Amend	2-1-03
141-089-0075	1-15-03	Repeal	1-1-03	141-122-0100	1-1-03	Amend	2-1-03
141-089-0081	1-15-03	Repeal	1-1-03	141-122-0105	1-1-03	Adopt	2-1-03
141-089-0086	1-15-03	Repeal	1-1-03	141-122-0110	1-1-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-122-0120	1-1-03	Amend	2-1-03	165-014-0005	12-5-02	Amend(T)	1-1-03
150-18.902(5)	12-31-02	Adopt	2-1-03	165-020-0005	12-5-02	Amend(T)	1-1-03
150-23.185	12-31-02	Am. & Ren.	2-1-03	165-022-0020	2-27-03	Amend(T)	4-1-03
150-23.185-(A)	12-31-02	Am. & Ren.	2-1-03	166-115-0010	2-14-03	Adopt	3-1-03
150-29.375	12-31-02	Repeal	2-1-03	166-475-0010	2-14-03	Amend	3-1-03
150-305.145(2)	12-31-02	Amend	2-1-03	166-475-0015	2-14-03	Amend	3-1-03
150-305.220(1)	1-31-03	Amend	2-1-03	166-475-0020	2-14-03	Amend	3-1-03
150-305.220(2)	1-31-03	Amend	2-1-03	166-475-0025	2-14-03	Amend	3-1-03
150-305.220(3)	1-31-03	Amend	2-1-03	166-475-0030	2-14-03	Amend	3-1-03
150-305.222	12-31-02	Adopt	2-1-03	166-475-0035	2-14-03	Amend	3-1-03
150-305.612	12-31-02	Adopt	2-1-03	166-475-0040	2-14-03	Amend	3-1-03
150-305.612(T)	12-31-02	Repeal	2-1-03	166-475-0045	2-14-03	Amend	3-1-03
150-306.115(J)	12-31-02	Repeal	2-1-03	166-475-0050	2-14-03	Amend	3-1-03
150-306.265	12-31-02	Adopt	2-1-03	166-475-0055	2-14-03	Amend	3-1-03
150-307.175	12-31-02	Amend	2-1-03	166-475-0060	2-14-03	Amend	3-1-03
150-307.220-(B)	12-31-02	Amend	2-1-03	166-475-0065	2-14-03	Amend	3-1-03
150-307.230-(B)	12-31-02	Amend	2-1-03	166-475-0070	2-14-03	Amend	3-1-03
150-307.240-(B)	12-31-02	Amend	2-1-03	166-475-0075	2-14-03	Amend	3-1-03
150-308.290(4)(b)	12-31-02	Amend	2-1-03	166-475-0080	2-14-03	Amend	3-1-03
150-308.290(7)-(B)	12-31-02	Amend	2-1-03	166-475-0085	2-14-03	Amend	3-1-03
150-308.560	12-31-02	Adopt	2-1-03	166-475-0090	2-14-03	Amend	3-1-03
150-308.704	12-31-02	Amend	2-1-03	166-475-0095	2-14-03	Amend	3-1-03
150-308.709	12-31-02	Amend	2-1-03	166-475-0100	2-14-03	Amend	3-1-03
150-308.712	12-31-02	Amend	2-1-03	166-475-0105	2-14-03	Amend	3-1-03
150-309.022(1)	12-31-02	Amend	2-1-03	166-475-0110	2-14-03	Amend	3-1-03
150-309.024-(B)	12-31-02	Repeal	2-1-03	177-005-0000	11-25-02	Repeal	1-1-03
150-309.100	12-31-02	Am. & Ren.	2-1-03	177-010-0000	11-25-02	Amend	1-1-03
150-309.100(1)	12-31-02	Am. & Ren.	2-1-03	177-010-0003	11-25-02	Adopt	1-1-03
150-309.100(1)-(A)	12-31-02	Am. & Ren.	2-1-03	177-010-0005	11-25-02	Repeal	1-1-03
150-309.100(2)-(C)	12-31-02	Am. & Ren.	2-1-03	177-010-0007	11-25-02	Amend	1-1-03
150-309.100-(A)	12-31-02	Am. & Ren.	2-1-03	177-010-0009	11-25-02	Amend	1-1-03
150-310.110	12-31-02	Amend	2-1-03	177-010-0020	11-25-02	Repeal	1-1-03
150-314.260	12-31-02	Amend	2-1-03	177-010-0025	11-25-02	Amend	1-1-03
150-314.280(3)	12-31-02	Adopt	2-1-03	177-010-0040	11-25-02	Repeal	1-1-03
150-314.280-(N)	12-31-02	Amend	2-1-03	177-010-0045	11-25-02	Amend	1-1-03
150-314.385(1)-(B)	12-31-02	Amend	2-1-03	177-010-0050	11-25-02	Amend	1-1-03
150-314.525(1)-(A)	12-31-02	Amend	2-1-03	177-010-0055	11-25-02	Repeal	1-1-03
150-314.610(4)-(A)	12-31-02	Repeal	2-1-03	177-010-0060	11-25-02	Repeal	1-1-03
150-314.840	12-31-02	Amend	2-1-03	177-010-0065	11-25-02	Repeal	1-1-03
150-314.840(T)	12-31-02	Repeal	2-1-03	177-010-0070	11-25-02	Repeal	1-1-03
150-315.164	12-31-02	Amend	2-1-03	177-010-0080	11-25-02	Amend	1-1-03
150-321.207(1)	12-31-02	Adopt	2-1-03	177-010-0085	11-25-02	Amend	1-1-03
150-323.140	12-31-02	Adopt	2-1-03	177-010-0096	11-25-02	Repeal	1-1-03
150-323.160(2)	12-31-02	Adopt	2-1-03	177-010-0100	11-25-02	Amend	1-1-03
150-465.517(3)	12-20-02	Renumber	2-1-03	177-010-0110	11-25-02	Amend	1-1-03
150-465.517(3)	12-31-02	Adopt	2-1-03	177-010-0120	11-25-02	Amend	1-1-03
160-100-0610	4-1-03	Amend	4-1-03	177-010-0300	11-25-02	Repeal	1-1-03
161-002-0000	1-27-03	Amend	3-1-03	177-040-0000	11-25-02	Amend	1-1-03
161-006-0025	1-14-03	Amend(T)	2-1-03	177-040-0001	11-25-02	Amend	1-1-03
161-010-0020	1-27-03	Amend	3-1-03	177-040-0003	11-25-02	Amend	1-1-03
161-020-0015	1-27-03	Amend	3-1-03	177-040-0005	11-25-02	Amend	1-1-03
161-020-0045	1-27-03	Amend	3-1-03	177-040-0010	11-25-02	Amend	1-1-03
161-020-0055	1-27-03	Amend	3-1-03	177-040-0012	11-25-02	Repeal	1-1-03
161-020-0080	1-27-03	Repeal	3-1-03	177-040-0025	11-25-02	Amend	1-1-03
161-020-0150	1-27-03	Amend	3-1-03	177-040-0030	3-14-03	Amend	4-1-03
161-025-0060	1-27-03	Amend	3-1-03	177-040-0040	11-25-02	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
177-040-0050	11-25-02	Amend	1-1-03	177-065-0075	11-25-02	Amend	1-1-03
177-040-0051	11-25-02	Adopt	1-1-03	177-065-0080	11-25-02	Amend	1-1-03
177-040-0051	3-14-03	Amend	4-1-03	177-065-0100	11-25-02	Repeal	1-1-03
177-040-0052	11-25-02	Adopt	1-1-03	177-070-0000	11-25-02	Repeal	1-1-03
177-040-0055	11-25-02	Amend	1-1-03	177-070-0005	11-25-02	Amend	1-1-03
177-040-0105	11-25-02	Amend	1-1-03	177-070-0010	11-25-02	Repeal	1-1-03
177-040-0110	3-14-03	Amend	4-1-03	177-070-0015	11-25-02	Repeal	1-1-03
177-040-0115	3-14-03	Amend	4-1-03	177-070-0025	11-25-02	Amend	1-1-03
177-040-0120	3-14-03	Amend	4-1-03	177-070-0035	11-25-02	Amend	1-1-03
177-040-0125	3-14-03	Amend	4-1-03	177-070-0055	11-25-02	Repeal	1-1-03
177-040-0130	3-14-03	Amend	4-1-03	177-070-0060	11-25-02	Repeal	1-1-03
177-040-0160	3-14-03	Amend	4-1-03	177-070-0065	11-25-02	Repeal	1-1-03
177-040-0180	3-14-03	Amend	4-1-03	177-070-0070	11-25-02	Repeal	1-1-03
177-040-0190	3-14-03	Amend	4-1-03	177-070-0075	11-25-02	Repeal	1-1-03
177-046-0010	11-25-02	Adopt	1-1-03	177-070-0080	11-25-02	Amend	1-1-03
177-046-0020	11-25-02	Adopt	1-1-03	177-075-0000	11-25-02	Amend	1-1-03
177-046-0030	11-25-02	Adopt	1-1-03	177-075-0005	11-25-02	Amend	1-1-03
177-046-0040	11-25-02	Adopt	1-1-03	177-075-0010	11-25-02	Amend	1-1-03
177-046-0050	11-25-02	Adopt	1-1-03	177-075-0015	11-25-02	Amend	1-1-03
177-046-0060	11-25-02	Adopt	1-1-03	177-075-0020	11-25-02	Amend	1-1-03
177-046-0070	11-25-02	Adopt	1-1-03	177-075-0027	11-25-02	Amend	1-1-03
177-046-0080	11-25-02	Adopt	1-1-03	177-075-0030	11-25-02	Amend	1-1-03
177-046-0090	11-25-02	Adopt	1-1-03	177-075-0035	11-25-02	Amend	1-1-03
177-046-0100	11-25-02	Adopt	1-1-03	177-075-0045	11-25-02	Repeal	1-1-03
177-046-0110	11-25-02	Adopt	1-1-03	177-075-0050	11-25-02	Repeal	1-1-03
177-046-0120	11-25-02	Adopt	1-1-03	177-081-0000	11-25-02	Amend	1-1-03
177-046-0130	11-25-02	Adopt	1-1-03	177-081-0010	11-25-02	Amend	1-1-03
177-046-0140	11-25-02	Adopt	1-1-03	177-081-0020	11-25-02	Amend	1-1-03
177-046-0150	11-25-02	Adopt	1-1-03	177-081-0030	11-25-02	Amend	1-1-03
177-046-0160	11-25-02	Adopt	1-1-03	177-081-0035	11-25-02	Repeal	1-1-03
177-046-0170	11-25-02	Adopt	1-1-03	177-081-0040	11-25-02	Amend	1-1-03
177-050-0000	11-25-02	Repeal	1-1-03	177-081-0050	11-25-02	Amend	1-1-03
177-050-0002	11-25-02	Amend	1-1-03	177-081-0060	11-25-02	Amend	1-1-03
177-050-0010	11-25-02	Repeal	1-1-03	177-081-0080	11-25-02	Amend	1-1-03
177-050-0020	11-25-02	Amend	1-1-03	177-081-0090	11-25-02	Repeal	1-1-03
177-050-0021	11-25-02	Repeal	1-1-03	177-085-0005	2-3-03	Amend	3-1-03
177-050-0023	11-25-02	Repeal	1-1-03	177-085-0010	2-3-03	Amend	3-1-03
177-050-0025	11-25-02	Amend	1-1-03	177-085-0015	2-3-03	Amend	3-1-03
177-050-0027	11-25-02	Amend	1-1-03	177-085-0020	2-3-03	Amend	3-1-03
177-050-0037	11-25-02	Amend	1-1-03	177-085-0025	2-3-03	Amend	3-1-03
177-050-0045	11-25-02	Repeal	1-1-03	177-085-0030	2-3-03	Amend	3-1-03
177-050-0051	11-25-02	Repeal	1-1-03	177-085-0035	2-3-03	Amend	3-1-03
177-050-0055	11-25-02	Repeal	1-1-03	177-085-0040	2-3-03	Amend	3-1-03
177-050-0065	11-25-02	Repeal	1-1-03	177-085-0045	2-3-03	Amend	3-1-03
177-050-0075	11-25-02	Repeal	1-1-03	177-085-0050	2-3-03	Amend	3-1-03
177-065-0000	11-25-02	Repeal	1-1-03	177-085-0055	2-3-03	Repeal	3-1-03
177-065-0005	11-25-02	Amend	1-1-03	177-085-0065	2-3-03	Amend	3-1-03
177-065-0015	11-25-02	Amend	1-1-03	177-094-0000	11-25-02	Amend	1-1-03
177-065-0020	11-25-02	Amend	1-1-03	177-094-0010	11-25-02	Amend	1-1-03
177-065-0025	11-25-02	Amend	1-1-03	177-094-0020	11-25-02	Amend	1-1-03
177-065-0030	11-25-02	Amend	1-1-03	177-094-0030	11-25-02	Amend	1-1-03
177-065-0035	11-25-02	Amend	1-1-03	177-094-0035	11-25-02	Repeal	1-1-03
177-065-0040	11-25-02	Amend	1-1-03	177-094-0040	11-25-02	Amend	1-1-03
177-065-0045	11-25-02	Amend	1-1-03	177-094-0050	11-25-02	Amend	1-1-03
177-065-0055	11-25-02	Amend	1-1-03	177-094-0060	11-25-02	Amend	1-1-03
177-065-0065	11-25-02	Amend	1-1-03	177-094-0085	11-25-02	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
177-094-0090	11-25-02	Repeal	1-1-03	259-060-0120	1-22-03	Amend	3-1-03
177-094-0095	11-25-02	Repeal	1-1-03	259-060-0130	1-22-03	Amend	3-1-03
177-099-0000	11-25-02	Amend	1-1-03	259-060-0300	1-22-03	Amend	3-1-03
177-099-0010	11-25-02	Amend	1-1-03	259-060-0450	1-22-03	Amend	3-1-03
177-099-0020	11-25-02	Amend	1-1-03	274-020-0341	1-21-03	Amend(T)	3-1-03
177-099-0030	11-25-02	Amend	1-1-03	274-020-0341(T)	1-21-03	Suspend	3-1-03
177-099-0035	11-25-02	Repeal	1-1-03	274-040-0030	1-1-03	Amend(T)	2-1-03
177-099-0040	11-25-02	Amend	1-1-03	291-019-0010	3-1-03	Am. & Ren.	3-1-03
177-099-0050	11-25-02	Amend	1-1-03	291-024-0005	2-5-03	Amend	3-1-03
177-099-0060	11-25-02	Amend	1-1-03	291-024-0010	2-5-03	Amend	3-1-03
177-099-0080	11-25-02	Amend	1-1-03	291-024-0015	2-5-03	Amend	3-1-03
177-099-0090	11-25-02	Amend	1-1-03	291-024-0016	2-5-03	Amend	3-1-03
177-099-0100	11-25-02	Amend	1-1-03	291-024-0017	2-5-03	Repeal	3-1-03
177-099-0110	11-25-02	Repeal	1-1-03	291-024-0020	2-5-03	Amend	3-1-03
220-005-0010	1-1-03	Amend	1-1-03	291-024-0025	2-5-03	Amend	3-1-03
250-001-0020	1-14-03	Amend	2-1-03	291-024-0055	2-5-03	Amend	3-1-03
250-020-0380	1-14-03	Repeal	2-1-03	291-024-0060	2-5-03	Amend	3-1-03
259-008-0000	11-18-02	Amend	1-1-03	291-024-0070	2-5-03	Am. & Ren.	3-1-03
259-008-0005	11-18-02	Amend	1-1-03	291-024-0080	2-5-03	Amend	3-1-03
259-008-0010	11-21-02	Amend	1-1-03	291-025-0065	2-5-03	Am. & Ren.	3-1-03
259-008-0010	1-22-03	Amend	3-1-03	291-031-0085	2-21-03	Adopt(T)	4-1-03
259-008-0020	11-18-02	Amend	1-1-03	291-031-0095	2-21-03	Adopt(T)	4-1-03
259-008-0035	11-18-02	Amend	1-1-03	291-031-0100	2-21-03	Adopt(T)	4-1-03
259-008-0060	11-21-02	Amend	1-1-03	291-031-0110	2-21-03	Adopt(T)	4-1-03
259-008-0062	11-18-02	Repeal	1-1-03	291-031-0120	2-21-03	Adopt(T)	4-1-03
259-008-0063	11-18-02	Repeal	1-1-03	291-031-0130	2-21-03	Adopt(T)	4-1-03
259-008-0065	11-18-02	Amend	1-1-03	291-031-0140	2-21-03	Adopt(T)	4-1-03
259-008-0070	11-18-02	Amend	1-1-03	291-062-0030	2-21-03	Amend(T)	4-1-03
259-008-0080	11-18-02	Amend	1-1-03	291-077-0030	2-28-03	Amend(T)	4-1-03
259-008-0085	11-18-02	Amend	1-1-03	291-109-0005	3-1-03	Repeal	3-1-03
259-008-0087	11-18-02	Repeal	1-1-03	291-109-0015	3-1-03	Repeal	3-1-03
259-009-0000	11-18-02	Adopt	1-1-03	291-109-0020	3-1-03	Repeal	3-1-03
259-009-0005	11-18-02	Adopt	1-1-03	291-109-0030	3-1-03	Repeal	3-1-03
259-009-0010	11-18-02	Adopt	1-1-03	291-109-0040	3-1-03	Repeal	3-1-03
259-009-0020	11-18-02	Adopt	1-1-03	291-109-0050	3-1-03	Repeal	3-1-03
259-009-0025	11-18-02	Adopt	1-1-03	291-109-0060	3-1-03	Repeal	3-1-03
259-009-0030	11-18-02	Adopt	1-1-03	291-109-0100	3-1-03	Adopt	3-1-03
259-009-0035	11-18-02	Adopt	1-1-03	291-109-0120	3-1-03	Adopt	3-1-03
259-009-0062	11-18-02	Adopt	1-1-03	291-109-0130	3-1-03	Adopt	3-1-03
259-009-0063	11-18-02	Adopt	1-1-03	291-109-0140	3-1-03	Adopt	3-1-03
259-009-0067	11-18-02	Adopt	1-1-03	291-203-0010	2-7-03	Adopt(T)	3-1-03
259-009-0070	11-18-02	Adopt	1-1-03	291-203-0020	2-7-03	Adopt(T)	3-1-03
259-009-0072	11-18-02	Adopt	1-1-03	291-203-0030	2-7-03	Adopt(T)	3-1-03
259-009-0080	11-18-02	Adopt	1-1-03	309-018-0120	3-10-03	Amend(T)	3-1-03
259-009-0085	11-18-02	Adopt	1-1-03	309-018-0130	3-10-03	Amend(T)	3-1-03
259-009-0087	11-18-02	Adopt	1-1-03	309-018-0180	3-10-03	Amend(T)	3-1-03
259-009-0090	11-18-02	Adopt	1-1-03	330-130-0030	1-10-03	Amend	2-1-03
259-009-0100	11-18-02	Adopt	1-1-03	330-130-0040	1-10-03	Amend	2-1-03
259-020-0005	1-21-03	Amend	3-1-03	330-130-0050	1-10-03	Amend	2-1-03
259-020-0010	1-21-03	Amend	3-1-03	330-130-0060	1-10-03	Amend	2-1-03
259-020-0015	1-21-03	Amend	3-1-03	330-130-0080	1-10-03	Amend	2-1-03
259-020-0025	1-21-03	Amend	3-1-03	331-400-0010	2-1-03	Amend	3-1-03
259-025-0000	11-21-02	Amend	1-1-03	331-405-0020	2-1-03	Amend	3-1-03
259-060-0010	1-22-03	Amend	3-1-03	331-410-0000	2-1-03	Amend	3-1-03
259-060-0015	1-22-03	Amend	3-1-03	331-420-0000	2-1-03	Amend	3-1-03
259-060-0070	1-22-03	Amend	3-1-03	331-420-0010	2-1-03	Amend	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-420-0020	2-1-03	Amend	3-1-03	334-010-0010	1-24-03	Amend	3-1-03
331-705-0060	1-1-03	Amend	2-1-03	334-010-0015	1-24-03	Amend	3-1-03
333-011-0047	2-20-03	Amend(T)	4-1-03	334-010-0016	1-24-03	Amend	3-1-03
333-050-0010	12-13-02	Amend	1-1-03	334-010-0017	1-24-03	Amend	3-1-03
333-050-0020	12-13-02	Amend	1-1-03	334-010-0025	1-24-03	Amend	3-1-03
333-050-0030	12-13-02	Amend	1-1-03	334-010-0033	1-24-03	Amend	3-1-03
333-050-0040	12-13-02	Amend	1-1-03	334-010-0050	1-24-03	Amend	3-1-03
333-050-0050	12-13-02	Amend	1-1-03	337-010-0030	11-18-02	Amend	1-1-03
333-050-0060	12-13-02	Amend	1-1-03	337-010-0060	11-18-02	Amend	1-1-03
333-050-0080	12-13-02	Amend	1-1-03	337-021-0040	11-18-02	Amend	1-1-03
333-050-0090	12-13-02	Amend	1-1-03	337-021-0070	11-18-02	Adopt	1-1-03
333-050-0100	12-13-02	Amend	1-1-03	337-021-0080	11-18-02	Adopt	1-1-03
333-050-0130	12-13-02	Amend	1-1-03	339-020-0020	3-4-03	Amend	4-1-03
333-050-0140	12-13-02	Amend	1-1-03	340-012-0045	1-31-03	Amend	3-1-03
333-054-0000	12-24-02	Amend	2-1-03	340-012-0049	1-31-03	Amend	3-1-03
333-054-0010	12-24-02	Amend	2-1-03	340-012-0067	2-14-03	Amend	3-1-03
333-054-0020	12-24-02	Amend	2-1-03	340-012-0069	1-31-03	Repeal	3-1-03
333-054-0030	12-24-02	Amend	2-1-03	340-012-0081	1-31-03	Adopt	3-1-03
333-054-0040	12-24-02	Amend	2-1-03	340-012-0082	1-31-03	Adopt	3-1-03
333-054-0050	12-24-02	Amend	2-1-03	340-012-0083	1-31-03	Adopt	3-1-03
333-054-0060	12-24-02	Amend	2-1-03	340-012-0090	1-31-03	Amend	3-1-03
333-054-0070	12-24-02	Amend	2-1-03	340-042-0025	12-20-02	Adopt	2-1-03
333-054-0090	12-24-02	Repeal	2-1-03	340-042-0030	12-20-02	Adopt	2-1-03
333-157-0045	1-1-03	Amend	1-1-03	340-042-0040	12-20-02	Adopt	2-1-03
333-162-1005	1-1-03	Adopt	1-1-03	340-042-0050	12-20-02	Adopt	2-1-03
333-500-0010	12-10-02	Amend	1-1-03	340-042-0060	12-20-02	Adopt	2-1-03
333-500-0050	12-10-02	Amend	1-1-03	340-042-0070	12-20-02	Adopt	2-1-03
333-500-0056	12-10-02	Adopt	1-1-03	340-042-0080	12-20-02	Adopt	2-1-03
333-500-0057	12-10-02	Adopt	1-1-03	340-047-0005	1-31-03	Repeal	3-1-03
333-505-0005	12-10-02	Amend	1-1-03	340-047-0010	1-31-03	Repeal	3-1-03
333-510-0045	12-10-02	Amend	1-1-03	340-047-0015	1-31-03	Repeal	3-1-03
333-515-0060	12-10-02	Amend	1-1-03	340-047-0020	1-31-03	Repeal	3-1-03
333-535-0040	2-20-03	Repeal	4-1-03	340-047-0025	1-31-03	Repeal	3-1-03
333-535-0041	2-20-03	Adopt	4-1-03	340-047-0035	1-31-03	Repeal	3-1-03
333-536-0000	2-1-03	Adopt	1-1-03	340-047-0040	1-31-03	Repeal	3-1-03
333-536-0005	2-1-03	Adopt	1-1-03	340-047-0100	1-31-03	Repeal	3-1-03
333-536-0010	2-1-03	Adopt	1-1-03	340-047-0110	1-31-03	Repeal	3-1-03
333-536-0015	2-1-03	Adopt	1-1-03	340-047-0120	1-31-03	Repeal	3-1-03
333-536-0020	2-1-03	Adopt	1-1-03	340-047-0130	1-31-03	Repeal	3-1-03
333-536-0025	2-1-03	Adopt	1-1-03	340-047-0140	1-31-03	Repeal	3-1-03
333-536-0030	2-1-03	Adopt	1-1-03	340-047-0150	1-31-03	Repeal	3-1-03
333-536-0035	2-1-03	Adopt	1-1-03	340-047-0160	1-31-03	Repeal	3-1-03
333-536-0040	2-1-03	Adopt	1-1-03	340-047-0170	1-31-03	Repeal	3-1-03
333-536-0045	2-1-03	Adopt	1-1-03	340-047-0180	1-31-03	Repeal	3-1-03
333-536-0050	2-1-03	Adopt	1-1-03	340-047-0190	1-31-03	Repeal	3-1-03
333-536-0055	2-1-03	Adopt	1-1-03	340-047-0200	1-31-03	Repeal	3-1-03
333-536-0060	2-1-03	Adopt	1-1-03	340-047-0210	1-31-03	Repeal	3-1-03
333-536-0065	2-1-03	Adopt	1-1-03	340-047-0220	1-31-03	Repeal	3-1-03
333-536-0070	2-1-03	Adopt	1-1-03	340-047-0230	1-31-03	Repeal	3-1-03
333-536-0075	2-1-03	Adopt	1-1-03	340-047-0240	1-31-03	Repeal	3-1-03
333-536-0080	2-1-03	Adopt	1-1-03	340-108-0001	1-31-03	Repeal	3-1-03
333-536-0085	2-1-03	Adopt	1-1-03	340-108-0002	1-31-03	Repeal	3-1-03
333-536-0090	2-1-03	Adopt	1-1-03	340-108-0010	1-31-03	Repeal	3-1-03
333-536-0095	2-1-03	Adopt	1-1-03	340-108-0020	1-31-03	Repeal	3-1-03
334-001-0060	1-24-03	Amend	3-1-03	340-108-0030	1-31-03	Repeal	3-1-03
334-010-0005	1-24-03	Amend	3-1-03	340-108-0040	1-31-03	Repeal	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-108-0050	1-31-03	Repeal	3-1-03	340-150-0125	2-14-03	Am. & Ren.	3-1-03
340-108-0070	1-31-03	Repeal	3-1-03	340-150-0130	2-14-03	Repeal	3-1-03
340-108-0080	1-31-03	Repeal	3-1-03	340-150-0135	2-14-03	Adopt	3-1-03
340-122-0210	2-14-03	Amend	3-1-03	340-150-0140	2-14-03	Amend	3-1-03
340-141-0001	1-31-03	Adopt	3-1-03	340-150-0150	2-14-03	Amend	3-1-03
340-141-0005	1-31-03	Adopt	3-1-03	340-150-0152	2-14-03	Adopt	3-1-03
340-141-0010	1-31-03	Adopt	3-1-03	340-150-0156	2-14-03	Adopt	3-1-03
340-141-0100	1-31-03	Adopt	3-1-03	340-150-0160	2-14-03	Amend	3-1-03
340-141-0130	1-31-03	Adopt	3-1-03	340-150-0163	2-14-03	Amend	3-1-03
340-141-0140	1-31-03	Adopt	3-1-03	340-150-0166	2-14-03	Amend	3-1-03
340-141-0150	1-31-03	Adopt	3-1-03	340-150-0167	2-14-03	Adopt	3-1-03
340-141-0160	1-31-03	Adopt	3-1-03	340-150-0168	2-14-03	Adopt	3-1-03
340-141-0170	1-31-03	Adopt	3-1-03	340-150-0180	2-14-03	Adopt	3-1-03
340-141-0180	1-31-03	Adopt	3-1-03	340-150-0200	2-14-03	Adopt	3-1-03
340-141-0190	1-31-03	Adopt	3-1-03	340-150-0250	2-14-03	Adopt	3-1-03
340-141-0200	1-31-03	Adopt	3-1-03	340-150-0300	2-14-03	Adopt	3-1-03
340-141-0210	1-31-03	Adopt	3-1-03	340-150-0302	2-14-03	Adopt	3-1-03
340-141-0220	1-31-03	Adopt	3-1-03	340-150-0310	2-14-03	Adopt	3-1-03
340-141-0230	1-31-03	Adopt	3-1-03	340-150-0320	2-14-03	Adopt	3-1-03
340-141-0240	1-31-03	Adopt	3-1-03	340-150-0325	2-14-03	Adopt	3-1-03
340-142-0001	1-31-03	Adopt	3-1-03	340-150-0350	2-14-03	Adopt	3-1-03
340-142-0005	1-31-03	Adopt	3-1-03	340-150-0352	2-14-03	Adopt	3-1-03
340-142-0030	1-31-03	Adopt	3-1-03	340-150-0354	2-14-03	Adopt	3-1-03
340-142-0040	1-31-03	Adopt	3-1-03	340-150-0360	2-14-03	Adopt	3-1-03
340-142-0050	1-31-03	Adopt	3-1-03	340-150-0400	2-14-03	Adopt	3-1-03
340-142-0060	1-31-03	Adopt	3-1-03	340-150-0410	2-14-03	Adopt	3-1-03
340-142-0070	1-31-03	Adopt	3-1-03	340-150-0420	2-14-03	Adopt	3-1-03
340-142-0080	1-31-03	Adopt	3-1-03	340-150-0430	2-14-03	Adopt	3-1-03
340-142-0090	1-31-03	Adopt	3-1-03	340-150-0435	2-14-03	Adopt	3-1-03
340-142-0100	1-31-03	Adopt	3-1-03	340-150-0440	2-14-03	Adopt	3-1-03
340-142-0120	1-31-03	Adopt	3-1-03	340-150-0445	2-14-03	Adopt	3-1-03
340-142-0130	1-31-03	Adopt	3-1-03	340-150-0450	2-14-03	Adopt	3-1-03
340-150-0001	2-14-03	Amend	3-1-03	340-150-0455	2-14-03	Adopt	3-1-03
340-150-0002	2-14-03	Repeal	3-1-03	340-150-0460	2-14-03	Adopt	3-1-03
340-150-0003	2-14-03	Repeal	3-1-03	340-150-0465	2-14-03	Adopt	3-1-03
340-150-0006	2-14-03	Adopt	3-1-03	340-150-0470	2-14-03	Adopt	3-1-03
340-150-0008	2-14-03	Adopt	3-1-03	340-150-0500	2-14-03	Adopt	3-1-03
340-150-0010	2-14-03	Amend	3-1-03	340-150-0510	2-14-03	Adopt	3-1-03
340-150-0015	2-14-03	Repeal	3-1-03	340-150-0520	2-14-03	Adopt	3-1-03
340-150-0016	2-14-03	Repeal	3-1-03	340-150-0540	2-14-03	Adopt	3-1-03
340-150-0019	2-14-03	Repeal	3-1-03	340-150-0550	2-14-03	Adopt	3-1-03
340-150-0020	2-14-03	Amend	3-1-03	340-150-0555	2-14-03	Adopt	3-1-03
340-150-0021	2-14-03	Amend	3-1-03	340-150-0560	2-14-03	Adopt	3-1-03
340-150-0030	2-14-03	Repeal	3-1-03	340-151-0001	2-14-03	Adopt	3-1-03
340-150-0040	2-14-03	Repeal	3-1-03	340-151-0010	2-14-03	Adopt	3-1-03
340-150-0050	2-14-03	Repeal	3-1-03	340-151-0015	2-14-03	Adopt	3-1-03
340-150-0052	2-14-03	Adopt	3-1-03	340-151-0020	2-14-03	Adopt	3-1-03
340-150-0060	2-14-03	Repeal	3-1-03	340-151-0025	2-14-03	Adopt	3-1-03
340-150-0070	2-14-03	Repeal	3-1-03	340-160-0005	2-14-03	Amend	3-1-03
340-150-0080	2-14-03	Amend	3-1-03	340-160-0010	2-14-03	Amend	3-1-03
340-150-0090	2-14-03	Repeal	3-1-03	340-160-0020	2-14-03	Amend	3-1-03
340-150-0100	2-14-03	Repeal	3-1-03	340-160-0025	2-14-03	Amend	3-1-03
340-150-0102	2-14-03	Adopt	3-1-03	340-160-0030	2-14-03	Amend	3-1-03
340-150-0110	2-14-03	Amend	3-1-03	340-160-0035	2-14-03	Amend	3-1-03
340-150-0112	2-14-03	Repeal	3-1-03	340-160-0040	2-14-03	Amend	3-1-03
340-150-0115	2-14-03	Am. & Ren.	3-1-03	340-160-0054	2-14-03	Amend	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-160-0150	2-14-03	Amend	3-1-03	410-120-1235	2-1-03	Adopt	3-1-03
340-200-0040	2-6-03	Amend	3-1-03	410-120-1280	1-1-03	Amend	2-1-03
340-230-0010	2-6-03	Amend	3-1-03	410-120-1280	2-1-03	Amend	3-1-03
340-230-0020	2-6-03	Amend	3-1-03	410-120-1340	2-1-03	Amend	3-1-03
340-230-0030	2-6-03	Amend	3-1-03	410-121-0000	2-1-03	Amend	3-1-03
340-230-0120	2-6-03	Amend	3-1-03	410-121-0140	3-1-03	Amend	4-1-03
340-230-0300	2-6-03	Amend	3-1-03	410-121-0140	4-1-03	Amend(T)	4-1-03
340-230-0310	2-6-03	Amend	3-1-03	410-121-0146	1-1-03	Amend	2-1-03
340-230-0320	2-6-03	Amend	3-1-03	410-121-0153	2-1-03	Adopt	3-1-03
340-230-0330	2-6-03	Amend	3-1-03	410-121-0153	3-1-03	Repeal	4-1-03
340-230-0340	2-6-03	Amend	3-1-03	410-121-0154	1-1-03	Adopt	2-1-03
340-230-0350	2-6-03	Amend	3-1-03	410-121-0157	2-14-03	Amend(T)	3-1-03
340-230-0360	2-6-03	Repeal	3-1-03	410-121-0157(T)	2-14-03	Suspend	3-1-03
340-230-0365	2-6-03	Adopt	3-1-03	410-121-0300	12-1-02	Amend(T)	1-1-03
340-230-0370	2-6-03	Adopt	3-1-03	410-121-0300	2-28-03	Amend	4-1-03
340-230-0373	2-6-03	Adopt	3-1-03	410-121-0300	3-1-03	Amend(T)	4-1-03
340-230-0375	2-6-03	Adopt	3-1-03	410-121-0300(T)	12-1-02	Suspend	1-1-03
340-230-0377	2-6-03	Adopt	3-1-03	410-121-0300(T)	2-28-03	Repeal	4-1-03
340-230-0380	2-6-03	Adopt	3-1-03	410-121-0320	2-14-03	Amend(T)	3-1-03
340-230-0383	2-6-03	Adopt	3-1-03	410-121-0320(T)	2-14-03	Suspend	3-1-03
340-230-0385	2-6-03	Adopt	3-1-03	410-122-0020	12-24-02	Amend(T)	2-1-03
340-230-0387	2-6-03	Adopt	3-1-03	410-122-0701	2-1-03	Adopt	3-1-03
340-230-0390	2-6-03	Adopt	3-1-03	410-122-0701	3-1-03	Repeal	4-1-03
340-230-0395	2-6-03	Adopt	3-1-03	410-123-1085	1-1-03	Adopt	2-1-03
340-238-0040	2-6-03	Amend	3-1-03	410-123-1085	2-1-03	Amend	3-1-03
340-238-0050	2-6-03	Amend	3-1-03	410-123-1220	2-1-03	Amend	3-1-03
340-238-0060	2-6-03	Amend	3-1-03	410-123-1240	1-1-03	Amend	2-1-03
340-244-0200	2-6-03	Amend	3-1-03	410-123-1260	2-1-03	Amend	3-1-03
340-244-0210	2-6-03	Amend	3-1-03	410-123-1280	2-1-03	Repeal	3-1-03
340-244-0220	2-6-03	Amend	3-1-03	410-123-1290	2-1-03	Repeal	3-1-03
340-244-0230	2-6-03	Amend	3-1-03	410-123-1300	2-1-03	Repeal	3-1-03
340-248-0010	12-23-02	Amend	2-1-03	410-123-1310	2-1-03	Repeal	3-1-03
340-248-0100	12-23-02	Amend	2-1-03	410-123-1320	2-1-03	Repeal	3-1-03
340-248-0120	12-23-02	Amend	2-1-03	410-123-1330	2-1-03	Repeal	3-1-03
340-248-0130	12-23-02	Amend	2-1-03	410-123-1340	2-1-03	Repeal	3-1-03
340-248-0140	12-23-02	Amend	2-1-03	410-123-1360	2-1-03	Repeal	3-1-03
340-248-0150	12-23-02	Amend	2-1-03	410-123-1380	2-1-03	Repeal	3-1-03
340-248-0180	12-23-02	Amend	2-1-03	410-123-1400	2-1-03	Repeal	3-1-03
340-248-0205	12-23-02	Amend	2-1-03	410-123-1420	2-1-03	Repeal	3-1-03
340-248-0210	12-23-02	Amend	2-1-03	410-123-1440	2-1-03	Repeal	3-1-03
340-248-0220	12-23-02	Amend	2-1-03	410-123-1460	2-1-03	Repeal	3-1-03
340-248-0240	12-23-02	Amend	2-1-03	410-123-1480	2-1-03	Repeal	3-1-03
340-248-0250	12-23-02	Amend	2-1-03	410-123-1500	2-1-03	Repeal	3-1-03
340-248-0260	12-23-02	Amend	2-1-03	410-124-0000	2-1-03	Amend	3-1-03
340-248-0270	12-23-02	Amend	2-1-03	410-124-0020	2-1-03	Amend	3-1-03
340-248-0275	12-23-02	Amend	2-1-03	410-124-0040	2-1-03	Amend	3-1-03
340-248-0280	12-23-02	Amend	2-1-03	410-124-0140	2-1-03	Amend	3-1-03
340-248-0290	12-23-02	Amend	2-1-03	410-124-0160	2-1-03	Amend	3-1-03
345-026-0390	12-3-02	Amend	1-1-03	410-125-0050	1-1-03	Adopt	2-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-125-0055	2-1-03	Adopt	3-1-03
410-120-0000	2-1-03	Amend	3-1-03	410-125-0141	3-1-03	Amend	4-1-03
410-120-1190	2-1-03	Adopt	3-1-03	410-125-0141	3-10-03	Amend(T)	4-1-03
410-120-1200	2-1-03	Amend	3-1-03	410-125-0181	3-1-03	Amend	4-1-03
410-120-1200	3-1-03	Amend	4-1-03	410-125-0195	3-1-03	Amend	4-1-03
410-120-1200	3-14-03	Amend(T)	4-1-03	410-125-0195	3-10-03	Amend(T)	4-1-03
410-120-1230	1-1-03	Adopt	2-1-03	410-125-0680	1-1-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-125-0700	1-1-03	Amend	2-1-03	410-149-0000	2-1-03	Adopt	3-1-03
410-127-0000	2-1-03	Amend	3-1-03	410-149-0020	2-1-03	Adopt	3-1-03
410-127-0020	2-1-03	Amend	3-1-03	410-149-0040	2-1-03	Adopt	3-1-03
410-127-0050	1-1-03	Adopt	2-1-03	410-149-0060	2-1-03	Adopt	3-1-03
410-127-0055	2-1-03	Adopt	3-1-03	410-149-0080	2-1-03	Adopt	3-1-03
410-127-0080	2-1-03	Amend	3-1-03	411-015-0000	12-6-02	Amend(T)	1-1-03
410-127-0120	1-1-03	Amend	2-1-03	411-015-0005	12-6-02	Amend(T)	1-1-03
410-129-0120	1-1-03	Amend	2-1-03	411-015-0010	12-6-02	Amend(T)	1-1-03
410-129-0140	1-1-03	Amend	2-1-03	411-015-0015	12-6-02	Amend(T)	1-1-03
410-129-0190	1-1-03	Adopt	2-1-03	411-015-0015	2-1-03	Amend	2-1-03
410-129-0195	2-1-03	Adopt	3-1-03	411-015-0015	2-18-03	Amend(T)	3-1-03
410-129-0260	2-1-03	Amend	3-1-03	411-015-0015	3-12-03	Amend(T)	4-1-03
410-130-0010	1-1-03	Amend	2-1-03	411-015-0015(T)	2-18-03	Suspend	3-1-03
410-130-0040	1-1-03	Amend	2-1-03	411-015-0015(T)	3-12-03	Suspend	4-1-03
410-130-0960	1-1-03	Adopt	2-1-03	411-015-0100	12-6-02	Amend(T)	1-1-03
410-130-0965	2-1-03	Adopt	3-1-03	411-015-0100	2-1-03	Amend	2-1-03
410-131-0220	1-1-03	Amend	2-1-03	411-030-0040	2-1-03	Amend(T)	3-1-03
410-131-0240	1-1-03	Amend	2-1-03	411-030-0080	2-1-03	Amend(T)	3-1-03
410-131-0270	1-1-03	Adopt	2-1-03	411-300-0100	12-28-02	Adopt	2-1-03
410-131-0275	2-1-03	Adopt	3-1-03	411-300-0110	12-28-02	Adopt	2-1-03
410-132-0050	1-1-03	Adopt	2-1-03	411-300-0120	12-28-02	Adopt	2-1-03
410-132-0055	2-1-03	Adopt	3-1-03	411-300-0130	12-28-02	Adopt	2-1-03
410-132-0140	1-1-03	Amend	2-1-03	411-300-0140	12-28-02	Adopt	2-1-03
410-136-0045	2-1-03	Adopt	3-1-03	411-300-0150	12-28-02	Adopt	2-1-03
410-140-0060	1-1-03	Amend	2-1-03	411-300-0160	12-28-02	Adopt	2-1-03
410-140-0110	1-1-03	Adopt	2-1-03	411-300-0170	12-28-02	Adopt	2-1-03
410-140-0115	2-1-03	Adopt	3-1-03	411-300-0180	12-28-02	Adopt	2-1-03
410-141-0000	2-1-03	Amend	3-1-03	411-300-0190	12-28-02	Adopt	2-1-03
410-141-0000	3-1-03	Amend	4-1-03	411-300-0200	12-28-02	Adopt	2-1-03
410-141-0080	2-1-03	Amend	3-1-03	411-300-0210	12-28-02	Adopt	2-1-03
410-141-0420	2-1-03	Amend	3-1-03	411-300-0220	12-28-02	Adopt	2-1-03
410-141-0480	1-1-03	Amend	2-1-03	411-999-0010	3-11-03	Adopt(T)	4-1-03
410-141-0500	1-1-03	Amend	2-1-03	411-999-0011	3-11-03	Adopt(T)	4-1-03
410-141-0500	2-1-03	Amend	3-1-03	411-999-0012	3-11-03	Adopt(T)	4-1-03
410-141-0520	1-1-03	Amend	2-1-03	411-999-0013	3-11-03	Adopt(T)	4-1-03
410-141-0520	3-1-03	Amend	4-1-03	411-999-0014	3-11-03	Adopt(T)	4-1-03
410-141-0520(T)	1-1-03	Repeal	2-1-03	411-999-0015	3-11-03	Adopt(T)	4-1-03
410-142-0080	2-1-03	Amend	3-1-03	413-010-0700	1-7-03	Amend	2-1-03
410-142-0100	2-1-03	Amend	3-1-03	413-010-0705	1-7-03	Amend	2-1-03
410-142-0200	2-1-03	Amend	3-1-03	413-010-0712	1-7-03	Amend	2-1-03
410-142-0240	2-1-03	Amend	3-1-03	413-010-0714	1-7-03	Amend	2-1-03
410-142-0300	2-28-03	Amend	4-1-03	413-010-0715	1-7-03	Amend	2-1-03
410-142-0320	2-1-03	Amend	3-1-03	413-010-0716	1-7-03	Amend	2-1-03
410-146-0075	1-1-03	Adopt	2-1-03	413-010-0717	1-7-03	Amend	2-1-03
410-146-0075	2-1-03	Amend	3-1-03	413-010-0718	1-7-03	Amend	2-1-03
410-146-0080	2-1-03	Amend	3-1-03	413-010-0719	1-7-03	Amend	2-1-03
410-146-0320	1-1-03	Amend	2-1-03	413-010-0720	1-7-03	Amend	2-1-03
410-147-0085	1-1-03	Adopt	2-1-03	413-010-0721	1-7-03	Amend	2-1-03
410-147-0085	2-1-03	Amend	3-1-03	413-010-0722	1-7-03	Amend	2-1-03
410-147-0120	2-1-03	Amend	3-1-03	413-010-0723	1-7-03	Amend	2-1-03
410-147-0600	1-1-03	Amend	2-1-03	413-010-0732	1-7-03	Amend	2-1-03
410-148-0090	2-1-03	Adopt	3-1-03	413-010-0735	1-7-03	Amend	2-1-03
410-148-0095	1-1-03	Adopt	2-1-03	413-010-0738	1-7-03	Amend	2-1-03
410-148-0100	2-1-03	Amend	3-1-03	413-010-0740	1-7-03	Amend	2-1-03
410-148-0180	1-1-03	Amend	2-1-03	413-010-0743	1-7-03	Amend	2-1-03
410-148-0200	1-1-03	Amend	2-1-03	413-010-0745	1-7-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-010-0746	1-7-03	Amend	2-1-03	413-050-0261	12-19-02	Adopt(T)	2-1-03
413-010-0750	1-7-03	Amend	2-1-03	413-050-0270	12-19-02	Amend(T)	2-1-03
413-020-0000	1-7-03	Amend	2-1-03	413-050-0280	12-19-02	Amend(T)	2-1-03
413-020-0005	1-7-03	Amend	2-1-03	413-050-0290	12-19-02	Amend(T)	2-1-03
413-020-0010	1-7-03	Amend	2-1-03	413-050-0300	12-19-02	Amend(T)	2-1-03
413-020-0020	1-7-03	Amend	2-1-03	413-050-0301	12-19-02	Adopt(T)	2-1-03
413-020-0040	1-7-03	Amend	2-1-03	413-050-0430	1-9-03	Amend	2-1-03
413-020-0050	1-7-03	Amend	2-1-03	413-050-0440	1-9-03	Amend	2-1-03
413-020-0100	1-9-03	Amend	2-1-03	413-050-0500	1-7-03	Amend	2-1-03
413-020-0110	1-9-03	Amend	2-1-03	413-050-0510	1-7-03	Amend	2-1-03
413-020-0120	1-9-03	Amend	2-1-03	413-050-0515	1-7-03	Amend	2-1-03
413-020-0130	1-9-03	Amend	2-1-03	413-050-0530	1-7-03	Amend	2-1-03
413-020-0140	1-9-03	Amend	2-1-03	413-050-0535	1-7-03	Amend	2-1-03
413-020-0150	1-9-03	Amend	2-1-03	413-050-0540	1-7-03	Amend	2-1-03
413-020-0160	1-9-03	Amend	2-1-03	413-050-0545	1-7-03	Amend	2-1-03
413-020-0170	1-9-03	Amend	2-1-03	413-050-0550	1-7-03	Amend	2-1-03
413-020-0200	1-7-03	Amend	2-1-03	413-050-0560	1-7-03	Amend	2-1-03
413-020-0210	1-7-03	Amend	2-1-03	413-050-0565	1-7-03	Amend	2-1-03
413-020-0220	1-7-03	Amend	2-1-03	413-050-0575	1-7-03	Amend	2-1-03
413-020-0230	1-7-03	Amend	2-1-03	413-050-0580	1-7-03	Amend	2-1-03
413-020-0240	1-7-03	Amend	2-1-03	413-050-0585	1-7-03	Amend	2-1-03
413-020-0250	1-7-03	Amend	2-1-03	413-070-0905	1-9-03	Amend	2-1-03
413-020-0260	1-7-03	Amend	2-1-03	413-070-0915	1-9-03	Amend	2-1-03
413-020-0270	1-7-03	Amend	2-1-03	413-070-0920	1-9-03	Amend	2-1-03
413-020-0275	1-23-03	Adopt(T)	3-1-03	413-070-0930	1-9-03	Amend	2-1-03
413-020-0280	1-23-03	Adopt(T)	3-1-03	413-070-0940	1-9-03	Amend	2-1-03
413-020-0285	1-23-03	Adopt(T)	3-1-03	413-070-0945	1-9-03	Amend	2-1-03
413-020-0335	1-23-03	Amend(T)	3-1-03	413-070-0945	1-23-03	Amend(T)	3-1-03
413-020-0335(T)	1-23-03	Suspend	3-1-03	413-070-0950	1-9-03	Amend	2-1-03
413-020-0345	1-23-03	Adopt(T)	3-1-03	413-070-0980	1-23-03	Adopt(T)	3-1-03
413-020-0395	1-23-03	Amend(T)	3-1-03	413-070-0981	2-1-03	Adopt(T)	3-1-03
413-020-0395(T)	1-23-03	Suspend	3-1-03	413-080-0000	1-7-03	Amend	2-1-03
413-030-0200	1-7-03	Amend	2-1-03	413-080-0010	1-7-03	Amend	2-1-03
413-030-0205	1-7-03	Adopt	2-1-03	413-080-0020	1-7-03	Amend	2-1-03
413-030-0210	1-7-03	Amend	2-1-03	413-080-0030	1-7-03	Amend	2-1-03
413-030-0220	1-7-03	Amend	2-1-03	413-080-0200	1-9-03	Amend	2-1-03
413-040-0400	1-7-03	Amend	2-1-03	413-080-0205	1-9-03	Adopt	2-1-03
413-040-0410	1-7-03	Amend	2-1-03	413-080-0210	1-9-03	Amend	2-1-03
413-040-0420	1-7-03	Amend	2-1-03	413-080-0240	1-9-03	Amend	2-1-03
413-040-0430	1-7-03	Amend	2-1-03	413-080-0250	1-9-03	Amend	2-1-03
413-040-0440	1-7-03	Amend	2-1-03	413-080-0260	1-9-03	Amend	2-1-03
413-040-0450	1-7-03	Amend	2-1-03	413-080-0270	1-9-03	Amend	2-1-03
413-050-0000	1-7-03	Amend	2-1-03	413-090-0000	1-7-03	Amend	2-1-03
413-050-0005	1-7-03	Adopt	2-1-03	413-090-0005	1-7-03	Amend	2-1-03
413-050-0010	1-7-03	Amend	2-1-03	413-090-0010	1-7-03	Amend	2-1-03
413-050-0020	1-7-03	Amend	2-1-03	413-090-0010	2-1-03	Amend(T)	3-1-03
413-050-0030	1-7-03	Amend	2-1-03	413-090-0030	1-7-03	Amend	2-1-03
413-050-0040	1-7-03	Amend	2-1-03	413-090-0040	1-7-03	Amend	2-1-03
413-050-0050	1-7-03	Amend	2-1-03	413-090-0050	1-7-03	Amend	2-1-03
413-050-0200	12-19-02	Amend(T)	2-1-03	413-090-0160	2-1-03	Amend(T)	3-1-03
413-050-0210	12-19-02	Amend(T)	2-1-03	413-090-0300	1-7-03	Amend	2-1-03
413-050-0220	12-19-02	Amend(T)	2-1-03	413-090-0310	1-7-03	Amend	2-1-03
413-050-0230	12-19-02	Amend(T)	2-1-03	413-090-0320	1-7-03	Amend	2-1-03
413-050-0240	12-19-02	Amend(T)	2-1-03	413-090-0330	1-7-03	Amend	2-1-03
413-050-0250	12-19-02	Amend(T)	2-1-03	413-090-0340	1-7-03	Amend	2-1-03
413-050-0260	12-19-02	Amend(T)	2-1-03	413-090-0355	1-7-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-090-0365	1-7-03	Amend	2-1-03	436-035-0270	2-1-03	Amend	2-1-03
413-090-0370	1-7-03	Amend	2-1-03	436-035-0280	2-1-03	Amend	2-1-03
413-090-0380	1-7-03	Amend	2-1-03	436-035-0300	2-1-03	Amend	2-1-03
413-090-0400	1-7-03	Amend	2-1-03	436-035-0310	2-1-03	Amend	2-1-03
413-090-0405	1-7-03	Adopt	2-1-03	436-035-0320	2-1-03	Amend	2-1-03
413-090-0410	1-7-03	Amend	2-1-03	436-035-0330	2-1-03	Amend	2-1-03
413-090-0420	1-7-03	Amend	2-1-03	436-035-0340	2-1-03	Amend	2-1-03
413-090-0430	1-7-03	Amend	2-1-03	436-035-0360	2-1-03	Amend	2-1-03
413-120-0400	3-13-03	Amend	4-1-03	436-035-0370	2-1-03	Amend	2-1-03
413-120-0410	3-13-03	Amend	4-1-03	436-035-0390	2-1-03	Amend	2-1-03
413-120-0420	3-13-03	Amend	4-1-03	436-035-0395	2-1-03	Amend	2-1-03
413-120-0430	3-13-03	Amend	4-1-03	436-035-0420	2-1-03	Amend	2-1-03
413-120-0440	3-13-03	Amend	4-1-03	436-035-0430	2-1-03	Amend	2-1-03
413-120-0450	3-13-03	Amend	4-1-03	436-035-0440	2-1-03	Amend	2-1-03
413-120-0455	3-13-03	Adopt	4-1-03	436-035-0500	1-15-03	Amend(T)	2-1-03
413-120-0460	3-13-03	Amend	4-1-03	436-035-0500	2-1-03	Amend	2-1-03
413-120-0470	3-13-03	Amend	4-1-03	436-105-0003	12-11-02	Amend(T)	1-1-03
413-130-0120	2-1-03	Amend	3-1-03	436-105-0500	12-11-02	Amend(T)	1-1-03
413-130-0125	2-1-03	Adopt	3-1-03	436-105-0510	12-11-02	Amend(T)	1-1-03
413-130-0126	2-1-03	Adopt(T)	3-1-03	437-002-0223	1-30-03	Amend	3-1-03
413-200-0371	12-19-02	Amend(T)	2-1-03	437-003-0001	1-30-03	Amend	3-1-03
414-600-0000	11-24-02	Adopt	1-1-03	437-003-0001	4-30-03	Amend	3-1-03
414-600-0010	11-24-02	Adopt	1-1-03	437-003-0017	4-30-03	Adopt	3-1-03
414-600-0020	11-24-02	Adopt	1-1-03	437-003-0420	1-30-03	Amend	3-1-03
414-600-0030	11-24-02	Adopt	1-1-03	437-003-0706	4-30-03	Adopt	3-1-03
414-600-0040	11-24-02	Adopt	1-1-03	438-005-0011	5-1-03	Amend	4-1-03
414-600-0050	11-24-02	Adopt	1-1-03	438-005-0015	5-1-03	Amend	4-1-03
414-600-0060	11-24-02	Adopt	1-1-03	438-005-0016	5-1-03	Repeal	4-1-03
414-600-0070	11-24-02	Adopt	1-1-03	438-005-0040	5-1-03	Amend	4-1-03
414-600-0080	11-24-02	Adopt	1-1-03	438-006-0031	5-1-03	Amend	4-1-03
414-600-0090	11-24-02	Adopt	1-1-03	438-006-0036	5-1-03	Amend	4-1-03
414-600-0100	11-24-02	Adopt	1-1-03	438-006-0075	5-1-03	Amend	4-1-03
416-430-0050	1-16-03	Amend	3-1-03	438-006-0081	5-1-03	Amend	4-1-03
436-035-0001	2-1-03	Amend	2-1-03	438-006-0091	5-1-03	Amend	4-1-03
436-035-0003	2-1-03	Amend	2-1-03	438-006-0095	5-1-03	Amend	4-1-03
436-035-0005	2-1-03	Amend	2-1-03	438-006-0099	5-1-03	Adopt	4-1-03
436-035-0007	2-1-03	Amend	2-1-03	438-007-0015	5-1-03	Amend	4-1-03
436-035-0010	2-1-03	Amend	2-1-03	438-007-0018	5-1-03	Amend	4-1-03
436-035-0030	2-1-03	Amend	2-1-03	438-007-0020	5-1-03	Amend	4-1-03
436-035-0040	2-1-03	Amend	2-1-03	438-007-0024	5-1-03	Adopt	4-1-03
436-035-0050	2-1-03	Amend	2-1-03	438-007-0027	5-1-03	Adopt	4-1-03
436-035-0060	2-1-03	Amend	2-1-03	438-022-0005	5-1-03	Adopt	4-1-03
436-035-0070	2-1-03	Amend	2-1-03	438-022-0010	5-1-03	Adopt	4-1-03
436-035-0075	2-1-03	Amend	2-1-03	442-004-0010	12-6-02	Amend(T)	1-1-03
436-035-0080	2-1-03	Amend	2-1-03	459-009-0350	1-15-03	Adopt	2-1-03
436-035-0100	2-1-03	Amend	2-1-03	459-035-0000	11-18-02	Amend	1-1-03
436-035-0110	2-1-03	Amend	2-1-03	459-035-0001	11-18-02	Amend	1-1-03
436-035-0150	2-1-03	Amend	2-1-03	459-035-0010	11-18-02	Amend	1-1-03
436-035-0160	2-1-03	Amend	2-1-03	459-035-0020	11-18-02	Amend	1-1-03
436-035-0170	2-1-03	Amend	2-1-03	459-035-0030	11-18-02	Amend	1-1-03
436-035-0190	2-1-03	Amend	2-1-03	459-035-0040	11-18-02	Amend	1-1-03
436-035-0200	2-1-03	Amend	2-1-03	459-035-0050	11-18-02	Amend	1-1-03
436-035-0220	2-1-03	Amend	2-1-03	459-035-0070	11-18-02	Amend	1-1-03
436-035-0230	2-1-03	Amend	2-1-03	459-035-0080	11-18-02	Amend	1-1-03
436-035-0250	2-1-03	Amend	2-1-03	459-035-0090	11-18-02	Amend	1-1-03
436-035-0260	2-1-03	Amend	2-1-03	459-035-0200	11-18-02	Amend	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
459-035-0210	11-18-02	Repeal	1-1-03	461-160-0580	1-1-03	Amend	2-1-03
459-035-0220	11-18-02	Adopt	1-1-03	461-160-0620	1-1-03	Amend	2-1-03
461-006-0452	1-1-03	Amend	2-1-03	461-160-0700	2-1-03	Amend	3-1-03
461-025-0310	1-1-03	Amend(T)	2-1-03	461-160-0810	1-1-03	Amend	2-1-03
461-025-0315	1-1-03	Amend	2-1-03	461-165-0030	2-1-03	Amend	3-1-03
461-025-0315	1-1-03	Amend(T)	2-1-03	461-165-0180	1-1-03	Amend	2-1-03
461-101-0010	2-1-03	Amend	3-1-03	461-170-0015	1-1-03	Amend(T)	2-1-03
461-110-0110	2-1-03	Amend	3-1-03	461-170-0020	1-1-03	Amend(T)	2-1-03
461-110-0115	1-1-03	Amend	2-1-03	461-170-0030	1-1-03	Amend(T)	2-1-03
461-110-0750	2-1-03	Amend	3-1-03	461-170-0035	2-1-03	Amend	3-1-03
461-115-0530	2-1-03	Amend	3-1-03	461-175-0010	1-1-03	Amend(T)	2-1-03
461-115-0530	3-1-03	Amend	4-1-03	461-180-0090	3-1-03	Amend	4-1-03
461-115-0705	2-1-03	Amend	3-1-03	461-180-0097	2-1-03	Amend	3-1-03
461-120-0120	1-1-03	Amend	2-1-03	461-180-0100	2-1-03	Amend	3-1-03
461-120-0210	2-1-03	Amend	3-1-03	461-193-0560	1-1-03	Amend(T)	2-1-03
461-120-0345	2-1-03	Amend	3-1-03	461-193-0560	2-14-03	Amend(T)	3-1-03
461-125-0600	1-1-03	Amend	2-1-03	461-193-0560(T)	2-14-03	Suspend	3-1-03
461-135-0010	2-1-03	Amend	3-1-03	461-195-0521	1-1-03	Amend	2-1-03
461-135-0301	1-1-03	Adopt(T)	2-1-03	461-200-1070	1-1-03	Adopt	2-1-03
461-135-0401	1-1-03	Adopt	2-1-03	461-200-1160	3-1-03	Amend	4-1-03
461-135-0401(T)	1-1-03	Repeal	2-1-03	461-200-1180	3-1-03	Amend	4-1-03
461-135-0505	2-7-03	Amend(T)	3-1-03	461-200-1500	3-1-03	Amend	4-1-03
461-135-0701	12-30-02	Adopt(T)	2-1-03	461-200-3260	3-1-03	Amend	4-1-03
461-135-0721	1-1-03	Adopt(T)	2-1-03	461-200-3420	3-1-03	Amend	4-1-03
461-135-0730	1-1-03	Amend	2-1-03	461-200-5020	3-1-03	Amend	4-1-03
461-135-0730	1-1-03	Amend(T)	1-1-03	461-200-5040	3-1-03	Amend	4-1-03
461-135-0730(T)	1-1-03	Repeal	2-1-03	461-200-5060	3-1-03	Amend	4-1-03
461-135-0900	1-1-03	Amend	2-1-03	461-200-5120	3-1-03	Amend	4-1-03
461-135-0990	2-1-03	Amend	3-1-03	461-200-5125	3-1-03	Amend	4-1-03
461-135-1070	2-1-03	Amend	3-1-03	461-200-7140	3-1-03	Amend	4-1-03
461-135-1100	2-1-03	Amend	3-1-03	462-110-0010	1-1-03	Amend	1-1-03
461-135-1110	2-1-03	Amend	3-1-03	462-110-0020	1-1-03	Amend	1-1-03
461-135-1120	2-1-03	Amend	3-1-03	462-120-0020	1-1-03	Amend	1-1-03
461-135-1130	2-1-03	Amend	3-1-03	462-120-0040	1-1-03	Amend	1-1-03
461-135-1180	2-1-03	Adopt	3-1-03	462-120-0050	1-1-03	Amend	1-1-03
461-145-0255	1-1-03	Amend	2-1-03	462-120-0100	1-1-03	Amend	1-1-03
461-145-0540	11-19-02	Amend(T)	1-1-03	462-130-0010	1-1-03	Amend	1-1-03
461-150-0055	2-1-03	Amend	3-1-03	462-130-0050	1-1-03	Amend	1-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03	462-140-0030	1-1-03	Amend	1-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03	462-140-0040	1-1-03	Amend	1-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03	462-140-0100	1-1-03	Amend	1-1-03
461-155-0150(T)	2-7-03	Suspend	3-1-03	462-140-0130	1-1-03	Amend	1-1-03
461-155-0225	2-1-03	Amend	3-1-03	462-140-0250	1-1-03	Amend	1-1-03
461-155-0225	2-7-03	Amend(T)	3-1-03	462-140-0370	1-1-03	Amend	1-1-03
461-155-0235	2-1-03	Amend	3-1-03	462-150-0010	1-1-03	Amend	1-1-03
461-155-0235	3-1-03	Amend(T)	4-1-03	462-150-0050	1-1-03	Amend	1-1-03
461-155-0250	1-1-03	Amend	2-1-03	462-150-0070	1-1-03	Amend	1-1-03
461-155-0270	1-1-03	Amend	2-1-03	462-150-0080	1-1-03	Amend	1-1-03
461-155-0295	1-1-03	Amend	2-1-03	462-160-0010	1-1-03	Amend	1-1-03
461-155-0295	1-1-03	Amend(T)	1-1-03	462-160-0020	1-1-03	Amend	1-1-03
461-155-0295(T)	1-1-03	Repeal	2-1-03	462-160-0030	1-1-03	Amend	1-1-03
461-155-0300	1-1-03	Amend	2-1-03	471-010-0040	2-9-03	Amend	3-1-03
461-155-0360	2-1-03	Amend	3-1-03	471-010-0054	12-1-02	Amend(T)	1-1-03
461-155-0680	1-1-03	Amend	2-1-03	471-020-0035	2-16-03	Adopt	3-1-03
461-160-0010	2-1-03	Amend	3-1-03	471-020-0040	2-16-03	Adopt	3-1-03
461-160-0015	2-1-03	Amend	3-1-03	471-030-0015	2-9-03	Amend	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
471-030-0030	2-9-03	Amend	3-1-03	581-015-0601	3-10-03	Amend	4-1-03
471-030-0050	2-9-03	Amend	3-1-03	581-015-0607	3-10-03	Adopt	4-1-03
471-030-0076	2-9-03	Amend	3-1-03	581-015-0608	3-10-03	Adopt	4-1-03
471-030-0080	11-24-02	Amend	1-1-03	581-015-0805	3-10-03	Amend	4-1-03
471-031-0010	2-9-03	Amend	3-1-03	581-015-0811	3-10-03	Amend	4-1-03
471-031-0035	2-9-03	Amend	3-1-03	581-015-0816	3-10-03	Amend	4-1-03
471-031-0040	2-9-03	Amend	3-1-03	581-015-0820	3-10-03	Amend	4-1-03
471-031-0055	2-9-03	Amend	3-1-03	581-015-0825	3-10-03	Amend	4-1-03
471-031-0075	2-9-03	Amend	3-1-03	581-015-0900	3-10-03	Amend	4-1-03
471-031-0095	2-9-03	Amend	3-1-03	581-015-0935	3-10-03	Amend	4-1-03
543-040-0040	12-16-02	Amend(T)	1-1-03	581-015-0937	3-10-03	Amend	4-1-03
573-070-0011	12-30-02	Amend	2-1-03	581-015-0938	3-10-03	Amend	4-1-03
581-015-0005	3-10-03	Amend	4-1-03	581-015-0939	3-10-03	Amend	4-1-03
581-015-0016	3-10-03	Amend	4-1-03	581-015-0945	3-10-03	Amend	4-1-03
581-015-0017	3-10-03	Amend	4-1-03	581-015-0946	3-10-03	Amend	4-1-03
581-015-0035	3-10-03	Amend	4-1-03	581-015-0960	3-10-03	Amend	4-1-03
581-015-0037	3-10-03	Amend	4-1-03	581-015-0964	3-10-03	Amend	4-1-03
581-015-0039	3-10-03	Amend	4-1-03	581-015-0966	3-10-03	Amend	4-1-03
581-015-0042	3-10-03	Amend	4-1-03	581-015-0968	3-10-03	Amend	4-1-03
581-015-0044	3-10-03	Amend	4-1-03	581-015-0970	3-10-03	Amend	4-1-03
581-015-0048	3-10-03	Amend	4-1-03	581-015-0972	3-10-03	Adopt	4-1-03
581-015-0049	3-10-03	Amend	4-1-03	581-015-0980	3-10-03	Amend	4-1-03
581-015-0051	3-10-03	Amend	4-1-03	581-015-0990	3-10-03	Amend	4-1-03
581-015-0054	3-10-03	Amend	4-1-03	581-015-1000	3-10-03	Amend	4-1-03
581-015-0057	3-10-03	Amend	4-1-03	581-015-1008	3-10-03	Amend	4-1-03
581-015-0059	3-10-03	Amend	4-1-03	581-015-1051	3-10-03	Adopt	4-1-03
581-015-0061	3-10-03	Amend	4-1-03	581-015-1052	3-10-03	Adopt	4-1-03
581-015-0062	3-10-03	Amend	4-1-03	581-015-1100	3-10-03	Amend	4-1-03
581-015-0063	3-10-03	Amend	4-1-03	581-015-1107	3-10-03	Repeal	4-1-03
581-015-0066	3-10-03	Amend	4-1-03	581-015-1110	3-10-03	Amend	4-1-03
581-015-0067	3-10-03	Amend	4-1-03	581-022-0102	3-14-03	Amend	4-1-03
581-015-0068	3-10-03	Amend	4-1-03	581-022-1131	3-14-03	Adopt	4-1-03
581-015-0075	3-10-03	Amend	4-1-03	581-022-1350	3-14-03	Amend	4-1-03
581-015-0079	3-10-03	Amend	4-1-03	581-023-0035	3-10-03	Amend	4-1-03
581-015-0080	3-10-03	Amend	4-1-03	581-053-0002	3-4-03	Amend(T)	4-1-03
581-015-0081	3-10-03	Amend	4-1-03	584-017-0041	3-10-03	Adopt(T)	4-1-03
581-015-0085	3-10-03	Amend	4-1-03	584-017-0170	1-13-03	Amend	2-1-03
581-015-0086	3-10-03	Amend	4-1-03	584-036-0055	1-13-03	Amend	2-1-03
581-015-0088	3-10-03	Amend	4-1-03	584-060-0061	1-13-03	Amend	2-1-03
581-015-0093	3-10-03	Amend	4-1-03	584-065-0050	1-13-03	Adopt	2-1-03
581-015-0094	3-10-03	Amend	4-1-03	589-001-0000	1-9-03	Amend	2-1-03
581-015-0097	3-10-03	Adopt	4-1-03	589-002-0100	12-16-02	Amend(T)	2-1-03
581-015-0099	3-10-03	Amend	4-1-03	589-002-0200	1-9-03	Amend	2-1-03
581-015-0101	3-10-03	Amend	4-1-03	589-002-0300	1-9-03	Amend	2-1-03
581-015-0126	3-10-03	Amend	4-1-03	589-002-0400	1-9-03	Repeal	2-1-03
581-015-0131	3-10-03	Amend	4-1-03	589-002-0500	1-9-03	Amend	2-1-03
581-015-0296	3-10-03	Amend	4-1-03	589-002-0600	1-9-03	Amend	2-1-03
581-015-0550	3-10-03	Amend	4-1-03	589-002-0700	1-9-03	Amend	2-1-03
581-015-0551	3-10-03	Amend	4-1-03	589-002-0800	1-9-03	Amend	2-1-03
581-015-0552	3-10-03	Amend	4-1-03	589-003-0100	1-9-03	Amend	2-1-03
581-015-0553	3-10-03	Amend	4-1-03	589-005-0100	1-9-03	Amend	2-1-03
581-015-0555	3-10-03	Amend	4-1-03	589-005-0200	1-9-03	Amend	2-1-03
581-015-0556	3-10-03	Amend	4-1-03	589-005-0300	1-9-03	Amend	2-1-03
581-015-0558	3-10-03	Amend	4-1-03	589-005-0400	1-9-03	Amend	2-1-03
581-015-0559	3-10-03	Amend	4-1-03	589-005-0500	1-9-03	Amend	2-1-03
581-015-0568	3-10-03	Amend	4-1-03	589-006-0050	1-9-03	Adopt	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
589-006-0100	1-9-03	Amend	2-1-03	603-095-0200	1-7-03	Amend	2-1-03
589-006-0150	1-9-03	Adopt	2-1-03	603-095-0220	1-7-03	Amend	2-1-03
589-006-0200	1-9-03	Amend	2-1-03	603-095-0240	1-7-03	Amend	2-1-03
589-006-0300	1-9-03	Amend	2-1-03	603-095-0280	1-7-03	Amend	2-1-03
589-006-0350	1-9-03	Adopt	2-1-03	603-095-0600	1-7-03	Amend	2-1-03
589-006-0400	1-9-03	Amend	2-1-03	603-095-0640	1-7-03	Amend	2-1-03
589-007-0100	3-10-03	Amend	4-1-03	603-095-0660	1-7-03	Amend	2-1-03
589-007-0110	3-10-03	Adopt	4-1-03	603-095-2000	1-7-03	Adopt	2-1-03
589-007-0120	3-10-03	Adopt	4-1-03	603-095-2020	1-7-03	Adopt	2-1-03
589-007-0130	3-10-03	Adopt	4-1-03	603-095-2040	1-7-03	Adopt	2-1-03
589-007-0140	3-10-03	Adopt	4-1-03	603-095-2060	1-7-03	Adopt	2-1-03
589-007-0150	3-10-03	Adopt	4-1-03	603-095-2300	1-7-03	Adopt	2-1-03
589-007-0160	3-10-03	Adopt	4-1-03	603-095-2320	1-7-03	Adopt	2-1-03
589-007-0170	3-10-03	Adopt	4-1-03	603-095-2340	1-7-03	Adopt	2-1-03
589-007-0180	3-10-03	Adopt	4-1-03	603-095-2360	1-7-03	Adopt	2-1-03
589-007-0200	1-9-03	Amend	2-1-03	603-095-2400	1-7-03	Adopt	2-1-03
589-007-0300	1-9-03	Amend	2-1-03	603-095-2420	1-7-03	Adopt	2-1-03
589-008-0100	1-9-03	Amend	2-1-03	603-095-2440	1-7-03	Adopt	2-1-03
589-008-0200	1-9-03	Amend	2-1-03	603-095-2460	1-7-03	Adopt	2-1-03
589-009-0100	1-9-03	Amend	2-1-03	603-105-0010	12-23-02	Adopt	2-1-03
589-020-0270	12-4-02	Adopt(T)	1-1-03	621-001-0005	2-1-03	Adopt	2-1-03
603-001-0005	1-7-03	Amend	2-1-03	621-001-0010	2-1-03	Adopt	2-1-03
603-011-0376	1-17-03	Adopt(T)	3-1-03	622-001-0000	1-16-03	Amend	2-1-03
603-014-0095	1-15-03	Amend	2-1-03	622-001-0005	1-16-03	Amend	2-1-03
603-025-0010	1-1-03	Amend	2-1-03	622-001-0010	1-16-03	Repeal	2-1-03
603-025-0020	1-1-03	Amend	2-1-03	622-010-0000	1-16-03	Amend	2-1-03
603-025-0030	1-1-03	Amend	2-1-03	622-010-0006	1-16-03	Amend	2-1-03
603-025-0180	1-1-03	Amend	2-1-03	622-010-0011	1-16-03	Amend	2-1-03
603-025-0190	1-1-03	Amend	2-1-03	622-020-0001	1-16-03	Amend	2-1-03
603-025-0220	1-1-03	Repeal	2-1-03	622-020-0140	1-16-03	Amend	2-1-03
603-052-1150	1-14-03	Adopt	2-1-03	622-020-0141	1-16-03	Amend	2-1-03
603-052-1200	12-10-02	Amend	1-1-03	622-020-0142	1-16-03	Amend	2-1-03
603-053-0200	12-23-02	Amend	2-1-03	622-020-0144	1-16-03	Amend	2-1-03
603-054-0016	1-7-03	Amend	2-1-03	622-020-0145	1-16-03	Amend	2-1-03
603-054-0017	1-7-03	Amend	2-1-03	622-020-0147	1-16-03	Amend	2-1-03
603-054-0018	1-7-03	Amend	2-1-03	622-020-0149	1-16-03	Amend	2-1-03
603-054-0020	1-7-03	Adopt	2-1-03	622-020-0151	1-16-03	Repeal	2-1-03
603-054-0024	1-7-03	Adopt	2-1-03	622-020-0153	1-16-03	Amend	2-1-03
603-054-0030	1-7-03	Amend	2-1-03	622-030-0005	1-16-03	Amend	2-1-03
603-054-0080	1-7-03	Adopt	2-1-03	622-030-0010	1-16-03	Amend	2-1-03
603-056-0165	1-14-03	Amend	2-1-03	622-045-0000	1-16-03	Amend	2-1-03
603-057-0410	12-4-02	Amend(T)	1-1-03	622-045-0005	1-16-03	Amend	2-1-03
603-059-0055	1-1-03	Adopt	1-1-03	622-045-0010	1-16-03	Amend	2-1-03
603-059-0070	1-1-03	Adopt	1-1-03	622-045-0015	1-16-03	Amend	2-1-03
603-059-0080	1-1-03	Adopt	1-1-03	622-045-0019	1-16-03	Amend	2-1-03
603-059-0100	1-1-03	Adopt	1-1-03	622-050-0000	1-16-03	Repeal	2-1-03
603-082-0010	2-27-03	Adopt	4-1-03	622-050-0010	1-16-03	Repeal	2-1-03
603-082-0020	2-27-03	Adopt	4-1-03	622-050-0020	1-16-03	Repeal	2-1-03
603-082-0030	2-27-03	Adopt	4-1-03	622-050-0030	1-16-03	Repeal	2-1-03
603-082-0040	2-27-03	Adopt	4-1-03	622-050-0040	1-16-03	Repeal	2-1-03
603-082-0050	2-27-03	Adopt	4-1-03	622-050-0050	1-16-03	Repeal	2-1-03
603-082-0060	2-27-03	Adopt	4-1-03	622-050-0060	1-16-03	Repeal	2-1-03
603-082-0070	2-27-03	Adopt	4-1-03	622-055-0003	1-16-03	Adopt	2-1-03
603-082-0080	2-27-03	Adopt	4-1-03	622-055-0005	1-16-03	Amend	2-1-03
603-082-0090	2-27-03	Adopt	4-1-03	622-055-0010	1-16-03	Adopt	2-1-03
603-082-0100	2-27-03	Adopt	4-1-03	622-055-0015	1-16-03	Adopt	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
622-055-0020	1-16-03	Adopt	2-1-03	635-006-0850	1-1-03	Amend	2-1-03
622-055-0025	1-16-03	Adopt	2-1-03	635-006-1010	2-10-03	Amend(T)	3-1-03
622-065-0001	1-16-03	Amend	2-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
622-065-0002	1-16-03	Amend	2-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
622-065-0003	1-16-03	Amend	2-1-03	635-007-0501	11-22-02	Amend	1-1-03
622-065-0004	1-16-03	Repeal	2-1-03	635-007-0502	11-22-02	Adopt	1-1-03
622-065-0010	1-16-03	Amend	2-1-03	635-007-0503	11-22-02	Adopt	1-1-03
622-065-0011	1-16-03	Amend	2-1-03	635-007-0504	11-22-02	Adopt	1-1-03
622-065-0012	1-16-03	Repeal	2-1-03	635-007-0505	11-22-02	Adopt	1-1-03
629-600-0100	1-1-03	Amend	1-1-03	635-007-0506	11-22-02	Adopt	1-1-03
629-606-0200	1-1-03	Amend	1-1-03	635-011-0101	1-1-03	Amend	1-1-03
629-606-0600	1-1-03	Amend	1-1-03	635-013-0003	1-1-03	Amend	1-1-03
629-623-0000	1-1-03	Adopt	1-1-03	635-013-0004	1-1-03	Amend	1-1-03
629-623-0100	1-1-03	Adopt	1-1-03	635-013-0004	3-1-03	Amend(T)	4-1-03
629-623-0200	1-1-03	Adopt	1-1-03	635-013-0009	3-1-03	Amend(T)	4-1-03
629-623-0250	1-1-03	Adopt	1-1-03	635-014-0080	1-1-03	Amend	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-014-0090	1-1-03	Amend	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-014-0090	3-1-03	Amend(T)	4-1-03
629-623-0450	1-1-03	Adopt	1-1-03	635-016-0080	1-1-03	Amend	1-1-03
629-623-0500	1-1-03	Adopt	1-1-03	635-016-0090	1-1-03	Amend	1-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-017-0080	1-1-03	Amend	1-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-017-0090	1-1-03	Amend	1-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-017-0090	3-1-03	Amend(T)	4-1-03
629-623-0800	1-1-03	Adopt	1-1-03	635-018-0080	1-1-03	Amend	1-1-03
629-625-0100	1-1-03	Amend	1-1-03	635-018-0090	1-1-03	Amend	1-1-03
629-625-0200	1-1-03	Amend	1-1-03	635-019-0080	1-1-03	Amend	1-1-03
629-625-0310	1-1-03	Amend	1-1-03	635-019-0090	1-1-03	Amend	1-1-03
629-625-0330	1-1-03	Amend	1-1-03	635-021-0080	1-1-03	Amend	1-1-03
629-625-0600	1-1-03	Amend	1-1-03	635-021-0090	1-1-03	Amend	1-1-03
629-625-0700	1-1-03	Adopt	1-1-03	635-021-0100	1-1-03	Repeal	1-1-03
629-630-0100	1-1-03	Amend	1-1-03	635-023-0080	1-1-03	Amend	1-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-023-0090	1-1-03	Amend	1-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-023-0090	2-14-03	Amend	3-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03	635-023-0090	3-1-03	Amend(T)	4-1-03
632-007-0000	1-1-03	Adopt	2-1-03	635-039-0080	1-1-03	Amend	1-1-03
632-007-0000	1-1-03	Suspend	2-1-03	635-039-0090	1-1-03	Amend	1-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-041-0065	12-19-02	Amend(T)	2-1-03
632-007-0010	1-1-03	Suspend	2-1-03	635-041-0065	3-13-03	Amend(T)	4-1-03
632-007-0020	1-1-03	Adopt	2-1-03	635-042-0020	2-14-03	Amend	3-1-03
632-007-0020	1-1-03	Suspend	2-1-03	635-042-0020	2-20-03	Amend(T)	4-1-03
632-007-0030	1-1-03	Adopt	2-1-03	635-042-0110	2-14-03	Amend	3-1-03
632-007-0030	1-1-03	Suspend	2-1-03	635-042-0130	12-19-02	Amend(T)	2-1-03
635-003-0004	3-1-03	Amend(T)	4-1-03	635-042-0135	12-19-02	Amend(T)	2-1-03
635-004-0005	1-1-03	Amend	2-1-03	635-042-0135	1-28-03	Amend(T)	3-1-03
635-004-0018	1-1-03	Amend	2-1-03	635-042-0135	2-3-03	Amend(T)	3-1-03
635-004-0025	1-1-03	Amend	2-1-03	635-042-0145	2-14-03	Amend	3-1-03
635-004-0027	2-10-03	Amend(T)	3-1-03	635-042-0145	3-1-03	Amend(T)	4-1-03
635-004-0029	1-1-03	Amend	2-1-03	635-042-0160	2-14-03	Amend	3-1-03
635-004-0033	1-1-03	Amend	2-1-03	635-042-0170	2-14-03	Amend	3-1-03
635-004-0033	2-21-03	Amend(T)	4-1-03	635-042-0180	4-17-03	Amend(T)	4-1-03
635-004-0050	1-1-03	Amend	2-1-03	635-043-0056	1-14-03	Adopt(T)	2-1-03
635-005-0045	11-20-02	Amend(T)	1-1-03	635-045-0000	1-17-02	Amend	3-1-03
635-005-0045	11-25-02	Amend(T)	1-1-03	635-045-0002	1-17-02	Amend	3-1-03
635-005-0045	12-6-02	Amend(T)	1-1-03	635-060-0000	1-17-02	Amend	3-1-03
635-005-0045(T)	12-6-02	Suspend	1-1-03	635-060-0055	4-1-03	Amend	3-1-03
635-006-0232	2-1-03	Amend	3-1-03	635-065-0001	1-17-02	Amend	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-065-0001	1-28-03	Amend(T)	3-1-03	690-205-0005	3-14-03	Amend	4-1-03
635-065-0015	1-17-02	Amend	3-1-03	690-205-0020	3-14-03	Amend	4-1-03
635-065-0090	1-17-02	Amend	3-1-03	690-205-0030	3-14-03	Renumber	4-1-03
635-065-0101	1-17-02	Amend	3-1-03	690-205-0035	3-14-03	Adopt	4-1-03
635-065-0301	1-17-02	Amend	3-1-03	690-205-0040	3-14-03	Renumber	4-1-03
635-065-0401	1-17-02	Amend	3-1-03	690-205-0045	3-14-03	Adopt	4-1-03
635-065-0625	1-17-02	Amend	3-1-03	690-205-0050	3-14-03	Renumber	4-1-03
635-065-0625	1-28-03	Amend(T)	3-1-03	690-205-0055	3-14-03	Adopt	4-1-03
635-065-0735	1-17-02	Amend	3-1-03	690-205-0060	3-14-03	Renumber	4-1-03
635-065-0740	1-17-02	Amend	3-1-03	690-205-0070	3-14-03	Am. & Ren.	4-1-03
635-065-0760	7-1-03	Amend	3-1-03	690-205-0075	3-14-03	Adopt	4-1-03
635-065-0765	1-17-02	Amend	3-1-03	690-205-0080	3-14-03	Renumber	4-1-03
635-066-0000	1-17-02	Amend	3-1-03	690-205-0085	3-14-03	Adopt	4-1-03
635-066-0020	1-17-02	Amend	3-1-03	690-205-0095	3-14-03	Adopt	4-1-03
635-067-0000	1-17-02	Amend	3-1-03	690-205-0110	3-14-03	Adopt	4-1-03
635-067-0004	1-17-02	Amend	3-1-03	690-205-0120	3-14-03	Adopt	4-1-03
635-067-0015	1-17-02	Amend	3-1-03	690-240-0010	3-14-03	Amend	4-1-03
635-067-0032	1-17-02	Amend	3-1-03	690-240-0020	3-14-03	Amend	4-1-03
635-067-0034	1-17-02	Amend	3-1-03	690-240-0035	3-14-03	Amend	4-1-03
635-067-0040	1-17-02	Amend	3-1-03	690-240-0055	3-14-03	Amend	4-1-03
635-068-0000	1-20-03	Amend	3-1-03	690-240-0065	3-14-03	Amend	4-1-03
635-069-0000	2-1-03	Amend	3-1-03	690-240-0075	3-14-03	Renumber	4-1-03
635-069-0010	1-17-02	Amend	3-1-03	690-240-0080	3-14-03	Renumber	4-1-03
635-070-0000	1-17-02	Amend	3-1-03	690-240-0082	3-14-03	Renumber	4-1-03
635-070-0000	1-28-03	Amend(T)	3-1-03	690-240-0085	3-14-03	Renumber	4-1-03
635-071-0000	1-17-02	Amend	3-1-03	690-240-0090	3-14-03	Am. & Ren.	4-1-03
635-071-0000	1-28-03	Amend(T)	3-1-03	690-240-0095	3-14-03	Am. & Ren.	4-1-03
635-071-0030	1-17-02	Amend	3-1-03	690-240-0100	3-14-03	Am. & Ren.	4-1-03
635-072-0000	1-17-02	Amend	3-1-03	690-240-0110	3-14-03	Renumber	4-1-03
635-073-0000	1-20-03	Amend	3-1-03	690-240-0115	3-14-03	Renumber	4-1-03
635-073-0001	1-17-02	Amend	3-1-03	690-240-0118	3-14-03	Am. & Ren.	4-1-03
635-073-0070	1-17-02	Amend	3-1-03	690-240-0120	3-14-03	Renumber	4-1-03
635-073-0080	1-17-02	Amend	3-1-03	690-240-0126	3-14-03	Am. & Ren.	4-1-03
635-073-0090	1-17-02	Amend	3-1-03	690-240-0130	3-14-03	Renumber	4-1-03
635-075-0020	4-1-03	Amend	3-1-03	690-240-0131	3-14-03	Renumber	4-1-03
635-078-0008	1-17-02	Amend	3-1-03	690-240-0132	3-14-03	Am. & Ren.	4-1-03
635-080-0070	1-17-02	Amend	3-1-03	690-240-0135	3-14-03	Am. & Ren.	4-1-03
635-160-0000	2-14-03	Amend	3-1-03	690-240-0137	3-14-03	Am. & Ren.	4-1-03
635-160-0010	2-14-03	Amend	3-1-03	690-240-0139	3-14-03	Renumber	4-1-03
635-160-0020	2-14-03	Amend	3-1-03	690-240-0145	3-14-03	Renumber	4-1-03
635-160-0030	2-14-03	Amend	3-1-03	690-240-0150	3-14-03	Renumber	4-1-03
635-190-0000	2-14-03	Amend	3-1-03	690-240-0155	3-14-03	Am. & Ren.	4-1-03
635-190-0010	2-14-03	Amend	3-1-03	690-240-0160	3-14-03	Renumber	4-1-03
635-190-0020	2-14-03	Amend	3-1-03	690-240-0165	3-14-03	Renumber	4-1-03
635-190-0030	2-14-03	Amend	3-1-03	690-240-0170	3-14-03	Renumber	4-1-03
644-001-0000	1-6-03	Amend	2-1-03	690-240-0175	3-14-03	Am. & Ren.	4-1-03
644-001-0005	1-6-03	Repeal	2-1-03	690-240-0180	3-14-03	Am. & Ren.	4-1-03
644-001-0010	1-6-03	Repeal	2-1-03	690-240-0200	3-14-03	Adopt	4-1-03
644-010-0015	1-6-03	Amend	2-1-03	690-240-0210	3-14-03	Adopt	4-1-03
660-026-0000	1-17-03	Adopt	3-1-03	690-240-0220	3-14-03	Adopt	4-1-03
660-026-0010	1-17-03	Adopt	3-1-03	690-240-0240	3-14-03	Adopt	4-1-03
660-026-0020	1-17-03	Adopt	3-1-03	690-240-0250	3-14-03	Adopt	4-1-03
660-026-0030	1-17-03	Adopt	3-1-03	690-240-0260	3-14-03	Adopt	4-1-03
660-026-0040	1-17-03	Adopt	3-1-03	690-240-0270	3-14-03	Adopt	4-1-03
678-010-0040	12-30-02	Amend	2-1-03	690-240-0280	3-14-03	Adopt	4-1-03
690-200-0050	3-14-03	Amend	4-1-03	731-010-0030	1-16-03	Amend(T)	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
734-070-0020	12-13-02	Adopt	1-1-03	738-035-0060	3-1-03	Adopt	4-1-03
734-070-0020(T)	12-13-02	Repeal	1-1-03	738-035-0065	3-1-03	Adopt	4-1-03
734-071-0010	12-13-02	Amend	1-1-03	738-035-0070	3-1-03	Adopt	4-1-03
735-010-0045	11-18-02	Amend	1-1-03	738-035-0075	3-1-03	Adopt	4-1-03
735-050-0110	1-1-03	Amend	1-1-03	738-040-0010	12-1-02	Amend	1-1-03
735-050-0115	1-1-03	Adopt	1-1-03	738-040-0020	12-1-02	Amend	1-1-03
735-050-0120	1-1-03	Amend	1-1-03	738-040-0040	12-1-02	Amend	1-1-03
735-062-0135	2-13-03	Adopt	3-1-03	738-050-0020	12-1-02	Amend	1-1-03
735-074-0005	1-1-03	Adopt	1-1-03	738-050-0060	12-1-02	Amend	1-1-03
735-074-0010	1-1-03	Amend	1-1-03	738-050-0070	12-1-02	Amend	1-1-03
735-074-0020	1-1-03	Amend	1-1-03	738-050-0090	12-1-02	Amend	1-1-03
735-090-0000	11-18-02	Amend	1-1-03	738-060-0050	12-1-02	Amend	1-1-03
735-090-0010	11-18-02	Repeal	1-1-03	738-070-0010	12-1-02	Amend	1-1-03
735-090-0020	11-18-02	Amend	1-1-03	738-070-0020	12-1-02	Amend	1-1-03
735-090-0030	11-18-02	Repeal	1-1-03	738-070-0040	12-1-02	Amend	1-1-03
735-090-0040	11-18-02	Amend	1-1-03	738-070-0060	12-1-02	Amend	1-1-03
735-090-0050	11-18-02	Repeal	1-1-03	738-070-0070	12-1-02	Amend	1-1-03
735-090-0060	11-18-02	Repeal	1-1-03	738-070-0080	12-1-02	Amend	1-1-03
735-090-0070	11-18-02	Repeal	1-1-03	738-070-0100	12-1-02	Amend	1-1-03
735-090-0080	11-18-02	Repeal	1-1-03	738-070-0160	12-1-02	Amend	1-1-03
735-090-0090	11-18-02	Repeal	1-1-03	738-070-0170	12-1-02	Amend	1-1-03
735-090-0100	11-18-02	Repeal	1-1-03	738-070-0180	12-1-02	Amend	1-1-03
735-090-0110	11-18-02	Amend	1-1-03	738-070-0210	12-1-02	Amend	1-1-03
735-150-0060	11-18-02	Amend	1-1-03	738-070-0230	12-1-02	Amend	1-1-03
736-018-0045	2-27-03	Amend	4-1-03	738-080-0030	12-1-02	Amend	1-1-03
736-018-0045	2-27-03	Amend	4-1-03	738-090-0030	12-1-02	Amend	1-1-03
736-100-0000	2-1-03	Adopt	3-1-03	738-090-0040	12-1-02	Amend	1-1-03
736-100-0010	2-1-03	Adopt	3-1-03	738-090-0050	12-1-02	Amend	1-1-03
736-100-0020	2-1-03	Adopt	3-1-03	738-100-0010	12-1-02	Amend	1-1-03
736-100-0030	2-1-03	Adopt	3-1-03	738-100-0035	12-1-02	Amend	1-1-03
736-100-0040	2-1-03	Adopt	3-1-03	740-035-0200	11-18-02	Amend	1-1-03
736-100-0050	2-1-03	Adopt	3-1-03	740-035-0210	11-18-02	Repeal	1-1-03
736-100-0060	2-1-03	Adopt	3-1-03	740-035-0220	11-18-02	Repeal	1-1-03
736-100-0070	2-1-03	Adopt	3-1-03	740-035-0230	11-18-02	Repeal	1-1-03
736-100-0080	2-1-03	Adopt	3-1-03	740-035-0240	11-18-02	Repeal	1-1-03
738-001-0035	12-1-02	Amend	1-1-03	740-035-0250	11-18-02	Amend	1-1-03
738-010-0025	12-1-02	Amend	1-1-03	740-035-0260	11-18-02	Amend	1-1-03
738-020-0020	12-1-02	Amend	1-1-03	740-055-0120	2-13-03	Amend	3-1-03
738-020-0025	12-1-02	Amend	1-1-03	740-200-0010	11-18-02	Amend	1-1-03
738-020-0030	12-1-02	Amend	1-1-03	740-200-0020	11-18-02	Amend	1-1-03
738-020-0040	12-1-02	Amend	1-1-03	740-200-0040	11-18-02	Adopt	1-1-03
738-020-0045	12-1-02	Amend	1-1-03	801-001-0000	1-1-03	Amend	2-1-03
738-030-0015	12-1-02	Amend	1-1-03	801-001-0005	1-1-03	Amend	2-1-03
738-030-0020	12-1-02	Amend	1-1-03	801-001-0010	1-1-03	Amend	2-1-03
738-030-0025	12-1-02	Amend	1-1-03	801-001-0020	1-1-03	Amend	2-1-03
738-035-0005	3-1-03	Adopt	4-1-03	801-001-0030	1-1-03	Adopt	2-1-03
738-035-0010	3-1-03	Adopt	4-1-03	801-005-0010	1-1-03	Amend	2-1-03
738-035-0015	3-1-03	Adopt	4-1-03	801-010-0010	1-1-03	Amend	2-1-03
738-035-0020	3-1-03	Adopt	4-1-03	801-010-0045	1-1-03	Amend	2-1-03
738-035-0025	3-1-03	Adopt	4-1-03	801-010-0050	1-1-03	Amend	2-1-03
738-035-0030	3-1-03	Adopt	4-1-03	801-010-0060	1-1-03	Amend	2-1-03
738-035-0035	3-1-03	Adopt	4-1-03	801-010-0065	1-1-03	Amend	2-1-03
738-035-0040	3-1-03	Adopt	4-1-03	801-010-0075	1-1-03	Amend	2-1-03
738-035-0045	3-1-03	Adopt	4-1-03	801-010-0078	1-1-03	Amend	2-1-03
738-035-0050	3-1-03	Adopt	4-1-03	801-010-0079	1-1-03	Amend	2-1-03
738-035-0055	3-1-03	Adopt	4-1-03	801-010-0080	1-1-03	Amend	2-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
801-010-0085	1-1-03	Amend	2-1-03	808-004-0480	12-4-02	Amend	1-1-03
801-010-0100	1-1-03	Amend	2-1-03	808-004-0500	12-4-02	Amend	1-1-03
801-010-0110	1-1-03	Amend	2-1-03	808-004-0520	12-4-02	Amend	1-1-03
801-010-0115	1-1-03	Amend	2-1-03	808-004-0540	12-4-02	Amend	1-1-03
801-010-0340	1-1-03	Amend	2-1-03	808-004-0550	12-4-02	Amend	1-1-03
801-020-0620	1-1-03	Amend	2-1-03	808-004-0560	12-4-02	Amend	1-1-03
801-020-0690	1-1-03	Amend	2-1-03	808-004-0560	2-1-03	Amend	3-1-03
801-020-0710	1-1-03	Amend	2-1-03	808-004-0580	12-4-02	Am. & Ren.	1-1-03
801-020-0720	1-1-03	Amend	2-1-03	808-004-0590	2-1-03	Adopt	3-1-03
801-030-0020	1-1-03	Amend	2-1-03	808-004-0600	12-4-02	Amend	1-1-03
801-040-0010	1-1-03	Amend	2-1-03	808-004-0600	12-4-02	Amend	1-1-03
801-040-0030	1-1-03	Amend	2-1-03	808-005-0020	12-4-02	Amend	1-1-03
801-040-0050	1-1-03	Amend	2-1-03	808-005-0030	12-4-02	Amend	1-1-03
801-040-0090	1-15-03	Amend	2-1-03	808-008-0020	2-1-03	Amend	3-1-03
806-010-0095	12-12-02	Amend	1-1-03	808-008-0030	2-1-03	Adopt	3-1-03
806-010-0105	1-15-03	Amend	2-1-03	808-008-0040	2-1-03	Amend	3-1-03
806-010-0145	1-15-03	Amend	2-1-03	808-008-0060	2-1-03	Amend	3-1-03
808-001-0000	2-1-03	Amend	3-1-03	808-008-0080	2-1-03	Amend	3-1-03
808-001-0005	2-1-03	Amend	3-1-03	808-008-0085	2-1-03	Adopt	3-1-03
808-001-0020	12-4-02	Amend	1-1-03	808-008-0090	2-1-03	Adopt	3-1-03
808-001-0020	2-1-03	Amend	3-1-03	808-008-0100	2-1-03	Amend	3-1-03
808-001-0030	12-4-02	Amend	1-1-03	808-008-0110	2-1-03	Amend	3-1-03
808-001-0040	2-1-03	Repeal	3-1-03	808-008-0120	2-1-03	Amend	3-1-03
808-002-0220	12-4-02	Amend	1-1-03	808-008-0140	2-1-03	Amend	3-1-03
808-002-0290	12-4-02	Adopt	1-1-03	808-008-0160	2-1-03	Amend	3-1-03
808-002-0670	12-4-02	Amend	1-1-03	808-008-0180	2-1-03	Amend	3-1-03
808-002-0670	12-4-02	Renumber	1-1-03	808-008-0220	2-1-03	Amend	3-1-03
808-002-0680	12-4-02	Amend	1-1-03	808-008-0300	2-1-03	Amend	3-1-03
808-003-0015	2-1-03	Amend	3-1-03	808-008-0400	2-1-03	Amend	3-1-03
808-003-0020	2-1-03	Amend	3-1-03	808-008-0420	2-1-03	Amend	3-1-03
808-003-0025	12-4-02	Amend	1-1-03	808-008-0425	2-1-03	Adopt	3-1-03
808-003-0035	2-1-03	Amend	3-1-03	808-008-0430	2-1-03	Adopt	3-1-03
808-003-0040	2-1-03	Amend	3-1-03	808-008-0440	2-1-03	Amend	3-1-03
808-003-0045	2-1-03	Amend	3-1-03	808-008-0460	2-1-03	Amend	3-1-03
808-003-0055	12-4-02	Amend	1-1-03	808-008-0480	2-1-03	Amend	3-1-03
808-003-0060	2-1-03	Amend	3-1-03	808-009-0020	12-4-02	Amend	1-1-03
808-003-0065	2-1-03	Amend	3-1-03	808-009-0020	2-1-03	Amend	3-1-03
808-003-0070	12-4-02	Amend	1-1-03	808-009-0070	12-4-02	Amend	1-1-03
808-003-0075	12-4-02	Amend	1-1-03	808-009-0100	12-4-02	Amend	1-1-03
808-003-0081	12-4-02	Adopt	1-1-03	808-009-0120	12-4-02	Amend	1-1-03
808-003-0085	12-4-02	Adopt	1-1-03	808-009-0140	12-18-02	Amend	2-1-03
808-003-0095	2-1-03	Amend	3-1-03	808-009-0160	12-4-02	Amend	1-1-03
808-003-0100	12-4-02	Amend	1-1-03	808-009-0160	2-1-03	Amend	3-1-03
808-003-0105	2-1-03	Amend	3-1-03	808-009-0200	2-1-03	Adopt	3-1-03
808-003-0130	2-1-03	Amend	3-1-03	808-009-0220	12-4-02	Amend	1-1-03
808-004-0120	12-4-02	Adopt	1-1-03	808-009-0400	12-4-02	Amend	1-1-03
808-004-0180	12-4-02	Amend	1-1-03	808-009-0400	2-1-03	Amend	3-1-03
808-004-0200	12-4-02	Am. & Ren.	1-1-03	808-009-0420	12-4-02	Amend	1-1-03
808-004-0250	12-4-02	Amend	1-1-03	808-009-0420	2-1-03	Amend	3-1-03
808-004-0260	12-4-02	Adopt	1-1-03	808-009-0430	12-4-02	Adopt	1-1-03
808-004-0320	12-4-02	Amend	1-1-03	808-009-0440	12-4-02	Amend	1-1-03
808-004-0340	12-4-02	Amend	1-1-03	809-050-0030	12-2-02	Suspend	1-1-03
808-004-0440	12-4-02	Amend	1-1-03	812-001-0020	12-23-02	Amend	2-1-03
808-004-0440	2-1-03	Amend	3-1-03	812-001-0020	3-11-03	Amend(T)	4-1-03
808-004-0450	12-4-02	Adopt	1-1-03	812-002-0480	3-4-03	Amend	4-1-03
808-004-0460	12-4-02	Amend	1-1-03	812-004-0001	3-4-03	Amend	4-1-03
				812-004-0300	3-4-03	Amend	4-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-004-0320	3-4-03	Amend	4-1-03	813-140-0030(T)	11-25-02	Repeal	1-1-03
812-004-0325	3-4-03	Adopt	4-1-03	813-140-0040	11-25-02	Adopt	1-1-03
812-004-0340	3-4-03	Amend	4-1-03	813-140-0040(T)	11-25-02	Repeal	1-1-03
812-004-0350	3-4-03	Adopt	4-1-03	813-140-0050	11-25-02	Adopt	1-1-03
812-004-0360	11-20-02	Amend	1-1-03	813-140-0050(T)	11-25-02	Repeal	1-1-03
812-004-0520	3-4-03	Amend	4-1-03	813-140-0060	11-25-02	Adopt	1-1-03
812-004-0535	3-4-03	Adopt	4-1-03	813-140-0060(T)	11-25-02	Repeal	1-1-03
812-004-0540	11-20-02	Amend	1-1-03	813-140-0070	11-25-02	Adopt	1-1-03
812-004-0540	3-4-03	Amend	4-1-03	813-140-0070(T)	11-25-02	Repeal	1-1-03
812-004-0550	3-4-03	Amend	4-1-03	813-140-0080	11-25-02	Adopt	1-1-03
812-004-0560	11-20-02	Amend	1-1-03	813-140-0080(T)	11-25-02	Repeal	1-1-03
812-004-0560	3-4-03	Amend	4-1-03	813-140-0090	11-25-02	Adopt	1-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03	813-140-0090(T)	11-25-02	Repeal	1-1-03
812-006-0012	3-4-03	Amend	4-1-03	813-140-0100	11-25-02	Adopt	1-1-03
812-006-0050	3-4-03	Amend	4-1-03	813-140-0100(T)	11-25-02	Repeal	1-1-03
812-008-0070	3-4-03	Amend	4-1-03	813-140-0110	11-25-02	Adopt	1-1-03
812-008-0072	11-20-02	Amend	1-1-03	813-140-0110(T)	11-25-02	Repeal	1-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03	813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03
812-009-0020	11-20-02	Amend	1-1-03	813-200-0001	11-20-02	Adopt(T)	1-1-03
812-009-0070	3-4-03	Amend	4-1-03	813-200-0010	11-20-02	Amend(T)	1-1-03
812-009-0100	3-4-03	Amend	4-1-03	813-200-0020	11-20-02	Amend(T)	1-1-03
812-009-0120	3-4-03	Amend	4-1-03	813-200-0030	11-20-02	Amend(T)	1-1-03
812-009-0160	11-20-02	Amend	1-1-03	813-200-0040	11-20-02	Amend(T)	1-1-03
812-009-0400	3-4-03	Amend	4-1-03	813-200-0050	11-20-02	Amend(T)	1-1-03
812-009-0440	3-4-03	Amend	4-1-03	813-200-0060	11-20-02	Amend(T)	1-1-03
812-010-0100	11-20-02	Amend	1-1-03	813-205-0000	12-13-02	Adopt	1-1-03
812-010-0100(T)	11-20-02	Repeal	1-1-03	813-205-0000(T)	12-13-02	Repeal	1-1-03
812-010-0110	11-20-02	Amend	1-1-03	813-205-0010	12-13-02	Adopt	1-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03	813-205-0010(T)	12-13-02	Repeal	1-1-03
812-010-0120	11-20-02	Amend	1-1-03	813-205-0020	12-13-02	Adopt	1-1-03
812-010-0120(T)	11-20-02	Repeal	1-1-03	813-205-0020(T)	12-13-02	Repeal	1-1-03
812-010-0220	11-20-02	Amend	1-1-03	813-205-0030	12-13-02	Adopt	1-1-03
812-010-0420	11-20-02	Amend	1-1-03	813-205-0030(T)	12-13-02	Repeal	1-1-03
812-010-0440	11-20-02	Amend	1-1-03	813-205-0040	12-13-02	Adopt	1-1-03
812-010-0440(T)	11-20-02	Repeal	1-1-03	813-205-0040(T)	12-13-02	Repeal	1-1-03
813-008-0005	12-5-02	Amend	1-1-03	813-205-0050	12-13-02	Adopt	1-1-03
813-008-0010	12-5-02	Amend	1-1-03	813-205-0050(T)	12-13-02	Repeal	1-1-03
813-008-0015	12-5-02	Amend	1-1-03	813-205-0051	12-13-02	Adopt	1-1-03
813-008-0020	12-5-02	Amend	1-1-03	813-205-0060	12-13-02	Adopt	1-1-03
813-008-0025	12-5-02	Amend	1-1-03	813-205-0060(T)	12-13-02	Repeal	1-1-03
813-008-0030	12-5-02	Amend	1-1-03	813-205-0070	12-13-02	Adopt	1-1-03
813-008-0040	12-5-02	Adopt	1-1-03	813-205-0070(T)	12-13-02	Repeal	1-1-03
813-047-0001	11-20-02	Amend(T)	1-1-03	813-205-0080	12-13-02	Adopt	1-1-03
813-047-0005	11-20-02	Amend(T)	1-1-03	813-205-0080(T)	12-13-02	Repeal	1-1-03
813-047-0006	11-20-02	Adopt(T)	1-1-03	813-205-0090	12-13-02	Adopt	1-1-03
813-047-0010	11-20-02	Amend(T)	1-1-03	813-205-0090(T)	12-13-02	Repeal	1-1-03
813-047-0015	11-20-02	Amend(T)	1-1-03	813-280-0000	12-13-02	Adopt	1-1-03
813-047-0020	11-20-02	Amend(T)	1-1-03	813-280-0000(T)	12-13-02	Repeal	1-1-03
813-047-0025	11-20-02	Amend(T)	1-1-03	813-280-0010	12-13-02	Adopt	1-1-03
813-140-0000	11-25-02	Adopt	1-1-03	813-280-0010(T)	12-13-02	Repeal	1-1-03
813-140-0000(T)	11-25-02	Repeal	1-1-03	813-280-0020	12-13-02	Adopt	1-1-03
813-140-0010	11-25-02	Adopt	1-1-03	813-280-0020(T)	12-13-02	Repeal	1-1-03
813-140-0010(T)	11-25-02	Repeal	1-1-03	813-280-0030	12-13-02	Adopt	1-1-03
813-140-0020	11-25-02	Adopt	1-1-03	813-280-0030(T)	12-13-02	Repeal	1-1-03
813-140-0020(T)	11-25-02	Repeal	1-1-03	813-280-0040	12-13-02	Adopt	1-1-03
813-140-0030	11-25-02	Adopt	1-1-03	813-280-0040(T)	12-13-02	Repeal	1-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-280-0050	12-13-02	Adopt	1-1-03	836-012-0090	11-27-02	Amend	1-1-03
813-280-0050(T)	12-13-02	Repeal	1-1-03	836-012-0100	11-27-02	Amend	1-1-03
813-280-0060	12-13-02	Adopt	1-1-03	836-020-0900	11-27-02	Am. & Ren.	1-1-03
813-280-0060(T)	12-13-02	Repeal	1-1-03	836-043-0024	1-17-03	Amend	3-1-03
813-280-0070	12-13-02	Adopt	1-1-03	836-043-0044	1-17-03	Amend	3-1-03
813-280-0070(T)	12-13-02	Repeal	1-1-03	836-052-0142	12-13-02	Amend	1-1-03
820-010-0200	1-28-03	Amend	3-1-03	836-053-0021	11-27-02	Amend	1-1-03
820-010-0202	3-14-03	Adopt	4-1-03	836-053-0430	11-27-02	Amend	1-1-03
820-010-0305	12-3-02	Amend	1-1-03	836-053-0440	11-27-02	Amend	1-1-03
820-010-0635	1-28-03	Amend	3-1-03	836-054-0300	11-27-02	Amend	1-1-03
820-040-0040	1-28-03	Adopt	3-1-03	836-080-0425	6-1-03	Adopt	2-1-03
833-020-0015	12-16-02	Amend(T)	1-1-03	836-080-0430	6-1-03	Adopt	2-1-03
833-020-0040	12-16-02	Amend(T)	1-1-03	836-080-0432	6-1-03	Adopt	2-1-03
833-020-0060	12-16-02	Amend(T)	1-1-03	836-080-0435	6-1-03	Adopt	2-1-03
833-020-0090	12-16-02	Amend(T)	1-1-03	836-080-0440	6-1-03	Adopt	2-1-03
833-020-0111	12-16-02	Amend(T)	1-1-03	837-012-0021	2-10-03	Repeal	3-1-03
833-020-0130	12-16-02	Suspend	1-1-03	837-012-0610	2-10-03	Amend	3-1-03
833-025-0001	12-16-02	Amend(T)	1-1-03	837-012-0615	2-10-03	Amend	3-1-03
833-025-0005	12-16-02	Amend(T)	1-1-03	837-012-0630	2-10-03	Amend	3-1-03
833-025-0006	12-16-02	Amend(T)	1-1-03	837-012-0635	2-10-03	Amend	3-1-03
833-040-0001	12-16-02	Amend(T)	1-1-03	837-012-0645	2-10-03	Amend	3-1-03
833-040-0010	12-16-02	Amend(T)	1-1-03	837-012-0720	2-10-03	Amend	3-1-03
836-011-0100	11-27-02	Amend	1-1-03	837-012-0740	2-10-03	Amend	3-1-03
836-011-0110	11-27-02	Amend	1-1-03	837-012-0760	2-10-03	Amend	3-1-03
836-011-0120	11-27-02	Amend	1-1-03	837-012-0780	2-10-03	Amend	3-1-03
836-011-0130	11-27-02	Amend	1-1-03	837-012-0790	2-10-03	Amend	3-1-03
836-011-0140	11-27-02	Amend	1-1-03	837-012-0810	2-10-03	Amend	3-1-03
836-011-0150	11-27-02	Amend	1-1-03	837-012-0820	2-10-03	Amend	3-1-03
836-011-0160	11-27-02	Amend	1-1-03	837-012-0830	2-10-03	Amend	3-1-03
836-011-0170	11-27-02	Amend	1-1-03	837-012-0835	2-10-03	Amend	3-1-03
836-011-0180	11-27-02	Amend	1-1-03	837-012-0860	2-10-03	Amend	3-1-03
836-011-0190	11-27-02	Amend	1-1-03	837-012-0865	2-10-03	Amend	3-1-03
836-011-0200	11-27-02	Amend	1-1-03	837-012-0940	2-10-03	Amend	3-1-03
836-011-0210	11-27-02	Amend	1-1-03	837-020-0040	12-6-02	Amend	1-1-03
836-011-0220	11-27-02	Amend	1-1-03	837-020-0050	12-6-02	Amend	1-1-03
836-011-0230	11-27-02	Amend	1-1-03	837-020-0060	12-6-02	Amend	1-1-03
836-011-0500	11-27-02	Adopt	1-1-03	837-020-0080	12-6-02	Amend	1-1-03
836-011-0505	11-27-02	Adopt	1-1-03	837-020-0125	12-6-02	Amend	1-1-03
836-011-0510	11-27-02	Adopt	1-1-03	837-110-0007	2-1-03	Adopt	2-1-03
836-011-0515	11-27-02	Adopt	1-1-03	837-110-0060	2-1-03	Amend	2-1-03
836-011-0520	11-27-02	Adopt	1-1-03	837-110-0070	2-1-03	Amend	2-1-03
836-011-0525	11-27-02	Adopt	1-1-03	837-110-0075	2-1-03	Adopt	2-1-03
836-011-0530	11-27-02	Adopt	1-1-03	837-110-0140	2-1-03	Amend	2-1-03
836-011-0535	11-27-02	Adopt	1-1-03	837-110-0150	2-1-03	Amend	2-1-03
836-011-0540	11-27-02	Adopt	1-1-03	837-110-0155	2-1-03	Adopt	2-1-03
836-011-0545	11-27-02	Adopt	1-1-03	839-016-0700	1-1-03	Amend	2-1-03
836-011-0550	11-27-02	Adopt	1-1-03	839-016-0700	2-14-03	Amend	3-1-03
836-012-0000	11-27-02	Amend	1-1-03	845-004-0005	2-1-03	Amend	3-1-03
836-012-0011	11-27-02	Amend	1-1-03	845-006-0450	1-1-03	Amend	2-1-03
836-012-0021	11-27-02	Amend	1-1-03	845-015-0007	2-1-03	Am. & Ren.	3-1-03
836-012-0031	11-27-02	Amend	1-1-03	845-015-0010	2-1-03	Am. & Ren.	3-1-03
836-012-0041	11-27-02	Amend	1-1-03	845-015-0012	2-1-03	Am. & Ren.	3-1-03
836-012-0051	11-27-02	Amend	1-1-03	845-015-0020	2-1-03	Am. & Ren.	3-1-03
836-012-0060	11-27-02	Amend	1-1-03	845-015-0022	2-1-03	Am. & Ren.	3-1-03
836-012-0070	11-27-02	Amend	1-1-03	845-015-0025	2-1-03	Am. & Ren.	3-1-03
836-012-0080	11-27-02	Amend	1-1-03	845-015-0027	2-1-03	Am. & Ren.	3-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
845-015-0028	2-1-03	Am. & Ren.	3-1-03	852-050-0018	12-18-02	Adopt	2-1-03
845-015-0030	2-1-03	Am. & Ren.	3-1-03	855-041-0065	1-14-03	Amend	2-1-03
845-015-0032	2-1-03	Am. & Ren.	3-1-03	855-041-0205	3-1-03	Amend	2-1-03
845-015-0035	2-1-03	Renumber	3-1-03	855-080-0021	1-14-03	Amend	2-1-03
845-015-0045	2-1-03	Renumber	3-1-03	855-110-0005	1-14-03	Amend	2-1-03
845-015-0050	2-1-03	Renumber	3-1-03	856-010-0010	2-26-03	Amend	4-1-03
845-015-0055	2-1-03	Am. & Ren.	3-1-03	860-012-0010	12-9-02	Amend	1-1-03
845-015-0060	2-1-03	Renumber	3-1-03	860-012-0035	3-11-03	Amend	4-1-03
845-015-0065	2-1-03	Am. & Ren.	3-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
845-015-0070	2-1-03	Am. & Ren.	3-1-03	860-014-0023	3-11-03	Adopt	4-1-03
845-015-0075	2-1-03	Am. & Ren.	3-1-03	860-016-0050	12-9-02	Amend	1-1-03
845-015-0078	2-1-03	Am. & Ren.	3-1-03	860-021-0335	12-9-02	Amend	1-1-03
845-015-0080	2-1-03	Am. & Ren.	3-1-03	860-027-0052	12-20-02	Amend	2-1-03
845-015-0085	2-1-03	Repeal	3-1-03	860-032-0001	2-12-03	Amend	3-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03	860-032-0002	3-11-03	Amend	4-1-03
845-015-0090	2-1-03	Renumber	3-1-03	860-032-0005	3-11-03	Amend	4-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03	860-032-0020	2-12-03	Amend	3-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03	860-032-0610	12-9-02	Adopt	1-1-03
845-015-0093	2-1-03	Renumber	3-1-03	860-032-0620	12-9-02	Adopt	1-1-03
845-015-0095	2-1-03	Renumber	3-1-03	860-032-0630	12-9-02	Adopt	1-1-03
845-015-0096	2-1-03	Renumber	3-1-03	860-032-0640	12-9-02	Adopt	1-1-03
845-015-0100	2-1-03	Renumber	3-1-03	860-032-0650	12-9-02	Adopt	1-1-03
847-001-0010	1-27-03	Amend	3-1-03	860-032-0660	12-9-02	Adopt	1-1-03
847-008-0005	1-27-03	Amend	3-1-03	860-034-0250	12-9-02	Amend	1-1-03
847-010-0051	1-27-03	Amend	3-1-03	860-034-0394	12-20-02	Amend	2-1-03
847-010-0052	1-27-03	Amend	3-1-03	860-034-0740	12-20-02	Amend	2-1-03
847-010-0056	1-27-03	Amend	3-1-03	860-036-0080	12-9-02	Amend	1-1-03
847-020-0170	1-27-03	Amend	3-1-03	860-037-0075	12-9-02	Amend	1-1-03
847-035-0030	1-27-03	Amend	3-1-03	863-001-0005	2-28-03	Amend(T)	4-1-03
847-050-0020	1-27-03	Amend	3-1-03	863-015-0010	2-28-03	Amend(T)	4-1-03
847-050-0029	1-27-03	Amend	3-1-03	863-015-0025	2-28-03	Amend(T)	4-1-03
847-050-0042	1-27-03	Amend	3-1-03	863-015-0030	2-28-03	Amend(T)	4-1-03
847-080-0022	1-27-03	Amend	3-1-03	863-015-0040	2-28-03	Amend(T)	4-1-03
848-030-0000	2-6-03	Amend	3-1-03	863-015-0045	2-28-03	Amend(T)	4-1-03
850-010-0055	12-6-02	Adopt(T)	1-1-03	863-015-0055	2-28-03	Amend(T)	4-1-03
850-010-0195	2-14-03	Adopt	3-1-03	863-015-0065	2-28-03	Amend(T)	4-1-03
850-010-0210	12-10-02	Amend	1-1-03	863-015-0080	2-28-03	Amend(T)	4-1-03
851-001-0020	12-17-02	Adopt	2-1-03	863-015-0085	2-28-03	Amend(T)	4-1-03
851-031-0005	3-6-03	Amend	4-1-03	863-015-0090	2-28-03	Amend(T)	4-1-03
851-031-0006	3-6-03	Amend	4-1-03	863-015-0095	2-28-03	Amend(T)	4-1-03
851-031-0010	3-6-03	Amend	4-1-03	863-015-0100	2-28-03	Amend(T)	4-1-03
851-031-0025	3-6-03	Repeal	4-1-03	863-015-0120	2-28-03	Amend(T)	4-1-03
851-031-0030	3-6-03	Amend	4-1-03	863-015-0125	2-28-03	Amend(T)	4-1-03
851-031-0040	3-6-03	Amend	4-1-03	863-015-0135	2-28-03	Amend(T)	4-1-03
851-031-0045	3-6-03	Amend	4-1-03	863-015-0140	2-28-03	Amend(T)	4-1-03
851-031-0060	3-6-03	Amend	4-1-03	863-015-0145	2-28-03	Amend(T)	4-1-03
851-031-0070	3-6-03	Amend	4-1-03	863-015-0175	2-28-03	Amend(T)	4-1-03
851-031-0080	3-6-03	Amend	4-1-03	863-015-0185	2-28-03	Amend(T)	4-1-03
851-031-0085	3-6-03	Adopt	4-1-03	863-015-0255	2-28-03	Amend(T)	4-1-03
851-031-0086	3-6-03	Amend	4-1-03	863-015-0260	2-28-03	Amend(T)	4-1-03
851-031-0090	3-6-03	Amend	4-1-03	863-025-0010	2-28-03	Amend(T)	4-1-03
851-050-0131	12-17-02	Amend	2-1-03	863-025-0020	2-28-03	Amend(T)	4-1-03
851-050-0131	3-6-03	Amend	4-1-03	863-025-0025	2-28-03	Amend(T)	4-1-03
852-010-0027	12-18-02	Amend	2-1-03	863-025-0030	2-28-03	Amend(T)	4-1-03
852-010-0051	12-18-02	Amend	2-1-03	863-025-0035	2-28-03	Amend(T)	4-1-03
852-050-0005	12-18-02	Amend	2-1-03	863-025-0050	2-28-03	Amend(T)	4-1-03

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
863-025-0065	2-28-03	Amend(T)	4-1-03	918-308-0210	1-1-03	Amend	2-1-03
918-001-0010	1-1-03	Amend	2-1-03	918-308-0210(T)	1-1-03	Repeal	2-1-03
918-001-0036	1-1-03	Adopt	2-1-03	918-309-0000	4-1-03	Amend	4-1-03
918-008-0100	1-1-03	Repeal	2-1-03	918-400-0280	1-1-03	Amend	2-1-03
918-090-0900	1-1-03	Repeal	2-1-03	918-400-0280	3-1-03	Amend	4-1-03
918-225-0240	3-14-03	Amend	4-1-03	918-400-0280(T)	1-1-03	Repeal	2-1-03
918-225-0315	3-14-03	Adopt	4-1-03	918-400-0333	1-1-03	Adopt	2-1-03
918-225-0560	3-14-03	Amend	4-1-03	918-400-0333(T)	1-1-03	Repeal	2-1-03
918-225-0562	7-1-03	Adopt	4-1-03	918-400-0335	1-1-03	Repeal	2-1-03
918-225-0610	1-1-03	Amend	2-1-03	918-400-0340	1-1-03	Amend	2-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03	918-400-0340(T)	1-1-03	Repeal	2-1-03
918-225-0660	3-14-03	Amend	4-1-03	918-400-0345	1-1-03	Repeal	2-1-03
918-225-0665	3-14-03	Adopt	4-1-03	918-400-0350	1-1-03	Repeal	2-1-03
918-225-0670	2-3-03	Amend	3-1-03	918-400-0355	1-1-03	Repeal	2-1-03
918-225-0690	7-1-03	Repeal	4-1-03	918-400-0360	1-1-03	Repeal	2-1-03
918-225-0691	7-1-03	Adopt	4-1-03	918-400-0365	1-1-03	Repeal	2-1-03
918-225-0700	7-1-03	Amend	4-1-03	918-400-0370	1-1-03	Repeal	2-1-03
918-225-0720	7-1-03	Amend	4-1-03	918-400-0375	1-1-03	Repeal	2-1-03
918-225-0740	7-1-03	Amend	4-1-03	918-400-0380	1-1-03	Adopt	2-1-03
918-225-0760	1-1-03	Repeal	2-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-225-0900	2-3-03	Adopt	3-1-03	918-400-0385	1-1-03	Adopt	2-1-03
918-225-0910	2-3-03	Adopt	3-1-03	918-400-0385(T)	1-1-03	Repeal	2-1-03
918-225-0920	2-3-03	Adopt	3-1-03	918-400-0390	1-1-03	Adopt	2-1-03
918-225-0930	2-3-03	Adopt	3-1-03	918-400-0390(T)	1-1-03	Repeal	2-1-03
918-225-0940	2-3-03	Adopt	3-1-03	918-400-0395	1-1-03	Adopt	2-1-03
918-225-0950	2-3-03	Adopt	3-1-03	918-400-0395(T)	1-1-03	Repeal	2-1-03
918-225-0960	2-3-03	Adopt	3-1-03	918-400-0455	3-1-03	Amend	4-1-03
918-225-0970	2-3-03	Adopt	3-1-03	918-400-0465	3-1-03	Amend	4-1-03
918-251-0090	1-1-03	Amend	2-1-03	918-400-0525	3-1-03	Amend	4-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03	918-400-0630	3-1-03	Amend	4-1-03
918-282-0017	1-1-03	Adopt	2-1-03	918-400-0740	3-1-03	Amend	4-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-282-0185	1-1-03	Adopt	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-282-0290	1-1-03	Amend	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-307-0000	1-1-03	Repeal	2-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-308-0020	1-1-03	Amend	2-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-308-0020(T)	1-1-03	Repeal	2-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-308-0060	1-1-03	Amend	2-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-308-0060(T)	1-1-03	Repeal	2-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-308-0200	1-1-03	Amend	2-1-03	918-785-0030	1-1-03	Repeal	2-1-03
918-308-0200(T)	1-1-03	Repeal	2-1-03				