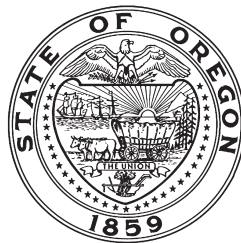


OREGON BULLETIN

Supplements the 2004 *Oregon Administrative Rules Compilation*

Volume 43, No. 6
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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2003-2004 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 15, 2003	January 1, 2004
January 15, 2004	February 1, 2004
February 13, 2004	March 1, 2004
March 15, 2004	April 1, 2004
April 15, 2004	May 1, 2004
May 14, 2004	June 1, 2004
June 15, 2004	July 1, 2004
July 15, 2004	August 1, 2004
August 13, 2004	September 1, 2004
September 15, 2004	October 1, 2004
October 15, 2004	November 1, 2004
November 15, 2004	December 1, 2004

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Executive Orders	4, 5
Other Notices	6-8
Notices of Proposed Rulemaking Hearings/Notices	
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.	
Board of Examiners for Engineering and Land Survey, Chapter 820.....	9
Board of Medical Examiners, Chapter 847.....	9, 10
Construction Contractors Board, Chapter 812.....	10
Department of Administrative Services, Public Employees' Benefit Board, Chapter 101.....	10
Department of Agriculture, Chapter 603.....	10
Department of Agriculture, Oregon Tall Fescue Commission, Chapter 607.....	10, 11
Department of Community Colleges and Workforce Development, Chapter 589.....	11
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	11
Insurance Division, Chapter 836.....	12
Workers' Compensation Division, Chapter 436.....	12
Department of Corrections, Chapter 291.....	12
Department of Fish and Wildlife, Chapter 635.....	12
Department of Human Services, Child Welfare Programs, Chapter 413.....	12, 13
Departmental Administration and Medical Assistance Programs, Chapter 410.....	13
Public Health, Chapter 333.....	13, 14
Self-Sufficiency Programs, Chapter 461.....	13, 14
Seniors and People with Disabilities, Chapter 411.....	14
Department of Public Safety Standards and Training, Chapter 259.....	14
Department of Revenue, Chapter 150.....	14, 15
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735.....	15
Health Licensing Office, Chapter 331.....	15, 16
Insurance Pool Governing Board, Chapter 442.....	16
Oregon Housing and Community Services, Chapter 813.....	16
Oregon Liquor Control Commission, Chapter 845.....	16
Oregon Public Employees Retirement System, Chapter 459.....	16, 17
Oregon State Lottery, Chapter 177.....	17
Oregon State Marine Board, Chapter 250.....	17
Oregon State Treasury, Chapter 170.....	17, 18
Oregon University System, Chapter 580.....	18
Oregon University System, University of Oregon, Chapter 571.....	18
Portland State University, Chapter 577.....	18
Oregon Watershed Enhancement Board, Chapter 695.....	18, 19
Public Utility Commission, Chapter 860.....	19
Teacher Standards and Practices Commission, Chapter 584.....	19
Veterinary Medical Examining Board, Chapter 875.....	19, 20
Water Resources Department, Chapter 690.....	20
Administrative Rules	
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.	
Board of Architect Examiners, Chapter 806.....	21-23
Board of Medical Examiners, Chapter 847.....	23-28
Board of Nursing, Chapter 851.....	28-35
Board of Parole and Post-Prison Supervision, Chapter 255.....	35, 36
Bureau of Labor and Industries, Chapter 839.....	36
Columbia River Gorge Commission, Chapter 350.....	36-38
Department of Agriculture, Chapter 603.....	38, 39
Department of Agriculture, Oregon Processed Vegetable Commission, Chapter 647.....	39
Department of Consumer and Business Services, Insurance Division, Chapter 836.....	39, 40
Oregon Medical Insurance Pool Board, Chapter 443.....	40, 41
Workers' Compensation Division, Chapter 436.....	41
Department of Corrections, Chapter 291.....	41, 42
Department of Fish and Wildlife, Chapter 635.....	42-54
Department of Forestry, Chapter 629.....	54-56
Department of Human Services, Departmental Administration and Medical Assistance Programs, Chapter 410.....	56-61
Public Health, Chapter 333.....	61-64
Self-Sufficiency Programs, Chapter 461.....	64-67
Seniors and People with Disabilities, Chapter 411.....	67-73
Department of Public Safety Standards and Training, Chapter 259.....	73-87
Department of Revenue, Chapter 150.....	87, 88
Department of Transportation, Highway Division, Chapter 734.....	88, 89
Department of Veterans' Affairs, Chapter 274.....	89-92
Employment Department, Chapter 471.....	92, 93
Land Conservation and Development Department, Chapter 660.....	93-120
Oregon Department of Education, Chapter 581.....	120
Oregon Liquor Control Commission, Chapter 845.....	120
Oregon State Marine Board, Chapter 250.....	121
Oregon Student Assistance Commission, Office of Degree Authorization, Chapter 583.....	121
Oregon University System, University of Oregon, Chapter 571.....	121, 122
Oregon Youth Authority, Chapter 416.....	122-125
Parks and Recreation Department, Chapter 736.....	126-133
Public Utility Commission, Chapter 860.....	133, 134
Real Estate Agency, Chapter 863.....	134-139
Secretary of State, Business Services Division, Chapter 167.....	140
Corporation Division, Chapter 160.....	140
Teacher Standards and Practices Commission, Chapter 584.....	141, 142
 OAR Revision Cumulative Index	 143-181

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 04-04

OFFICE OF RURAL POLICY AND RURAL POLICY ADVISORY COMMITTEE

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

Oregon is a state of great economic and geographic diversity. While that diversity brings us strength, it also challenges us to meet the needs of all communities, both urban and rural. Although Oregon is challenged by a sluggish economy, poverty and hunger, rural Oregon is even more deeply affected because the natural resource base that has been the foundation of rural Oregon's economy has changed dramatically over the past two decades.

The diversity within "Rural Oregon" (as defined below) can be best understood by understanding the following geographic distinctions:

- Frontier Rural — a geographic area that is at least 75 miles by road from a community of less than 2,000 individuals. It is characterized by an absence of densely populated areas, small communities, individuals working in their communities, an economy dominated by natural resources and agricultural activities, and few paved streets or roads.
- Isolated Rural — a geographic area that is at least 100 miles by road from a community of 3,000 or more individuals. It is characterized by low population density (fewer than five people per square mile), an economy of natural resources and agricultural activity, large areas of land owned by the state or federal government and predominately unpaved streets.
- Rural — a geographic area that is at least 30 miles by road from an urban community (50,000 or more). It is characterized by some commercial business, two or fewer densely populated areas in a county, an economy changing from a natural resource base to more commercial interests and reasonable, but not immediate, access to health care.
- Urban Rural — a geographic area that is at least 10 miles by road from an urban community. It is characterized by many individuals commuting to an urban area to work or shop, an economy with few natural resource and agricultural activities, easy and immediate access to health care services and numerous paved streets and roads.

Rural Oregon communities are in need: unemployment in those communities is often many percentage points higher than the state average; Rural Oregon communities have significant threshold issues to overcome to compete with urban communities for economic and community development resources; the lack of an industrial base in most rural communities, makes funding for education, health care, economic development and other social services more difficult to attain; and finally, Rural Oregon communities often lack administrative mechanisms and infrastructure to share information and to collectively construct solutions to its problems.

Oregon's drive to economic and social prosperity must include all areas of our state, including Rural Oregon. To that end, coordination should begin with state agencies but extend to those Rural Oregon communities identified above.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Office of Rural Policy (the "Office") is hereby established. The Office shall be staffed by the Office of the Governor or the Department of Administrative Services and funded through the Department of Administrative Services to the extent such funds are

so identified. On behalf of the Office and to the extent allowed by law, the Department of Administrative Services, may accept funds from any lawful source, including the federal government, and may expend those funds in accordance with law to fulfill this Order.

2. The Office shall coordinate the formulation of rural policy for the state. Through research, promotion and coordination of activities throughout Oregon, the Office shall foster and represent the interests of Rural Oregon as described in this Order.

3. The Office shall serve as a clearing house for the collection and dissemination of information about issues that are of special interest to Rural Oregon. It shall serve as a liaison between elected officials in rural Oregon, the Governor and the executive branch and the Legislative Assembly. In addition, the Office shall assist in educating members of the Legislative Assembly about issues of special interest to Rural Oregon and shall evaluate the effects of state policies on those areas in coordination with the departments identified in paragraph 4 below, and report those effects to the Governor and Legislative Assembly.

4. The director of each the following state departments shall identify at least one individual from each department as a Rural Policy Liaison responsible for working with the Office:

- a. Department of Fish and Wildlife;
- b. Department of Agriculture;
- c. Department of Forestry;
- d. Economic and Community Development Department;
- e. Department of Environmental Quality;
- f. Department of Land Conservation and Development;
- g. Department of Education;
- h. Department of Energy;
- i. Department of Human Services; and
- j. Department of Water Resources
- k. Housing and Community Services
- l. Oregon University System

The Rural Policy Liaisons shall coordinate relevant portions of their departments' work with the Office and shall facilitate a dialogue between their departments and rural Oregon. Additional departments of state government may, upon the request of the Governor, be required to appoint Rural Policy Liaisons.

5. All departments of state government shall cooperate fully with the Office in the performance of its mandate. In particular, the Economic and Community Development Department shall work with the Office and rural communities to explore economic development opportunities throughout Rural Oregon.

6. The Office shall report to the Governor through the Governor's Natural Resources and Intergovernmental Relations advisors at their request but shall report not less than quarterly.

7. Within ninety days of the date of this Order, the Office shall provide an initial report to the Governor. That report shall list the Rural Policy Liaisons named by the departments listed above and shall detail the processes that will be used by the Office and the Rural Policy Liaisons and the deliverables to be completed to implement this Order as well as identify available funds from the Department of

EXECUTIVE ORDERS

Administrative Services. The processes, implementation and deliverables to fulfill this Order shall be scoped to the available funds.

8. The Rural Policy Advisory Committee (the "Committee") is hereby created. The Committee shall work closely with the Office in the performance of the Office's mandate.

9. The Committee shall consist of fourteen members. The membership of the Committee shall include a geographic distribution of Frontier Rural, Isolated Rural, Rural and Urban Rural areas of Oregon. The members of the Committee must be residents of Rural Oregon. The members shall be appointed as follows:

- a. ten members shall be appointed by the Governor;
- b. the President of the Senate shall appoint one member of the Senate who is a member of the Democratic Party and shall appoint one member of the Senate who is a member of the Republican Party, in consultation with that party's leadership; and
- c. the Speaker of the House of Representatives shall appoint one member of the House of Representatives who is a member of the Republican Party and shall appoint one member of the House of Representatives who is a member of the Democratic Party, in consultation with that party's leadership.

10. The chair of the Committee shall be elected by the Committee.

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

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

13. The Committee shall meet quarterly and develop an annual report on the needs of Rural Oregon. The report shall be coordinated with the relevant state agencies and with the Governor's Natural Resources and Intergovernmental Relations advisors. The report shall be submitted to the Governor and to the Legislative Assembly by December 31 of each calendar year, beginning in 2004.

14. This Order expires on January 31, 2007.

Done at John Day, Oregon, this 21st day of April, 2004.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 04-05

OFFICE OF HOMELAND SECURITY

The unprecedented terrorist attacks on the United States of America on September 11, 2001 and numerous other threats to Americans at home and abroad from terrorist activities reaffirm to everyone the importance of a secure homeland.

The citizens of the State of Oregon now know they face the uncertain hazards of malicious harm as well as the more easily understood acts of nature and human error.

Currently, divisions exist within and between the various agencies of state government that are responsible for preventing, preparing for, responding to and recovering from disasters and terrorist attacks. The challenges facing Oregon's homeland, are of sufficient magnitude such that they must be addressed by a consolidated and coordinated entity whose primary responsibility is safeguarding the safety and security of Oregonians from such threats.

Now therefore, after consultation with the Governor's Security Council, the Attorney General, the Speaker of the House, the President of the Senate, the Superintendent of State Police and the Acting Adjutant General of the Oregon National Guard,

IT IS HEREBY ORDERED AND DIRECTED:

1. The Office of Homeland Security is hereby created.
2. The following divisions of the Oregon State Police shall be considered part of the Office of Homeland Security: the Office of Emergency Management, The Office of Public Safety and Security, the Criminal Justice Services Division, and the Office of the State Fire Marshal.
3. The following elements of the Oregon National Guard shall be considered part of the Office of Homeland Security: the Joint Director of Military Support Homeland Defense and the 102nd Civil Support Team.
4. The Departments of Agriculture, Transportation, Environmental Quality and the Department of Human Services, Public Health Preparedness Section shall each designate a liaison to the Office of Homeland Security to better coordinate the efforts of those Agencies with that of the Office of Homeland Security.
5. The Office of Homeland Security shall be administratively deemed a department, and shall perform the statutory duties required of each of its composite elements. The Director of the Office of Homeland Security shall be appointed by the Governor and shall be a member of the Governor's Cabinet.
6. The Department of State Police the Oregon Military Department, the Department of Administrative Services, and any other applicable departments shall execute such interagency agreements or memoranda as may be necessary to accomplish the purposes of this Executive Order.
7. The Office of Homeland Security shall provide overall leadership in coordinating private and governmental sector efforts to prevent, prepare for, respond to and recover from, disasters and terrorist attacks making efficient and effective use of Oregon's emergency resources, including close cooperation with the State's local partners and first responders.

Done at Portland, Oregon this 11th day of May, 2004.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

OPPORTUNITY FOR PUBLIC COMMENT RECOMMENDATION FOR NO FURTHER ACTION

COMMENTS DUE: June 30, 2004

PROJECT LOCATION: Karsten Company of Oregon, LLC, Mobile Home Manufacturing Plant, 1200 Wilco Road, Stayton, Oregon

PROPOSAL: Pursuant to ORS 465.230 and Oregon Administrative Rules (OAR) 340-122-465, the

Department of Environmental Quality (DEQ) invites public comment on its recommendation that no further investigation or cleanup action be required at the Karsten Company Mobile Home Manufacturing Plant located on 1200 Wilcox Road in Stayton, Oregon.

HIGHLIGHTS: The site has been used to operate a mobile home manufacturing plant since 1970. Prior to this it was undeveloped and vacant. The site is currently owned by The Karsten Company of Oregon, LLC (Karsten) and still operates as a mobile home manufacturing facility.

Karsten conducted environmental investigations at the site in March 2001 and June 2001 to determine if current or historical operations had impacted the environment. One area of concern with environmental impacts was identified during the investigations. Soils contaminated with hydraulic fluid were found in the area of a leaky compressor unit located north of the main plant building.

The leak in the compressor was repaired and the contaminated soils were excavated and removed from the site from July to October 2001. Approximately 60 cubic yards of non-hazardous soil were excavated from compressor area and properly disposed of at Coffin Butte Landfill in Corvallis, Oregon. Confirmation sampling conducted during the excavation and a subsequent onsite investigation in July 2003, confirmed that soils above the Department of Environmental Quality's (DEQ's) risk screening levels for residential and occupational exposure had been adequately removed from the compressor area. No impacts were found to the groundwater from the soil.

Based on the results of the investigations and the confirmation samples, contaminated soils above DEQ's risk screening levels have been removed from the compressor area. Contamination was limited to the soils only. No groundwater contamination was encountered during the investigations. Soils in the compressor area no longer pose an unacceptable risk to human health or the environment.

HOW TO COMMENT: Project reports and files may be reviewed by appointment at DEQ's Salem office, 750 Front Street N.E., Suite 120, Salem 97301, beginning June 1, 2004. To schedule an appointment in Salem, call (503)-378-8240.

Written comments should be sent to the attention of the project manager, Nancy Sawka, at the address listed above, by June 30, 2004. Questions may also be directed to Ms. Sawka at the Salem address or by calling her at (503)378-8240, extension 262 (TY 503-378-3684).

A public meeting will be held to discuss the DEQ's proposed decision if there is significant public interest

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

OPPORTUNITY FOR PUBLIC COMMENT RECOMMENDATION FOR NO FURTHER ACTION

COMMENTS DUE: June 30, 2004

PROJECT LOCATION: I.P. Gardiner Sawmill, 77618 State Highway 101, Gardiner, Oregon

PROPOSAL: Pursuant to ORS 465.230 and Oregon Administrative Rules (OAR) 340-122-465, the Department of Environmental Quality (DEQ) invites public comment on its recommendation that no further investigation or cleanup action be required at the former IP Gardiner Sawmill property located in Gardiner, Oregon.

HIGHLIGHTS: The former Gardiner sawmill consist of 77 acres currently owned by International Paper Corporation (IP). IP operated the sawmill from about 1957 until 1992 when it was permanently closed. The site is currently vacant. Since operations ceased, all

buildings and structures were torn down, demolished, and removed. The site borders the Umpqua River to the southeast. There are no known groundwater user's located downgradient.

EPA, DEQ, and IP conducted several groundwater and soil investigations at the site to determine if historical operations had impacted the environment. Several areas with impacts were identified during these investigations. Elevated levels of pentachlorophenol (PCP) resulting from dripping treated wood were identified in the soils beneath the package out feed chain. Elevated levels of total petroleum hydrocarbons (TPH) were found in the soils near the powerhouse and in ditch sediments east of the site along Highway 101. TPH in the soils by the powerhouse most likely resulted from leaks and spills from a nearby aboveground storage tank which has since been removed. Accumulation of contaminants in the ditch sediments is attributed to a variety of site contaminants discharging as surface runoff into a nearby oil water separator connected to the ditch. The oil water separator has since been cleaned out and sources of potential contamination on the site have been removed. Water quality testing of the groundwater in the areas of concern indicated no significant impacts to the groundwater from the contaminated soils.

Contaminated soils beneath the outfeed chain and powerhouse area were excavated and removed by IP in 1992. Approximately 38 cubic yards of soil were excavated from under the out feed chain and 80 cubic yards of soil from the powerhouse area. The contaminated soils were properly disposed of offsite by Safety-Kleen Corporation. Confirmation sampling conducted in 1992 during the removal activities and subsequent onsite investigations in November 2001, confirmed that soils above the Department of Environmental Quality's (DEQ's) risk screening levels for residential and occupational exposure had been adequately removed from these areas.

Contaminated sediments from the ditch east of the site, along Highway 101, were excavated by IP in October and November 2003. Approximately 600 cubic yards of non-hazardous sediments were removed from the ditch and disposed of appropriately at Riverbend Landfill. Confirmation samples along the excavation indicated that contaminated soils above DEQ's risk screening levels had been adequately cleaned up.

Based on the results of the investigations and the confirmation samples, contaminated soils above DEQ's risk screening levels have been removed from the areas of concern. Soils in these areas - the out feed chain, the powerhouse, and the east ditch - no longer pose an unacceptable risk to human health or the environment. Additionally, the site is no longer in operation. All buildings and structures including past potential sources of contamination have been removed.

HOW TO COMMENT: Project reports and files may be reviewed by appointment at DEQ's Salem office, 750 Front Street N.E., Suite 120, Salem 97301, beginning June 1, 2004. To schedule an appointment in Salem, call (503)-378-8240.

Written comments should be sent to the attention of the project manager, Nancy Sawka, at the address listed above, by June 30, 2004. Questions may also be directed to Ms. Sawka at the Salem address or by calling her at (503)378-8240, extension 262 (TY 503-378-3684).

A public meeting will be held to discuss the DEQ's proposed decision if there is significant public interest

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

PROPOSED APPROVAL OF INTERIM CLEANUP MEASURE FORMER KOPPERS WOOD TREATING FACILITY 92326 TAYLORVILLE ROAD, WAUNA, OREGON

COMMENT PERIOD: June 1 to 30, 2004

COMMENTS DUE: June 30, 2004

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to approve the installation of an interim source control measure to contain and treat groundwater contamination at the Former Koppers Wood Treating Facility located in Wauna, Oregon.

OTHER NOTICES

HIGHLIGHTS: A Remedial Investigation has been performed at the site, identifying soil and groundwater contamination associated with historical use of wood treating preservatives (e.g., creosote, pentachlorophenol, and metals). Contaminated groundwater discharges to the Columbia River have been observed. DEQ proposes to approve the interim source control measure to prevent contamination from reaching the Columbia River. A subsurface barrier wall will contain contaminants and direct them through a biological treatment zone. The interim measure will be installed by Beazer East, Inc. and Georgia Pacific. A final remedy for the facility will be selected by DEQ following completion of a Columbia River sediment investigation, human health and ecological risk assessments, and feasibility study by the responsible parties.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Tom Gainer, (503) 229-5326. Written comments should be sent to Tom Gainer, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by June 30, 2004. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

PROPOSED APPROVAL OF SOURCE CONTROL MEASURE, BP BULK TERMINAL 22T 9930 NW ST. HELENS ROAD, PORTLAND, OREGON

COMMENT PERIOD: June 1 to 30, 2004

COMMENTS DUE: June 30, 2004

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to approve the installation of an interim source control measure designed to prevent petroleum contamination at the BP Bulk Terminal 22T site in Portland Harbor from migrating to the Willamette River.

HIGHLIGHTS: The BP Terminal is located on the west bank of the Willamette River at river mile 4.9. The site Remedial Investigation identified liquid and dissolved phase petroleum in site groundwater. The interim source control measure will replace and enhance the existing groundwater extraction/seawall system to more completely prevent petroleum from reaching the Willamette River. The proposed system will more aggressively recover petroleum floating on groundwater and extract contaminated groundwater prior to reaching the river. Contaminated groundwater will be treated to remove petroleum-related contaminants and discharged back to the river under the facility's existing National Pollution Discharge Elimination System (NPDES) permit. A final remedy for the facility will be selected by DEQ following completion of a feasibility study by BP.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Tom Gainer, (503) 229-5326. Written comments should be sent to Tom Gainer, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by June 30, 2004. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

PROPOSED NO FURTHER ACTION DETERMINATION HOOD RIVER SUPPLY BULK PLANT PARKDALE, OREGON

COMMENTS DUE: July 1, 2004

PROJECT LOCATION: Intersection of Dee Highway and Parkdale Road, approximately 2.5 miles north of Parkdale in Hood River County.

PROPOSAL: The Department of Environmental Quality is proposing to issue a No Further Action determination following removal of petroleum-contaminated soil from the former Hood River supply

bulk plant. This determination is based on soil and groundwater monitoring. Public notification is required by ORS 465.320.

HIGHLIGHTS: The site is a former above groundwater petroleum storage facility built in the late 1940s. Contaminated soil was removed to a depth of 15 feet. The soil had concentrations of petroleum, but essentially none of the hazardous constituents associated with petroleum. This material was therefore removed from the site and used as road base material beneath pavement at several locations. Three groundwater wells were installed and groundwater was sampled four times between July 2003 and April 2004. Contamination was found to be below safe levels in all cases.

Based on this information, DEQ proposes to issue a No Further Action determination for this site.

HOW TO COMMENT: Comments and questions, by phone, fax, mail or email, should be directed to:

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

Email: Schwarz.bob@deq.state.or.us

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by July 1, 2004.

THE NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed No Further Action determination will be made after consideration of public comments.

DEQ DETERMINES NO FURTHER ACTION REQUIRED FOR PETROLEUM-CONTAMINATED SOIL AT LAVA LANES II IN MEDFORD

PROJECT LOCATION: 2978 Crater Lake Highway in Medford, Oregon.

FINAL DECISION: The Oregon Department of Environmental Quality (DEQ) has determined that no further action is required to address petroleum-contaminated soil at the site known as Lava Lanes II, where an equipment rental and repair shop once operated at 2978 Crater Lake Highway in Medford. Public comments were solicited in April 2004 by DEQ before making this decision, but no comments were received.

HIGHLIGHTS: The Lava Lanes II site housed an equipment rental and repair shop that operated between 1990 and 1999. The site is now vacant with some recent improvements, such as paving and grading, resulting from commercial development in the area. Environmental studies completed in March 1999 found contamination from previous petroleum product use and disposal that occurred at the site. Additional work in 2000 resulted in the excavation of about 1000 cubic yards of petroleum contaminated soil for off-site treatment and disposal.

Based on the review of this environmental work, DEQ concludes that the cleanup work and recent commercial development were successful in eliminating threats to human health and the environment, and that no additional investigation is required for soil contamination at the site.

ADDITIONAL INFORMATION: For additional information regarding the site cleanup, contact DEQ Project Manager, Nancy Gramlich at (503) 378-8240 extension 259, or 1-800-349-7677, or by email at gramlich.nancy@deq.state.or.us.

NOTICE OF PROPOSED REMEDIAL ACTION PONY SOLDIER INN, 1060 NE CLEVELAND GRESHAM, OREGON

PROJECT LOCATION: 1060 NE Cleveland, Gresham, Oregon.

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the proposed remedial action for the Pony Soldier Inn located at 1060 NE Cleveland in Gresham.

OTHER NOTICES

The proposed remedial action is documented in the Proposed Remedial Action Decision Document, dated May 14, 2004. The remedial action selected for this site is an institutional control in the form of an Equitable Easement and Servitude (EE&S). The EE&S will restrict the property use to commercial or industrial use, prohibit groundwater use, and require appropriate measures to be undertaken to mitigate the potential for vapor intrusion in the event future construction is planned. The site will be listed on the DEQ's Confirmed Release List and Inventory of Hazardous Substances. Following the recordation of the EE&S, the site will be issued a Conditional No Further Action determination. DEQ will consider all public comments received before issuing the final approval of the proposed remedial action.

INFORMATION: The decision document and documentation of remedial actions performed at the site are available for public review by appointment at DEQ's Northwest Region Office. To schedule an appointment call (503) 229-6729. For additional information, contact DEQ Project Manager, Katie Robertson at (541) 278-4620 or by email at robertson.katie@deq.state.or.us.

DECLARATION OF A GROUNDWATER MANAGEMENT AREA FOR PORTIONS OF THE SOUTHERN WILLAMETTE VALLEY

COMMENTS DUE: July 10, 2004

PROJECT LOCATION: Portions of the Southern Willamette Valley from Albany to Junction City and Coburg

PROPOSAL: The Declaration of a Groundwater Management Area occurred on May 10, 2004. This requires the Department of Environmental Quality (DEQ) to appoint a citizen's committee to help address high levels of nitrate in the groundwater.

HIGHLIGHTS: The Southern Willamette Valley is one of Oregon's fastest growing regions and depends heavily on groundwater for private and public drinking water, irrigation water and other beneficial uses. Several recent studies with a focus on the water quality of the shallow groundwater in the Southern Willamette Valley have docu-

mented the presence of high levels of nitrate. One study found that 20% of the residential wells sampled had nitrate present at more than 7 mg/L, and exceedances were noted of public drinking water standard of 10 mg/L in more than 7% of the residential wells sampled. Non-point sources, such as fertilizers and septic systems, are the suspected origins for much of this pollution.

After a series of seven public hearings and meetings last year, DEQ has modified the proposed boundary for the Groundwater Management Area (GWMA) to address some concerns about important areas that should be included in the management area.

DEQ's declaration of a Groundwater Management Area (GWMA) requires the formation of a Groundwater Management Area Committee. This committee will be made up of local citizens, local governmental agencies, and other stakeholders and will strategize and advise the Lead Agency and the other State Agencies on the development of an Action Plan to restore and protect the groundwater quality.

There are two other Groundwater Management Areas in Oregon; one the Lower Umatilla Basin and the other in North Malheur County. Both of these GWMA's were implemented using voluntary measures. DEQ will employ similar voluntary approaches with the Southern Willamette Valley GWMA.

HOW TO COMMENT: The Memo of Declaration and the Final Summary Report for the Southern Willamette Valley can be seen at the Eugene DEQ office, located at 1102 Lincoln Street, Suite 210. These documents can also be viewed at the following two websites: <http://groundwater.oregonstate.edu/willamette/> and <http://www.deq.state.or.us/wq/groundwa/UpperWillBasin.htm>.

Comments requesting reconsideration or appeal of the declaration can be sent by mail to Audrey Eldridge, Southern Willamette Valley Groundwater Project Coordinator, 201 West Main Street, Medford OR 97501, or electronically to eldridge.audrey@deq.state.or.us.

THE NEXT STEP: The GWMA has been declared and progress towards improving groundwater quality will commence unless there is adequate justification sent to the Department to suspend or terminate future actions.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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Board of Examiners for Engineering and Land Surveying
Chapter 820

Date: 7-13-04 **Time:** 1-1:30 p.m. **Location:** Engineering and Land Surveying Board
728 Hawthorne Ave. NE
Salem, OR

Hearing Officer: Stuart Albright
Stat. Auth.: ORS 670.310, 672.155 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Proposed Adoptions: 820-001-0020
Proposed Amendments: 820-001-0000, 820-010-0010, 820-010-0300, 820-010-0325
Last Date for Comment: 7-13-04, 1:30 p.m.
Summary: OAR 820-001-0000 - Temporary rules do not have the same notice requirements as permanent Rules, therefore, the word permanent is being added to the text for OAR 820-001-0000 to distinguish requirements for permanent rulemaking from those for temporary rulemaking. OAR 820-001-0020 - Creates a rule for Public Records Request.

OAR 820-010-0010 - Clarifies the status a license may be placed into; reclassifying "Inactive" to "Exempt" and adding a "Delinquent" status. OAR 820-010-0300 - Revises the current policy on refunds and charges. OAR 820-010-0325 - Revises the Agency budget for the 03-05 biennium.

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

Rules Coordinator: Mari Lopez
Address: Board of Examiners for Engineering and Land Surveying, 728 Hawthorne Ave. NE, Salem, OR 97301
Telephone: (503) 362-2666

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Board of Medical Examiners
Chapter 847

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100
Proposed Amendments: 847-020-0130, 847-020-0170
Last Date for Comment: 6-21-04
Summary: The proposed administrative rules change require that graduates of medical schools not accredited by the Liaison Com-

mittee on Medical Education or the Committee on Accreditation of the Canadian Medical Schools of the Canadian Medical Association must have completed all courses by physical on-site attendance. The proposed administrative rules also adds an examination combination accepted by the Board if completed prior to 2000, that was inadvertently left out in a previous administrative rules revision, and updates the language referring to the different physician (MD/DO) national certification examinations to be consistent with past rule changes.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826
Telephone: (503) 229-5873, ext. 223

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Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 183.341, 677.200 & 677.208
Proposed Adoptions: 847-001-0020, 847-001-0025
Proposed Amendments: 847-001-0000, 847-001-0005, 847-001-0015

Last Date for Comment: 6-21-04
Summary: The proposed administrative rules are needed because the recent adoption of the Model Rules of Procedure for Contested Cases by the Department of Justice required the Board's rules to be consistent, and at the same time new rules were needed pertaining to discovery and seeking rulings for summary judgment.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826
Telephone: (503) 229-5873, ext. 223

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Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172
Proposed Amendments: 847-080-0019
Last Date for Comment: 6-21-04

Summary: The proposed rules change moves the podiatric physicians into the same renewal period as the MD/DO's and physician assistants, which is January 1 to December 31 of every odd-numbered year.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826
Telephone: (503) 229-5873, ext. 223

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Stat. Auth.: ORS 682.245
Stats. Implemented: ORS 682.245
Proposed Amendments: 847-035-0030
Last Date for Comment: 6-21-04

Summary: The proposed rules allow EMT-Basics, in the event of a release of chemical agents, to administer atropine sulfate and pralidoxime chloride from a pre-loaded auto-injector device if they are given a direct order by their supervising physician, or they are under the direction of an EMT-Paramedic who is on the scene.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826
Telephone: (503) 229-5873, ext. 223

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Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172
Proposed Adoptions: 847-008-0022
Proposed Amendments: 847-008-0005, 847-008-0015, 847-008-0040, 847-008-0045, 847-008-0055

Last Date for Comment: 6-21-04
Summary: The proposed administrative rules will change the registration period for podiatric physicians to the same biennial period as for MD/DOs and physician assistants; allows physicians practicing teleradiology to request active status even though they are prac-

NOTICES OF PROPOSED RULEMAKING

ting out-of-state; requires the license renewal form to be received in the Board office by the end of the last business day in the biennium, and list all the license statuses that must reactivate if the licensee wishes to return to Oregon to practice.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826
Telephone: (503) 229-5873, ext. 223

Construction Contractors Board
Chapter 812

Date:	Time:	Location:
6-22-04	11 a.m.	West Salem Roth's IGA

Hearing Officer: Jim Fairchild
Stat. Auth.: ORS 183.310 - 183.500, 670.310, 701.150, 701.235, 701.280 & 701.992
Stats. Implemented: ORS 279.323, 701.055, 701.065, 701.075, 701.102, 701.115, 701.125, 701.135, 701.150, 701.175, 701.227 & 701.280
Proposed Amendments: 812-003-0000, 812-003-0025, 812-003-0050, 812-004-0600, 812-005-0005
Last Date for Comment: 6-22-04

Summary: OAR 812-003-0000 is amended to eliminate the late fee requirement contained in 812-003-0000(11) and renumbering. The reasons that the late fee was originally established no longer apply. Charging the late fee often requires the agency to send letters to licensees requesting the additional funds; approximately 170 letters a month. The Customer Service Unit receives calls requesting the late fee be waived or the caller is angry about the fee; these calls average between 15 to 30 minutes each. It is believed that the elimination of this fee will improve service and reduce cost to CCB licensees.

812-003-0025, 812-003-0050, 812-004-0600, and 812-005-0005 are amended to remove the reference to the late fee.

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

Rules Coordinator: Cathy Heine
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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

Stat. Auth.: ORS 243.061 - 243.302; Other Auth.: ORS 279
Stats. Implemented: ORS 243, 659 & 743
Proposed Adoptions: 101-015-0010
Proposed Amendments: 101-001-0000, 101-001-0010, 101-001-0015, 101-001-0020, 101-002-0005, 101-002-0010, 101-002-0015, 101-002-0020, 101-005-0010, 101-005-0030, 101-005-0040, 101-005-0050, 101-005-0060, 101-005-0080, 101-005-0110, 101-005-0130, 101-005-0140, 101-006-0010, 101-006-0020, 101-010-0005, 101-015-0005, 101-020-0005, 101-020-0010, 101-020-0015, 101-020-0018, 101-020-0020, 101-020-0025, 101-020-0030, 101-020-0035, 101-020-0040, 101-020-0045, 101-030-0005, 101-030-0010, 101-030-0020, 101-030-0022, 101-030-0025, 101-030-0030, 101-030-0035, 101-030-0040, 101-040-0010, 101-040-0015, 101-040-0080, 101-050-0005, 101-050-0010, 101-050-0015, 101-050-0020, 101-050-0025, 101-060-0005, 101-060-0010
Last Date for Comment: 6-21-04, 5 p.m.

Summary: This rulemaking amends current rules and adopts a new rule governing the eligibility of benefits and procedures of the Public Employees' Benefit Board and are made a part of OAR chapter 101 generally. Experience in using the rules, changes and clarification of federal regulations governing Internal Revenue Service Code Section 125, and the ongoing development of the agency-specific

PEBB administrative manual has identified the need for clarification of existing rules.

Rules Coordinator: Kristin Keith
Address: Department of Administrative Services, Public Employees' Benefit Board, 155 Cottage St. NE U90, Salem, OR 97301-3972
Telephone: (503) 378-2349, ext. 325

Department of Agriculture
Chapter 603

Date:	Time:	Location:
6-22-04	10-11 a.m.	Ag. Building 635 Capitol St. NE Conference Rm. D Salem, OR

Hearing Officer: Chris Kirby
Stat. Auth.: ORS 618.016, 618.031, 618.051 & 646.957
Stats. Implemented: ORS 618.031, 618.051 & 646.957
Proposed Amendments: 603-027-0105, 603-027-0170, 603-027-0180, 603-027-0206, 603-027-0220, 603-027-0410, 603-027-0635, 603-027-0640, 603-027-0680, 603-027-0700
Last Date for Comment: 6-22-04

Summary: Proposed rulemaking to bring Oregon's weights and measures regulations current and uniform with nationally recognized and accepted standards by adopting the 2004 Edition of the National Institute of Standards and Technology (NIST) Handbook 44; adopting the 2004 Edition of NIST Handbook 130 sections on Package and Labeling Regulation, Method of Sale of Commodities, and Examination Procedure for Price Verification; adopting the 2003 Edition of NIST Handbook 133, adopting the 2004 Edition of the American Society for Testing and Materials Annual Book of ASTM Standards Section 5, Volumes 05.01 through 05.05; amending OARs pertaining to exceptions for non-computing scales and obsolete LPG meter register heads.

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

Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532
Telephone: (503) 986-4583

Stat. Auth.: ORS 561.190
Stats. Implemented:
Proposed Amendments: 603-077-0101, 603-077-0103, 603-077-0105, 603-077-0110, 603-077-0115, 603-077-0125, 603-077-0131, 603-077-0133, 603-077-0137, 603-077-0155, 603-077-0165, 603-077-0175, 603-077-0177, 603-077-0180, 603-077-0190, 603-077-0195
Last Date for Comment: 6-30-04

Summary: These rules govern the operating and enforcement of the Willamette Valley Field Burning Program. Notice for these rule changes were previously filed with the Secretary of State's Office on 6/14/02 and 2/13/03. These changes address editorial and grammatical corrections, refine and add definitions, update text and citations, require grower communication with the Department of Agriculture during emergencies, refine mathematical formulas for "District Allocations," modify factors to be considered when determining civil penalties and define class three violations.

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

Department of Agriculture,
Oregon Tall Fescue Commission
Chapter 607

Date:	Time:	Location:
6-28-04	6:30 a.m.	Yaquina Bay Restaurant Albany, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Kent Doerfler, Chair
Stat. Auth.: 2003 OL, Ch. 604 & ORS 576; Other Auth.: OAR 607-010

Stats. Implemented: 2003 OL, Ch. 604

Proposed Amendments: 607-010-0020

Last Date for Comment: 6-28-04, close of hearing

Summary: Changes assessments withheld from growers of tall fescue grass seed from one quarter of one percent (0.0025) of the purchase price per pound of seed sold to forty five one hundredths percent (0.0045) of the purchase price per pound of seed sold. Effective date July 1, 2004.

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

Rules Coordinator: David S. Nelson

Address: Department of Agriculture, Oregon Tall Fescue Commission, 1193 Royvonne SE - Suite 11, Salem, OR 97302

Telephone: (503) 585-1157

Department of Community Colleges and Workforce Development Chapter 589

Stat. Auth.: ORS 660.318; Other Auth.: Executive Order #03-16

Stats. Implemented:

Proposed Adoptions: 589-020-0225

Last Date for Comment: 6-17-04

Summary: Executive Order #03-16 established the Employer Workforce Training Account and directed the Department of Community Colleges and Workforce Development to develop and adopt rules to implement the administration of the Account. This rule established the role of the Workforce Response Teams; establishes the amount of funds and manner of distribution of funds; the criteria for the use of the funds earmarked for Regional disbursement and the 100% non-federal match requirement for such funds; the use of funds earmarked for Statewide Opportunity areas; responsibilities of the designated organization or entity serving as the fiscal agent; and performance and reporting requirements. This rule replaces temporary rule 589-020-0220.

Rules Coordinator: Laura J. Roberts

Address: Department of Community Colleges and Workforce Development, 255 Capitol St. NE, Salem, OR 97310-0001

Telephone: (503) 378-8648, ext. 238

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

Date:	Time:	Location:
6-17-04	10 a.m.	1535 NW Edgewater St. Salem, OR 97309

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 455.020, 455.030, 455.467, 455.469, 455.628 & 455.740; Other Auth.: 2003 Senate Bill 711

Stats. Implemented: ORS 455.150, 455.467, 455.469, 455.628 & 455.740

Proposed Adoptions: 918-480-0130

Proposed Amendments: 918-020-0090, 918-098-0500

Last Date for Comment: 6-18-04, 5 p.m.

Summary: Section 4 of 2003 Senate Bill 711, establishes requirements which will allow architects and engineers to approve certain residential plans if they are certified as a one- and two- family dwelling plans examiner. In addition, Section 4 of Senate Bill 711 requires the Department of Consumer & Business Services to define by rule "Conventional Light Frame Construction."

This rulemaking amends OAR 918-020-0090, Program Standards, for municipal building inspection programs, which requires municipal building inspection programs to update their operating plan to include policies and procedures for waiving building inspection pro-

gram plan review requirements for one- and two- family dwellings that meet the criteria under ORS 455.628.

The proposed rules also amend OAR 918-098-0500, by clarifying criteria that requires building officials and inspectors to enforce "statewide interpretations," "alternate methods," "rulings," "directives," or "other" building program requirements as part of the sanctions process.

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

Rules Coordinator: Richard J. Baumann

Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310

Telephone: (503) 373-7559

Date:	Time:	Location:
6-17-04	10:30 a.m.	1535 NW Edgewater St. Salem, OR 97309

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 479.870

Stats. Implemented: ORS 479.870 & 455.483

Proposed Amendments: 918-311-0030, 918-311-0040

Last Date for Comment: 6-18-04

Summary: This proposed rule implements a portion of Section five of 2003 Senate Bill 711, relating to electrical code plan review requirements for complex structures. This bill requires the department, with the approval of the board, to adopt rules applicable in all municipal building inspection programs to make electrical code plan review mandatory only for complex structures. This will change the threshold of when an electrical code plan review is required in connection with a permit for the construction, alteration or repair of electrical installations. This requirement does not prevent a building owner or owners agent from obtaining plan review on non-complex structures.

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

Rules Coordinator: Richard J. Baumann

Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310

Telephone: (503) 373-7559

Stat. Auth.: ORS 460.047, 460.057, 460.059, 460.085, 479.630, 479.730, 479.840 & 660

Stats. Implemented: ORS 460.005 - 460.175 & 479.630

Proposed Adoptions: 918-282-0017, 918-282-0185, 918-400-0333, 918-400-0380, 918-400-0385, 918-400-0390, 918-400-0395

Proposed Amendments: 918-282-0290, 918-400-0340, 918-400-0800

Proposed Repeals: 918-400-0335, 918-400-0345, 918-400-0350, 918-400-0355, 918-400-0360, 918-400-0365, 918-400-0370, 918-400-0375

Last Date for Comment: 6-28-04

Summary: This rulemaking activity is intended to address concerns regarding an administrative error in the original filing of these rules. This rulemaking will be filed retroactive to avoid any gaps in the application of the rules. There is no departure from the original language as it was filed and effective January 1, 2003.

The original rulemaking implemented HB3556 enacted by the 1999 Legislature and created new licensing requirements for persons installing, altering, maintaining or repairing elevators. Additional statutory requirements in ORS Chapter 479 were implemented. It also created an elevator contractor electrical license, a limited elevator journeyman license, an elevator contractor license, a limited elevator mechanic license and an elevator apprentice license.

Rules Coordinator: Richard J. Baumann

Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310

Telephone: (503) 373-7559

NOTICES OF PROPOSED RULEMAKING

Department of Consumer and Business Services, Insurance Division Chapter 836

Date: 6-29-04 **Time:** 1:30 p.m. **Location:** 350 Winter St. NE
Conference Rm. B
Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Proposed Adoptions: 836-080-0090

Last Date for Comment: 7-7-04

Summary: This rulemaking proposes a standard of suitability for sales and replacements of life insurance and annuities.

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

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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

Stat. Auth.: ORS 656.622 & 656.726(4); Other Auth.: ORS 183.335, OAR 137 & OAR 436-001

Stats. Implemented: ORS 656.622

Proposed Amendments: 436-105-0003, 436-105-0500, 436-105-0540

Proposed Repeals: 436-105-0570

Last Date for Comment: 6-25-04

Summary: The Workers' Compensation Division proposes to make permanent recent temporary amendments to OAR 436-105. These changes extend Employer-at-Injury Program benefits to home care workers who receive payment from the Oregon Department of Human Services. The Home Care Commission has entered into a collective bargaining agreement with Service Employees International Union, Local 503, OPEU. Article 16, Section 1 of the bargaining agreement states "Effective April 1, 2004, upon receipt of client request and authorization, the Employer shall provide workers' compensation insurance coverage to actively employed Home Care Workers by an appropriate insurer..." The division also proposes repeal of rule 0570; this rule restates certain statutory requirements affecting service of orders.

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 Internet: <http://www.cbs.state.or.us/external/wcd/policy/rules/rules.html#proprules>

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, 350 Winter St. NE, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

Department of Corrections Chapter 291

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-015-0100 - 291-015-0150

Proposed Repeals: 291-015-0005 - 291-015-0055

Last Date for Comment: 6-23-04

Summary: These rule amendments are necessary to implement major changes in the structure of the department's volunteer program.

Rules Coordinator: Carolyn Schnoor

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Department of Fish and Wildlife Chapter 635

Date: 7-9-04 **Time:** 8 a.m. **Location:** 3406 Cherry Ave. NE
ODFW Commission Rm.
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

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

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

Proposed Amendments: Rules in 635-043, 045, 048, 050, 200

Last Date for Comment: 7-9-04

Summary: Amend rules regarding seasons and bag limits for the 2004-05 and 2005-06 furbearer harvest and pursuit seasons.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

Rules Coordinator: Katie Thiel

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

Telephone: (503) 947-6033

Date: 7-9-04 **Time:** 8 a.m. **Location:** 3406 Cherry Ave. NE
ODFW Commission Rm.
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

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

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

Proposed Amendments: Rules in 635-090

Last Date for Comment: 7-9-04

Summary: Amend rules regarding the Access and Habitat Program 2005 Deer and Elk Auction and Raffle Tags.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

Rules Coordinator: Katie Thiel

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

Telephone: (503) 947-6033

Department of Human Services, Child Welfare Programs Chapter 413

Date: 6-23-04 **Time:** 10 a.m. **Location:** Rm. 257
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.620

Proposed Amendments: 413-050-0510

Last Date for Comment: 6-23-04

Summary: The Department is amending the Domestic Violence Fund OAR to bring language into compliance with ORS language on the placement of the Fund. The OAR calls it the Department's account; ORS calls it Services to Children and Families account. We are deleting language labeling the account and only citing the statute. This rule may also be changed for the purposes of correcting errors of grammar or usage, and updating references to the Department's organizational units.

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

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Child Welfare Programs,
500 Summer St. NE, E48, Salem, OR 97301-1066
Telephone: (503) 945-6067

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

Date:	Time:	Location:
6-18-04	10:30 a.m.-12 p.m.	Rm. 137 D 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0021
Last Date for Comment: 6-18-04, 12 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0021 will be amended, effective July 1, 2004, to operationalize 2003 legislation expanding the providers and organizations licensed to dispense pharmaceutical products.

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

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177
Telephone: (503) 945-6927

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Date:	Time:	Location:
6-18-04	10:30 a.m.-12 p.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Adoptions: Rules in 410-122
Proposed Amendments: 410-122-0000 - 410-122-0720
Proposed Repeals: 410-122-0030, 410-122-0060
Last Date for Comment: 6-18-04, 12 p.m.

Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. The DMEPOS program rules will be revised in an effort to make the program more "user friendly" and understandable. OMAP will adopt new rules, repeal unnecessary rules, reorganize and rewrite rules, move procedure codes to tables and reformat existing tables. Also, various rules throughout the program will be revised to reflect the following: The legislatively adopted budget for 2003/05 includes savings of approximately \$5 million Total Funds for miscellaneous medical services. OMAP has been working with provider representatives to identify and implement reasonable budget reduction targets. One recommended action being implemented by OMAP is the reduction of payments for some codes from a maximum of 16 months of rental to a maximum of 13 months of rental.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177
Telephone: (503) 945-6927

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Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0157
Last Date for Comment: 6-18-04, 12 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Releases #129, dated February 19, 2004 and #130, dated April 30, 2004.

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177
Telephone: (503) 945-6927

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Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0300
Last Date for Comment: 6-18-04, 12 p.m.

Summary: 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 04-01, changes to the list are effective for services rendered on or after March 20, 2004, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS).

Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177
Telephone: (503) 945-6927

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

Date:	Time:	Location:
6-23-04	9 a.m.	800 NE Oregon St. Rm. 360 Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 433.441 - 433.452; Other Auth.: HB 2251 (2003 Legislative Session)
Stats. Implemented: ORS 433.441 - 433.452
Proposed Adoptions: 333-003-0010 - 333-003-0080
Last Date for Comment: 6-23-04, 5 p.m.

Summary: Adopt Impending Public Health Crisis rules to implement HB 2251 (2003 Legislative Session). These rules will set procedures to proclaim an impending public health crisis and includes reporting requirements, treatment protocols, access to health information, restriction of movement and civil penalties.

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

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (503) 731-4405

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Date:	Time:	Location:
6-23-04	10 a.m.	800 NE Oregon St. Rm. 360 Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 401.651 - 401.670; Other Auth.: HB 2410 (2003 Legislative Session)
Stats. Implemented: ORS 401.651 - 401.670
Proposed Adoptions: 333-003-0100 - 333-003-0140

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 6-23-04, 5 p.m.

Summary: Adopt Emergency Health Crisis Services rules to implement HB 2410 (2003 Legislative Session). The adopted rules include: Scope; Definitions; Health Care Providers Registry; Registration with the Department; Health Care Providers Not Included in the Registry; Activation of Registrants; Emergency Health Care Centers and Emergency Operation Plans; Cooperative Agreements Between the Department and Local Public Health Authorities to Designate Emergency Health Care Centers; and Training. The rules set procedures for limiting the liability of in-state health care workers who volunteer during emergencies.

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

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (503) 731-4405

Stat. Auth.: ORS 184, 438.605, 438.610, 438.615, 438.620, 448.131, 448.150(1), 448.280(1)(b) and (2)

Stats. Implemented: ORS 438.605, 438.610, 438.615, 438.620, 448.280(1)(b) and (2)

Proposed Amendments: 333-064-0025, 333-064-0070

Last Date for Comment: 6-22-04, 5 p.m.

Summary: Amend OAR 333-064-0025 (for accrediting environmental testing laboratories) to change the standards for accreditation from the National Environmental Laboratory Accreditation Conference (NELAC) 2001 Standards to NELAC 2002 Standards (Chapters 3, 4, 5 and 7) and NELAC Standards 2003 (Chapters 1, 2 and 6) 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.

Amend OAR 333-064-0070 to remove October 10, 2002 as the effective date for 333-064-0025.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (503) 731-4405

Department of Human Services, Self-Sufficiency Programs Chapter 461

Date:	Time:	Location:
6-22-04	10 a.m.	Rm. 257 500 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.095, 411.117, 411.816, 418.100, 2003 OL Ch. 710 & 735

Proposed Adoptions: 461-135-1102

Proposed Amendments: 461-025-0315, 461-115-0030, 461-115-0190, 461-135-1110, 461-175-0200, 461-190-0241

Last Date for Comment: 6-22-04

Summary: Rules 461-025-0315, 461-115-0030, 461-115-0190, 461-175-0200, and 461-190-0241 are being amended as a result of a change to Oregon Revised Statutes by HB 2696, which was passed by the 2003 Legislature and signed into law by Governor Kulon-goski. As a result of that change, clients are entitled to receive a notice when the Department of Human Services (DHS) denies, closes or reduces a JOBS support service payment. In such circumstances, clients are entitled to an expedited hearing. HB 2696 also required DHS to create standards by which JOBS support service payments would be made available to clients. These rules are being amended together in order to implement the new law.

Rule 461-115-0030 is also being amended to clarify the determination of the date of request for a client receiving medical care on a weekend or holiday.

Rule 461-135-1102 is being adopted to close the OHP-OPU program to new applicants effective July 1, 2004.

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

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

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690

Proposed Amendments: 411-200-0010

Last Date for Comment: 6-22-04

Summary: The Department's Disability Determination Services section is amending 411-200-0010, General Policy rule under Rates of Payment - Medical rules to reflect the current Oregon Medical Fee and Relative Value Schedule in OAR 436, Division 009, updated effective April 1, 2004.

Rules Coordinator: Lynda Dyer

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E10, Salem, OR 97301-1076

Telephone: (503) 945-6398

Department of Public Safety Standards and Training Chapter 259

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Proposed Amendments: 259-009-0080, 259-009-0085

Last Date for Comment: 6-25-04

Summary: Changes the requirements, and time period for fire service course and instructor certification.

Rules Coordinator: Mary Gaines

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

Telephone: (503) 378-2427

Department of Revenue Chapter 150

Date:	Time:	Location:
6-22-04	10 a.m.	Fishbowl Conference Rm. 955 Center St. NE Salem, OR 97301

Hearing Officer: Don Jones

Stat. Auth.: ORS 137.300, 137.302, 183.335, 183.341, 305.100, 314.280 & 323.440

Stats. Implemented: ORS 180.455, 137.300, 137.302, 183.335, 183.341, 314.280, 314.650, 314.665(5), 315.148, 315.164, 316.282(4), 316.369, 316.777, 317.013, 317.018, 323.105, 323.107, 323.110, 323.130, 323.140, 323.170, 323.175, 323.190, 323.220, 323.480, 323.520, 323.525, 323.530 & 323.535

Proposed Adoptions: 150-118.010(2), 150-118.010(7), 150-137.300(3), 150-137.302(7), 150-180.455, 150-183.335(8), 150-314.665(5), 150-316.272, 150-316.282(4), 150-323.107, 150-323.110, 150-323.130, 150-323.170, 150-323.220-(B), 150-323.480

NOTICES OF PROPOSED RULEMAKING

(1)-(B), 150-323.530, 150-323.535, 150-323.630-(A), 150-323.630-(B)

Proposed Amendments: 150-183.341(2), 150-314.280-(N), 150-314.650, 150-315.164, 150-316.369, 150-316.777, 150-317.013, 150-317.018, 150-323.105, 150-323.140, 150-323.175, 150-323.190, 150-323.520, 150-323.525

Proposed Repeals: 150-183.390, 150-315.148(5)

Proposed Ren. & Amends: 150-323.480(1) to 150-323.480(1)-(A), 150-323.220 to 150-323.220-(A)

Last Date for Comment: 6-22-04, 5 p.m.

Summary: To adopt or amend administrative rules relating to personal income tax, collections, business income and excise taxes, tobacco tax, criminal fines and assessments, and administrative rules procedures. These proposed rules can be found on our Web site at www.dor.state.or.us.

Persons wishing to provide testimony at the hearing will need to sign-up prior to the hearing. A sign-up sheet will be available at 9:45 AM on June 22, 2004 in the Fishbowl conference room.

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

Rules Coordinator: Xann-Marie Culver

Address: Department of Revenue, 955 Center St. NE, Room 457, Salem, OR 97301-2555

Telephone: (503) 947-2099

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Date:	Time:	Location:
6-22-04	10 a.m.	Fishbowl Conference Rm. 955 Center St. NE Salem, OR 97301

Hearing Officer: Don Jones

Stat. Auth.: ORS 294.495, 305.100, 321.609

Stats. Implemented: ORS 294.311, 294.352, 305.100, 308.875, 321.609, 321.700, 321.706, 321.257, 321.267, 321.282, 321.287, 321.322, 321.352, 321.353, 321.405, 321.405, 321.432, 321.435, 321.580 & 321.810

Proposed Adoptions: 150-321.706, 150-321.706(2), 150-321.706(4), 150-321.706(7), 150-321.709(1)(b), 150-321.712(1)

Proposed Amendments: 150-294.311(30), 150-294.352(8), 150-308.875-(A), 150-321.609(1), 150-321.609(2)-(A), 150-321.609(2)-(C), 150-321.609(2)-(D)

Proposed Repeals: 150-321.257(5), 150-321.257(10), 150-321.267, 150-321.282(1)-(B), 150-321.282(4)(a)-(A), 150-321.282(4)(a)-(B), 150-321.282(6), 150-321.282(6)(b), 150-321.282(6)(b)-(A), 150-321.282(6)(b)-(B), 150-321.282(6)(c), 150-321.282(7), 150-321.287, 321.322(1), 150-321.352(7), 150-321.353(2)(e), 150-321.405, 150-321.405(7), 150-321.405(8), 150-321.432-(A), 150-321.432-(B), 150-321.432-(C), 150-321.435(2), 150-321.580, 150-321.810

Proposed Ren. & Amends: 150-Oregon Laws 2003, Ch. 454, Section 1(1) to OAR 150-321.700(1)

Last Date for Comment: 6-22-04, 5 p.m.

Summary: To adopt, amend, repeal and renumber administrative rules relating to property and timber taxation and local budget law. These proposed rules can be found on our Web site at www.dor.state.or.us.

Persons wishing to provide testimony at the hearing will need to sign-up prior to the hearing. A sign-up sheet will be available at 9:45 AM on June 22, 2004 in the Fishbowl conference room.

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

Rules Coordinator: Xann-Marie Culver

Address: Department of Revenue, 955 Center St. NE, Room 457, Salem, OR 97301-2555

Telephone: (503) 947-2099

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

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 805.300 - 805.410

Stats. Implemented: ORS 805.300 - 805.410

Proposed Amendments: 735-048-0000, 735-048-0020

Last Date for Comment: 6-21-04

Summary: The proposed rule amendments are needed to clarify ORS 805.390(2), which permits a vehicle registered for farm use to transport items that are incidental to the regular operation of the farm. Current rules prohibit vehicles registered for farm use from transporting firewood. However, since firewood may be a byproduct of an activity that is incidental to the regular operation of a farm, such as clearing land to create more farmable land, the current rule needs to be amended. The proposed amendment to OAR 735-048-0000(14) removes the reference to firewood business in the definition of "non-qualifying commercial enterprise," and the proposed amendment to OAR 735-048-0020 clarifies that firewood and other items that result from furtherance of regular farming operations are permitted to be transported by a farm registered vehicle as part of the farm business.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.010 & 803.035

Stats. Implemented: ORS 803.010, 803.035, 803.040, 803.045 & 803.092

Proposed Amendments: 735-168-0070

Proposed Repeals: 735-168-0020, 735-168-0030, 735-168-0040

Last Date for Comment: 6-21-04

Summary: DMV proposes the repeal of OAR 735-168-0020 through 735-168-0040 related to Class I all terrain vehicle (ATV) registration in response to Section 4, Chapter 529, Oregon Laws 2001 (SB 445), which removed the registration requirement for Class I ATVs. Currently, Class I ATVs are also exempt from Oregon title requirements. However, DMV proposes allowing optional titling of Class I ATVs under the authority of ORS 803.035 in order to protect the ownership rights of people who purchase these vehicles. The proposed amendment of OAR 735-168-0070 is needed to allow for the optional titling of Class I ATVs.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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Health Licensing Office Chapter 331

Stat. Auth.: ORS 680.525 - 680.575, 676.605 & 676.615; Other Auth.: ORS 183

Stats. Implemented: ORS 680.525 - 680.575, 676.605 & 676.615

Proposed Amendments: 331-405-0030, 331-405-0040, 331-410-0020, 331-410-0030, 331-415-0020

Proposed Ren. & Amends: 331-410-0060 to 331-410-0065

Last Date for Comment: 6-21-04

Summary: Refiling Notice of Rulemaking from June 1, 2002 that were not filed with Legislative Counsel's office within time specified under ORS 183.715.

Rule amendments are generally housekeeping - clarification of qualification, examination and application processes and requirements; deletion of the prescribed expiration date of June 30 from the statute to enable even cash flow via collection of revenues through-

NOTICES OF PROPOSED RULEMAKING

out the biennium; and updating continuing education requirements to include self-attestation and random audits to ensure compliance with requirements for license renewal.

Rules Coordinator: Patricia C. Allbritton

Address: Health Licensing Office, 700 Summer St. NE, Ste. 320, Salem, OR 97301-1287

Telephone: (503) 378-8667, ext. 4322

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**Insurance Pool Governing Board
Chapter 442**

Date: 6-21-04 **Time:** 9 a.m. **Location:** 525 Trade St.
Salem, OR 97301

Hearing Officer: Wanda Davis

Stat. Auth.: ORS 735.734

Stats. Implemented: ORS 735.720 - 735.740

Proposed Adoptions: Rules in 442-005

Proposed Repeals: Rules in 442-003, 004

Last Date for Comment: 6-21-04

Summary: Repealing Division 004 and adopting Division 005 to simplify rule format and language, to increase clarity and understanding.

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

Rules Coordinator: Karla Messer-Holt

Address: Insurance Pool Governing Board, 250 Church St. SE, Ste. 200, Salem, OR 97301-3291

Telephone: (503) 378-2530

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**Oregon Housing and Community Services
Chapter 813**

Date: 6-15-04 **Time:** 10 a.m.-12 p.m. **Location:** Rm. 124
725 Summer St. NE
Salem, OR

Hearing Officer: John Fletcher

Stat. Auth.: ORS 183, 456.514 & 456.506 - 456.514

Stats. Implemented: ORS 456.506 - 456.514

Proposed Adoptions: 813-310-0005, 813-310-0010, 813-310-0015, 813-310-0020, 813-310-0025, 813-310-0030, 813-310-0035, 813-310-0040, 813-310-0045, 813-310-0050, 813-310-0055, 813-310-0060, 813-310-0065, 813-310-0070, 813-310-0075, 813-310-0080, 813-310-0085, 813-310-0090, 813-310-0095, 813-310-0100, 813-310-0105, 813-310-0110

Last Date for Comment: 6-25-04

Summary: Oregon Administrative Rules Chapter 813 Division 310 - Subsidized Development Visitability is promulgated to accomplish the general purposes of ORS 456.506 through 456.514, visitability requirements for subsidized development.

Last session (2003), the Legislature passed a bill (SB 833) that will impact many OHCS projects in future years. The legislation contains new building requirements to improve housing for seniors and the mobility impaired.

The new requirements apply to: • New construction using state or federal funds; • Multi-family, and Group Home projects.

The new requirements do not apply to: • Projects where the state's only funding is from OHCS bonding; • 4% credits associated with OHCS bonding; • Farmworker housing; • Acquisition/renovation of existing structures.

Visitability requirements for projects include: • A visitable exterior route and entrance; • At least one visitable common living space; • Light switches and environmental controls at a reachable height; • A powder room (bathroom) doorway with 32 inch clearance and a wall that is reinforced for a grab bar.

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

Rules Coordinator: Sandy McDonnell

Address: Housing and Community Services, 725 Summer St. NE St., Salem, OR 97301-1270

Telephone: (503) 986-2012

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**Oregon Liquor Control Commission
Chapter 845**

Date: 6-23-04 **Time:** 10 a.m.-12 p.m. **Location:** 9079 SE McLoughlin Blvd.
Portland, OR 97222

Hearing Officer: Katie Hilton

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

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Proposed Amendments: 845-010-0905, 845-010-0915

Last Date for Comment: 7-7-04

Summary: These rules describe and define the types of information which must appear on Oregon wine labels. Commission rules currently prohibit use of the term "Claret" on Oregon wine labels. The Commission has received a request from an Oregon winery to amend the rule to allow use of "Claret" on wine labels, and to add a description of Claret as a light-bodied red wine which derives 100% of its volume from a blend of two or more of the following grape varieties: Cabernet franc, Merlot, Cabernet Sauvignon, Petit Verdot or Malbec. The petition requests that the term "Claret" be removed from the list of prohibited semi-generic designations, and that a definition be added for "Claret."

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

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

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Date: 6-29-04 **Time:** 9 a.m.-12 p.m. **Location:** 9079 SE McLoughlin Blvd.
Portland, OR 97222

Hearing Officer: Katie Hilton

Stat. Auth.: ORS 471.730(5)

Stats. Implemented: ORS 471.750(1)

Proposed Adoptions: 845-015-0199

Last Date for Comment: 7-13-04

Summary: OAR 845-015-0199 will be a new rule. The rule establishes a pilot program which would allow appointment of temporary retail sales agents to operate retail sales agencies (liquor stores) which will be physically located within large retail grocery stores. The pilot program would allow appointment of a pilot agent for up to two years, and would allow for consideration of permanent appointment at the end of the pilot project period if the pilot is successful. The purpose of the pilot project is to test this retail concept in time to gather data which can be presented to the 2005 legislative assembly in time for the legislature to consider it in considering budget decisions.

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

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

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**Oregon Public Employees Retirement System
Chapter 459**

Date: 6-22-04 **Time:** 9:30 a.m. **Location:** Archives Bldg.
800 Summer St. NE
Conference Rm.
Salem, OR

Hearing Officer: Debra Hembree

Stat. Auth.: ORS 238.650

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 238A.330

Proposed Adoptions: 459-080-0150

Last Date for Comment: 8-20-04

Summary: As staff has continued to identify transactions that may occur now that OPSRP is in operation, the issue of which employees contribute into the Individual Account Program (IAP), and when contributions begin needs to be addressed in order to administer the new plan. A temporary rule has been adopted by the Board and will become effective on June 21, 2004. This hearing relates to the permanent rule that would replace the temporary rule.

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

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

Rules Coordinator: Yvette S. Elledge

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

Telephone: (503) 603-7713

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Oregon State Lottery
Chapter 177

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

Stats. Implemented: ORS 461.215 & 461.230

Proposed Amendments: 177-200-0070

Last Date for Comment: 6-22-04

Summary: The proposed language amends subsection (2) of OAR 177-200-0070 to delete the requirement that the deck be shuffled before each deal. This amendment is necessary because of a new video poker game called 3-Way Action Poker in which the deck is shuffled once for a series of three games and not before each deal. Lottery plans to launch this game on July 1, 2004.

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

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Oregon State Marine Board
Chapter 250

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented:

Proposed Amendments: 250-020-0350

Last Date for Comment: 6-21-04

Summary: The Marine Board received a petition requesting a rule amendment to reduce the seasonal 10 mph speed restriction on Pine Hollow Reservoir in Wasco County. Petitioners seek to allow motorboat speeds in excess of 10 MPH from the Saturday before Memorial Day to the day following Labor Day in the area west of the buoy line. The Board will accept written comment through June 21, 2004. The Board will evaluate written comments received by the end of the comment period along with staff recommendations in deciding action to take relative to this petition.

Rules Coordinator: Jill E. Andrick

Address: Oregon State Marine Board, 435 Commercial St. NE, Salem, OR 97310

Telephone: (503) 373-1405, ext. 243

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Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented:

Proposed Amendments: 250-020-0063, 250-020-0082

Last Date for Comment: 6-21-04

Summary: The Board intends to clarify motorboat rules for the New River located in Coos and Curry counties. Current rules are confusing as to the seasonal restrictions for allowing the use of motors on

boats. The agency will accept written comments until June 21, 2004. The Board will evaluate comments received by the end of the comment period along with staff recommendations in amending rule language for boating on the New River.

Rules Coordinator: Jill E. Andrick

Address: Oregon State Marine Board, 435 Commercial St. NE, Salem, OR 97310

Telephone: (503) 373-1405, ext. 243

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Oregon State Treasury
Chapter 170

Date:	Time:	Location:
6-16-04	10 a.m.	350 Winter St. NE #100 Salem, OR 97301

Hearing Officer: Don Charlton

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 293

Proposed Amendments: 170-001-0000

Last Date for Comment: 6-21-04

Summary: Describes the procedures by which the State Treasurer shall adopt, amend, or repeal any permanent rule.

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

Rules Coordinator: Sally Furze

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4633

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Date:	Time:	Location:
6-16-04	10 a.m.	350 Winter St. NE #100 Salem, OR 97301

Hearing Officer: Don Charlton

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 183, 192, 293 & 295

Proposed Amendments: 170-002-0000

Last Date for Comment: 6-21-04

Summary: Describes the procedures by which the State Treasurer shall charge fees for certification or copying of any public records in the Oregon State Treasury's custody not otherwise exempt from disclosure.

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

Rules Coordinator: Sally Furze

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4633

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Date:	Time:	Location:
6-16-04	10 a.m.	350 Winter St. NE #100 Salem, OR 97301

Hearing Officer: Don Charlton

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 288

Proposed Amendments: 170-060-0000

Last Date for Comment: 6-21-04

Summary: Describes the procedures by which the Chairman of the Commission or their designee gives notice prior to adoption, amendment, or repeal of any permanent rule.

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

Rules Coordinator: Sally Furze

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4633

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Date:	Time:	Location:
6-16-04	10 a.m.	350 Winter St. NE #100 Salem, OR 97301

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Don Charlton
Stat. Auth.: ORS 178.050
Stats. Implemented: ORS 288
Proposed Amendments: 170-062-0000
Last Date for Comment: 6-21-04

Summary: Describes the procedures by which the State Treasurer approves refunding of outstanding obligations prior to their optional call date. There are three permissible purposes for this refunding: 1 - a present value savings; 2 - favorable reorganization of debt; and 3 - fiscal distress. This amendment incorporates the possible use of an agreement for the exchange of interest rates when determining the present value savings of the refunding. The amendment sets a higher minimum savings threshold when an agreement for the exchange of interest rates is used in conjunction with the advance refunding issue. The ability of a municipality to do exchange of interest rate agreements was newly authorized in January 2004.

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

Rules Coordinator: Sally Furze
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-4633

Oregon University System
Chapter 580

Date:	Time:	Location:
6-15-04	10 a.m.-12 p.m.	1431 Johnson Ln. 3rd Floor Conf. Rm. Eugene, OR

Hearing Officer: Chris Mahoney
Stat. Auth.: ORS 351.070 (2)(a)
Stats. Implemented: ORS 351
Proposed Amendments: 580-040-0100 - 580-040-0295
Last Date for Comment: 6-25-04

Summary: This rules section pertains to the Board's Financial Powers, specifically the purchasing of personal services and goods and services. These proposed amendments are clean-up references to OSSHE (replacing with OUS throughout), and adding information technology and telecommunication equipment and services to the section on "Processes for Procurement of Goods and Services."

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

Rules Coordinator: Marcia M. Stuart
Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175
Telephone: (541) 346-5795

Oregon University System,
Portland State University
Chapter 577

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Proposed Amendments: 577-060-0020
Last Date for Comment: 6-22-04

Summary: The proposed amendment establishes additional fees, charges, fines and deposits for General Services for the 2004-2005 fiscal year.

Rules Coordinator: Tyrene Bada
Address: Oregon State System of Higher Education, Portland State University, Portland State University, Office of Business Affairs, PO Box 751, Portland, OR 97207-0751
Telephone: (503) 725-3443

Oregon University System,
University of Oregon
Chapter 571

Date:	Time:	Location:
6-22-04	10 a.m.	Alesa/Coquille Rms. EMU, UO Campus Eugene, OR
6-25-04	12 p.m.	Alesa/Coquille Rms. EMU, UO Campus Eugene, OR

Hearing Officer: Deb Eldredge
Stat. Auth.: ORS 351.060, 351.070 & 352-004
Stats. Implemented: ORS 351.060, 351.070 & 352.004
Proposed Amendments: 571-024-0005
Last Date for Comment: 6-25-04, 5 p.m.

Summary: Updates rule to reflect changes in program including addition of new facility and discontinuing use of old facilities.

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

Rules Coordinator: Deb Eldredge
Address: Oregon University System, University of Oregon, 1226 President's Office, Eugene, OR 97403-1226
Telephone: (541) 346-3082

Oregon Watershed Enhancement Board
Chapter 695

Date:	Time:	Location:
7-6-04	6-8 p.m.	Baker Co. Library Walrod Rm. 2400 Resort St. Baker City, OR 97814
7-7-04	6-8 p.m.	Deschutes Public Libr. Multipurpose Rm. 827 SW Deschutes Ave. Redmond, OR 97756
7-12-04	6-8 p.m.	OR Dept. of Fish & Wildlife Conference Rm. 4192 N. Umpqua Hwy. Roseburg, OR 97470
7-13-04	6-8 p.m.	State Lands Bldg. Land Board Rm. 775 Summer St. NE Salem, OR 97301
7-14-04	6-8 p.m.	Driftwood Library Fischer Rm. 801 SW Hwy. 101 Lincoln City, OR 97367

Hearing Officer: Louise Solliday
Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.351 - 541.401
Proposed Adoptions: Rules in 695-005, 010, 015, 025, 030, 035, 050

Proposed Amendments: Rules in 695-001
Proposed Repeals: Rules in 695-020, 025, 030
Last Date for Comment: 7-30-04

Summary: The Oregon Watershed Enhancement Board is proposing to restructure and amend its administrative rules to provide better clarity, consistency and transparency for its grantmaking program. The draft rules update the agency name, notice requirements, and dates in Division 1. The new Division 5 lays out the fiscal and administrative requirements for all of the Board's grants, incorporating current policies and procedures. In addition new rules are proposed that would allow the Board to recapture funds if a grant agreement is not fully executed within one year of Board approval of a grant and to withhold payments from grantees with persistent reporting and accounting problems. The new Division 10 lays out the application process, regional review team and staff recommendation processes, and evaluation criteria for watershed restoration grants. Divisions 15, 25, and 30 lay out the current application process and evaluation criteria for Outreach and Education Grants, Monitoring Grants, and

NOTICES OF PROPOSED RULEMAKING

Assessment and Action Plan Grants respectively. Only renumbering changes are proposed for Division 35. The new Division 50 lays out the current compliance, compatibility, and coordination requirements. A public comment period for the proposed administrative rule changes will begin on June 21, 2004 and end at 5:00 pm July 30, 2004. On June 21, 2004 the proposed rules will be posted to the Board's website at www.oweb.state.or.us. To request a copy of the proposed rules, please call or email Maribeth Mattson at 503-986-0202 or maribeth.mattson@state.or.us beginning June 21, 2004. You may also mail a request for a copy of the proposed rules to Maribeth Mattson, OWEB, Grant Rules, 775 Summer St. NE, Suite 360, Salem, OR 97301

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

Rules Coordinator: Bonnie King

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

Telephone: (503) 986-0181

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Stat. Auth.: ORS 541.396

Stats. Implemented: ORS 541.368, 541.370(1)(e), 541.384 & 541.388

Proposed Adoptions: Rules in 695-040

Last Date for Comment: 6-21-04, 5 p.m.

Summary: In order to fulfill administrative rule filing requirements, the Oregon Watershed Enhancement Board is seeking public comment on proposed administrative rules for watershed council support grant awards. The Board's proposed rules address, in part: (1) eligibility criteria, (2) grant application requirements, (3) the criteria used to evaluate watershed council support grant applications, and (4) the process used to evaluate watershed council support grant applications, and make funding recommendations. Public comment will be accepted on the proposed rules from June 1, 2004 through 5:00 p.m. on June 21, 2004. Pursuant to ORS 183.335(2)(b)(G), the agency is also inviting public comment on whether other options should be considered for achieving the rules' substantive goals while reducing negative economic impact of the rules on business.

Rules Coordinator: Bonnie King

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

Telephone: (503) 986-0181

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Public Utility Commission Chapter 860

Stat. Auth.: ORS 183, 756, 757 & 159; Other Auth.: HB 2333

Stats. Implemented: ORS 756.040, 756.105, 757.259 & 759.200

Proposed Amendments: 860-027-0300

Last Date for Comment: 6-21-04

Summary: This rule amendment implements HB 2333 and would allow an industrial customer of a certain size to prepay its obligation of deferred power supply expense. The obligation is calculated as the customer's pro rata share of the utility's total energy usage within the state of Oregon during 2001, multiplied by the unrecovered deferral balance at the time of prepayment.

Rules Coordinator: Lauri Salisbury

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

Telephone: (503) 378-4372

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Teacher Standards and Practices Commission Chapter 584

Date:
7-28-04

Time:
9 a.m.

Location:
Southern Oregon U
Stevenson Union Facility
1250 Siskiyou Blvd.
Ashland, OR 97520

Hearing Officer: Cathy Gwinn, TSPC Chair

Stat. Auth.: ORS 342.165; Other Auth.: HB 2575, 2003 Legislative Session, Mandates from the federal No Child Left Behind Act

Stats. Implemented: ORS 342.120 - 342.200, 342.223 - 342.232, 342.100 & 342.985

Proposed Adoptions: 584-017-0042, 584-036-0067, 584-060-0002, 584-060-0012, 584-060-0022, 584-060-0062, 584-100-0037

Proposed Amendments: 584-010-0010, 584-036-0055, 584-040-0005, 584-050-0042, 584-060-0001, 584-060-0005, 584-060-0161, 584-100-0026, 584-100-0036

Last Date for Comment: 7-28-04

Summary: Adopt: OAR 584-017-0042 grants teacher education institutions authority to determine teaching competency if the required 15 seeks of student teaching cannot be met due to a shortened school year imposed on school districts by budget constraints.

OAR 584-036-0067 grants a licensed educator that possesses any Initial License on or before October 3, 2003, one extra year on the life of their license to complete CTL requirements.

OAR 584-060-0002 establishes definitions to apply within Division 060 on Twenty First Century Teaching Licenses. OAR 584-060-0012 establishes requirements for Initial Teaching Licenses. OAR 584-060-0022 establishes requirements for Continuing Teaching Licenses. OAR 584-060-0062 establishes a Restricted Transitional Teaching License.

OAR 584-100-0037 implements new Highly Objective Uniform State Standards of Evaluation for teachers who are eligible for HOUSSE assessment with regard to meeting the definitions of Highly Qualified teacher under the federal No Child Left Behind Act.

Amend: OAR 584-010-0010 extends Oregon site visits from five to seven years for NCATE institutions that are eligible for the seven year NCATE review process.

OAR 584-036-0055 updates fees and clarifies expedited service requests.

OAR 584-040-0005 requires to provide evidence of completion of an inservice program in their underlying subject-matter area.

OAR 584-050-0042 gives license holders the option to submit a legal document such as a driver's license, credit card, or social security card to indicate a name change has occurred.

OAR 584-060-0001 revises the purpose of Twenty-First Century Teaching Licenses. OAR 584-060-0005 states teachers issued licenses prior to January 15, 1999, are entitled to the rights granted by law and the rules of the Commission under which the license was issued. OAR 584-060-0161 revises the requirements for a Transitional Teaching License Requirements.

OAR 584-100-0026 requires highly qualified middle level teachers not new to the profession to meet the HOUSSE requirements defined in OAR 584-100-0037. OAR 584-100-0036 requires highly qualified secondary teachers to meet the HOUSSE requirements defined in OAR 584-100-0037.

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

Rules Coordinator: Victoria Chamberlain

Address: Teacher Standards and Practices Commission, 465 Commercial St. NE, Salem, OR 97301

Telephone: (503) 378-6813

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Veterinary Medical Examining Board Chapter 875

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.045 & 686.065

Proposed Amendments: 875-010-0075

Last Date for Comment: 6-21-04

Summary: This amendment allows applicants for the North American Veterinary Licensing Examination (NAVLE) to apply directly to the testing agency (National Board of Veterinary Medical Examiners) instead of applying through the Board, consistent with the process nationwide. It will make the application process easier for applicants and reduce the Board's workload. The Board will continue to certify applicants for eligibility, per NBVME contract. This

NOTICES OF PROPOSED RULEMAKING

amendment also increases the Board's ability to license graduates of foreign veterinary colleges by allowing Board approval of applicants who have completed competency equivalency programs in addition to the Educational Commission on Foreign Veterinary Graduates (ECFVG).

Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (503) 731-4051

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**Water Resources Department
Chapter 690**

Date:	Time:	Location:
6-29-04	12-1 p.m. 7-8 p.m.	North Mall Office Bldg. Conference Rm. 124a 725 Summer St. NE Salem, OR
6-30-04	1-2 p.m.	Watermaster Office Conference Rm. 1340 NW Wall Bend, OR

Hearing Officer: Greg Nelson

Stat. Auth.: ORS 536.025 & 536.027

Stats. Implemented: ORS 536.050, 540.570 - 540.580 & 540.612

Proposed Adoptions: Rules in 690-385

Proposed Repeals: Rules in 690-021

Proposed Ren. & Amends: Rules in 690-021 to 690-385

Last Date for Comment: 7-16-04, 5 p.m.

Summary: The proposed rules describe the process and procedures the Water Resources Department shall use to evaluate an application to temporarily or permanently change a water use subject to transfer managed by a district. The proposed rules implement statutory authority for temporary district water right transfers under ORS 540.570, permanent district water right transfers under ORS 540.580, and the permanent district transfer of water rights for nonuse under ORS 540.572 - 540.578. The Department is propos-

ing that the Water Resources Commission adopt district water right transfer rules under a new OAR Chapter 690, Division 385. The existing district water right transfer rules are in OAR Chapter 690, Division 21. The Department has worked with a Rules Advisory Committee in developing these proposed rules that reorganize the existing rules and incorporate statutory changes enacted in 2003 for district temporary transfers. These rules also implement permanent district transfer provisions enacted by the Oregon Legislature in 1995. The rules for the permanent district transfer of water rights for nonuse are reorganized and renumbered from OAR Chapter 690, Division 21, but remain largely unchanged.

The proposed rules also would implement SB 820 (2003 Oregon Laws) that allow a district to temporarily transfer: a point of diversion or point of appropriation combined with a change in place of use; a point of diversion to allow for the appropriation of ground water; or a primary right to a supplemental right. Prior to SB 820, district temporary transfer of a water right was limited to a change in place of use and a change in the type of use in a right to store water. District temporary water right transfers are effective for one irrigation season, and may be rejected or conditioned at any time to the extent necessary to avoid injury to other water rights. Given the time-limited nature of the district temporary transfers and the protections afforded other water rights, the proposed rules would modify the process for alleging the transfer injures other water rights. The proposed rules allow for requests for reconsideration or judicial review of an order of the Water Resources Department approving a district temporary transfer. In contrast, and with some exceptions, permanent district transfers allow for protest of a transfer and a contested case hearing under the applicable provisions of ORS 183.310 - 183.550. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Adam Sussman

Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301

Telephone: (503) 986-0877

ADMINISTRATIVE RULES

Board of Architect Examiners Chapter 806

Adm. Order No.: BAE 3-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 11-1-03

Rules Amended: 806-001-0004, 806-001-0005

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

Rules Coordinator: Carol Halford—(503) 763-0662

806-001-0004

Rules of Procedure in Contested Cases

The Board adopts the January 15, 2004, version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act to govern the Board's rulemaking and contested cases or equivalent proceedings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Architect Examiners.]

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 183.341

Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 13, f. & ef. 4-2-76; AE 2-1978, f. & ef. 3-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1980, f. & ef. 2-14-80; AE 3-1981, f. & ef. 12-21-81; AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 3-1992, f. & cert. ef. 6-30-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 3-2000, f. & cert. ef. 7-24-00, Renumbered from 806-010-0055; BAE 3-2004, f. & cert. ef. 5-5-04

806-001-0005

Model Rules of Practice and Procedure

The Board adopts the January 15, 2004, version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act by reference as the Board's general administrative procedural rules.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Architect Examiners.]

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.080

Hist.: AE 8, f. 12-15-71, ef. 1-1-72; AE 10, f. 10-26-73, ef. 11-25-73; AE 2-1997, f. & cert. ef. 9-24-97; BAE 3-2004, f. & cert. ef. 5-5-04

Adm. Order No.: BAE 4-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 4-1-04

Rules Amended: 806-010-0045

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

Rules Coordinator: Carol Halford—(503) 763-0662

806-010-0045

Stamps

(1) Every registered architect must have a stamp bearing the name of the registrant, only, together with the city and state in which the architect's principal office is located. The stamp may, but need not, include the architect's license number issued by the Oregon Board. A facsimile of the design and the lettering of the stamp appears herewith: [Image not included. See ED. NOTE.]

(2) The stamp authorized by the Board must be one of crimp type, rubber stamp type, and/or computer generated type.

(3) The stamp with the registrant's handwritten signature must appear on the original title page of specifications and on every sheet of the drawings intended for permit and construction, whether or not the project is exempt under ORS 671.030, and must be the stamp of a registered, legally responsible member or employee of the firm. The originals may be reproduced for permit and construction purposes.

(4) An architect may not stamp and sign, or countersign, or allow his or her stamp to be affixed to any architectural plans, drawings, documents, specifications or reports not prepared by him or her or under his or her direct control and supervision.

(5) "Direct control and supervision" as used in ORS 671.020(3) and 671.090(6) shall be considered to mean that the documents bearing the architect's stamp and signature were prepared under the responsible direction of the architect, that the architect has exercised directing, guiding and restraining power over the preparation of the documents and that the architect has exercised his or her professional judgment in all architectural matters embodied within the documents. This rule is not intended to preclude the use of current technology or the use of standard details and product specifications in accomplishing the above objectives.

(a) Reviewing, or reviewing and editing, specifications and documents intended for permit and construction after they have been prepared by others does not constitute the exercise of responsible control and supervision because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation.

(b) Any architect signing or sealing technical submissions not prepared by that architect, but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident, will maintain and make available to the Board, upon request, adequate records to demonstrate the nature and extent of the architect's control over, and detailed knowledge of, such technical submissions throughout their preparation.

(6) Notwithstanding other sections of this rule, a successor registered architect may complete a deceased or disabled architect's drawings and specifications intended for permitting and construction as though they were the successor's original, but must perform a thorough review and will become fully responsible for the content. The successor registered architect must use his or her own title block, stamp, and signature, and must remove the title block, stamp, and signature of the deceased or disabled architect.

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

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.020

Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 2-1978, f. & ef. 3-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 3-1979, f. & ef. 11-29-79; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 4-2004, f. & cert. ef. 5-5-04

Adm. Order No.: BAE 5-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 4-1-04

Rules Amended: 806-010-0145

Subject: This amendment allows participation in a teaching program, such as the Architects in Schools (AIS) Program as allowable CPE for license renewal and clarifies the type of CPE that can be claimed for similar programs.

Rules Coordinator: Carol Halford—(503) 763-0662

806-010-0145

Continuing Professional Education

(1) Every person holding a certificate of registration, as provided for in ORS 671.010 to 671.220, who desires to continue to practice the profession in Oregon, shall annually, complete and submit documentation of continuing professional education as part of the annual renewal process (which covers the annual reporting period of July 1st through June 30th and is due by the close of business on July 1st of each year) per OAR 806-010-0090.

(2) Purpose and Scope:

(a) These rules provide for a continuing professional education program to insure that all architects remain informed of those technical subjects necessary to safeguard life, health, property, and promote the public welfare. These rules shall apply to all architect certificate holders in Oregon.

(b) Documentation submittal for continuing professional education shall begin with license renewals effective after June 30, 2000 (first submittal due with 2001 renewals). All architects will be required to show compliance with the education requirements as a condition for renewing registration.

(3) **Requirements:** To renew or reinstate registration, in addition to other requirements, an architect must have acquired continuing professional education for each 12-month period since the architect's last renewal of initial registration, as the case may be, or be exempt from these continuing professional education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the architect's registration, or other disciplinary action or both.

(4) **License Period and Carryover Hours:** Within any 12-month license period, a minimum of 12 contact hours shall be acquired.

ADMINISTRATIVE RULES

(a) Of those 12 hours, a minimum of 8 contact hours shall be public protection subjects, safeguarding life, health, property and promoting the public welfare, acquired in structured educational activities. All 12 hours may be acquired in such subjects and activities.

(b) If an architect exceeds the continuing professional education requirement in a renewal period, the architect may carry a maximum of 12 contact hours forward into the subsequent renewal period. A minimum of 12 contact hours, including the 8 hours of public protection subjects and the allowed carryover hours, shall be obtained and reported annually.

(5) Reporting and Record Keeping:

(a) A registered architect shall complete and submit forms approved by the board certifying to the architect's having acquired the required continuing professional education hours.

(b) Architect's submission may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the architect for two years after the period for which the form was submitted. If selected for the CPE review by the Board, the applicant must provide such evidence to verify attendance at reported CPE activities.

(c) If the board disallows any continuing professional education hours, the architect shall have six months from notice of disallowance to make up the deficiency by acquiring the required number of contact hours and reporting evidence of the completion of such hours to the Board. Such contact hours shall not again be used for any subsequent renewal. No such allowance will be made if the board finds following notice and hearing that the architect willfully disregarded these requirements.

(d) One continuing professional education hour shall represent a minimum of 50 minutes of actual course time. No credit will be allowed for introductory remarks, meals, breaks, or administration matters related to courses of study.

(e) Failure to fulfill the continuing professional education requirements and/or file the required annual report, properly and completely, including all required signatures, shall result in non-renewal of an architect's certificate of registration or disciplinary action, or both, unless the completed renewal has been resubmitted and received by the Board prior to the deadline and the minimum CPE requirements have been met.

(f) Continuing professional education shall be acquired during the 12 months immediately preceding the license renewal period, with the exception of the allowed hours carried forward from the previous renewal period (as allowed under OAR 806-010-0145(4)) and the hours allowed during the grace period (as allowed under OAR 806-010-0090 and 806-010-0105).

(g) Any false statements or misrepresentations with respect to course attendance or any other aspect of continuing professional educational activity shall subject the architect to license revocation or other disciplinary action.

(6) **Initial Registration:** An architect, registered in Oregon for less than 12 months from date of initial registration, shall not be required to report continuing professional education hours at the first registration renewal. An architect registered in Oregon for at least 12 months, shall be required to report 12 contact hours, which includes a minimum of 8 hours in public protection subjects, earned in the 12 months preceding the first renewal.

(7) **Activities:** The following suggested list may be used by all registrants in determining the types of activities, which may fulfill continuing professional education requirements. (Refer to section (5) for reporting and record keeping procedures.)

(a) Contact hours in attendance at short courses or seminars, dealing with architectural subjects and sponsored by colleges or universities.

(b) Contact hours in attendance at technical presentations on architectural subjects which are held in conjunction with conventions or at seminars related to materials use and function. Such presentations as those sponsored by the American Institute of Architects, Construction Specifications Institute, Construction Products Manufacturers Council or similar organizations devoted to architectural education may qualify.

(c) Contact hours in attendance at short courses or seminars, relating to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers.

(d) Contact hours acquired in self-study courses such as those sponsored by the National Council of Architectural Registration Boards, American Institute of Architects or similar organizations.

(e) Three preparation hours for each class hour spent teaching architectural courses or seminars. College or University faculty may not claim credit for teaching regular curriculum courses.

(f) Contact hours spent in architectural research, which is published or formally presented to the profession or public.

(g) Reading designated articles in Architectural Record and on Architecturalrecord.com, or similar professional journals, and receiving a certificate of completion issued by the provider. The professional journal articles dated before two years prior to the date of testing will not be allowed as acceptable CPE. The Board will allow continuing professional education (CPE) credit for renewal for no more than 8 hours of CPE each renewal period for professional journal articles meeting this criteria.

(h) College or University credit courses dealing with architectural subjects or business practice. Each semester hour shall equal 15 contact hours. Each quarter hour shall equal 10 contact hours.

(i) Contact hours spent in professional service to the public which draws upon the registrant's professional expertise on boards and commissions, such as: serving on planning commissions, building code advisory boards, urban renewal boards, or code study committees.

(j) Contact hours spent in educational tours of architecturally significant buildings, where the tour is sponsored by a college, university or professional organization.

(k) A maximum of 2 contact hours in health, safety, and welfare subjects annually may be claimed for serving as a mentor or sponsor for the Intern Development Program (IDP).

(l) A maximum of 2 contact hours in practice-related subjects annually may be claimed for participation in a teaching program sharing professional skills, such as the Architects in Schools (AIS) Program.

(8) **Activities Not Allowed:** The purpose of the CPE requirement is to require architects to obtain regular and continual education during the course of their professional life. As such, contact hours spent on the same CPE, even if obtained on different dates, may be used only once during a renewal period to meet the annual renewal/CPE requirements.

(9) **Exemptions:** A registered architect shall be deemed to have complied with the foregoing continuing professional education requirements if the architect attests in the required affidavit that for not less than 10 months of the preceding one year period of registration, the architect has met one of the following exemption criteria:

(a) Has served honorably on active duty in the military service (exceeding ninety consecutive days).

(b) Is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for registration as an architect and has complied with all requirements of that state or district for practice therein.

(c) Is a government employee working as an architect and assigned to duty outside the United States.

(d) Special Exemption — The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.125 & 671.080

Hist.: BAE 1-2000, f. & cert. ef. 2-23-00; BAE 2-2000, f. & cert. ef. 7-24-00; BAE 3-2001, f. & cert. ef. 10-4-01; BAE 3-2002, f. 7-10-02 cert. ef. 7-15-02; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 1-2003, f. & cert. ef. 1-15-03; BAE 5-2004, f. & cert. ef. 5-5-04

Adm. Order No.: BAE 6-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 4-1-04

Rules Amended: 806-010-0080

Subject: This is housekeeping and changes no requirements for architectural firms but clarifies the language of the requirements for better understanding.

Rules Coordinator: Carol Halford—(503) 763-0662

806-010-0080

Architectural Firms

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

(a) Corporations (refer to OAR 806-010-0110 for specific rules relating to corporate or assumed business names);

(b) Partnerships;

(c) Limited liability companies;

(d) Individuals practicing under an assumed business name (refer to OAR 806-010-0110 for specific rules relating to corporate or assumed business names).

ADMINISTRATIVE RULES

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

(3) An architectural firm must be identified as being engaged in the practice of architecture. If the firm name uses the plural form of "Architect", the firm must have more than one architect registered in any NCARB recognized jurisdiction associated with the firm as a principal, partner, or employee.

(4) Additional requirements for registration are as follows:

(a) Corporations: At least 2/3 of the Board of Directors must be architects or engineers registered in any NCARB recognized jurisdiction. At least 1/3 of the Board of Directors must be registered as architects in any NCARB recognized jurisdiction. At least one director of the corporation must be an Oregon registered architect and make architectural decisions and sign/stamp all plans on Oregon architectural projects.

(A) If a corporation was in continuous existence since September 29, 1991, and at least 51% of the corporation is owned by an Oregon registered architect or engineer, the corporation is exempt from typical ownership requirements, but must still meet all other firm name requirements.

(b) Partnerships: At least 2/3 of the partners must be architects or engineers registered in any NCARB recognized jurisdiction and represent at least 2/3 ownership interest in the partnership. At least 1/3 of the partners must be registered as architects in any NCARB recognized jurisdiction. At least one partner must be an Oregon registered architect and make architectural decisions and sign/stamp all plans on Oregon architectural projects

(c) Limited Liability Companies (LLC): At least 2/3 of the members of an LLC must be architects or engineers registered in any NCARB recognized jurisdiction and represent at least 2/3 ownership interest in the LLC. At least 1/3 of the members must be registered as architects in any NCARB recognized jurisdiction. At least one member of the LLC must be an Oregon registered architect and make architectural decisions and sign/stamp all plans on Oregon architectural projects

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.041

Hist.: AE 11, f. 2-15-74, ef. 3-11-74; AE 16(Temp), f. & ef. 5-17-77; AE 17, f. & ef. 9-22-77; AE 2-1978, f. & ef. 2-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1987, f. & ef. 3-30-87; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 4-2001, f. & cert. ef. 10-4-01; BAE 1-2002, f. & cert. ef. 4-30-02; BAE 3-2003, f. & cert. ef. 4-11-03; BAE 6-2004, f. & cert. ef. 5-5-04

Board of Medical Examiners
Chapter 847

Adm. Order No.: BME 5-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 4-22-04

Notice Publication Date: 3-1-04

Rules Adopted: 847-010-0073

Rules Amended: 847-010-0056, 847-010-0063

Subject: The adopted rules in OAR 847, Division 010 clarify that the paperwork for renewing a Limited License, Fellow should be submitted to the Board 30 days before expiring, and the current language on the Limited License, Medical Faculty in OAR 847-020-0140 updates the language in OAR 847-010-0063. Also, per House Bill 2165 (2003), the adopted rule in OAR 847-010-0073 states that a licensee shall self-report to the Board within ten working days any official action or event taken against the licensee by a government agency or health care facility, and requires the Board to define the meaning of medical incompetence, unprofessional conduct and licensee impairment.

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

847-010-0056

Limited License, Fellow

(1) Any physician who proposes to do a fellowship in Oregon and who does not wish to register under OAR 847-020-0120 or 847-020-0130 may apply for a Limited License, Fellow. A fellow is a physician who is pursuing some special line of study as part of a supervised program of an approved school of medicine or affiliated teaching institution. A Limited License, Fellow permits the physician to practice medicine only as part of a supervised fellowship program.

(2) A Limited License, Fellow shall be granted for a period of one year, and upon written request from the head of the training program submitted 30 days before the end of the first year, may be renewed for only one additional year. The two years must be consecutive.

(3) A request for a Limited License, Fellow must be accompanied by a copy of the appointment letter or contract, and a letter sent directly from the head of the training program advising that the applicant has been offered a fellowship position and the dates of the program.

(4) Every physician who is issued a Limited License, Fellow to practice in this state shall complete a limited license application form and pay the limited license fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application form and fee for the second year.

(5) Fellowships approved by the Accreditation Council for Graduate Medical Education (ACGME) may be used to qualify for a license under OAR 847-020-0120 or 847-020-0130. Non-approved fellowships may not be used toward licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 9-1992, f. & cert. ef. 7-17-92; ME 2-1993, f. & cert. ef. 1-29-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03; BME 5-2004, f. & cert. ef. 4-22-04

847-010-0063

Limited License, Medical Faculty

A physician qualifying under OAR 847-020-0140(1) may be granted a Limited License, Medical Faculty after applying to and being approved by the Board at a quarterly Board meeting. This will be deemed to be a valid license to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(1) A Limited License, Medical Faculty is valid for one year after issuance. The limited license may be renewed annually for three succeeding years.

(2) Having completed four years of practice under a Limited License, Medical Faculty and successfully passed USMLE Steps 1, 2 and 3, or have previously passed the FLEX, the National Board of Medical Examiners examination or the National Board of Osteopathic Medical Examiners examination, or a combination of all three per OAR 847-020-0170(1), the applicant is eligible for licensure regardless of any other requirements of this Chapter.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 4-1993, f. & cert. ef. 4-22-93; BME 5-2001, f. & cert. ef. 4-23-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2004, f. & cert. ef. 4-22-04

847-010-0073

Reporting Incompetent or Impaired Physicians to the Board

(1) ORS 677.415 requires healthcare facilities and Board licensees to report to the Board of Medical Examiners any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment,

ADMINISTRATIVE RULES

within ten working days of their occurrence. For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188(4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical or podiatric professions or any conduct which does or might constitute a danger to the public or to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190(1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(2) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a healthcare facility or by this Board.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132 & 677.415
Hist.: BME 5-2004, f. & cert. ef. 4-22-04

Adm. Order No.: BME 6-2004
Filed with Sec. of State: 4-22-2004
Certified to be Effective: 4-22-04
Notice Publication Date: 3-1-04
Rules Amended: 847-015-0030

Subject: The administrative rules are being adopted in response to Senate Bill 436 (2003), eliminating the requirement for a consulting physician opinion in certain circumstances. The Board has developed and approved a material risk notice to provide to physicians who are treating intractable pain patients.

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

847-015-0030

Written Notice Disclosing the Material Risks Associated with Prescribed or Administered Controlled Substances for the Treatment of "Intractable Pain"

(1) Controlled substances may be prescribed for long term treatment of "intractable pain", ORS 677.475(1). The attending physician records must contain the attending physician's examination, diagnosis and any other supporting diagnostic evaluations and other therapeutic trials, including records from previous providers. If there is a consulting physician, written documentation of his/her corroborating findings, diagnosis and recommendations shall be included in the record.

(2) Before initiating treatment of "intractable pain" with controlled substances, the attending physician shall discuss with the patient the mate-

rial risks associated with the prescribed or administered controlled substances. Following the discussion the patient may request further explanation prior to signing the material risks notice. Following completion of the discussion, the attending physician shall provide to the person and the person shall sign a written notice of the material risks associated with the prescribed or administered controlled substances to be prescribed, ORS 677.485.

(3) The material risk notice should include but not be limited to:

(a) The diagnosis;

(b) The controlled substance and/or group of controlled substances to be used;

(c) Anticipated therapeutic results;

(d) Alternatives to controlled substance therapy; and

(e) Potential side effects (if applicable):

(A) General;

(B) Central Nervous System;

(C) Gastrointestinal;

(D) Respiratory;

(E) Dermatologic, and

(F) Other.

(f) Allergy Potential;

(g) Interaction/Potential of other medications;

(h) Potential for dose escalation/tolerance;

(i) Withdrawal precautions;

(j) Potential for dependence and addiction;

(k) Potential for impairment of judgment and/or motor skills;

(l) Satisfaction with or desire for more explanation; and

(m) Patient signature (dated).

(4) The material risk consent form will be maintained as a permanent component of the patient record as shall documentation of long term follow-up to demonstrate the continued need for this form of therapy, ORS 677.480(1)(3). A dispensing record of the amount and dose of the prescribed or administered controlled substances shall be maintained as part of the patient record.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.470 & ORS 677.474

Hist.: ME 4-1996, f. & cert. ef. 7-26-96; BME 8-2000, f. & cert. ef. 7-27-00; BME 6-2004, f. & cert. ef. 4-22-04

Adm. Order No.: BME 7-2004
Filed with Sec. of State: 4-22-2004
Certified to be Effective: 4-22-04
Notice Publication Date: 3-1-04
Rules Amended: 847-020-0170

Subject: The adopted administrative rules will allow applicants an unlimited number of attempts to pass the United States Medical Licensing Examination (USMLE) Steps 1 and 2 or the National Board of Osteopathic Medical Examiners (NBOME) examination Level 1 and 2, but three attempts to pass Step 3 or Level 3. After the third failed attempt, the applicant must complete a year of Board approved postgraduate training before taking Step 3 or Level 3 a fourth and final time.

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

847-020-0170

Written Examination, SPEX Examination and Personal Interview

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

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

(b) Component 1 of the FLEX examination and Step 3 of the USMLE. A score of 75 or above must be achieved on Component 1 and the score achieved on Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score. The Component and Step must have been administered prior to January 2000; or

ADMINISTRATIVE RULES

(c) The National Board of Osteopathic Medical Examiners (NBOME) examination or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) or any combination of their parts; or

(d) USMLE Steps 1, 2, and 3. All three Steps of USMLE, and all three Levels of the NBOME examination or COMLEX or any combination of the two, must be passed within a seven-year period which begins when the first Step or Level, either Step 1 or Step 2 or Level 1 or Level 2, is passed. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score, and the score achieved on each Level must equal or exceed the figure established by the National Board of Osteopathic Medical Examiners.

(A) An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study, or he/she participated in a combined MD/DO/PhD program.

(B) Effective April 23, 2004, to be eligible for licensure, an applicant must have passed USMLE Step 3 or NBOME's COMLEX Level within four attempts whether for Oregon or any other state. After the third failed attempt, the applicant must have completed one year of postgraduate training in the United States or Canada prior to readmission to the examination. The Board must approve the year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed USMLE Step 3 or COMLEX Level 3 on their fourth and final attempt. If the fourth attempt of USMLE Step 3 is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass USMLE Step 3 or COMLEX Level 3, the applicant is not eligible for licensure.

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

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

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

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

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

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

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

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

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

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

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

(A) Completed an accredited one year residency, or

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04

Adm. Order No.: BME 8-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 4-22-04

Notice Publication Date: 3-1-04

Rules Amended: 847-050-0041

Subject: Per Senate Bill 647 (2003), the adopted rule allows physician assistants to be granted prescribing privileges for Schedule II medications if their supervising physician requests it and the Board approves the request. The physician assistant must be certified by the National Commission on Certification of Physician Assistants (NCPA) and must complete all required continuing medical education coursework.

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

847-050-0041

Prescription Privileges

(1) An Oregon grandfathered physician assistant may issue written or oral prescriptions for medications, Schedule III-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice description and approved by the Board if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the conditions in (2)(a) and (b) are met.

(2) A physician assistant may issue written or oral prescriptions for medications, Schedule II-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice description and approved by the Board if the following conditions are met:

ADMINISTRATIVE RULES

(a) The physician assistant has met the requirements of OAR 847-050-0020(1); or is an Oregon grandfathered physician assistant who has passed the Physician Assistant National Certifying Examination (PANCE).

(b) The applicant must document adequate training and/or experience in pharmacology commensurate with the practice description;

(c) The Board may require the applicant to pass a pharmacological examination which may be written, oral, practical, or any combination thereof based on the practice description.

(d) An application for Schedule II controlled substances prescription privileges must be submitted to the Board by the physician assistant's supervising physician and must be accompanied by the practice description of the physician assistant. The Schedule II controlled substances prescription privileges of a physician assistant shall be limited by the practice description approved by the board and may be restricted further by the supervising physician at any time. To be eligible for Schedule II controlled substances prescription privileges, a physician assistant must be certified by the National Commission for the Certification of Physician Assistants and must complete all required continuing medical education coursework.

(2) The prescribing physician assistant, to be authorized to issue prescriptions for Schedules II through V controlled substances, must be registered with the Federal Drug Enforcement Administration.

(3) Written prescriptions shall be on a blank which includes the printed or handwritten name, office address, and telephone number of the supervising physician and the printed or handwritten name of the physician assistant. The prescription shall also bear the name of the patient and the date on which the prescription was written. The physician assistant shall sign the prescription and the signature shall be followed by the letter "P.A." Also the physician assistant's Federal Drug Enforcement Administration number shall be shown on prescriptions for controlled substances.

(4) A licensed physician assistant may make application to the Board for emergency administering and dispensing authority. The application must be submitted in writing to the Board by the supervising physician and must explain the need for the request, as follows:

- (a) Location of the practice site;
- (b) Accessibility to the nearest pharmacy, and
- (c) Medical necessity for emergency administering or dispensing.

(5) The dispensed medication must be pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689 and the physician assistant shall maintain records of receipt and distribution.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265 & 677.545
Hist.: ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 6-1982, f. & ef. 10-27-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 16-1987, f. & ef. 8-3-87; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1994, f. & cert. ef. 1-24-94; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 8-2004, f. & cert. ef. 4-22-04

Adm. Order No.: BME 9-2004
Filed with Sec. of State: 4-22-2004
Certified to be Effective: 4-22-04
Notice Publication Date: 12-1-03
Rules Adopted: 847-070-0033

Subject: The adopted rules describe the requirements for a visiting acupuncturist to be granted approval by the Board to demonstrate needling of patients at a conference, seminar, and workshop sponsored by an Oregon school or program of acupuncture or oriental medicine in Oregon for up to ten days, no more than three times a year. The adopted rules outline the process of submitting the request for approval from the Board, and the requirements that must be met by the acupuncture school or program and the visiting acupuncturist.

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

847-070-0033

Visiting Acupuncturist Requirements

(1) The Board of Medical Examiners may grant approval for a visiting acupuncturist to demonstrate acupuncture needling as part of a seminar, conference, or workshop sponsored by an Oregon school or program of acupuncture or oriental medicine in order to provide training for a period up to ten days no more than three times a year. The visiting acupuncturist who requests additional time beyond the ten days, or submits more than

three requests in a year, must apply for and obtain a license to practice in the state of Oregon.

(2) Prior to being granted approval, the following information must be submitted to the Board of Medical Examiners: A letter from the requesting school or program of acupuncture or oriental medicine with the following information:

(a) Dates of the seminar, conference, or workshop in which the visiting acupuncturist will be demonstrating acupuncture needling;

(b) Description of the seminar, conference or workshop;

(c) Name of responsible school/program staff person who will be in attendance at the seminar, conference or workshop. The attending staff person must be an Oregon licensed acupuncturist with Active status; and

(d) A curriculum vitae for the visiting acupuncturist.

(3) The request for approval to practice in the state of Oregon as a visiting acupuncturist must be received at least two weeks prior to the beginning date of such practice.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265(1) & (2)
Hist.: BME 9-2004, f. & cert. ef. 4-22-04

Adm. Order No.: BME 10-2004(Temp)

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 4-22-04 thru 10-15-04

Notice Publication Date:

Rules Amended: 847-020-0130

Subject: The administrative rules change require that graduates of medical schools not accredited by the Liaison Committee on Medical Education or the Committee on Accreditation of the Canadian Medical Schools of the Canadian Medical Association must have completed all courses by physical on-site attendance.

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

847-020-0130

Basic Requirements for Licensure of a Foreign Medical School Graduate

(1) The following requirements must be met in lieu of graduation from a school of medicine approved by the Liaison Committee on Medical Education or the Committee on the Accreditation of the Canadian Medical Schools of the Canadian Medical Association in order to qualify under ORS 677.100.

(2) The requirements for licensure of the foreign medical school graduate are as follows:

(a) Must speak English fluently and write English legibly.

(b) Must have graduated from a foreign school of medicine after attendance of at least four full terms of instruction of eight months each, with all courses having been completed by physical on-site attendance. This requirement may be waived for any applicant for licensure who has graduated from a foreign school of medicine, and has substantially complied with the attendance requirements provided herein, and has been certified by a specialty board recognized by the American Board of Medical Specialties. If any of the clinical clerkships were taken in an institution in a country other than that in which the school is licensed, the institutions in which the clerkships were served must provide a certificate to prove the time spent and the satisfactory completion of the clerkships. After June 30, 1988, clinical clerkships served in the U.S. or Canada shall be taken only in institutions which conduct residencies approved by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association in the specific subject of the clerkship. The foreign school of medicine must be listed in the World Directory of Medical Schools published by the World Health Organization or any other such foreign school of medicine approved by the Oregon Board of Medical Examiners pursuant to OAR 847-031-0001, 847-031-0010, 847-031-0020, 847-031-0030 and 847-031-0040.

(c) Must have obtained the Standard Educational Commission for Foreign Medical Graduates Certificate issued by the Educational Commission for Foreign Medical Graduates. This requirement may be waived if accredited postgraduate training was completed in Canada, or prior to the enforcement of the ECFMG certification, or if the applicant has been certified by a specialty board recognized by the American Board of Medical Specialties. In lieu of the ECFMG certificate, Fifth Pathway applicants shall show evidence of passing the examination pursuant to Oregon standards.

(d) Must have satisfactorily completed an approved internship and/or residency (or clinical fellowship) in the United States or Canada of not less

ADMINISTRATIVE RULES

than three years of progressive training in not more than two specialties in not more than two training programs accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association. A valid certificate issued by a specialty board recognized by the American Board of Medical Specialties may be used in lieu of the three years of post graduate training required by subsection (d) of this section.

(e) A graduate of a school of medicine approved by the Oregon Board of Medical Examiners pursuant to OAR 847-031-0001, 847-031-0010, 847-031-0020, 847-031-0030 and 847-031-0040 must have satisfactorily completed not less than one year of approved training in the United States or Canada in not more than one hospital accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada.

(f) Must pass a written licensure examination as provided in ORS 677.110 and OAR 847-020-0170.

(3) If a foreign medical graduate has met the basic requirements for licensure and wishes to pursue further postgraduate training beyond the postgraduate level (3) three year, or wishes to practice medicine in this state, an unlimited license must be applied for and obtained.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2002, f. & cert. ef. 7-17-02; BME 10-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04

Adm. Order No.: BME 11-2004(Temp)

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 4-22-04 thru 10-15-04

Notice Publication Date:

Rules Amended: 847-035-0030

Subject: The proposed rules allows EMT-Basics, in the event of a release of chemical agents, to administer atropine sulfate and pralidoxime chloride from a pre-loaded auto-injector device if they are given a direct order by their supervising physician, or they are under the direction of an EMT-Paramedic who is on the scene.

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

847-035-0030

Scope of Practice

(1) The Board of Medical Examiners has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall comply with life-sustaining treatment orders executed by a physician or a nurse practitioner. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) The scope of practice for emergency and nonemergency care established by the Board for First Responders is intended as authorization for performance of procedures by First Responders without direction from a Board-approved supervising physician, except as limited by subsection (2) of this rule. A First Responder may perform the following emergency care procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Open and maintain an airway by positioning the patient's head;

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for soft tissue injuries;

(f) Provide care for suspected fractures;

(g) Assist with prehospital childbirth; and

(h) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following procedures only when the First Responder is providing emergency care as part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

(a) Administration of medical oxygen;

(b) Open and maintain an airway through the use of an oropharyngeal and nasopharyngeal airway and pharyngeal suctioning devices;

(c) Operate a bag mask ventilation device with reservoir;

(d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and

(e) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder is certified by the Section as a First Responder and:

(A) Has successfully completed a Section-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform emergency and nonemergency procedures. Emergency care procedures shall be limited to the following basic life support procedures:

(a) Perform all procedures that an Oregon-certified First Responder can perform;

(b) Open and maintain an airway by using oropharyngeal and nasopharyngeal airways and pharyngeal suctioning devices;

(c) Ventilate with a non-invasive positive pressure delivery device;

(d) Insert a dual lumen airway device in the practice of airway maintenance after completing a Section approved course;

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(f) Provide care for suspected medical emergencies, including:

(A) Obtaining a peripheral blood specimen for blood glucose monitoring, obtained via fingerstick, heelstick, or earlobe puncture;

(B) Administer oral glucose for hypoglycemia;

(C) Administer epinephrine by subcutaneous or automatic injection device for anaphylactic shock;

(D) Administer activated charcoal for poisonings, following local written standing orders; and

(E) Administer aspirin for suspected myocardial infarction after completing a Section approved course in the administration of aspirin.

(h) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(i) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(j) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(k) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(l) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(m) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal or pharyngo-esophageal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

ADMINISTRATIVE RULES

(n) In the event of a release of chemical agents the EMT-Basic, who has completed Section-approved training, may administer atropine sulfate and pralidoxime chloride, using protocols approved by the Section and adopted by the supervising physician, if:

(A) The supervising physician provides the EMT-Basic with a direct, verbal order through radio or telephone contact, or

(B) The EMT-Basic is under the direction of an EMT-Paramedic who is on the scene.

(10) An Oregon-certified EMT-Intermediate may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to the following:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

(b) Initiate and maintain peripheral intravenous (I.V.) lines;

(c) Initiate and maintain an intraosseous infusion;

(d) Initiate saline or similar locks when specifically authorized by the physician;

(e) Infuse any physiologic isotonic crystalloid solution;

(f) Draw peripheral blood specimens;

(g) Initiate or administer the following medications in accordance with the Section-issued Statewide Protocols for EMT-Intermediate:

(A) Epinephrine 1:10,000;

(B) Atropine sulfate;

(C) Lidocaine hydrochloride;

(D) Naloxone hydrochloride;

(E) Hypertonic glucose;

(F) Nitroglycerine, and

(G) Beta-2-specific nebulized bronchodilators after completing a Section approved course in the administration of nebulized bronchodilators.

(h) Insert a pharyngeal esophageal airway device in the practice of airway maintenance;

(i) Insert an orogastric tube;

(j) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the personnel at the sending medical facility.

(k) Perform cardiac defibrillation with a manual defibrillator if the EMT-Intermediate has satisfactorily completed a Section-approved training course in manual defibrillation, including written and practical examinations and the EMT-Intermediate is, at the time of performing manual defibrillation, in the service of an agency which has been granted an "EMT-Intermediate Manual Defibrillation Waiver" by the Section.

(11) An Oregon-certified EMT-Paramedic may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Tracheal suctioning techniques;

(C) Needle cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(c) Initiate a nasogastric tube;

(d) Initiate electrocardiographic monitoring and interpret presenting rhythm;

(e) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(f) Perform emergency cardioversion in the compromised patient;

(g) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(h) Initiate needle thoracocentesis for tension pneumothorax in a pre-hospital setting;

(i) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(j) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(k) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04

Board of Nursing Chapter 851

Adm. Order No.: BN 8-2004

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Rules Adopted: 851-050-0162, 851-050-0163, 851-050-0164

Rules Amended: 851-050-0000, 851-050-0004, 851-050-0006, 851-050-0138, 851-050-0140, 851-050-0155, 851-050-0170

Rules Repealed: 851-050-0133, 851-050-0134, 851-050-0145, 851-050-0161

Subject: These rules implement Senate Bill 708 (2003 Legislative Session) establishing how nurse practitioners can obtain and utilize their drug dispensing authority. The rules establish policies for nurse practitioners regarding drug dispensing, storage and accountability, maintenance of drug records and procedures for procurement of drugs. These rules also clarify status of "delinquent renewal" and clarify type of practice hours used for nurse practitioner practice requirements. Finally, these rules delete the current authority of nurse practitioners to dispense drugs when employed by a college or university student health center and the provisions for emergency drug dispensing in accordance with Senate Bill 708.

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

851-050-0000

Definitions

(1) "Addiction" means a combination of cognitive, physiological, and behavioral symptoms (such as compulsive craving and compulsive use of a controlled substance) in which the individual continues the use of a substance despite harm or adverse consequences. Neither physical dependence nor tolerance alone, as defined by these rules, constitutes addiction.

(2) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject.

(3) "Assessment" means a process of collecting information regarding a client's health status including, but not limited to, illness; response to illness; health risks of individuals, families and groups; resources; strengths and weaknesses, coping behaviors; and the environment. The skills employed during the assessment process include, but are not limited to: obtaining client histories, conducting physical examinations, ordering, interpreting and conducting a broad range of diagnostic procedures (e.g., laboratory studies, EKGs, and x-rays).

(4) "Client(s) or patient(s)" means a family, group or individual who has been assessed by and has a client/patient record established by the nurse practitioner.

(5) "Collaboration" means working with another health care provider to jointly provide client care.

(6) "Consultation" means discussion with another health care provider for the purpose of obtaining information or advice in order to provide client care.

ADMINISTRATIVE RULES

(7) "Counseling" means a mutual exchange of information through which advice, recommendations, instruction, or education are provided to the client.

(8) "Delinquent Renewal" means the renewal of a nurse practitioner certificate previously held in Oregon which is expired.

(9) "Diagnosis" means identification of actual or potential health problems or need for intervention, based on analysis of the data collected.

(10) "Direct Supervision" means the licensed/certified nurse practitioner or physician is physically present at the practice site, and able to intervene if necessary.

(11) "Discrete pharmacology course" means an advanced pharmacology course with pharmacologically specific requirements, objectives, and content, which is offered for credit or continuing education, and is not integrated into other coursework offered.

(12) "Dispense" or "dispensing" means the labeling and distribution of a medication to the nurse practitioner's client which is prepackaged by a manufacturer registered with the State Board of Pharmacy, or repackaged by a pharmacist licensed with the State Board of Pharmacy.

(13) "Dispensing Authority" means to prepare and deliver substances to the client provided the authority is exercised in compliance with applicable federal and state laws.

(14) "Distance learning" means education provided by written correspondence or electronic medium for students not located at the site of the school.

(15) "Distribute" means the delivery of a drug other than by administering or dispensing, such as prepackaged samples.

(16) "Evaluation" means the determination of the effectiveness of the intervention(s) on the client's health status.

(17) "Holistic Health Care" means an approach to diagnosis and treatment of clients, which considers the status of the whole person (physical, emotional, social, spiritual, and environmental).

(18) "Initial certification" means the first certification granted by the Board. This may follow the applicant's completion of a nurse practitioner program or be granted to an applicant in Oregon who has been recognized by and has practiced as a nurse practitioner in another state or jurisdiction.

(19) "Intervention" means measures to promote health, to protect against disease, to treat illness in its earliest stages, and to manage acute and chronic conditions and/or illness. Interventions may include, but are not limited to: issuance of orders, direct nursing care, prescribing or administering medications or other therapies, and consultation or referral.

(20) "Management" means the provision and/or coordination of the care that the client receives related to physical and psycho-social health-illness status;

(21) "Nurse Practitioner" (NP) means a registered nurse who provides health care in an expanded specialty role. The title nurse practitioner and specialty category of practice shall not be used unless the individual is certified by the Board.

(22) "Nurse Practitioner Orders" means written or verbal instructions or directions by the nurse practitioner for interventions, diagnostic tests, evaluations, drugs, or treatment modalities. Nurse practitioners may establish protocols and standing orders.

(23) "Pain" means an unpleasant sensory and emotional experience related to adverse nociceptive or neuropathic stimuli.

(a) "Acute pain" is brief and responds to timely intervention, or subsides as healing takes place.

(b) "Chronic pain" is on going or frequently recurring, and may become unresponsive to intervention over time.

(c) "Intractable pain" means a pain state in which the cause cannot be removed or otherwise treated, and no relief or cure has been found after reasonable efforts.

(24) "Pharmacodynamics" means the study of the biochemical and physiologic effects of drugs and their mechanism of action.

(25) "Pharmacokinetics" means the action of drugs in the body over a period of time.

(26) "Pharmacotherapeutics" means the study of the uses of drugs in the treatment of disease.

(27) "Physical Dependence" means the physiologic adaptation to the presence of a controlled substance, characterized by withdrawal when its use is stopped abruptly.

(28) "Practice requirement" in an expanded specialty role means independent clinical practice in the specialty role of certification providing health care or other such activities, which have a clinical focus and are at an advanced nursing level. These activities include, but are not limited to, teaching, consulting, supervision and research related to the specialty area of certification.

(29) "Prescribing authority" means the legal permission to determine which legend drugs and controlled substances shall be used by or administered to a client.

(30) "Provision of Care" means holistic health care, which is continuous and comprehensive. Health care includes:

- (a) Health promotion;
- (b) Prevention of disease and disability;
- (c) Health maintenance;
- (d) Rehabilitation;
- (e) Identification of health problems;
- (f) Management of health problems;
- (g) Referral.

(31) "Referral" means directing the client to other resources for the purpose of assessment or intervention.

(32) "Target audience" means a population for whom an educational program is designed.

(33) "Therapeutic device" means an instrument or an apparatus intended for use in diagnosis or treatment, and in the prevention of disease or maintenance or restoration of health.

(34) "Tolerance" means the physiologic adaptation to a controlled substance over time, resulting in the need to increase the dose to achieve the same effect, or in a reduction of response with repeated administration.

Stat. Auth.: ORS 678.375, 678.385, 678.380, 678.385 & 678.390

Stats. Implemented: ORS 678.375, 678.385 & 678.380

Hist.: NB 3-1987, f. & ef. 3-12-87; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 5-2000, f. & cert. ef. 4-24-00; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0004

Nurse Practitioner Practice Requirements

(1) The practice requirement as a nurse practitioner must be met through practice, which meets the definition in OAR 851-050-0000(27) in the following manner:

(a) Completion of a nurse practitioner program within the past one year; or

(b) Completion of a nurse practitioner program within the past two years and a minimum of 192 hours of practice as a nurse practitioner; or

(c) 960 hours of nurse practitioner practice within the five years preceding certification application or renewal; or

(d) Completion of a Board supervised advanced practice re-entry program which meets the requirements of OAR 851-050-0006 within two years immediately preceding issuance of certification under a limited or registered nurse license and a limited nurse practitioner certificate.

(2) As of July 1, 2005, prior practice as a registered nurse requirement for nurse practitioner applicants will be as follows:

(a) All initial applicants must provide documentation of a minimum of 384 hours of registered nurse practice, which includes assessment and management of clients and is not completed as an academic clinical requirement or continuing education program.

(b) The applicant shall verify completion of the required hours before issuance of the nurse practitioner certificate.

(c) This requirement shall be waived for individuals practicing in the specialty area as a licensed certified nurse practitioner in another state for at least 384 hours in the advanced practice role.

(3) All practice hours claimed are subject to audit and disciplinary action for falsification.

(4) A nurse practitioner student may practice in Oregon provided he or she meets the following requirements:

(a) A current, unencumbered registered nurse license in Oregon;

(b) Enrollment in a nurse practitioner program accredited by a state approved national accrediting body;

(c) Submission of a written, signed agreement between the student and a nurse practitioner or physician who has agreed to serve as a preceptor;

(d) Identification of the faculty advisor accountable for general supervision from the nurse practitioner program; and

(e) Proof of program approval by the Office of Degree Authorization of Oregon Department of Education.

Stat. Auth.: ORS 678.375, 678.380 & 678.390

Stats. Implemented: ORS 678.380 & 390

Hist.: BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0006

Re-Entry Requirements

(1) If the practice requirement in OAR 851-050-0004 has not been met, applicants should:

ADMINISTRATIVE RULES

(a) Obtain a limited license as a registered nurse in the State of Oregon; or hold a current, unencumbered Oregon registered nurse license.

(b) Submit an application for a limited license, which meets educational requirements of OAR 851-050-0002(1), or an application for delinquent renewal of previous certification as a nurse practitioner in Oregon. An application, which is not completed, becomes void after one year from date of receipt.

(c) Submit a plan of study for approval, which specifies:

(A) Clinical sites, patient population, objectives, competency evaluation, and supervisory relationship of preceptor;

(B) Number of practice hours required and how their completion shall be met.

(d) Submit names and qualifications for approval of preceptors which are Oregon certified nurse practitioners and/or Oregon licensed MD/DO physicians in the same specialty area as the nurse practitioner certification specialty.

(e) Determine practice hours in consultation with the Board to ensure one of the following options have been met:

(A) 300 hours of supervised practice if the applicant has practiced less than 960 hours in the last five years, or has completed a nurse practitioner program within the last two years and has not worked a minimum of 192 hours. Advanced practice hours completed during these time frames may be applied to reduce the total number of supervised clinical practice hours required, except that in no case shall the precepted practice be less than 150 hours.

(B) 600 hours of supervised practice if the applicant has not practiced 960 hours in the last five years, but has practiced at least 960 hours in the last six years. Advanced practice hours completed during the six year time frame may be applied to reduce the total number of supervised clinical practice hours required except that in no case shall the precepted practice be less than 300 hours.

(C) 1000 hours of supervised practice if the applicant has not practiced at least 960 hours in the last ten years. Advanced practice hours completed during the ten year time frame may be applied to reduce the total number of supervised clinical practice hours required except that in no case shall the precepted practice be less than 500 hours.

(D) If the applicant has not practiced at least 960 hours within the last ten years, the re-entry requirement shall be met through successful completion of a nurse practitioner post masters certificate program which meets the requirements of OAR 851-050-0001, or of a comprehensive series of nurse practitioner courses within a CCNE or NLNAC accredited nurse practitioner program in the specialty sought. The plan of study shall be submitted in advance for Board approval before enrollment. The plan of study shall cover the entire scope of the advanced specialty area under which the applicant was previously certified/licensed, and must include both clinical and didactic hours. The program of study shall include advanced pharmacology which meets the requirements of OAR 851-050-0125, pathophysiology, physical assessment, differential diagnosis, and clinical management. The institution shall provide documentation, which demonstrates previous credits, courses, or competency testing applied to meet final completion. Proof of completion of this plan of study shall be provided to the Board in the form of official transcripts documenting completion of all required coursework.

(2) In addition to meeting the re-entry practice requirement, all participants will submit evidence of 100 hours of continuing education completed within the last two years by the completion of their re-entry precepted practice. The continuing education hours must include an advanced pharmacology course meeting the criteria in OAR 851-050-0125, physical assessment, treatment modalities, client management and laboratory/diagnostic studies with content related to the NP scope of practice being sought. The continuing education may be obtained in the following ways:

(a) Independent learning activities, e.g. reading professional journals;

(b) Unstructured learning activities, e.g. professional meetings and clinical rounds;

(c) Structured learning activities, e.g. seminars and workshops.

(3) The re-entry participant shall practice under a limited certificate, and successfully complete clinical practice directly supervised by the approved preceptor in the same area of practice. Application for a limited certificate shall be made prior to the beginning of the supervised clinical practice. The limited certificate shall be valid for one year, with one renewal of an additional one year permitted. The supervising practitioner shall submit a final evaluation to the Board to verify that the applicant's knowledge and skills are at a safe and acceptable level and verify the hours of supervised practice. An application for a limited license for re-entry without issuance after one calendar year shall be considered void.

(4) Supervised practice hours shall be without compensation.

(5) Upon successful completion of the supervised practice hours, the nurse practitioner certificate will be issued with an expiration date that coincides with the applicant's registered nurse license.

(6) Re-entry hours must be completed within a two-year time frame from the issuance of the limited license.

(7) Successful completion of Board approved advanced practice re-entry will satisfy requirements for the registered nurse re-entry.

(8) Prescriptive authority will be issued only upon completion of precepted hours to applicants meeting all criteria in OAR 851-050-0120. Written documents during precepted practice shall be signed with the nurse practitioner specialty title, followed with "Re-entry" and the preceptors co-signature.

(9) The applicant shall submit all fees required by the Board with the application. The fees are not refundable.

Stat. Auth.: ORS 678.375, 678.380 & 678.390

Stats. Implemented: ORS 678.380 & 390

Hist.: BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0138

Renewal and Reactivation of Nurse Practitioner Certification

(1) Renewal of certification shall be on the same schedule as the renewal system of the registered nurse license. The requirements for recertification are:

(a) Current unencumbered license as a registered nurse in the state of Oregon.

(b) Submission of all required application fees. Fees are not refundable. An application that has not been completed during the current biennial renewal cycle shall be considered void.

(c) Completion of 100 clock hours of continuing education related to advanced practice nursing and to the area(s) of specialty certification.

(A) Continuing education must be obtained in the following ways:

(i) Independent learning activities e.g., reading professional journals;

(ii) Unstructured learning activities, e.g. professional meetings and clinical rounds;

(iii) Structured learning activities, e.g. seminars and workshops.

(B) Continuing education hours shall be documented on the renewal form.

(C) An applicant for renewal who has graduated from the nurse practitioner program less than two years prior to his/her first renewal will not be required to document the full 100 clock hours of continuing education. The applicant's continuing education will be prorated on a monthly basis based on the length of time between graduation and the date of the first renewal.

(D) Nurse practitioners shall maintain accurate documentation and records of any claimed continuing education and practice hours for no less than five years from the date of submission to the Board.

(2) Verification of practice hours which meet the practice requirement in OAR 851-050-0004.

(3) Renewal may be denied if the applicant does not meet the practice requirement or the continuing education requirement for renewal.

(4) Applications for renewal up to 60 days past the expiration date shall meet all requirements for renewal and pay a delinquent fee.

(5) Any individual whose nurse practitioner certification is expired may not practice or represent themselves as a nurse practitioner in Oregon until certification is complete, subject to civil penalty.

Stat. Auth.: ORS 678.375 & 678.380

Stats. Implemented: ORS 678.380

Hist.: NER 34, f. & ef. 10-1-76; NER 5-1981, f. & ef. 11-24-81; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0310; NB 2-1992, f. & cert. ef. 2-13-92; NB 8-1993, f. & cert. ef. 8-23-93; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0140

Renewal of Nurse Practitioner Prescriptive Authority

Nurse practitioner prescriptive authority may be renewed by the Board provided there is satisfactory compliance with the following:

(1) Evidence that all requirements for renewal of the Oregon nurse practitioner certificate have been met and the certificate has been renewed;

(2) Evidence that there are no encumbrances on the nurse practitioner certificate which would affect prescription writing;

(3) Nurse practitioners who have the authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances shall submit evidence of the most current DEA Certificate to the Board office. Prescriptive authority renewal must be accompanied by evidence of DEA certification, if held.

(4) Nurse practitioners who do not hold DEA certification must verify this to the Board at the time of renewal.

ADMINISTRATIVE RULES

(5) Submission of an application and fees required by the Board. Fees are nonrefundable.

(6) If more than two years have elapsed since the nurse practitioner has held and utilized prescriptive authority, the nurse shall:

(a) Meet all the renewal requirements of OAR 851-050-0140; and

(b) Show evidence of satisfactory completion within the two years preceding reactivation of 40 contact hours of pharmacology as defined in OAR 851-050-0125, or 45 contact hours as of June 1, 2005.

(c) Nurse practitioners providing proof of current unencumbered prescriptive authority and application of pharmacotherapeutics through practice in another state may be exempted from 6(b).

(7) Nurse practitioners who fail to renew their prescriptive authority on or before the biennial birthdate deadline shall be delinquent and pay a delinquent fee. Successful renewal requires that all other criteria for eligibility is met. Practice with expired prescriptive authority is subject to a civil penalty and potential discipline.

Stat. Auth.: ORS 678.375 & 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 3-1990, f. & cert. ef. 4-2-90; BN 5-2000, f. & cert. ef. 4-24-00; BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0155

Termination of Prescriptive or Dispensing Authority

(1) The Board may deny, suspend or revoke the authority to write prescriptions or dispense drugs for the causes identified in ORS 678.111(1) or proof that the authority has been abused.

(2) The abuse of the prescriptive or dispensing authority constitutes conduct derogatory to nursing standards and is defined as:

(a) Prescribing, dispensing or distributing drugs not listed in the formulary;

(b) Prescribing, dispensing, administering, or distributing drugs for other than therapeutic or prophylactic purposes;

(c) Prescribing, dispensing, or distributing drugs to an individual whom is not the nurse practitioner's client or is not within the scope of practice or type of client population served;

(d) Prescribing, dispensing, administering, or distributing drugs in an unsafe or unlawful manner or without adequate instructions to the client according to acceptable and prevailing standards or practice;

(e) Selling, purchasing, trading, or offering to sell, purchase or trade any drug sample;

(f) Failure to notify the Board as required in OAR 851-050-0145(3).

(g) Dispensing medications without dispensing authority granted by the Board or other dispensing authority issued by the state of Oregon.

Stat. Auth.: ORS 678.375 & 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03; BN 14-2003(Temp), f. & cert. ef. 12-23-03 thru 6-19-04; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0162

Dispensing Authority for Nurse Practitioners

(1) An "applicant" for dispensing authority must be an unencumbered Oregon certified nurse practitioner with prescriptive authority in good standing with the Oregon State Board of Nursing.

(2) Applicants may make application to the Board after June 1, 2004 for authority to dispense under this rule.

(3) The previous authority of nurse practitioners to dispense pursuant to OAR 851-050-0161 expires June 22, 2004, and requires reapplication and reissuance of such authority for all nurse practitioners who want to continue to dispense after that date.

(4) Applicants shall submit an application and information as required by the Board.

(5) Applicants must demonstrate, through a description of the nurse practitioner's patient population, a lack of readily available access to pharmacy services as provided in ORS 678.390 and that the grant of dispensing authority to the applicant would correct this lack of access.

(6) The applicant shall show evidence of completion of the following dispensing program:

(a) Documented review of content regarding safe dispensing listed below:

(A) Board of Nursing handbook "Nurse Practitioner Prescriptive Authority in Oregon";

(B) The Drug Enforcement Administration Pharmacist's Manual (2001);

(C) OAR 851 division 50;

(D) ORS Chapter 689 and OAR chapter 855;

(E) US Consumer Product Safety Commission publication "Poison Prevention Packaging: A Text for Pharmacists and Physicians," and;

(F) The Institute for Safe Medication Practices (ISMP) "List of Error-Prone Abbreviations, Symbols, and Dose Designations" (Nov.2003); and

(G) Information on available electronic or hard copy prescription drug references which provide information to professionals authorized to dispense prescription medications

(b) Successful self examination as provided by the Board on these materials.

(7) Dispensing under this authority is limited to patients that meet any of the following criteria:

(a) Lack of patient access to a pharmacy due to the following:

(A) The patient lives outside the boundaries of a metropolitan statistical area as defined by the federal Office of Management and Budget;

(B) The patient lives 30 or more highway miles from the closest hospital within the major population center in a metropolitan statistical area as defined by the federal Office of Management and Budget; or

(C) The patient lives in a county with a population of less than 75,000.

(b) The patient faces a financial barrier to purchase prescriptions, including but not limited to:

(A) The patient receives services from a health care safety net program;

(B) The patient is eligible for participation in a patient assistance program of a pharmaceutical company;

(8) The staff of the Board shall provide written notice to the Oregon Board of Pharmacy upon receipt and again upon approval of such application.

(9) Applicants must provide complete and accurate information requested by the Board. Failure to complete application material as requested, or failure to meet criteria in this rule shall be grounds for denial, suspension, or revocation of dispensing authority.

Stat. Auth.: ORS 678.375, 678.380, 678.390

Stats. Implemented: ORS 678.390, 689.605

Hist.: BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0163

Renewal of Nurse Practitioner Dispensing Authority

(1) Dispensing authority may be renewed with each renewal of prescriptive authority upon submission of application, and documentation that the nurse practitioner and their patients continue to meet criteria in OAR 851-050-0162(5) and (7).

(2) Failure to complete application material as requested, or failure to meet criteria in this rule shall be grounds for denial, suspension, or revocation of dispensing authority.

Stat. Auth.: ORS 678.375, 678.380, 678.390

Stats. Implemented: ORS 678.390, 689.605

Hist.: BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0164

Drug Delivery and Dispensing by the Nurse Practitioner

(1) Policies and Procedures: A nurse practitioner with dispensing authority shall follow procedures established by federal and state law for:

(a) Drug dispensing, storage, security and accountability;

(b) Maintenance of all drug records;

(c) Procedures for procurement of drugs.

(2) Dispensing:

(a) Drugs shall be prepackaged by a pharmacy or manufacturer registered with the Oregon State Board of Pharmacy, and provide on the label:

(A) The name and strength of the drug. If the drug does not have a brand name, then the generic name of the drug and the drug manufacturer must be on the label.

(B) The quantity of the drug;

(C) Cautionary statements, if any, required by law;

(D) The name, address, and phone number of the practitioner's practice site; and

(E) The manufacturer's expiration date, or an earlier date if preferable, after which the patient should not use the drug.

(b) The nurse practitioner shall label prescription drugs with the following information:

(A) Name of the patient;

(B) Name of the prescriber;

(C) Date of dispensing;

(D) Directions for use; and

(E) Initials of the person dispensing.

(F) Dispensed prescription medication shall be pre-labeled or, in the absence of this, hand-labeled with its physical description, including any identification code that may appear on tablets and capsules.

ADMINISTRATIVE RULES

(c) The nurse practitioner shall personally dispense drugs to the patient.

(d) Drugs shall be dispensed in containers complying with the federal Poison Prevention Packaging Act, unless the patient requests a non-complying container.

(e) The nurse practitioner shall provide a means for patients to receive verbal and written information on drugs dispensed to the patient. The written drug information shall include:

- (A) Drug name and class;
- (B) Proper use and storage;
- (C) Common side effects;
- (D) Precautions and contraindications; and
- (E) Significant drug interactions.

(3) Drug security, storage and disposal:

(a) In the absence of the nurse practitioner, drugs shall be kept in a locked cabinet or drug room which is sufficiently secure to deny access to unauthorized persons.

(b) Controlled substances shall be maintained in a secure, locked container at all times.

(c) All drugs shall be stored in areas which will assure proper sanitation, temperature, light, ventilation, and moisture control.

(d) Drugs which are outdated, damaged, deteriorated, misbranded, or adulterated shall be physically separated from other drugs until they are destroyed or returned to their supplier.

(e) Controlled substances, which are expired, deteriorated, or unwanted, shall be disposed of in conformance with current State and Federal Regulations including but not limited to **21 CFR 1307.21** and OAR 855-080-0105.

(4) Drug records:

(a) A drug dispensing record shall be maintained separately from the patient record and kept for a minimum of three years. The dispensing record shall show, at a minimum, the following:

- (A) Name of patient;
- (B) Brand name of drug, or generic name and manufacturer or distributor;
- (C) Date of dispensing; and
- (D) Initials of nurse practitioner.

(b) A physical copy of the prescription for each medication dispensed shall be retained in the patient chart, and shall be produced upon request.

(c) All records required by these rules or by federal or state law shall be readily retrievable and available for inspection by the Board and the Board of Pharmacy.

(d) A patient record shall be maintained for all patients to whom the nurse practitioner dispenses medications.

(5) Nurse practitioners with dispensing authority shall be responsible for safe storage, distribution, and destruction of all drugs under their authority.

(6) Nurse practitioners granted dispensing authority under this rule shall comply with the labeling and, record keeping requirements of OAR 851-050-0164.

(7) A nurse practitioner granted dispensing authority under this rule shall have available at the dispensing site a hard copy or electronic version of prescription drug reference works commonly used by professionals authorized to dispense prescription medications.

(8) Nurse practitioners granted dispensing authority under this rule shall permit representatives of the Oregon State Board of Pharmacy, upon receipt of a complaint about that nurse practitioner's dispensing practices and notice to the Board of Nursing, to inspect a dispensing site.

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

Stat. Auth: ORS 678.390

Stats. Implemented: ORS 673.390

Hist.: BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

851-050-0170

Rules Relating to Controlled Substances

(1) In the administration, distribution, storage, prescribing, and dispensing of controlled substances, nurse practitioners shall comply with all applicable requirements in the Code of Federal Regulations (CFR), Title 21, and state law including but not limited to ORS Chapter 430 and 475 and OAR chapter 415 and 855.

(2) Nurse practitioners shall not dispense a controlled substance without current nurse practitioner dispensing authority which meets the requirements of OAR 851-050-0162. Distribution of prepackaged, complimentary drug samples is not considered dispensing (ORS 689.005(9)).

(3) Nurse practitioners who have authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances

must verify evidence of such with their prescriptive authority renewal application. A nurse practitioner may choose to decline DEA certification, and must verify so in writing.

(4) Storage and Inventory of Controlled Substances:

(a) Samples or quantities of controlled substances shall be stored in a securely locked cabinet on the premises of the nurse practitioner's practice location.

(b) Nurse practitioners who receive samples or quantities of controlled substances shall be responsible for the security and inventory of these drugs.

(c) Nurse practitioners shall maintain inventory records of controlled substances that they receive or distribute, for a period of three years. The records shall include:

(A) Drug name, amount received, date received, drug expiration date;

(B) Drug name, amount distributed, date distributed, to whom distributed;

(C) Drug name and the date and place where it was returned for destruction.

(d) Controlled substances that are expired, deteriorated, or unwanted shall be returned to a DEA registered disposal facility. This does not include controlled substances which are properly wasted at the facility where they were to be administered. In this context, "properly wasted" means the on-site destruction of a controlled substance in conformance with applicable state and federal law. Nurse practitioners shall not personally destroy controlled substances.

(e) Controlled substances must be transported in a secured, locked container.

(f) Client records shall state the distribution of controlled substance samples.

(g) Nurse practitioners who receive controlled substances shall cooperate with the Board in their inspection of records and physical inventory of controlled substances. Inventory of all controlled substances shall be taken by nurse practitioners responsible for their receipt and storage every year on the same date as the biennial inventory required by 21 CFR 1304.13.

(h) If requested by the Board, any nurse practitioner who receives controlled substances shall submit a copy of inventory records from the preceding two years for review.

(5) Prescribing Controlled Substances:

(a) Nurse practitioners shall only prescribe the controlled substances from Schedules II-V, as authorized by the Oregon State Board of Nursing. Nurse practitioners shall only prescribe at the level provided for on their DEA certificate.

(b) No controlled substances shall be prescribed by nurse practitioners unless included on the nurse practitioner formulary.

(c) Schedule II controlled substances shall not be prescribed for the purposes of weight reduction or control. Schedule III-IV controlled substances may be prescribed by nurse practitioners for weight reduction in accordance with FDA product guidelines.

(d) Nurse practitioners shall not prescribe or order controlled substances, including Methadone, for narcotic addiction treatment.

(6) Intractable Pain Management:

(a) Nurse practitioners may prescribe or administer controlled substances to a person in the course of their treatment for a diagnosed condition causing intractable pain, defined in OAR 851-050-0000.

(b) The diagnosis and treatment of intractable pain requires documentation of the following:

(A) Recent diagnosis of the condition (if acute or unstable), or past diagnosis (if chronic and stable) causing pain, by one or more licensed practitioners specializing in the treatment of the body area, system, or organ perceived as the source of intractable pain; and

(B) Consultation and review of the treatment plan with a licensed nurse practitioner or physician who is a recognized expert in pain management.

(c) Nurse practitioners must have a complete discussion with the patient or person authorized to make health care decisions for the patient regarding the diagnosis, as well as the risk, benefits, alternatives, side effects and potential for addiction and withdrawal of the controlled substance, along with any other applicable precautions. These discussions must be documented in the patient record. Documentation must include a plan for periodic review of patient response and follow-up.

(d) Nurse practitioners shall document patient use of controlled substances for chronic or intractable pain, including history and assessment to rule out substance abuse. Evidence of patient addiction to or abuse of con-

ADMINISTRATIVE RULES

trolled substances requires referral and/or transfer of care for diagnosis and treatment of the addiction.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 678.375, 678.380, 678.385 & 678.390
Stats. Implemented: ORS 678.375, 678.380, 678.385 & 678.390
Hist.: BN 5-2000, f. & cert. ef. 4-24-00; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03; BN 14-2003(Temp), f. & cert. ef. 12-23-03 thru 6-19-04; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04

Adm. Order No.: BN 9-2004

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Rules Adopted: 851-001-0030

Rules Amended: 851-001-0005, 851-001-0006, 851-001-0007, 851-001-0015, 851-001-0020

Subject: These rules are designed to either implement newly enacted legislation or clarify current practice. They specify that discovery orders in contested cases be limited to witnesses and documents each party intends to offer as part of their initial case. They specify that contested case hearings are closed to the public. They allow the agency to accept written statements in lieu of social security numbers for those individuals who have not yet been issued a social security number from the federal government.

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

851-001-0005

Model Rules of Procedure

(1) The Model Rules of Procedure of the Attorney General under the Administrative Procedures Act in effect on October 3, 2001, and all amendments thereto are hereby adopted by reference as the rules of the State Board of Nursing. These rules shall be controlling except as otherwise required by statute or rule.

(2) Nothing in these rules shall be deemed to deny a person, an applicant, licensee or certified nursing assistant an opportunity to request an appearance before the Board or its Executive Director or designated Board staff for an informal conference to discuss any matter administered by the Board. The Board shall notify the person, applicant, licensee or certified nursing assistant of the time and place of the informal conference. The Board or its Executive Director or designated Board staff may also schedule an informal conference and notify the person.

(3) A request for an appearance before the Board to discuss an issue with the Board or a request to have an item placed on the Board's meeting agenda shall be made at least six weeks prior to the Board meeting. The request shall include all supporting documents the requestor wishes the Board to review. Items shall be placed on the Board's agenda as time is available, at the discretion of the Board President.

(4) Designated Board staff may require that an investigative interview be tape-recorded. To make this decision, the following factors will be considered:

- (a) The seriousness of the complaint;
- (b) The licensee or applicant's previous cooperation with the Board;
- (c) The risk of harm to the public;
- (d) Whether licensee or applicant is represented by an attorney;
- (e) The availability of a second staff member to record the interview in writing;

(f) The likelihood that the case will result in a contested case hearing.

(5) An order requiring discovery will be limited to a list of witnesses to be called by the parties in their case in chief and the documents that the parties intend to introduce as exhibits at the contested case hearing during the presentation of their case in chief.

(6) Contested case hearings are closed to members of the public who are not parties or representatives of the parties in the proceedings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Nursing.]

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: Renumbered from 851-040-0005, 4-1-76; NER 17, f 6 16-72, ef. 7-1-72; NER 18, f 3-18-74, ef 4-11-74; NER 31, f & ef. 3-30-76; NER 20-1980, f. & ef 6-24-80; NER 1-1982, f & ef. 1-29-82; NER 2-1983, f & ef 10-4-83; NER 3-1986, f & ef 6-6-86; NB 3-1988, f & cert. ef. 7-5-88; NB 11-1990, f & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 10-2002, f. & cert. ef. 4-25-02; BN 9-2004, f. & cert. ef. 5-4-04

851-001-0006

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the notice requirements under the Attorney General's Model Rules of Procedure adopted under OAR 851-001-0005, the notice to parties in contested cases may include the statement that an answer to the charges shall be required, and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 851-001-0007 with the Notice.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: NER 1-1985(Temp), f & ef 3-8-85; NER 6-1985, f & ef. 9-27-85; NB 3-1988, f & cert. ef 7-5-88; NB 11-1990, f & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 9-2004, f. & cert. ef. 5-4-04

851-001-0007

Hearing Request and Answers: Consequences of Failure to Answer; Untimely Hearing Request

(1) A hearing request, and answer if required in the Notice, shall be made in writing to the Board by the party or by the party's authorized representative. To be considered timely, a request for hearing, and answer if required, must:

(a) Be in writing;

(b) Be received by the Board within 20 calendar days (60 calendar for notice of application denial for license or certificate) from the date the Notice was mailed.

(2) An answer, if required in the Notice, shall include the following:

(a) An admission or denial of each factual matter in the Notice;

(b) A short and plain statement regarding each relevant affirmative defense the party may have;

(c) A short and plain statement identifying each legal issue the party may have.

(3) A request for an extension in which to file an answer to the Notice shall be submitted in writing and must be received by the Board within 20 calendar days (60 calendar days for notice of application denial for license or certificate) from the date the Notice was mailed. Extensions shall be granted only upon a showing of good cause.

(4) Amendments to answers must be submitted in writing and must be received by the Board no less than 21 days prior to the contested case hearing.

(5) Except for good cause:

(a) Matters alleged in the Notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense or legal issue in the answer shall be considered a waiver of such defense or legal issue;

(c) New matters raised in the answer that were not alleged in the Notice (affirmative defenses) shall be presumed denied;

(d) Evidence shall not be taken on any issue not raised in the Notice and answer.

(6) A hearing request and answer shall be deemed untimely if it is received by the Board after the close of business (4:30 p.m.) on or after the 20th calendar day from the date the Notice was mailed, and shall be deemed a default by the party. Unless the Board determines that the late filing was beyond the control of the party, the Board may issue a final order by default.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: NER 1-1985(Temp), f & ef 3-8-85; NER 6-1985, f & ef 9-27-85; NB 11-1990, f & cert. ef 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 9-2004, f. & cert. ef. 5-4-04

851-001-0015

Petition for Readmission

A licensee or certificate holder whose license or certificate has been revoked or who voluntarily surrendered the license or certificate in lieu of revocation may seek readmission under the following conditions:

(1) The license or certificate has been revoked or surrendered for a minimum period of three years;

(2) The licensee or certificate holder has documented evidence of reformation of the issues that originally brought the licensee or certificate holder to the Board's attention;

(3) The licensee or certificate holder has made application to the Board for reinstatement of the license/certificate; and

(4) The licensee or certificate holder agrees to additional education/training or other activities necessary to demonstrate competence at the level of licensure/certification for which the applicant is seeking readmission.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: BN 10-2002, f. & cert. ef. 4-25-02; BN 9-2004, f. & cert. ef. 5-4-04

ADMINISTRATIVE RULES

851-001-0020

Orders for an Evaluation to Determine Fitness to Practice

(1) Pursuant to ORS 678.113, during the course of an investigation into the performance or conduct of an applicant, certificate holder or licensee (Respondent), the Oregon State Board of Nursing may order mental health, physical condition or chemical dependency evaluations of the Respondent. The order will only be issued if the Board has a reasonable belief based upon the information available to the Board that the Respondent is unable to practice nursing with reasonable skill and safety to patients due to a mental health problem, physical condition, or chemical dependency.

(2) The Board delegates to the Program Executive the authority to select a health care professional to conduct the evaluation. Within ten calendar days from the issuance of the Order, the Board's Program Executive for Professional Services (hereafter Program Executive) shall select the health care professional to conduct the evaluation.

(3) Following selection of the health care professional, the Program Executive will provide the health care professional the following information:

(a) A copy of the Order for Evaluation.

(b) A letter from the Program Executive, identifying the areas to be assessed and evaluated, to include a set of written questions for the evaluator's response, to include whether Respondent is diagnosed with a mental disorder, physical condition, or chemical dependency, resulting in an impaired ability to practice nursing with reasonable skill and safety to patients or other health care providers.

(c) Other documents, as determined by the Program Executive, to include any questions submitted by Respondent.

(4) Respondent shall sign a written release in a form acceptable to the Program Executive within three days from the date the Program Executive selects the health care professional to conduct the evaluation, thereby allowing the health care professional to speak directly to Board staff throughout the evaluation process.

(5) The health care professional shall produce a written assessment and evaluation, providing a duplicate copy simultaneously to both the Board and the Respondent, unless the health care professional has a good faith belief that providing a copy of the report to the Respondent may be injurious to the Respondent's mental or physical health.

(6) The Respondent shall pay for costs associated with complying with the Board's Order for Evaluation, to include paying the health care professional in a timely manner to ensure that the Board receives the report of assessment and evaluation by the specified due date.

(7) If the health assessment and evaluation is a mental health evaluation that offers a diagnosis of mental disorders, the evaluation shall follow the guidelines of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), published by the American Psychiatric Association. The health care professional shall indicate in the written assessment and evaluation the information relied upon that formed the basis for the findings and conclusions in the report.

(8) If the health assessment is a substance abuse or dependence evaluation that offers a diagnosis of substance abuse or substance dependence, the evaluator shall follow professionally accepted guidelines for the evaluation which may include the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), published by the American Psychiatric Association or ASAM criteria published by the American Society of Addiction Medicine. The health care professional shall indicate in the written assessment and evaluation the information relied upon that formed the basis for the finding and conclusions in the report.

(9) If the health assessment is a physical health evaluation that offers a diagnosis of a physical condition, the evaluator shall follow the professionally recognized standard of care to arrive at a diagnosis and shall indicate both the diagnosis and the information relied on to make the diagnosis in a written report to the Board.

(10) It is conduct derogatory to the standards of nursing for a Respondent to:

(a) Violate any provision of this rule.

(b) Fail to undergo a Board ordered evaluation within the time specified by the terms of this Order.

(c) Fail to cooperate with any effort by the Board to secure a copy of the written assessment/evaluation prepared by the examining health care professional.

Stat. Auth: ORS 678.113, 678.150

Stats. Implemented: ORS 678.113

Hist.: BN 20-2002, f. & cert. ef. 12-17-02; BN 9-2004, f. & cert. ef. 5-4-04

851-001-0030

Social Security Numbers

(1) The Board will not issue or renew a license or certificate unless an applicant provides his or her social security number on the application or renewal form. The applicant need not provide the social security number on the application for renewal, if the applicant's social security number has previously been provided to agency and is in the record.

(2) If an applicant has not been issued a social security number by the United States Social Security Administration, the Board will accept a written statement from the applicant to fulfill the requirements of section (1). The applicant may submit a written statement on the form provided by the Board or by written statement. The written statement submitted must:

(a) Be signed by the applicant;

(b) Attest to the fact that no social security number has been issued to the applicant by the United States Social Security Administration;

(c) Acknowledge that knowingly supplying false information under this section is a Class A misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$6250.

(3) The applicant must provide the Board with their social security number within 30 days of obtaining it if it is received subsequent to submitting their renewal application and while the license or certificate is active.

Stat. Auth: ORS 678.150

Stats. Implemented: ORS 678.150, 25.785

Hist.: BN 9-2004, f. & cert. ef. 5-4-04

Adm. Order No.: BN 10-2004

Filed with Sec. of State: 5-4-2004

Certified to be Effective: 5-4-04

Notice Publication Date: 3-1-04

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 February and March 2004 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 March 2004 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.

ADMINISTRATIVE RULES

(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 March 2004:

- (a) Nutrients and Nutritional Agents — all drugs;
- (b) Hematological Agents — all drugs except Drotrecogin Alfa (Xigris); and Treprostinil Sodium (Romodulin).
- (c) Endocrine and Metabolic Agents — all drugs except:
 - (A) I 131;
 - (B) Gallium Nitrate;
 - (C) Mifepristone (Mifeprex); and
 - (D) Abarelix (Plenaxis).
- (d) Cardiovasculars — all drugs except:
 - (A) Cardioplegic Solution;
 - (B) Fenoldopam Mesylate (Corlopan);
 - (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: Monoctanoiln;
- (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 (Vittravene);
 - (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);
 - (F) Ibritumomab Tiuxetan (Zevalin);
 - (G) Tositumomab and Iodine 131 I-Tositumomab (Bexxar); and
 - (H) Sclerosol.
- (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 & 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; NB 4-1998, f. & cert. ef. 3-13-98; NB 5-1998, f. & cert. ef. 5-11-98; NB 8-1998, f. & cert. ef. 7-16-98; NB 12-1998, f. & cert. ef. 9-22-98; NB 13-1998, f. & cert. ef. 12-1-98; NB 1-1999, f. & cert. ef. 3-4-99; NB 3-1999, f. & cert. ef. 5-4-99; NB 5-1999, f. & cert. ef. 7-1-99; NB 9-1999, f. & cert. ef. 10-20-99; NB 13-1999, f. & cert. ef. 12-1-99; NB 3-2000, f. & cert. ef. 2-25-00; NB 5-2000, f. & cert. ef. 4-24-00; NB 8-2000, f. & cert. ef. 7-3-00; NB 9-2000, f. & cert. ef. 9-18-00; NB 10-2000, f. & cert. ef. 12-15-00; NB 2-2001, f. & cert. ef. 2-21-01; NB 6-2001, f. & cert. ef. 4-24-01; NB 9-2001, f. & cert. ef. 7-9-01; NB 13-2001, f. & cert. ef. 10-16-01; NB 4-2002, f. & cert. ef. 3-5-02; NB 11-2002, f. & cert. ef. 4-25-02; NB 14-2002, f. & cert. ef. 7-17-02; NB 19-2002, f. & cert. ef. 10-18-02; NB 21-2002, f. & cert. ef. 12-17-02; NB 2-2003, f. & cert. ef. 3-6-03; NB 4-2003, f. & cert. ef. 4-23-03; NB 8-2003, f. & cert. ef. 7-7-03; NB 10-2003, f. & cert. ef. 10-2-03; NB 13-2003, f. & cert. ef. 12-9-03; NB 6-2004, f. & cert. ef. 2-26-04; NB 10-2004, f. & cert. ef. 5-4-04

Board of Parole and Post-Prison Supervision Chapter 255

Adm. Order No.: PAR 4-2004(Temp)

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04 thru 11-10-04

Notice Publication Date:

Rules Amended: 255-030-0025

Subject: Need for the Temporary Rule(s): Amendments to the Board's rule are necessary to ensure that the Board's and the Department of Corrections policies and procedures governing who may accompany an inmate at a hearing before the Board are promulgated jointly as required by ORS 144.123.

Rules Coordinator: Michael R. Washington—(503) 945-9878

255-030-0025

Who May Accompany an Inmate at a Board of Parole and Post-Prison Supervision Hearing

(1) Purpose: The purpose of this rule is to jointly establish with the Department of Corrections policies and procedures governing who may accompany an inmate in a hearing before the Board of Parole and Post-Prison Supervision

(2) Policy:

(a) It is the joint policy of the Department of Corrections and Board of Parole and Post-Prison Supervision that inmates be permitted to have a person accompany them in hearings before the Board in accordance with ORS 144.123, as provided in these rules.

(b) A person's access to a Department of Corrections facility is subject to the Department of Corrections rules on Facility Access (OAR 291-016), Visiting (Inmate) (OAR 291-127), and this rule, and may be prohibited or restricted by the functional unit manager or designee of the facility in which the hearing is being conducted when deemed necessary or advisable to maintain the health, safety and security of staff, inmates, or the public, or to maintain the safe, secure, and orderly operation and management of the facility.

(3) Persons Who May Accompany an Inmate at a Board Hearing:

(a) When appearing before the Board of Parole and Supervision in a hearing, an inmate may be accompanied at the Department of Corrections facility in which the inmate is confined, subject to the prior approval of the facility functional unit manager or designee, by:

(A) A person who has been approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127);

(B) An assigned inmate legal assistant from the Department of Corrections facility where the inmate is confined; or

(C) The inmate's attorney.

(b) In addition to those persons specified in subsection (3)(a) of this rule, the inmate may be accompanied at the hearing via telephone or video-conference by such other person, other than another inmate, as the Board of Parole and Post-Prison Supervision may, in its discretion, approve by prior arrangement.

(4) The Department of Corrections, if requested by an inmate or the Board, will assign an assigned inmate legal assistant from the Department of Corrections facility where the inmate is confined to accompany the inmate at a Board hearing.

ADMINISTRATIVE RULES

(5) A person who is permitted to access a Department of Corrections facility for the purpose of accompanying an inmate at a Board hearing is subject to the rules of conduct, and the terms and conditions of visiting set forth in the department's rules on Facility Access (OAR 291-016) and Visiting (Inmate) (OAR 291-127).

(6) Who May Appear at a Board Hearing

(a) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, parole officer and institution counselor shall have the right to appear at hearings.

(b) Any member of the public, including the media, may attend Board hearings, but may not participate. The Board may eject any disruptive person from a hearing. The Board may require all parties other than the Board and its staff to leave the hearing during deliberations. All parties shall abide by Department of Corrections' rules while attending hearings within Department of Corrections' facilities.

Stat. Auth.: ORS 144.123 & ORS 144.120(7)

Stats. Implemented: ORS 144.120(7), ORS 144.123 & ORS 192.630

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 10-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04

Bureau of Labor and Industries Chapter 839

Adm. Order No.: BLI 2-2004

Filed with Sec. of State: 4-23-2004

Certified to be Effective: 5-1-04

Notice Publication Date:

Rules Amended: 839-016-0750

Subject: The rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for specified residential projects for the dates specified.

Rules Coordinator: Marcia Ohlemiller—(503) 731-4212

839-016-0750

Residential Prevailing Wage Rate Determinations

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

(a) *Special Prevailing Wage Rate Determination for Residential Project, Madrone Street Affordable Housing, Project #2004-01* dated April 22, 2004 for the period May 1, 2004 through June 30, 2005.

(b) *Special Prevailing Wage Rate Determination for Residential Project, City Center Apartments, Project #2004-02*, dated April 22, 2004, for the period of May 1, 2004 through March 31, 2005.

(2) Copies of the rates referenced in section (1) of this rule are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and listed in the blue pages of the phone book. Copies may also be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #32, Portland, Oregon 97232; (503) 731-4709.

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

Stat. Auth.: ORS 279.359

Stats. Implemented: ORS 279.359

Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02, cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04

Columbia River Gorge Commission Chapter 350

Adm. Order No.: CRGC 2-2004

Filed with Sec. of State: 4-28-2004

Certified to be Effective: 6-1-04

Notice Publication Date: 3-1-04

Rules Amended: 350-011-0006

Subject: The Columbia River Gorge Compact Art. I, § a and the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544c(b) require the Gorge Commission to maintain regulations relating to open meetings that are consistent with the more restrictive statutory provisions of either state. In 2003, Oregon adopted changes to the Oregon Open Meeting Act to keep certain utility security information confidential. This rule makes those changes effective to the Gorge Commission.

Rules Coordinator: Nancy A. Andring—(509) 493-3323

350-011-0006

Executive Sessions Permitted on Certain Matters; Procedures; News Media Representatives' Attendance; Limits

(1) The commission can hold executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization for the holding of such executive session. Executive session may be held:

(a) To consider the employment of a public officer, employee, staff member or individual agent. The exception contained in this paragraph does not apply to:

(A) The filing filling of a vacancy in an elective office;

(B) The filling of a vacancy on any public committee, commission or other advisory group;

(C) The consideration of general employment policies;

(D) The employment of the chief executive officer, other public officers, employees and staff members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and there has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the commission in meetings open to the public in which there has been opportunity for public comment.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing;

(c) To conduct deliberations with persons designated by the commission to carry on labor negotiations;

(d) To conduct deliberations with persons designated by the commission to negotiate real property transactions;

(e) To consider information or records that are exempt by law from public inspection;

(f) To consider preliminary negotiations involving matters of trade or commerce in which the commission is in competition with governing bodies in other states or nations;

(g) To consult with counsel concerning the legal rights and duties of the commission with regard to current litigation or litigation likely to be filed;

(h) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the commission, the employment-related performance of the chief executive officer of the commission, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the commission in meetings open to comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member shall not include a general evaluation of any agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs;

(i) To carry on negotiations with private persons or business regarding proposed acquisition, exchange or liquidation of public investments.

(j) To discuss information about the review or approval or programs relating to the security of any of the following:

(A) A nuclear-powered thermal power plant or nuclear installation.

(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.

(C) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined by Oregon or Washington state law;

(iv) Petroleum products;

(v) Sewage; or

(vi) Water;

ADMINISTRATIVE RULES

(D) Telecommunications systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

(2) Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Subsequent sessions of the negotiations may continue without further public notice.

(3) Representatives of the news media shall be allowed to attend executive sessions other than those held under paragraph (c) of subsection (1) of this section relating to labor negotiations but no information that is the subject of the executive session shall be disclosed. The Commission shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

Stat. Auth.: ORS 197.150 & RCW 43.97

Stats. Implemented: ORS 197.150, RCW 43.97 & 16 U.S.C. 544 et seq.

Hist.: CRGC 1-1987 (Temp), f. & ef. 9-10-87; CRGC 2-1987, f. 12-7-87, ef. 12-8-87; CRGC 1-1998, f. 10-22-98, cert. ef. 11-24-98; CRGC 1-2002, f. 10-16-02 cert. ef. 12-2-02; CRGC 2-2004, f. 4-28-04 cert. ef. 6-1-04

Adm. Order No.: CRGC 3-2004

Filed with Sec. of State: 4-28-2004

Certified to be Effective: 6-1-04

Notice Publication Date: 3-1-04

Rules Amended: 350-012-0006

Subject: The Columbia River Gorge Compact Art. I, § a and the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544c(b) require the Gorge Commission to maintain regulations relating to public records disclosure that are consistent with the more restrictive statutory provisions of either state. In 2003, Oregon adopted changes to its public records disclosure rules. These amendments make those changes effective to the Gorge Commission.

Rules Coordinator: Nancy A. Andring—(509) 493-3323

350-012-0006

Public Records Exempt from Disclosure

(1) The following public records are exempt from disclosure under 350-012-0001 to 350-012-0008 unless the public interest requires disclosure in the particular instance:

(a) Records of the commission pertaining to litigation to which the commission is a party if the complaint has been filed, or if the complaint has not been filed, if the commission shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation;

(b) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or service or to locate minerals or other substances, having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it;

(c) Investigatory information compiled for criminal law purposes, except that the record of an arrest or the report of a crime shall not be confidential unless and only so long as there is a clear need in a particular case to delay disclosure in the course of a specific investigation. Nothing in this paragraph shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purpose of this paragraph, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release;

(D) The identity of and biographical information concerning both complaining party and victim;

(E) The identity of the investigation and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance in apprehending fugitives from justice;

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(d) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the examination is given and if the examination is to be used again;

(e) Information relating to the appraisal of real estate prior to its acquisition;

(f) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections;

(g) Investigatory information relating to any complaint filed relating to unlawful employment practices until such time as the complain is resolved, or a final administrative determination is made;

(h) Investigatory information relating to any complaint filed relating to unfair labor practices;

(i) Information concerning the location of archaeological sites or objects, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist activity or attraction; and

(j) A personnel discipline action, or materials or documents supporting that action.

(k) Sensitive fish, wildlife, and plant data obtained by or created by the Gorge Commission. However, sensitive fish, wildlife and plant data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive fish, wildlife, and plant data includes:

(A) The nesting sites or specific locations of endangered, threatened or sensitive species listed in the Management Plan or otherwise designated by the appropriate agencies in Oregon and Washington;

(B) Radio frequencies used in or locational data generated by telemetry studies;

(C) Other location data that could compromise the viability of a specific fish, wildlife or plant population and where one or more of the following criteria are met:

(i) The species has a known commercial or black market value

(ii) There is a history of malicious take of that species; or

(iii) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(2) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

(a) An individual;

(b) Buildings or other property; or

(c) Information processing, communication or telecommunication systems, including the information contained in the systems.

(3) The following public records are exempt from disclosure under 350-012-0001 to 350-012-0008:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the commission shows that in the particular instance the public interest in encouraging frank communication between officials and employees of the commission clearly outweighs the public interest in disclosure;

(b) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(c) Information submitted to the commission in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the commission has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure;

(d) Any public records or information the disclosure of which is prohibited by federal or state law or regulations;

(e) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged;

ADMINISTRATIVE RULES

(f) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(g) Information about review or approval of programs relating to the security of:

(A) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined by Oregon or Washington state law;

(iv) Petroleum products;

(v) Sewage; or

(vi) Water;

(B) Telecommunications systems, including cellular, wireless or radio systems.

(C) Data transmissions by whatever means provided.

(4) If any public record contains material which is not exempt under subsection (1) or (2) of this section, as well as material which is exempt from disclosure, the commission shall separate the exempt and nonexempt material and make the nonexempt material available for examination.

(5) An individual may submit a written request to a public body not to disclose a specified public record indicating the home address or personal telephone number of the individual. A public body shall not disclose the specified public record if the individual demonstrates to the satisfaction of the public body that the personal safety of the individual or the personal safety of a family member residing with the individual is in danger if the home address or personal telephone number remains available for public inspection.

(a) A request described in subsection (1) of this section shall remain effective until the public body receives a written request for termination but no later than five years after the date that a public body receives the request.

(b) A public body may disclose a home address or personal telephone number of an individual exempt from disclosure under subsection (1) of this section upon court order, on request from any law enforcement agency or with the consent of the individual.

(c) A public body shall not be held liable for granting or denying an exemption from disclosure under this section or any other unauthorized release of a home address or personal telephone number granted an exemption from disclosure under this section.

(6) Notwithstanding the exemptions in 350-012-0006(1) and (2), public records that are more than 25 years old shall be available for inspection

(7) Notwithstanding 350-012-0001 through 350-012-0008, the Commission shall not disclose records in violation of a user agreement or license that prohibits the Commission from disclosing such records. The Commission shall refer persons to the creator of the record if the Commission has obtained the records through agreement or license, or for which the Commission was charged a fee, other than a nominal fee for reimbursement of duplicating costs, for the record.

(8) Disclosure of information in violation of Rule 350-012-0006(2) is grounds for assessment of a civil penalty pursuant to Rule 350-30 et seq.

Stat. Auth.: ORS 197.150 & RCW 43.97

Stats. Implemented: ORS 197.150, RCW 43.97 & 16 U.S.C. 544 et seq.

Hist.: CRGC 1-1987 (Temp), f. & ef. 9-10-87; CRGC 2-1987, f. 12-7-87, ef. 12-8-87; CRGC

1-1998, f. 10-22-98, cert. ef. 11-24-98; CRGC 1-2002, f. 10-16-02 cert. ef. 12-2-02; CRGC

3-2004, f. 4-28-04 cert. ef. 6-1-04

Department of Agriculture

Chapter 603

Adm. Order No.: DOA 13-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 4-1-04

Rules Adopted: 603-076-0051, 603-076-0052

Subject: Implements procedures for the Department's supervision and state oversight of price negotiations between seafood harvester cooperatives or bargaining associations and seafood dealers as authorized by Senate Bill 673; and, establishes a process for reimbursement of costs associated with such oversight.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-076-0051

Definitions

As used in these regulations, unless the context requires otherwise:

(1) "Dealer" has the same meaning provided under ORS 646.515(3), and who has bought product in the prior year respective to the specific seafood species under price negotiations.

(2) "Parties" or "party" to the supervised negotiations means an Oregon seafood harvester association or cooperative that represents Oregon seafood harvesters as defined in ORS 646.515, and dealers who purchase Oregon seafood who voluntarily participate in the regulatory program to negotiate a season starting price.

(3) "Mediate" or "mediation" has the same meaning as ORS 36.110(6)

(4) "Price negotiation," "negotiate," or "bargain" means to discuss the terms of a season starting price and the associated time for which the price is in effect, and related issues, with the objective of coming to terms on issues.

(5) "Director" means the Director of Agriculture or a designee of the Director of Agriculture.

(6) "Department" means the Oregon Department of Agriculture.

(7) "Active supervision," "active state supervision," and "actively supervise" means the Department's regulatory oversight of the price discussions among dealers, and price negotiations between dealers and seafood harvester associations or cooperative representatives for the purpose of arriving at a negotiated season starting price and related terms for the sale of Oregon seafood from harvesters to dealers.

(8) "Negotiated price" means the proposed season starting price and related time period and other terms agreed upon by representatives of seafood harvesters and seafood dealers who participate in the price negotiations supervised by the Oregon Department of Agriculture.

(9) "Established price" means the price set and approved by the Director as the season starting price for which the specific seafood identified in the negotiations shall be sold to dealers who have participated in the negotiations, and harvesters who will deliver the specific seafood, effective over the time period negotiated by the parties and approved by the department.

(10) "State action immunity" means immunity from liability under the federal antitrust laws and the Oregon Antitrust Act for conduct that is carried out pursuant to a regulatory program in which competition in certain areas of the seafood industry is displaced by regulations and active state supervision in accordance with ORS 62.015, 62.845, 646.515, 646.535, and 646.740.

(11) "Regulatory program" means the state regulatory program described in ORS 62.015, 62.845, 646.535 and 646.740 that is actively supervised by the Director of Agriculture, and that authorizes parties to engage in bargaining and negotiations to negotiate a proposed season opening price and associated terms of seafood commodities harvested and sold to dealers who participate in the negotiations.

Stat. Auth.: ORS 575.62- 576-650, Ch. 487 OL 2003, SB 673

Stats. Implemented: ORS 62.845, 646.515, 646.535, 646.740

Hist.: DOA 13-2004, f. & cert. ef. 5-5-04

603-076-0052

Active State Supervision of Season Starting Price Negotiations for Seafood Commodities

To ensure that the Director is actively supervising the conduct of the seafood harvester association representatives and the seafood dealers under the regulatory program in accordance with the requirements of the federal antitrust laws and the Oregon Antitrust Act:

(1)(a) The Director — at the request of a minimum of three-quarters (75%) of harvesters with active permits for the specific seafood subject to negotiations, and three quarters (75%) of dealers by volume of pounds landed in the previous year of the specific seafood species subject to negotiations — shall convene duly elected or appointed representatives of the seafood harvesters and seafood dealers, at a predetermined location, date and time to enter into price negotiations with the objective of reaching agreement on a negotiated season starting price for review and approval by the Department.

(b) The Director may schedule a series of meetings between the representatives of the harvesters and dealers.

(c) The names and affiliations of the representatives of the seafood harvester and the dealers shall be provided to the Department at least two working days prior to the meeting.

(2) The Director or his designee shall be present at and actively supervise all meetings between the seafood harvesters and dealer representatives

ADMINISTRATIVE RULES

pursuant to the regulatory program and, if necessary, mediate the price negotiations between the representatives at these meetings.

(3) The department shall designate someone to keep minutes of all state-supervised meetings between representatives of the seafood harvesters associations or cooperatives and dealer representatives; minutes of negotiations shall be distributed to all interested parties upon request.

(4) At the conclusion of the negotiations between the representatives of the seafood harvesters and dealers, the representatives shall by consensus take one of the following actions:

(a) Submit to the Director for review and approval a negotiated season starting price effective for the time period agreed to in the negotiations; or

(b) Notify the Director that the bargaining representatives cannot arrive at a negotiated price, and request that the Director establish the price based on all information presented in the negotiations; or

(c) Terminate the negotiations.

(5) Within two (2) days after the parties' submission under section (4), the Director shall review the negotiated price and approve it as the established price, or reject the parties' negotiated price and direct the parties to continue their negotiations if it is determined that the price does not reflect the interests of the State. The Director may request any information deemed necessary from the parties to review and approve the established price. The Director shall immediately notify the parties of the decision under this section in writing.

(6) In approving the established season opening price, the Director shall consider the negotiated price reached by representatives of the seafood harvesters and dealers. The Director may also consider information available from the parties, including inventories; previous price-harvest relationships; production and supply factors; competitive factors; local, national and world market production and supply, and prices; the influence of imported product on prices, and any other factors the Director deems necessary to approve the established price."

(7)(a) The Director must approve the established season opening price before the parties shall implement the season opening prices effective for the parties which participated in and agreed to be bound by such through negotiations.

(b) The Director shall not be involved in adjustments to seafood prices once the time period effective for the season opening price has expired.

(c) However, if during the applicable time period effective for the season opening price, a majority of seafood harvesters and a majority of dealers who were parties to the negotiations request the Director to be involved in any adjustments to the established season starting price, a continuation of the supervised price negotiations may occur. Any proposed adjustments to an established season opening price or applicable time period require approval by the Director before they may become effective.

(8) The established season opening price shall be binding for all parties to the negotiations who have agreed to the prices and time frames and other terms and conditions as specified and approved by the Director.

(9) Parties to the negotiations shall reimburse the Department for costs associated with supervising and administering the regulatory program. The Department will provide the parties with an itemized list of costs associated with program supervision, and cost recovery shall be as follows:

(a) Department consultative fees for Attorney General counsel directly related to supervising the regulatory program shall be divided evenly between the parties and reimbursed to the Department.

(b) All parties to the negotiations will be assessed a fee of \$100 towards the cost of state supervision of the negotiations. Costs above the total collected from the parties for this \$100 flat fee will be evenly divided between all parties.

(c) Total costs for the department's supervisory role will include: \$45.00 per hour for time devoted to administration and supervision of the regulatory program, plus associated travel costs (mileage at state rates, and travel time) and expenses (copies, etc.).

Stat. Auth.: ORS 575.62-576.650, Ch. 487 OL 2003, SB 673
Stats. Implemented: ORS 62.845, 646.515, 646.535, 646.740
Hist.: DOA 13-2004, f. & cert. ef. 5-5-04

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**Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647**

Adm. Order No.: OPVC 2-2004
Filed with Sec. of State: 5-11-2004
Certified to be Effective: 6-1-04
Notice Publication Date: 4-1-04

Rules Amended: 647-010-0010

Subject: These rules establish the assessment rates necessary to fund Commission research projects.

Rules Coordinator: John McCulley—(503) 370-7019

647-010-0010

Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — \$.915 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.361 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.364 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.011 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$1.961 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$.548 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after June 1, 2004 for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.325 - 576.575
Stats. Implemented: ORS 576.325 - 576.575
Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 6-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999 f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Adm. Order No.: ID 3-2004

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-7-04

Notice Publication Date:

Rules Amended: 836-005-0107

Subject: This rulemaking adopts the most recent edition of the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules Procedures under the Administrative Procedures Act, dated January 15, 2004, for the purpose of the activities of the Insurance Division and enforcement of the Insurance Code. This rulemaking is conducted pursuant to ORS 183.341.

Rules Coordinator: Sue Munson—(503) 947-7272

836-005-0107

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, for the purpose of the activities of the Insurance Division and enforcement of the Insurance Code, the Director adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act as published in the Oregon Attorney General's Administrative Law Manual bearing the effective date of January 15, 2004.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the Office of the Attorney General or the Insurance Division.]

Stat. Auth.: ORS 183.341
Stats Implemented: ORS 183.025, 183.090 & 183.310 - 183.550
Hist.: IC 2-1981, f. & ef. 11-20-81; IC 7-1983, f. & ef. 9-28-83; IC 3-1986, f. & ef. 3-5-86; IC 16-1988, f. & cert. ef. 10-12-88; ID 19-1990, f. & cert. ef. 12-13-90; ID 3-1992, f. & cert. ef. 2-13-92; ID 2-1994, f. & cert. ef. 3-23-94; ID 8-1995, f. & cert. ef. 12-8-95; ID 7-1998, f. & cert. ef. 4-15-98; ID 10-2000, f. & cert. ef. 11-3-00; ID 3-2002, f. & cert. ef. 1-24-02; ID 3-2004, f. & cert. ef. 5-7-04

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Adm. Order No.: ID 4-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-15-04

Notice Publication Date: 4-1-04

Rules Adopted: 836-031-0855

Subject: This rulemaking permanently adopts temporary rulemaking that implements legislation enacted in 2003 (section 2, chapter

ADMINISTRATIVE RULES

568, Oregon Laws 2003), with changes. This legislation requires that when insurers that belong to the Oregon Insurance Guaranty Association (OIGA) are assessed by the OIGA in order to settle claims against an insolvent insurer, each member insurer must recover the assessment through a recoupment assessment imposed on net direct written premiums.

Rules Coordinator: Sue Munson—(503) 947-7272

836-031-0855

Recoupment of Assessments by Oregon Insurance Guaranty Association

(1) This rule is adopted under the authority of ORS 731.244 and section 2, chapter 568, Oregon Laws 2003 (Enrolled House Bill 3051), for the purpose of implementing section 2, chapter 568, Oregon Laws 2003, relating to the recoupment by insurers of assessments made by the Oregon Insurance Guaranty Association under ORS 734.570. For the purpose of this rule:

(a) "OIGA assessment" means the assessment imposed on an insurer by the Oregon Insurance Guaranty Association.

(b) "Recoupment assessment" means the assessment charged by the insurer to its policyholders.

(2) An insurer shall recoup an OIGA assessment from its policyholders on premiums written or renewed on or after the recoupment start date as provided in section (6) of this rule. The recoupment assessment shall be imposed on a pro-rata basis of net direct written premiums. For the purpose of this section, "net direct written premiums" are gross premiums, including policy and membership fees, less return premiums and premiums on policies not taken, as reported in column 1 of the Oregon State Page, Exhibit of Premium and Losses. An insurer may state the recoupment assessment to be charged to each policyholder in terms of a rate instead of a dollar amount and shall adjust the notice in section (5) of this rule as appropriate.

(3) An insurer may state the amount or rate of the recoupment assessment in the premium statement on the declaration page or other page of an insurance policy that serves as a declaration page rather than on the premium billing statement if the premium billing statement clearly informs the policyholder that the recoupment assessment is so located on the declaration page or other page. For the purpose of this section, the premium billing statement is the statement transmitted by the insurer to the policyholder that informs the policyholder of the premium due.

(4) If an insurer does not issue a premium billing statement, the insurer must state the amount or rate of the recoupment assessment on the declaration page, on a balance due notice or on a rate quote.

(5) An insurer shall include the following notice on or with the statement of recoupment assessment at the first time each year in which a recoupment assessment is made: Most insurers doing business in Oregon participate in the Oregon Insurance Guaranty Association. In the event an insurer fails, the Association settles unpaid claims on behalf of consumers. Oregon law requires that policies be surcharged directly to recover the costs of handling those claims. If your policy is surcharged, the term (Note: each insurer must insert here the descriptive term it uses to designate the surcharge) along with an indicated dollar amount will be displayed with the statement of your surcharge.

(6) An insurer shall begin recoupment of an OIGA assessment on a date that is on or after January 1 of the year following the year in which the OIGA assessment was imposed but not later than April 1 of that year, except as provided in section (12) of this rule, and shall continue the recoupment assessment for the 12-month period following that date. On and after the date on which an insurer's recoupment period begins, the insurer must state the amount or rate of the recoupment billed to the policyholder. An insurer shall make a good faith effort to fully collect the OIGA assessment during that period and may adjust the amount or rate of a recoupment assessment in the course of the period as needed to make the recoupment more accurate or to add any additional recoupment assessment required by subsequent OIGA assessments against the insurer. Any such adjustment shall apply to all policies from which a recoupment assessment is collected on and after the date of the adjustment.

(7) The minimum threshold below which a recoupment assessment need not be made is the amount at which the cost of recouping the OIGA assessment exceeds the amount to be recouped. When an insurer decides not to recoup an amount under this section, the insurer shall record the amount not recouped as an expense on the income statement of the insurer. An insurer may not later recoup any amount so recorded.

(8) Not later than June 1 of each year in which a 12-month recoupment assessment period established by an insurer under section (6) of this

section is completed, the insurer shall submit to the Director, on a form prescribed by the Director, the annual certification required by section 2, chapter 568 Oregon Laws 2003, indicating the total recoupment assessed and recovered during that recoupment period.

(9) If the amount of recoupment assessments collected by an insurer within the 12-month period beginning on the date on which the insurer began the recoupment exceeds the total amount of the OIGA assessment against the insurer, the insurer shall do one of the following:

(a) Pay back the excess.

(b) Carry over the amount of the excess to the next 12-month period in which the insurer imposes a new recoupment assessment. The amount carried over shall be used to reduce the new recoupment assessment.

(10) If the amount of recoupment assessments collected by an insurer within the 12-month period beginning on the date on which the insurer began the recoupment is less than the total amount of the assessment against the insurer, the insurer shall carry over the amount of the insufficiency to the next 12-month period in which the insurer imposes a new recoupment assessment. The amount carried over shall be applied to increase the new recoupment assessment. If the insurer determines, however, that the cost of recouping the remaining amount exceeds the amount of the insufficiency, the insurer need not carry over the insufficiency. The insurer instead shall record the amount not recouped as an expense on the income statement of the insurer. An insurer may not later recoup any amount so recorded.

(11) An insurer may take all or any part of a recoupment charge owing from a policyholder from the first payment of premium by the policyholder.

(12) For the purpose of recoupments in 2004 and 2005, if an insurer was unable to comply for some part of its business with the requirement in section (6) of this rule that an insurer begin its recoupment by April 1, 2004, the insurer shall comply as soon as the insurer is able to do so. With respect to the part or parts of its business that are brought into compliance after April 1, 2004, the insurer shall submit its report at the conclusion of the 12-month period established for the parts of its business for which the insurer was in compliance by April 1, 2004. Any remaining assessments for the business subject to the short year reporting shall be incorporated in the 12-month recoupment period beginning in 2005.

Stat. Auth.: ORS 731.244 & 2003 OL 568(2)

Stats. Implemented: 2003 OL 568(2)

Hist.: ID 5-2003(Temp), f. & cert. ef. 11-26-03 thru 5-15-04; ID 4-2004, f. 5-14-04, cert. ef. 5-15-04

Department of Consumer and Business Services, Oregon Medical Insurance Pool Board Chapter 443

Adm. Order No.: OMIPB 1-2004

Filed with Sec. of State: 4-20-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 4-1-04

Rules Amended: 443-015-0010

Subject: Repeal Adm Rule #443-015-0010D which allows carriers to reduce their counts of covered lives by an amount equivalent to 10% of the covered dependents.

Rules Coordinator: Marcy Meink—(503) 373-1692, ext. 22229

443-015-0010

Assessment for Operating Expenses

(1) An assessment of insurers and reinsurers shall be made by the Oregon Medical Insurance Pool Board for the purpose of collecting monies to cover expenses and losses of the Pool which are not or will not be sufficiently covered by funds in the Oregon Medical Insurance Pool Account.

(2) The frequency of such assessments shall be determined by the Board based on projected cash balances and operating revenues and expenditures.

(3) The projected cash balance shall take into account a reserve intended to cover claims incurred but not reported or paid. The reserve shall be reviewed quarterly by the Board to determine its adequacy and adjusted as needed.

(4) The amount assessed to each insurer or reinsurer shall depend on each insurer's or reinsurer's proportion of the total of all Oregon insureds and certificate holders insured or reinsured and the amount of deficiency:

(a) Each insurer's or reinsurer's proportion of the total of all Oregon insureds and certificate holders insured or reinsured will be based on

ADMINISTRATIVE RULES

reports submitted to the Board stating the number of insureds as of December 31st of the previous year;

(b) Total Oregon insureds and certificate holders insured or reinsured shall be determined as follows:

(A) The count of insureds and certificate holders insured or reinsured shall be limited to medical insurance as defined in ORS 735.605(5);

(B) The count shall include all insureds and certificate holders, including dependents, other individuals whose medical insurance coverage is insured or reinsured in whole or in part, and individuals covered under excess loss coverage written on self-funded medical plans;

(C) Reinsurers may exclude from the number reported those individuals that have been counted by the primary insurer or the primary reinsurers;

(D) The insurer and reinsurer may use any reasonable method of estimating or may use actual counts of the number of individuals for whom coverage is provided.

(5) If assessment collections exceed the amount needed to meet Pool expenses and losses, excess funds shall be held and invested and, with the earnings and interest, used by the Board to offset future net losses or to reduce Pool premiums. For the purposes of this section, "future net losses" include reserves for incurred but not reported claims.

Stat. Auth.: ORS 183.341 & 705.135

Stats. Implemented:

Hist.: MIP 2-1990(Temp), f. & cert. ef. 5-15-90; MIP 1-1992, f. & cert. ef. 4-28-92; OMIPB 1-2004, f. 4-20-04, cert. ef. 5-1-04

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

Adm. Order No.: WCD 5-2004(Temp)

Filed with Sec. of State: 4-19-2004

Certified to be Effective: 4-19-04 thru 10-15-04

Notice Publication Date:

Rules Amended: 436-035-0500

Subject: Promulgation of temporary disability standards to address the impairment of an individual injured worker in WCD files AAG-7056 and EAG-5154.

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

436-035-0500

Temporary Rules Promulgation for Individual Claims

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

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

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

BAC-1977 As a result of the accepted perilymph fistula and resulting surgery with fat grafting, the worker is unable to perform heavy lifting, working at heights, excessive bending and activities that require excessive head movement. The standards do not address this disability. The Director finds this loss of function similar to the loss of function experienced with a chronic condition and assigns an impairment value of 5% unscheduled impairment of the auditory system. This value shall be combined with any other applicable unscheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. BAC-1977.

GAD-9630 As a result of the accepted fractures and laceration of the right fingers and hand with post traumatic neurologic dysfunction the worker experiences a loss of function due to cold intolerance. The standards do not address cold intolerance due to neurologic dysfunction. The Director finds this loss of function similar to the loss of function experienced with Class 3 vascular dysfunction and assigns an impairment value of 35% of the right hand. See OAR 436-035-0110(6). This value shall be combined with any other applicable impairment values for the involved right hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. GAD-9630.

HAE-2463 This worker was injured when she cut her index finger with a knife. As a result of the accepted conditions and the surgeries to repair the injured nerves and tendons, there was a resulting loss of sensation in the left index finger. The Director assigns an impairment value of 14% for the loss of sensation in the proximal and middle phalanges of the left index finger. This value shall be combined with other applicable impairment values for the left index finger. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. HAE-2463.

AAG-7056 This worker was injured when he amputated the tips of the third and fourth fingers when his right hand was caught in machinery. As a result of the accepted conditions and the surgery to repair the injured fingers, there was a resulting loss of sensation in the right third and fourth fingers. The director assigns an impairment value of 7% for the loss of sensation in the middle phalanx of the right third (middle) and 7% for the loss of sensation in the middle phalanx of the right fourth (ring) finger. This value shall be combined with applicable impairment values for the right middle and ring fingers, including other sensory values as appropriate. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. AAG-7056.

EAG-5154 As a result of the accepted lacerations of the right fingers and hand with post traumatic neurologic dysfunction the worker experiences a loss of function due to cold intolerance. The standards do not address cold intolerance due to neurologic dysfunction. The director finds this loss of function similar to the loss of function experienced with Class 2 vascular dysfunction and assigns an impairment value of 15% of the right hand. See OAR 436-035-0110(6). This value shall be combined with any other applicable impairment values for the involved right hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. EAG-5154.

Stat Auth.: ORS 656.726(4)

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

Hist.: WCD 16-1992(Temp), Case #A58-7576 & Case #D60-5352, f. & cert. ef. 12-31-92 - 6-29-93; WCD 2-1993(Temp), Case #A58-2159, B59-4533, E61-4228, & 159-2031, f. & cert. ef. 4-28-93 - 10-25-93; WCD 4-1993, f. & cert. ef. 6-29-93; WCD 5-1993(Temp), Case #I64-3064, f. & cert. ef. 9-2-93 - 3-2-94; WCD 6-1993(Temp), Case #I64-3064, f. & cert. ef. 10-22-93 - 4-19-94; WCD 4-1994(Temp), f. & cert. ef. 5-26-94; WCD 6-1994(Temp), f. & cert. ef. 7-15-94; WCD 8-1994(Temp), f. & cert. ef. 8-31-94; WCD 11-1994(Temp), f. & cert. ef. 11-10-94; WCD 1-1995(Temp), f. & cert. ef. 1-26-95; WCD 2-1995(Temp), f. & cert. ef. 3-2-95; WCD 3-1995(Temp), f. & cert. ef. 4-13-95; WCD 4-1995(Temp), f. & cert. ef. 5-31-95; WCD 5-1995(Temp), f. & cert. ef. 7-11-95; WCD 14-1995(Temp), f. & cert. ef. 10-5-95; WCD 16-1995(Temp), f. & cert. ef. 11-2-95; WCD 19-1995(Temp), f. & cert. ef. 12-7-95; WCD 4-1996(Temp), f. & cert. ef. 2-1-96; WCD 11-1996(Temp), f. & cert. ef. 3-20-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96; WCD 18-1996, f. 8-6-96, cert. ef. 8-7-96; WCD 22-1996(Temp), f. & cert. ef. 10-31-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-1997(Temp), f. & cert. ef. 1-15-97; WCD 3-1997(Temp), f. 3-12-97, cert. ef. 3-13-97; WCD 6-1997(Temp), f. & cert. ef. 5-14-97; WCD 12-1997(Temp), f. & cert. ef. 9-9-97; WCD 4-1998(Temp), f. & cert. ef. 3-31-98 thru 9-26-98; WCD 7-1998(Temp), f. 7-13-98, cert. ef. 7-15-98 thru 1-11-99; WCD 9-1998(Temp), f. & cert. ef. 10-15-98 thru 4-12-99; WCD 1-1999(Temp), f. 1-12-99, cert. ef. 1-15-99 thru 7-13-99; WCD 5-1999(Temp), f. & cert. ef. 4-15-99 thru 10-12-99; WCD 10-1999(Temp), f. & cert. ef. 7-15-99 thru 1-10-2000; WCD 12-1999(Temp), f. 10-14-99, cert. ef. 10-15-99 thru 4-12-00; WCD 1-2000(Temp), f. 1-12-00, cert. ef. 1-14-00 thru 7-12-00; WCD 5-2000(Temp), f. 4-13-00, cert. ef. 4-14-00 thru 10-10-00; WCD 7-2000(Temp), f. 7-14-00, cert. ef. 7-14-00 thru 1-9-01; WCD 8-2000(Temp), f. & cert. ef. 10-13-00 thru 4-10-01; WCD 1-2001(Temp), f. & cert. ef. 1-12-01 thru 7-10-01; WCD 3-2001(Temp), f. & cert. ef. 4-13-01 thru 10-9-01; WCD 6-2001(Temp), f. & cert. ef. 7-13-01 thru 1-8-02; WCD 9-2001(Temp), f. & cert. ef. 10-12-01 thru 4-9-02; WCD 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; WCD 5-2002(Temp), f. 4-12-02, cert. ef. 4-15-02 thru 10-11-02; WCD 8-2002(Temp), f. 7-12-02, cert. ef. 7-15-02 thru 1-10-03; WCD 11-2002(Temp), f. 10-11-02, cert. ef. 10-15-02 thru 4-12-03; WCD 1-2003(Temp), f. & cert. ef. 1-15-03 thru 7-13-03; WCD 2-2003, f. 1-15-03, cert. ef. 2-1-03; WCD 4-2003(Temp), f. 4-14-03, cert. ef. 4-15-03 thru 10-11-03; WCD 7-2003(Temp), f. & cert. ef. 7-15-03 thru 1-10-04; WCD 1-2004(Temp), f. & cert. ef. 1-21-04 thru 7-18-04; WCD 5-2004(Temp), f. & cert. ef. 4-19-04 thru 10-15-04

Department of Corrections Chapter 291

Adm. Order No.: DOC 4-2004(Temp)

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04 thru 11-10-04

Notice Publication Date:

Rules Adopted: 291-153-0020

Rules Amended: 291-153-0005

Rules Suspended: 291-153-0010

Subject: Amendments to the department's rules are necessary to ensure that the department's and the Board of Parole and Post-Prison Supervision's policies and procedures governing who may accompany an inmate at a hearing before the Board are promulgated jointly as required by ORS 144.123.

Rules Coordinator: Carolyn Schnoor—(503) 945-0933

ADMINISTRATIVE RULES

291-153-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.123, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to jointly establish with the Board of Parole and Post-Prison Supervision policies and procedures governing who may accompany an inmate at a hearing before the Board of Parole and Post-Prison Supervision

(3) Policy:

(a) It is the joint policy of the Department of Corrections and Board of Parole and Post-Prison Supervision that inmates be permitted to have a person accompany them in hearings before the Board in accordance with ORS 144.123, as provided in these rules.

(b) A person's access to a Department of Corrections facility is subject to the Department of Corrections rules on Facility Access (OAR 291-016), Visiting (Inmate) (OAR 291-127), and this rule, and may be prohibited or restricted by the functional unit manager or designee of the facility in which the hearing is being conducted when deemed necessary or advisable to maintain the health, safety and security of staff, inmates, or the public, or to maintain the safe, secure, and orderly operation and management of the facility.

Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 9-1990, f. & cert. ef. 5-29-90; CD 12-1993, f. 4-21-93, cert. ef. 5-1-93; DOC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04

291-153-0010

Appearance at Board of Parole and Post-Prison Supervision Hearing

(1) Who may appear at a Board of Parole and Post-Prison Supervision Hearing:

(a) In accordance with ORS 192.610 to 192.690, Board of Parole and Post-Prison Supervision hearings have been deemed public hearings;

(b) Access to Board of Parole and Post-Prison Supervision hearings in Department of Corrections facilities may be limited in the interest of the safety and security of the facility, staff, public, and inmate;

(c) The inmate may be accompanied at a hearing by person(s) of his/her choice; however, the accompanist(s) must be:

(A) Approved for privileged visiting in accordance with the Department of Corrections Rule on Visiting (Inmate) (OAR 291-127); or

(B) An assigned inmate legal assistant, selected in accordance with the Department of Corrections Rule on Legal Affairs (Inmate) (OAR 291-139), from the facility where the inmate is in custody or an attorney representing the inmate.

(2) In addition to a person of their choice, an assistant shall be provided by the Department of Corrections or the Board of Parole and Post-Prison Supervision for inmates incapable of presenting their position due to a foreign language barrier, or a documented physical, mental, or emotional incapacity.

(3) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction have the right to appear at Board of Parole and Post-Prison Supervision Hearings.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 9-1990, f. & cert. ef. 5-29-90; CD 12-1993, f. 4-21-93, cert. ef. 5-1-93; Suspended by DOC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04

291-153-0020

Who May Accompany an Inmate at a Board of Parole and Post-Prison Supervision Hearing

(1) Persons Who May Accompany an Inmate at a Board Hearing:

(a) When appearing before the Board of Parole and Supervision in a hearing, an inmate may be accompanied at the Department of Corrections facility in which the inmate is confined, subject to the prior approval of the facility functional unit manager or designee, by:

(A) A person who has been approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127);

(B) An assigned inmate legal assistant from the Department of Corrections facility where the inmate is confined; or

(C) The inmate's attorney.

(b) In addition to those persons specified in subsection (1)(a) of this rule, the inmate may be accompanied at the hearing via telephone or video-conference by such other person, other than another inmate, as the Board of Parole and Post-Prison Supervision may, in its discretion, approve by prior arrangement.

(2) The Department of Corrections, if requested by the inmate or the Board, will assign an assigned inmate legal assistant from the Department of Corrections facility where the inmate is confined to accompany an inmate at a Board hearing.

(3) A person who is permitted to access a Department of Corrections facility for the purpose of accompanying an inmate at a Board hearing is subject to the rules of conduct, and the terms and conditions of visiting set forth in the department's rules on Facility Access (OAR 291-016) and Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04

Department of Fish and Wildlife Chapter 635

Adm. Order No.: DFW 30-2004(Temp)

Filed with Sec. of State: 4-21-2004

Certified to be Effective: 4-22-04 thru 7-31-04

Notice Publication Date:

Rules Amended: 635-023-0125

Subject: Amend spring sport fishing rules to implement closure on the mainstem Columbia River.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1, 2004 through May 15, 2004, from the mouth at Buoy 10 upstream to the I-5 Bridge; from March 16, 2004 through May 15, 2004 from I-5 Bridge upstream to Bonneville Dam and from Tower Island power lines upstream to McNary Dam plus the Oregon between Bonneville Dam and the Tower Island power lines with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained.

(b) All non-adipose fin-clipped chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per permanent regulations.

(3) The Columbia River from I-5 Bridge upstream to Bonneville Dam is closed to angling for salmon, steelhead and shad effective Thursday, 12:01 AM, April 22, 2004 through May 15, 2004.

(4) Effective March 10, 2004 through May 15, 2004, in the mainstem Columbia River upstream of the Rocky Point/Tongue Point line it is unlawful when fishing from vessels which are less than 30' in length, substantiated by Coast Guard documentation or Marine Board Registration, to totally remove from the water any salmon or steelhead required to be released.

(5) All other specifications and restrictions as outlined in the current **2004 Oregon Sport Fishing Regulations** apply.

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

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04

Adm. Order No.: DFW 31-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 3-1-04

Rules Amended: 635-001-0301, 635-003-0003, 635-006-0132, 635-006-0133, 635-006-0200, 635-006-0212, 635-006-0213, 635-006-0215, 635-007-0605, 635-007-0655, 635-007-0910, 635-010-0015, 635-043-0030, 635-043-0035, 635-044-0005, 635-044-0060, 635-044-0200, 635-046-0030, 635-048-0030, 635-050-0045, 635-050-0180, 635-055-0010, 635-056-0090, 635-100-0136, 635-200-0050, 635-300-0001, 635-425-0020

Subject: Rules were opened, within a limited scope, to amend regulations to correct or eliminate outdated Agency references to Portland Headquarters, mail addresses and references to individuals no

ADMINISTRATIVE RULES

longer employed. Housekeeping and technical corrections occur to ensure rule consistency.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-001-0301

Inspection of Public Records

All records of the Commission and the Department defined as public records under ORS 192.410, and not exempt from disclosure under ORS 192.501 to 192.505, are available for inspection by members of the public at the current principal offices of the Commission and Department in Salem, Oregon, or other reasonable location designated by the Director. Inspection of such records will be permitted during normal Department work hours, provided responding to such a request does not unreasonably disrupt the Commission's and the Department's duties.

Stat. Auth.: ORS 192.420

Stats. Implemented: ORS 192.420

Hist.: DFW 34-2000, f. & cert. ef. 6-23-00; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-003-0003

Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures for 2003, included in the **Pacific Fishery Management Council — Adopted 2003 Ocean Salmon Management Measures and Impacts**, dated April 2003, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document)**. Therefore, persons must consult the **Pacific Fishery Management Council** referenced document and **Federal Regulations** in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the **Pacific Fishery Management Council** referenced document and the **Federal Regulations** may be obtained by contacting Pacific Council News at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

(3) Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0132

Limited Fish Sellers Permit

(1) The permit referred to in ORS 508.550 shall be available to commercial fishermen who hold a valid commercial fishing license, including albacore tuna landing license, and who sell the catch off his/her own vessel, or a vessel operated by him/her.

(2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel which were not taken by that vessel.

(3) Prior to selling food fish from their vessel, the holder of a Limited Fish Seller Permit must notify the Oregon Department of Fish and Wildlife of the estimated number of food fish on board the vessel and the location where sales are to take place. Completion of a fish ticket prior to selling with the estimated number of fish on board and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur constitutes the required notice. Change in location of sales from that reported in the Limited Fish Seller Permit application must be reported to Oregon Department of Fish and Wildlife.

(4) Dressed fish must have an established dressed to round weight conversion factor.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing on his/her boat (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer. Dressed fish must have an established dressed to round weight conversion factor.

Stat. Auth.: ORS 506.119 & 513.020

Stats. Implemented: ORS 506.129, 508.025, 508.040 & 508.550

Hist.: FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 84-1999, f. & cert. ef. 11-1-99; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0133

Limited Fish Seller Permit-Non-Treaty Columbia River Gillnet Salmon Vessel Permit Fishery Pilot Program

(1) The permit referred to in ORS 508.550 and as authorized by HB3094 (2003) shall be available to commercial fishermen who hold a valid commercial fishing license and a Columbia River Gillnet Salmon Vessel Permit (Columbia River Gillnet Permit) and who sell the catch off his/her own vessel, or a vessel operated by him/her or at locations away from the vessel.

(2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel or at locations away from the vessel which were not taken by the licensed vessel.

(3) Prior to selling food fish away from their vessel, the holder of a Limited Fish Seller Permit and a Columbia River Gillnet Permit must complete and forward a fish receiving ticket at the time of landing in accordance with OAR 635-006-0210 and 635-006-0212 and must notify the Oregon Department of Fish and Wildlife of the location where sales are to take place. Compliance with these rules prior to selling and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur and port of landing constitutes the required notice. Change in location of sales from that reported on the Limited Fish Seller Permit application must be reported to Oregon Department of Fish and Wildlife.

(4) The permittee may designate other persons to sell fish at locations away from the vessel that were taken by the licensed vessel. The designees must carry a copy of the permit during sales. A copy of the fish receiving ticket or a signed statement pursuant to ORS 509.110 must accompany the permittee and designees while transporting and selling fish. The permittee will also designate on the fish ticket or sworn statement the location the fish are to be sold.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer.

(6) Activities conducted pursuant to this permit must be in accordance with the state Department of Agriculture licensing and food safety regulations.

(7) This authority expires January 2, 2008.

Stat. Auth.: ORS 506.119, 513.020

Stats. Implemented: ORS 506.129, 508.025, 508.040, 508.550, HB3094 (2003)

Hist.: DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0200

Required Records

(1) All retail fish dealers, retail and wholesale fish bait dealers, wholesale fish dealers, buyers, food fish cannery and shellfish cannery shall keep a record of all food fish and shellfish received whether from a fisherman or from other fish dealers. This record shall include the quantity in pounds of each species of food fish or shellfish received, the date received, price paid per pound, and the name and address of the person from whom such food fish or shellfish were received. If received from a fisherman, his/her commercial fishing license number shall be used in lieu of an address and the fishing gear used in taking shall also be required. If received from a treaty Indian, his/her tribal affiliation and enrollment number as shown on official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government shall be used in lieu of an address or commercial fishing license.

(2) This record is:

(a) Subject to inspection by the Director, the Director's authorized agent, or the State Police;

(b) To be prepared and available at the time food fish or shellfish are received at the premises of the fish dealer regardless of whether purchased or not;

(c) To be retained for a period not less than three years, at a location within Oregon where the record is to be available for inspection as designated in section (2)(a) of this rule. Notice of the physical location is to be provided to Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 506.109, 506.119, 506.129, 508.406, 508.530, 508.535

Stats. Implemented:

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0125, Renumbered from 635-036-0570; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 68-1994, f. 9-28-94, cert. ef. 10-1-94; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0212

Fish Receiving Ticket — Salmon

For all salmon, the following requirements apply in addition to those listed in OAR 635-006-0210:

ADMINISTRATIVE RULES

(1) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.

(2) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

Stat. Auth.: ORS 506.119, 506.129, 508.530, 508.535
Stats. Implemented: ORS 506.129, 508.025, 508.040 & 508.550
Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0213

Fish Receiving Ticket — Limited Fish Seller Permit

(1) For food fish or shellfish sold under a Limited Fish Seller Permit, the Limited Fish Seller shall complete daily entries of fish sold on a fish receiving ticket. Fish receiving tickets are prenumbered in books of 50 tickets. Limited Fish Sellers shall account for all fish receiving tickets received from the Department. Fish receiving tickets shall be issued in numerical sequence. The fish receiving ticket shall include, for each day's sales:

- (a) Limited Fish Seller's name and license number;
- (b) Date of sales;
- (c) Boat name and federal document or State Marine Board number from which catch made;
- (d) Fishing gear used;
- (e) Species of fish or shellfish sold;
- (f) Quantity in pounds;
- (g) Price received per pound;
- (h) Signature of the individual preparing the fish ticket;
- (i) Name of wholesale fish dealer to whom other food fish or shellfish were sold from the same fishing trip.

(j) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

(2) The original of each fish receiving ticket covering fish and shellfish sold per trip shall be forwarded within ten working days following the landing to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 506.119, 506.129, 508.530, 508.535, 508.550
Stats. Implemented: ORS 506.129, 508.025, 508.040, 508.550
Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-006-0215

Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish canners, or shellfish canners receiving food fish or shellfish from licensed commercial fishermen or bait fishermen;

(b) Limited fish sellers selling food fish or shellfish.

(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.

(3) The following information shall be included on the report:

- (a) Fish dealer's name, license number, and address;
- (b) Calendar month of the report;
- (c) Serial numbers of all fish receiving tickets issued during the month;

(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;

(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;

(f) Total value of all other food fish and shellfish including eggs and parts;

(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. The following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying the below-listed factor by the dressed weight of that species:

- (A) Troll salmon:
 - (i) Gilled and gutted — 1.15
 - (ii) Gilled, gutted, and headed — 1.30
- (B) Halibut:
 - (i) Gilled and gutted — 1.15
 - (ii) Gilled, gutted, and headed — 1.35
- (C) Sablefish, gutted and headed — 1.60
- (D) Pacific whiting:
 - (i) Fillet — 2.86
 - (ii) Headed and gutted — 1.56
 - (iii) Surimi — 6.25

(E) Razor Clams, shelled and cleaned. — 2.0

(F) Scallops, shelled and cleaned — 12.2

(G) Thresher shark — 2.0

(H) Skates — 2.6

(I) Lingcod:

(i) Gilled and gutted — 1.1

(ii) Gilled, gutted and headed — 1.5

(h) Total value of food fish landed in another state but not taxed by that state;

(i) Total pounds in the round of all food fish landed in another state but not taxed by that state;

(j) Total fees due - in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:

(A) All salmon and steelhead, 3.15 percent;

(B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.111), 5 percent.

(C) All other food fish and shellfish, 1.09 percent until the first Emergency Board hearing of 1993 and 1.25 percent, thereafter.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Oregon Department of Fish and Wildlife on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of \$5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.119 & 508.530
Stats. Implemented: ORS 506.129, 508.535 & 508.550

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-007-0605

Permit Application

(1) Any person wishing to obtain a Fish Transport Permit shall complete and submit to the Department the appropriate permit application form. Application forms are available upon request from the Oregon Department of Fish and Wildlife.

(2) The Department may prescribe such terms and conditions in a permit as it deems necessary, including but not limited to, the period of time (usually 30 days) during which the transportation and/or release of fish is authorized.

(3) Fish may be held for an indefinite period of time under a Fish Transport Permit. The permit, or a copy thereof, shall be made available for inspection upon request by the Department or the Oregon State Police.

Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 497.252, 498.222

Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0305; FWC 3-1991, f. & cert. ef. 1-18-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-007-0655

License Application Process

(1) Any person wishing to obtain a new Fish Propagation License or to renew shall complete and submit to the Department the appropriate license application form. Application forms are available upon request from the Oregon Department of Fish and Wildlife. Applications to renew an existing license shall be submitted to the Department by December 1 of the year prior to the license year in order to be considered timely.

(2) In addition to the application form, persons requesting to license a new or not yet built facility shall describe in writing:

(a) The location and physical layout of the facility;

(b) Water supply (source, quantity, presence or absence of fish, and manner of access);

(c) Species and sources of fish to be propagated;

(d) The status of applications for any required federal, state or local permit, including a water right from the Oregon Water Resources Department (WRD), a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ), and land use permits from the county in which the facility is located.

ADMINISTRATIVE RULES

(3) Prior to issuance of any new propagation license, the following shall be completed:

(a) A propagation facility operational plan shall be developed in consultation with the Department and Department approval obtained. Based on the species reared, size of operation and/or risk of escape, the Department may accept an abbreviated level of detail in the operational plan. Unless otherwise specified by the Department based on the above criteria, the operational plan shall include engineering designs of the facility drawn to scale and shall describe both the facility and its operations in detail and shall, at a minimum, include:

(A) Species to be reared, ponding strategies by month, and projected loading densities per pond by month;
(B) Pond cleaning schedules;
(C) Transportation schedules for fish moved into and out of the facility;

(D) Hatchery staff assignments;
(E) Fish monitoring studies;
(F) Facility screening, including designs, operations, and maintenance;

(G) Avian enclosures on each rearing container;
(H) Fish handling procedures;
(I) Fish disease treatment procedures;
(J) Use of quarantine and isolation facilities;
(K) Procedures for handling emergency situations;
(L) Chlorine monitoring regimen, where chlorination is required.

(b) Except as otherwise specified by the Department based on species reared, size of operation and/or risk of escape, the applicant shall:

(A) Develop and conduct fish population studies approved by the Department and funded by the applicant, sufficient to document preconstruction status of fish populations in the affected waterway; and

(B) Develop and fund similar studies to be conducted in subsequent years to document changes caused by hatchery operation.

(4) In order to actually commence operation of a facility, applicants must have both a fish propagation license and specific written authorization to operate from the Department. Authorization to operate shall be granted only:

(a) Upon determination that all required federal, state and local permits have been obtained; and

(b) After inspection and acceptance by the Department of any required fish screens, avian enclosures, disease control mechanisms, and isolation facilities.

(5) The Department shall renew propagation licenses upon acceptance of:

(a) A complete renewal application, submitted by December 1 of the prior year;

(b) Unless otherwise specified by the Department based on species reared, size of operation and/or risk of escape, a propagation facility operational plan as provided in subsection (3)(a) of this rule for the year for which the license is to be renewed, submitted by December 1 with the renewal application, which must be approved by the Department;

(c) Unless otherwise specified by the Department based on species reared, size of operation and/or risk of escape, results of post-siting fish population studies, submitted by December 1 of the prior year; and

(d) Documentation that any required federal, state and local permits, including appropriate WRD water rights and DEQ NPDES permits, have been obtained;

(e) To the extent that any sales summary information or final activity report cannot be provided by December 1 due to lack of data, such information shall be provided on a separate form by January 15, as required in OAR 635-007-0660(3).

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 497.252

Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0405; FWC 3-1991, f. & cert. ef. 1-18-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-007-0910 Permit Application

(1) Any person or entity wishing to obtain a Scientific Taking Permit must complete and submit to the Department the appropriate permit application form. Applications forms are available upon request from the Oregon Department of Fish and Wildlife.

(2) The Department may prescribe such terms and conditions in a permit as it may deem necessary to ensure that fish taken pursuant to the permit will be used only for scientific or educational purposes.

(3) Permits will not be issued to any person or entity for the purpose of collecting fish to sell to scientific or educational supply houses or to any other person or entity.

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 497.298, 508.111

Hist.: FWC 18-1992, f. 3-24-92, cert. ef. 4-1-92; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-010-0015 Issuing Documents

(1) An agent must receive proper identification as defined in section (4) of this rule from each individual before issuing an Oregon resident license. Juvenile, youth, nonresident or landowner licenses, tags, Sauvie Island Parking Permits, raffle tickets, validations, daily angling licenses, and controlled hunt applications do not require identification.

(2) A resident 18 years or older must sign the document in person at the agent's place of business, except as provided in section (3) of this rule.

(3) Licensing documents may be obtained by mail or FAX by forwarding to the Oregon Department of Fish and Wildlife, Licensing Section, 3406 Cherry Avenue NE, Salem, Oregon 97303, a legible copy of the mail order application form printed in the Oregon Big Game, Game Bird, and Sport Fishing Regulations or a copy of that form.

(a) Requests for mail-ordered documents must be postmarked on or before any deadlines established for issuing such documents;

(b) The Department may require additional information if necessary to complete the ordered documents;

(c) The Department will not issue any document until it receives the required fee by check, money order, or a valid debit or credit card authorization.

(4) A resident license requires proof of Oregon residency for the six months immediately preceding the date of application. Proof of residency may be established by an Oregon driver's license, Oregon non-driver's license identification card, or three pieces of other identification, one of which shows the applicant's name and current address and indicates six month's Oregon residency. Oregon resident mail order applicants must certify residency by signing the residency statement on the mail order application.

(5) Agents must supply all the information requested on the data screen. If the person applying for the licensing document fails to supply the necessary information, the agent may not issue the requested licensing document. All daily angling licenses must show the date they become valid.

(6) Agents must obtain social security numbers for any person who purchases a license. The Department will use this number to comply with collection of the social security numbers pursuant to the child support enforcement laws as required by Section 117, Chapter 746, Oregon Laws 1997. The Department will issue a system-generated number to persons who are not citizens of this country or who do not have a social security number. If the social security number provided by an applicant is in use by another individual, the agent will not issue the license until the applicant provides proof that the social security number is, in fact, the applicant's social security number. An official document such as a social security card, payroll document, or health insurance identification card with the social security number printed on it must be presented to the agent as proof. An individual's social security number is not subject to disclosure to members of the public under the Oregon Public Records Law.

(7) Any employee of the agent may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. An agent is responsible for employee training and for any violation of applicable statutes and regulations committed by the employees.

Stat. Auth.: ORS 496, 497 & 498

Stats. Implemented: ORS 496, 497 & 498

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0021; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; FWC 122-1992, f. & cert. ef. 11-23-92; FWC 4-1994, f. & cert. ef. 1-25-94; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-043-0030 Scientific Taking Permit Requirements

Any person desiring to take wildlife for scientific purposes must first secure a Scientific Taking Permit by applying to the Oregon Department of Fish and Wildlife. The application shall list the wildlife species and numbers to be collected, the areas and methods of collecting, purpose for collecting, the date of application, the name, address, occupation, and signature of the applicant, and the signature and affiliation of the sponsor if the applicant is a student. This permit may not be used in lieu of a hunting license.

Stat. Auth.: ORS 183 & 496

Stats. Implemented: ORS 183 & 496

ADMINISTRATIVE RULES

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0104, Renumbered from 635-007-0240; FWC 49-1991, f. & cert. ef. 5-13-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-043-0035

Conditions of Scientific Taking Permit

Scientific taking permittees shall adhere to all requirements, terms, and conditions included on the Scientific Taking Permit and the record keeping requirements below:

(1) Every scientific taking permittee shall at the time of taking wildlife, record the species, numbers, area and date wildlife were taken.

(2) Records shall be maintained at the business address of the scientific taking permittee for a period of three years.

(3) Records shall be sent to the Department at 3406 Cherry Avenue NE, Salem, Oregon 97303 within 30 days of the expiration of the permit.

Stat. Auth.: ORS 183 & 496

Stats. Implemented: ORS 183 & 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0105, Renumbered from 635-007-0245; FWC 49-1991, f. & cert. ef. 5-13-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-044-0005

Permit Required to Hold Wildlife

Any person desiring to capture and hold any Northern flying squirrel (*Glaucomys sabrinus*), pine squirrel (*Tamiasciurus douglasi* and *T. hudsonicus*), golden mantled ground squirrel (*Spermophilus lateralis*), or chipmunk (*Tamias amoenus*, *T. minimus*, *T. siskiyou* and *T. townsendii*), or to hold any raccoon (*Procyon lotor*), or bobcat (*Lynx rufus*) must first secure a Wildlife Holding Permit by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the species and numbers to be captured or otherwise acquired, the source or proposed area of capture, the date of application, and the name, address, and signature of applicant. Any application may be denied by the director for cause.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0023 & 635-007-0100; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-044-0060

License Required to Propagate Wildlife

(1) Any person desiring to propagate for sale any game mammal (excluding the family *Cervidae*), game bird, or tiger salamander (*Ambystoma tigrinum*) (excluding Blotched tiger salamander *A. t. melanostictum*) or desiring to sell any propagated game mammal (excluding the family *Cervidae*), game bird, or tiger salamander (*Ambystoma tigrinum*) (excluding Blotched tiger salamander *A. t. melanostictum*) must first secure a Wildlife Propagation License by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the wildlife species and numbers being held for propagation purposes, or the species being held for sale. The application shall also include the date of application, and the name, address, and signature of applicant.

(2) Any person desiring to propagate and sell any raptor must adhere to all permit requirements and regulations pertaining to the propagation and selling of raptors, as adopted by the U.S. Department of the Interior on July 8, 1983. (Federal Register, Vol. 48, No. 132, Part 21)

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0043, Renumbered from 635-007-0150; FWC 6-1984, f. & ef. 2-29-84; FWC 28-1987, f. & ef. 6-19-87; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-044-0200

Permit Required to Rehabilitate Birds, Mammals, Amphibians or Reptiles

Any person desiring to hold birds, mammals, amphibians or reptiles for rehabilitation purposes must first obtain a Rehabilitation Holding Permit from the Department of Fish and Wildlife.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Hist.: FWC 7-1983, f. & ef. 2-3-83; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-046-0030

Requirements for Permit

Applications for a Competitive Dog Trial Permit must be submitted by letter at least two weeks before the scheduled trial to the Oregon

Department of Fish and Wildlife, 3406 Cherry Avenue NE, Salem, Oregon 97303 and include the following information:

(1) Dates of trial.

(2) Location of trial.

(3) Type and approximate number of dogs entered.

(4) Species and numbers of wildlife to be released. No permit will be issued in an area which is important for game bird or game mammal production.

Stat. Auth.: ORS 498

Stats. Implemented: ORS 498

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0168, Renumbered from 635-007-0320; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-048-0030

Issuing Duplicate Certificates of Course Completion

Duplicate certificates of course completion shall be issued only through the Salem headquarters office of the Department. A permanent duplicate will be issued only when the student's registration card is on file. A temporary duplicate (valid only through the end of that year) will be issued when a student's records are not on file, if the student provides an affidavit, signed by the student and a parent or guardian if the student is a minor, stating that the student has successfully completed the required course. Such students may obtain a permanent duplicate only by successfully repeating the required course.

Stat. Auth.: ORS 496 & 497

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.360

Hist.: 3WC 6, f. 2-28-74, ef. 7-1-74, Renumbered from 630-040-0066, Renumbered from 635-025-0030; FWC 73-1986, f. & ef. 11-4-86; FWC 15-1987, f. & ef. 4-15-87; FWC 54-1997, f. & cert. ef. 9-3-97; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-050-0045

General Furbearer Regulations

The following general regulations apply to furbearer seasons:

(1) Any person possessing a valid furtaker's license or hunting license for furbearers is required to fill out and return a completed harvest report form to the Department at 3406 Cherry Avenue NE, Salem, Oregon 97303. The form shall be postmarked by April 15, 2003 for the 2002-03 seasons and April 15, 2004 for the 2003-04 seasons. Failure to do so shall deny the license holder the opportunity to purchase a hunting license for furbearers or furtakers license for the following furbearer season.

(2) Any person may sell or exchange the hide, carcass, or any part thereof, of any legally taken furbearing or unprotected mammal.

(3) All traps and snares, whether set for furbearing or other unprotected mammals, shall be legibly marked or branded with the owner's license (brand) number that has been assigned by the Department; except that unmarked traps or snares may be set for nongame mammals unprotected by law or Department regulations by any person or member of his immediate family upon land of which he is the lawful owner. A landowner is required to register the location of such land with the Department and shall possess each year a free landowner's license before hunting or trapping furbearing mammals.

(4) No branded trap or snare may be sold unless accompanied by a uniform bill of sale.

(5) Bobcat, raccoon and opossum may be hunted with the aid of an artificial light provided the light is not cast from or attached to a motor vehicle or boat.

(6) Use of dogs is permitted to hunt or pursue bobcat, raccoon, fox, and unprotected mammals except in game bird nesting habitat during April, May, June or July, except as authorized by the Fish and Wildlife Commission.

(7) It is *unlawful* for any person to trap for furbearers or unprotected mammals using:

(a) A steel leghold trap with a jaw spread greater than 9 inches.

(b) A No. 3 or larger leghold trap not having a jaw spacing of at least 3/16 of one inch when the trap is sprung (measurement excludes pads on padded jaw traps) and when the trap is placed in a manner that is not capable of drowning a trapped animal.

(c) The flesh of any game bird, game fish, game mammal for trap bait.

(d) Any instant-kill trap having a jaw spread of 9 inches or more in any land set.

(e) Any toothed trap, or trap with a protuberance on the facing edge of the jaws that is intended to hold the animal (except pads on padded jaw traps).

(f) Or possessing the branded traps or snares of another unless in possession of written permission or a bill of sale from the person to whom the brand is registered.

(g) Sight bait within 15 feet of any leghold trap set for carnivores.

ADMINISTRATIVE RULES

(8) Except for persons authorized to enforce the wildlife laws, it is unlawful to disturb or remove the traps or snares of any licensed trapper while he is trapping on public lands or on land where he has permission to trap.

(9) All traps or snares set or used for the taking of furbearing or unprotected mammals shall be inspected at least every 48 hours and all trapped animals removed. This regulation does not apply to the taking of predatory animals.

(10) Any person setting a trap for predatory animals, as defined in ORS 610.002, must check the trap as follows:

(a) For killing traps and snares, at least once every 30 days and remove all animals;

(b) For restraining traps and snares, at least once every 76 hours and remove all animals. However, restraining traps and snares set by a person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock or their agent, and set for predatory animals damaging land, livestock or agricultural or forest crops, shall be checked at least once every 7 days. Any person(s) acting as an agent for a landowner shall have in their possession written authority from the landowner or lawful occupant of the land. Such written authority shall contain at least all of the following:

(A) The date of issuance of the authorization;

(B) The name, address, telephone number and signature of the person granting the authorization;

(C) The name, address and telephone number of the person to whom the authorization is granted; and

(D) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(11) A "killing trap" means a device used to kill a mammal as part of a killing trap system. A killing trap system is a system set with the intent to kill a mammal comprising a combination of: equipment (the trap and trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(12) A "restraining trap" means a device used to capture and restrain (but not kill) a mammal as part of a restraining trap system. A restraining trap system is a system set with the intent to capture and restrain (but not kill) a mammal comprising a combination of: equipment (the trap and the trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(13) These general furbearer regulations do not apply to the trapping of gophers, moles, ground squirrels and mountain beaver.

(14) When any furbearer or raw furbearer pelt is transferred to the possession of another person, a written record indicating the name and address of the person from whom the raw pelt was obtained shall accompany such transfer and remain with same so long as preserved in raw pelt form.

(15) It is unlawful for any person to damage or destroy any muskrat house at any time except where such muskrat house is an obstruction to a private or public ditch or watercourse.

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

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

Hist.: FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 9-2004, f. & cert. ef. 2-11-04; DFW 31-2004, f. & cert. ef. 5-1-04

635-050-0180

Bobcat and River Otter Record Cards

(1) Each person desiring to hunt or trap bobcat or river otter shall purchase a bobcat or river otter record card prior to hunting or trapping bobcat or river otter.

(2) Bobcat record cards will be available for a fee of \$11.50 per card.

(3) River otter record cards will be available for a fee of \$6.50 per card.

(4) Record cards will be available at the Salem headquarters and regional offices of the Department.

(5) River otter cards will have spaces for recording 15 river otters. There is no limit on the purchase of river otter record cards.

(6) Each western Oregon bobcat record card will have spaces for recording 15 bobcats. There is no limit on purchase of western Oregon bobcat record cards.

(7) Each eastern Oregon bobcat record card will have spaces for recording 5 bobcats.

(8) No more than one card for 5 eastern Oregon bobcats will be issued any furtaker or hunter. A duplicate card may be issued, but no more than 5 eastern Oregon bobcats may be taken in a season.

(9) No person may obtain or possess both eastern and western Oregon bobcat record cards.

(10) Bobcat and river otter record cards shall not be sold after the end of their respective seasons.

(11) Each furtaker shall have the appropriate record card on his person while trapping or hunting bobcat or river otter.

(12) Furtakers shall not have record cards other than their own on their person while in the field.

(13) Upon coming into possession of any bobcat or river otter, the furtaker shall immediately write on the record card, species, sex, date of possession and county of harvest.

(14) Each furtaker shall retain the record card until he disposes of the raw pelts.

(15) Fees paid for unused record cards shall not be refunded.

(16) It is *unlawful* to alter or be in possession of an altered bobcat or river otter record card.

(17) Each licensee shall register a brand number to obtain a bobcat or river otter record card.

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

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

Hist.: FWC 140, f. & cert. ef. 8-29-77; FWC 165, f. & cert. ef. 12-23-77; FWC 44-1978, f. & cert. ef. 9-1-78; FWC 37-1979, f. & cert. ef. 8-29-79; FWC 53-1979(Temp), f. & cert. ef. 11-6-79; FWC 54-1979(Temp), f. & cert. ef. 11-8-79; FWC 60-1979(Temp), f. & cert. ef. 12-18-79; FWC 2-1980(Temp), f. & cert. ef. 1-8-80; FWC 35-1980, f. & cert. ef. 7-2-80; FWC 21-1981, f. & cert. ef. 6-29-81, Renumbered from 635-050-0025(1); FWC 43-1982, f. & cert. ef. 7-9-82; FWC 27-1983, f. & cert. ef. 7-8-83; FWC 52-1984, f. & cert. ef. 9-5-84; FWC 44-1985, f. & cert. ef. 8-22-85; FWC 48-1986, f. & cert. ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 31-2004, f. & cert. ef. 4-22-04, cert. ef. 5-1-04

635-055-0010

License Required to Practice Falconry

(1) Any person desiring to participate in the sport of falconry shall first secure a falconry license by applying on a form provided by the Oregon Department of Fish and Wildlife, Wildlife Division. The falconry license authorizes the holder to possess and train raptors as a method of hunting. A falconry license does not authorize the holding of raptors for non-falconry purposes; however, raptors held for falconry purposes may be used in educational programs.

(2) Before a falconer may participate in hunting any wildlife, he/she shall possess a valid falconry license, a hunting license, and any permit or stamp that is required.

(3) Nonresident falconers hunting in Oregon shall have a falconry license from a state having a federally approved falconry program, a non-resident hunting license, and any permit or stamp that is required.

(4) Nonresident falconers from outside the United States hunting in Oregon shall possess the proper health certificates and import permits for each raptor, a nonresident hunting license, and any permit or stamp that is required.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Hist.: FWC 170, f. & cert. ef. 12-23-77, ef. 1-1-78; FWC 11-1983, f. & cert. ef. 3-24-83; FWC 8-1986, f. & cert. ef. 3-6-86; FWC 19-1990, f. & cert. ef. 2-28-90; FWC 33-1992(Temp), f. & cert. ef. 5-11-92; FWC 116-1992, f. & cert. ef. 10-28-92; FWC 30-1993, f. & cert. ef. 5-5-93; DFW 33-2002, f. & cert. ef. 4-18-02; DFW 31-2004, f. & cert. ef. 4-22-04, cert. ef. 5-1-04

635-056-0090

Transportation

(1) Except as provided in this section or other rules of the commission, wildlife may be transported through the state without an import permit from the department, provided the animal:

(a) Remains in the state no longer than 72 hours;

(b) Is not sold, purchased, exchanged or offered for sale, purchase or exchange or otherwise transferred while in the state; and

(c) Is accompanied by an import permit from the Oregon Department of Agriculture, if required, and proof of legal possession.

(2) If an animal being transported through the state must remain in the state longer than 72 hours due to unexpected delays, the person transporting such animal must notify the department's Salem headquarters office. Such notification shall include the type of species being transported and the location of the animals.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; DFW 31-2004, f. & cert. ef. 5-1-04

635-100-0136

Survival Guidelines for Washington Ground Squirrel

(1) ORS 496.182(2) states that the Commission shall, at the time of listing, adopt by rule quantifiable and measurable guidelines that the

ADMINISTRATIVE RULES

Commission considers necessary to ensure the survival of individual members of the species. These survival guidelines shall apply only to actions proposed on lands owned or leased by a state agency, or where a state agency holds an easement.

(2) For areas of occupied habitat on the Space Age Industrial Park ("Boardman Boeing tract"): Activities detrimental to the survival of Washington ground squirrels shall not be permitted in areas of occupied habitat. Occupied habitat areas are those undisturbed and formerly cultivated but abandoned areas which are underlain with Warden soils (or other soils with similar characteristics, or those soil types which lie contiguous to occupied Warden soils (e.g. Sagehill Fine Sandy Loam)). Soils classifications as shown on 1:24,000, USDA, Natural Resource Conservation Service (NRCS) Soil Survey Geographic (SSURGO) database, for the Morrow County Soil Survey, and incorporated here by reference. Certified soil survey information is available to the public at the Department's headquarters office in Salem, the Department's field office in Heppner or through NRCS offices. "Activities detrimental to the survival of Washington ground squirrels" are:

(a) Soil disturbance (including, but not limited to, grading, leveling, plowing, disking, digging and tilling);

(b) Livestock grazing at a level that results in more than 50% of leaf volume removed from the current year's vegetative growth.

(c) Agricultural tree planting (e.g., hybrid poplar plantations);

(d) Agricultural and/or industrial activities that would alter existing vegetative communities (including, but not limited to, pesticide applications i.e. herbicides, fungicides, insecticides, rodenticides), irrigation, and mowing.

(e) Direct taking of Washington ground squirrels through poisoning, shooting, capture, or other means.

(3) For other areas within the Space Age Industrial Park: Outside the soil type areas identified in (2) above, but within the Boeing Lease property (as shown on 1:24,000, USDA, Natural Resource Conservation Service Soil Survey Geographic (SSURGO) database, for the Morrow County Soil Survey, and incorporated here by reference).

(a) The area shall be surveyed for the presence of Washington ground squirrels, using survey methods developed by the Department and incorporated here by reference ("Status and habitat use of the Washington Ground Squirrel *Spermophilus washingtoni* on State of Oregon Lands, South Boeing, Oregon in 1999." November 1999. This document is available to the public at the Department's headquarters office in Salem and field office in Heppner). Surveys shall be undertaken during the appropriate season immediately prior to any authorization being granted by an agency for activities detrimental to the survival of Washington ground squirrels (as defined in (2)(a)-(e)).

(b) If the survey locates Washington ground squirrel sites, or squirrel occurrence has been previously recorded, activities detrimental to the survival of Washington ground squirrels shall not be permitted within 150 meters of the squirrel use-area associated with any such site (squirrel use-areas are described in the "Status and habitat use of the Washington Ground Squirrel *Spermophilus washingtoni* on State of Oregon Lands, South Boeing, Oregon in 1999.", referenced in (3)(a) above). If more than one squirrel site is detected, any authorized activities near detected sites shall not result in loss of habitat or physical connectivity between those sites. In addition, authorized activities around squirrel sites shall not physically isolate the site(s) from other colonies or occupied habitat areas. Agencies shall consult with the Department in such situations to determine specific site-based connectivity requirements.

(4) Notwithstanding (3) above, phase II of the Inland Land Company Farm Plan as described in IRZ Consulting map of 4-7-99 is exempt from these survival guidelines between January 21, 2000 and February 18, 2000, provided, all activities detrimental to the survival of Washington ground squirrels are conducted under the supervision of a biologist and in consultation with ODFW to avoid take of Washington ground squirrels.

(5) For any other state owned or leased land or easements elsewhere within the Columbia Basin Physiographic Province where suitable Washington ground squirrel habitat and soil types occur: State agencies shall consult with the Department before authorizing activities detrimental to Washington ground squirrels (as defined in (2)(a)-(e)).

(6) For other areas of state owned or leased land or easements which have been surveyed by methods acceptable to the Department: Where Washington ground squirrel surveys have been conducted according to the methods referred to in section (3)(a) above, areas with Washington ground squirrel sites shall be protected as indicated in (3)(b) above.

Stat. Auth.: 496.004, 496.171, 496.172, 496.182, 496.192, 498.026
Stats. Implemented: 496.004, 496.171, 496.172, 496.182, 496.192, 498.026
Hist.: DFW 5-2000, f. 2-3-00, cert. ef. 2-4-00; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-200-0050

Deer, Elk, and Antelope (Pronghorn)

(1) Any person may purchase, sell, or exchange processed hides, hooves, dewclaws, sinews, or capes of deer (*Odocoileus hemionus* or *O. virginianus*), elk (*Cervus canadensis*) or antelope (pronghorn) (*Antilocapra americana*).

(2) Any person may sell or exchange the unprocessed hides, hooves, dewclaws, sinews, or capes of a deer, elk, or antelope legally taken during an authorized hunting season.

(3) Any person may sell, purchase, or exchange any bone, elk ivory "buglers" or other part of the skeletal structure of a deer or elk, except the skull.

(4) Any person may sell or exchange lawfully taken antlers which are detached from the skull, skull is split apart between the antlers or naturally shed antlers to a licensed antler dealer for use only in manufacturing handcrafted items from parts of these antlers. Handcrafted items do not include complete sets of antlers or whole heads and antlers which are mounted for display or other purposes. Any person may purchase such lawfully manufactured handcrafted items.

(5) Except as provided in subsection 6, any person desiring to purchase or exchange unprocessed deer, elk, and antelope hides, hooves, dewclaws, or sinews must first secure a Hide Dealer Permit. Clients of a taxidermist do not need this permit when a taxidermist provides the hide for mounting a client's legally taken antler or horn.

(a) Any person desiring to purchase or exchange antlers for use in the manufacture of handcrafted items must first secure an Antler Dealers Permit. Antlers may not be purchased unless antlers are detached from the skull, the skull is split apart between antlers, or the antlers are naturally shed;

(b) Hide and Antler Dealer Permits may be obtained by applying to the Oregon Department of Fish and Wildlife.

(6) Any person may purchase the following for their personal use (not resale):

(a) Unprocessed deer, elk and antelope hides; and

(b) Deer and elk antlers (if detached from the skull, if skull is split apart between the antlers, or if naturally shed).

(7) Hide Dealer and Antler Dealer Permit shall cost \$10 and shall expire on December 31 of the year issued.

(8) At the time of purchase or exchange for unprocessed deer and elk hides and antlers, and for antelope hides, every dealer shall maintain a record. Such record shall:

(a) Include the date of the transaction, numbers and kinds of hides or antlers purchased or exchanged, and the name and address of the person from whom acquired;

(b) Be maintained at the business address of the hide dealer or antler dealer for a three-year period.

(9) Hide and antler dealer records are subject to inspection at any time by any State Police officer or Department of Fish and Wildlife representative.

(10) Any person may sell, purchase or exchange any bone or other part of the skeletal structure of pronghorn antelope, except the skull and horn sheaths.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042
Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042
Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-300-0001

Elkhorn Wildlife Area Program

(1) The Commission approves the preferred alternative "A" identified in the Public Review Draft of the Elkhorn Wildlife Area program distributed on May 20, 1986. Approval of this alternative authorizes Department purchase, easement or lease of private properties in order to continue operation of the existing Elkhorn Wildlife Area Program. The Commission also approves documentation presented in the Public Review Draft of the Elkhorn Wildlife Area program and documents attached thereto and the July 7, 1986 Statewide Goal Compliance and Local Land Use Plan Compatibility Report issued by and available from the Department of Fish and Wildlife at its Salem headquarters office.

(2) The Commission finds that:

(a) Continuation of the current Elkhorn Wildlife Area program will reduce big game damage to agricultural and forest uses by providing alternative feed sources at specific locations under controlled and timely circumstances;

(b) The program will enable numbers of big game to be maintained at a level providing optimal hunting and other recreational opportunities;

ADMINISTRATIVE RULES

(c) Equitable and orderly enjoyment of wildlife will be enhanced by the public access to be made available on the lands or interest therein acquired for the feeding program; and

(d) The benefits of continuing the existing program exceed costs of reducing or discontinuing the program by assuring the economic contribution of recreational hunting to the state and local economy while reducing or eliminating big game damage.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Hist.: FWC 44-1986, f. & ef. 8-19-86; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

635-425-0020

Application Requirements

(1) Timing of Application: An application for an in-water blasting permit must be submitted no less than 90 days before the anticipated in-water blasting for a major project, and no less than 30 days before the anticipated in-water blasting for a minor project. The Department may waive these deadlines in emergency situations where the blasting is necessary to prevent irreparable harm, injury or damage to persons or property.

(2) Submittal of Application: The applicant must submit an application on a form prepared by the Department. The application process is as follows:

(a) An application for a minor project must be submitted to the Department's district office for the area in which the blasting will occur;

(b) An application for a major project within a single region must be submitted to the Department's regional office for the region in which the blasting will occur;

(c) An application for a major project affecting two or more Department regions must be submitted to the Oregon Department of Fish and Wildlife.

(3) Content of Application: The application must include the following information:

(a) The applicant's name, home and business addresses, and telephone numbers;

(b) The State Fire Marshal's Certificate of Possession number and the expiration date of the certificate of the person(s) conducting the blasting (see ORS Chapter 480);

(c) The landowner's name (if applicant is not the owner of the property), home and business addresses, telephone numbers, and written consent to the proposed in-water blasting described in the application;

(d) The geographical location of the property that will be affected by the proposed in-water blasting, including a map and description of the site and waterway(s) affected;

(e) Purpose and description of the proposed in-water blasting;

(f) A map indicating where the explosives will be placed;

(g) The estimated distance of impact and area affected by the proposed blasting;

(h) Names, addresses, and telephone numbers of property owners within the area affected by the proposed blasting;

(i) The estimated amount of explosives required;

(j) The date or dates during which blasting is planned;

(k) Where debris from the blasting will be placed;

(l) The type of explosives to be used;

(m) The approximate size and number of charges to be detonated and the detonation delays between each charge;

(n) The conditions under which the blasting will be done, including water depth;

(o) Blasting medium (water column or adjacent rock or soil);

(p) The alternatives, if any, to the proposed in-water blasting, including an analysis of their practicability;

(q) Information on fish and wildlife habitat within the area that would be affected by the proposed blasting and the predicted effects of the proposed blasting on these habitats. The information must include predicted effects of the proposed blasting on beds and banks of the waters of the state, adjacent areas of the riparian vegetation and wetlands, and the potential for dewatering waters of the state as a result of substrate disturbance;

(r) Information on fish and wildlife species in the area that would be affected by the proposed blasting (including age class) and the predicted effects of the proposed blasting on these species;

(s) Any existing environmental assessments, environmental impact statements, or other environmental data pertaining to the project must be submitted to the Department. Such documents may be used to satisfy the requirements of subsections (3)(q)-(r) of this rule if the Department determines they adequately address the requirements of those sections;

(t) Proposed measures for preventing injury to fish, wildlife and their habitat, including an analysis of the effectiveness of these measures under the environmental conditions at the blasting site;

(u) Information documenting the project's compliance with the Statewide Planning Goals and compatibility with the applicable acknowledged comprehensive plan(s) and land use regulations as required in OAR 635-425-0025.

(4) The information required by section (3) of this rule satisfies the requirements of OAR 635-415-0020(9) for preparation of a mitigation plan for activities authorized by the blasting permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 506.109, 506.119 & 509.140

Stats. Implemented: ORS 496.012, 496.138, 496.146, 506.109, 506.119 & 509.140

Hist.: FWC 134-1991, f. & cert. ef. 11-20-91; DFW 31-2002, f. & cert. ef. 4-16-02; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04

Adm. Order No.: DFW 32-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 3-1-04

Rules Adopted: 635-023-0130

Rules Amended: 635-003-0003, 635-003-0076, 635-013-0003

Subject: Adopt rules establishing regulations for sport and commercial salmon seasons. By reference, adopt Federal regulations developed by the Pacific Fishery Management Council (PFMC) and adopted by the US Secretary of Commerce. Adopt rules amending regulations for sport and commercial salmon fishing in specific nearshore ocean waters and adopt rules amending regulations for sport fishing in the Columbia River and Buoy 10 recreational fisheries.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-003-0003

Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures for 2004, included in the **Pacific Fishery Management Council — Adopted 2004 Ocean Salmon Management Measures and Impacts, dated April 2004**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended** to incorporate the standards in the **Pacific Fishery Management Council** referenced document). Therefore, persons must consult the **Pacific Fishery Management Council referenced document** and **Federal Regulations** in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the **Pacific Fishery Management Council referenced document** and the **Federal Regulations** may be obtained by contacting **Pacific Council News** at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1383.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04

635-003-0076

US-Canada Border to Cape Falcon, May/June All-Except-Coho Season and July-September All Species Season

(1) Vessels must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) Humbug Mountain to the Oregon/California Border, June-September All-Salmon-Except-Coho Season:

ADMINISTRATIVE RULES

(a) Vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: 506.129
Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04

635-013-0003

Purpose and Scope

(1) The purpose of Division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures for 2004, included in the **Pacific Fishery Management Council — Adopted 2004 Ocean Salmon Management Measures and Impacts, dated April 2004**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the **2004 Oregon Sport Fishing Regulations**.

(4) A copy of the **Pacific Fishery Management Council** referenced document and the **Federal Regulations** may be obtained by contacting ODFW at (503) 947-6200.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 44-1984(Temp), f. & cert. ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; 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 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04

635-023-0130

Fall Sport Fishery

(1) Notwithstanding, all other specifications and restrictions as outlined in the current 2004 Oregon Sport Fishing Regulations, the following conditions apply:

(2) Effective August 1 through December 31, 2004, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank the bag limit is two salmon per day of which only one may be a chinook.

(3) Effective August 1 through December 31, 2004, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to Bonneville Dam the bag limit for adult salmon and steelhead is two fish of which only one may be a chinook.

Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162, 506.129
Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04

Adm. Order No.: DFW 33-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 3-1-04

Rules Amended: 635-017-0090

Subject: Amend rules to adopt 2004 Pacific Lamprey harvest regulations at Willamette Falls.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-017-0090

Inclusions and Modifications

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. The Willamette Zone is described in OAR 635-017-0100. However, additional regulations may be adopted in this rule

division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits for 2004 are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1, 2004 through July 31, 2004 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Saturday through Monday each week. All harvest is prohibited Tuesday through Friday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) No permit holder shall harvest more than one hundred (100) lamprey during the 2004 lamprey season;

(f) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31, 2004 to report catch. Permit holders who do not return the harvest record cards by August 31, 2004 will be ineligible to receive a permit in 2005.

(g) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162 & ORS 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04

Adm. Order No.: DFW 34-2004(Temp)

Filed with Sec. of State: 4-23-2004

Certified to be Effective: 4-24-04 thru 8-31-04

Notice Publication Date:

Rules Adopted: 635-023-0135

Subject: Adopt rule to open a spring chinook fishery on the Snake River.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-023-0135

Snake River Fishery

(1) Notwithstanding, all other specifications and restrictions as outlined in the current 2004 Oregon Sport Fishing Regulations, the following conditions apply:

ADMINISTRATIVE RULES

(2) The Snake River from Dug Bar boat ramp upstream to Hell's Canyon Dam is open April 24, 2004 through August 5, 2004.

(a) Daily bag limit is two adipose fin-clipped spring chinook salmon.

(b) Barbless hooks are required and may not be larger than 5/8 inch gap.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 34-2004(Temp), f. 4-23-04, cert. ef. 4-24-04 thru 8-31-04

Adm. Order No.: DFW 35-2004(Temp)

Filed with Sec. of State: 4-29-2004

Certified to be Effective: 5-1-04 thru 10-26-04

Notice Publication Date:

Rules Amended: 635-023-0090

Subject: Amend sturgeon rules to implement closure on the mainstem Columbia River from Beacon Rock to Bonneville Dam.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-023-0090

Inclusions and Modifications

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, all adjacent Washington tributaries, and the Willamette River downstream of Willamette Falls (including Multnomah Channel) is open to the retention of sturgeon, three days per week, Thursday, Friday, and Saturday, during the following periods:

(a) Sunday, February 1, 2004 through Saturday, July 31, 2004; and

(b) Friday, October 1, 2004 through Friday, December 31, 2004.

(3) The Columbia River from Beacon Rock upstream to Bonneville Dam is closed to all sturgeon angling effective Saturday, May 1, 2004 through Sunday, July 31, 2004.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay, and all adjacent Washington tributaries, is open to the retention of sturgeon seven days per week during the following periods:

(a) Thursday, January 1, 2004 through Friday, April 30, 2004, and

(b) Saturday, May 15, 2004 through Friday, July 23, 2004.

(5) During the fishing period as identified in section (4)(b) of this rule, only sturgeon 45-60" in overall length may be retained.

(6) All other specifications and restrictions as outlined in the current

2004 Oregon Sport Fishing Regulations apply.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-00, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01;

DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp) f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72 2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03; DFW 99-2003(Temp), f. 9-24-03, cert. ef. 10-1-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 4-2004(Temp), f. 1-22-04, cert. ef. 2-1-04 thru 7-29-04; DFW 35-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 10-26-04

Adm. Order No.: DFW 36-2004(Temp)

Filed with Sec. of State: 4-29-2004

Certified to be Effective: 5-1-04 thru 7-31-04

Notice Publication Date:

Rules Amended: 635-023-0125

Subject: Amend spring sport fishing rules to implement closure on the mainstem Columbia River.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1, 2004 through May 15, 2004, from the mouth at Buoy 10 upstream to the I-5 Bridge; from March 16, 2004 through May 15, 2004 from I-5 Bridge upstream to Bonneville Dam and from Tower Island power lines upstream to McNary Dam plus the Oregon between Bonneville Dam and the Tower Island power lines with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained.

(b) All non-adipose fin-clipped chinook and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per permanent regulations.

(3) The Columbia River from I-5 Bridge upstream to Bonneville Dam is closed to angling for salmon, steelhead and shad effective Thursday, 12:01 AM, April 22, 2004 through May 15, 2004.

(4) Effective March 10, 2004 through May 15, 2004, in the mainstem Columbia River upstream of the Rocky Point/Tongue Point line it is unlawful when fishing from vessels which are less than 30' in length, substantiated by Coast Guard documentation or Marine Board Registration, to totally remove from the water any salmon or steelhead required to be released.

(5) All other specifications and restrictions as outlined in the current **2004 Oregon Sport Fishing Regulations** apply.

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

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04

Adm. Order No.: DFW 37-2004(Temp)

Filed with Sec. of State: 4-30-2004

Certified to be Effective: 5-4-04 thru 7-31-04

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Adopted: 635-041-0090

Subject: Adopt rules to implement spring salmon season for Treaty Indian fishers in the Columbia River above Bonneville Dam consistent with action taken April 29, 2004 by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0090

Spring Salmon Season

(1) Salmon, steelhead, walleye, carp, and shad may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m., May 4, 2004 to 6 p.m., May 6, 2004.

(2) There are no mesh size restrictions.

(3) Closed areas set forth in OAR 635-041-0045 remain in effect with the exception of the Spring Creek sanctuary.

(4) Sturgeon may not be sold. Sturgeon between 4 and 5 feet in length in The Dalles and John Day pools and sturgeon between 45-60 inches in the Bonneville pool may be kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish and catch from Drano Lake, Wind River, Klickitat River and White Salmon River is allowed from 6 a.m., May 4, 2004 through 6 p.m., May 9, 2004.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist: DFW 37-2004(Temp), f. 4-30-04, cert. ef. 5-4-04 thru 7-31-04

Adm. Order No.: DFW 38-2004(Temp)

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04 thru 6-30-04

Notice Publication Date:

Rules Amended: 635-003-0076

Subject: Amend regulation to close the commercial troll fishery North of Cape Falcon.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-003-0076

US-Canada Border to Cape Falcon, May/June All-Except-Coho Season and July-September All Species Season

(1) Vessels must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) **Humbug Mountain to the Oregon/California Border, June-September All-Salmon-Except-Coho Season:** Vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(3) Effective 12 Midnight, May 5, 2004, the commercial troll fishery season as described above in (1) is closed.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 506.129

Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 38-2004(Temp), f. & cert. ef. 5-5-04 thru 6-30-04

Adm. Order No.: DFW 39-2004(Temp)

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-6-04 thru 7-31-04

Notice Publication Date:

Rules Amended: 635-023-0125, 635-042-0145, 635-042-0160, 635-042-0180

Subject: Amend rules to close harvest opportunities, both commercial and sport, in Select Areas, and amend rules to close mainstem Columbia River sport fisheries. Fisheries were closed consistent with Compact Action and Oregon State jurisdiction.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1, 2004 through May 15, 2004, from the mouth at Buoy 10 upstream to the I-5 Bridge; from March 16, 2004 through May 15, 2004 from I-5 Bridge upstream to Bonneville Dam and from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained.

(b) All non-adipose fin-clipped chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per permanent regulations.

(3) The Columbia River from I-5 Bridge upstream to Bonneville Dam is closed to angling for salmon, steelhead and shad effective Thursday, 12:01 AM, April 22, 2004 and reverts to permanent angling regulations effective 12:01 AM, May 16, 2004.

(4) The Columbia River from Buoy 10 upstream to I-5 Bridge is closed to angling for salmon, steelhead and shad effective Saturday, 12:01 AM, May 1, 2004 and reverts to permanent angling regulations effective 12:01 AM, May 16, 2004.

(5) The Columbia River from Bonneville Dam upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines is closed to angling for salmon and steelhead effective Thursday, 12:01 AM, May 6, 2004 and reverts to permanent angling regulations effective 12:01 AM, June 16, 2004.

(6) Effective March 10, 2004 through May 15, 2004, in the mainstem Columbia River upstream of the Rocky Point/Tongue Point line it is unlawful when fishing from vessels which are less than 30' in length, substantiated by Coast Guard documentation or Marine Board Registration, to totally remove from the water any salmon or steelhead required to be released.

(7) The Youngs Bay Select Area, the Deep River Select Area and the Blind Slough/Knapka Slough Select Area including Gnat Creek from the Railroad Bridge up to Aldrich Pt. Road Bridge, are closed to the harvest of salmon, steelhead and shad, effective 12:01 AM, May 6, 2004.

(8) All other specifications and restrictions as outlined in the current **2004 Oregon Sport Fishing Regulations** apply.

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

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) In the fishing period of March 20 to March 21, 2004, and on April 12, 2004, salmon, sturgeon, and shad may be taken for commercial purposes only in those waters of Youngs Bay extending upstream of the old Highway 101 Bridge (old Youngs Bay Bridge) to the upper boundary at the confluence of the Youngs and Klaskanine rivers.

(b) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) Winter Season:

6 p.m. February 14 - 12 Noon February 15, 2004;

6 a.m. to 6 p.m. February 18, 2004;

6 p.m. February 21 - 12 Noon February 22, 2004;

6 a.m. to 6 p.m. February 25, 2004;

6 p.m. February 28 - 12 Noon February 29, 2004;

6 a.m. to 6 p.m. March 3, 2004;

6 p.m. March 6 - 12 Noon March 7, 2004;

6 p.m. March 13 - 12 Noon March 14, 2004;

6 p.m. March 20 - 6 a.m. March 21, 2004;

8 p.m. to 12 Midnight April 12, 2004.

(B) Spring Season:

6 p.m. April 22 - 6 a.m. April 23, 2004;

6 p.m. April 26 - 6 a.m. April 27, 2004;

ADMINISTRATIVE RULES

6 p.m. April 29 - 6 a.m. April 30, 2004;
6 p.m. May 3 - 12 Noon May 4, 2004;
6 p.m. May 6 - 12 Noon May 7, 2004;
12 Noon May 11 - 12 Noon May 14, 2004;
12 Noon May 17 - 12 Noon May 21, 2004;
12 Noon May 24 - 12 Noon May 28, 2004;
12 Noon May 31 - 12 Noon June 4, 2004;
12 Noon June 7 - 12 Noon June 11, 2004;
12 Noon June 15 - 12 Noon June 18, 2004;
(C) Summer Season:
12 Noon June 23 - 12 Noon June 25, 2004;
12 Noon June 30 - 12 Noon July 2, 2004;
12 Noon July 7 - 6 p.m. July 8, 2004;
12 Noon July 14 - 6 p.m. July 15, 2004;
12 Noon July 21 - 6 p.m. July 22, 2004;
12 Noon July 28 - 6 p.m. July 29, 2004;

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches during February 14, 2004 to March 21, 2004 and during the April 12, 2004 fishing period. It is unlawful to use a gill net having a mesh size that is more than 8 inches April 22, 2004 to June 18, 2004 and June 23, 2004 to July 29, 2004.

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 14, 2004 and March 21, 2004.

(2) Effective Thursday, 12:01 AM, May 6, 2004, the fishing area as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 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. 4-27-92; FWC 35-1992(Temp), f. & cert. 5-22-92, cert. 5-25-92; FWC 74-1992 (Temp), f. & cert. 8-10-92, 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. 8-7-02 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; DFW 32-2003(Temp), f. & cert. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. 9-8-03, cert. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. 2-13-04; DFW 19-2004(Temp), f. & cert. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. 4-8-04 cert. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. 5-5-04, cert. 5-6-04 thru 7-31-04

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the early spring fishery in paragraphs (1)(a)(A) or (1)(a) (B) of this rule in those waters of Blind Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. In addition, Knappa Slough is open to fishing for salmon, sturgeon and shad during open fishing periods described as the spring fishery in paragraph (1)(a)(B) of this rule. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in paragraph (B). The seasons are open nightly, 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only:
February 14 - February 15, 2004;
February 21 - February 22, 2004;
February 28 - February 29, 2004;
March 6 - March 7, 2004;
March 13 - March 14, 2004;
March 20 - March 21, 2004 and April 12, 2004.

(B) Blind and Knappa Sloughs:

April 22 - April 23, 2004;
April 29 - April 30, 2004;
May 3 - May 4, 2004;
May 6 - May 7, 2004;
May 10 - May 11, 2004;
May 13 - May 14, 2004;
May 17 - May 18, 2004;
May 20 - May 21, 2004;
May 24 - May 25, 2004;
May 27 - May 28, 2004;
May 31 - June 1, 2004;
June 3 - June 4, 2004;
June 7 - June 8, 2004;
June 10 - June 11, 2004;
June 14 - June 15, 2004;
and June 17 - June 18, 2004.

(b) During the April 12, 2004 winter fishery, as identified in (1)(a)(A), the open fishing period is restricted to 8:00 p.m. to 12 Midnight (4 hours).

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 14, 2004 and March 21, 2004.

(d) Gear restrictions are as follows:

(A) During the winter fishery (see paragraph (1)(a)(A) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches;

(B) During the spring fishery (see paragraphs (1)(a)(B) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is more than 8 inches.

(2) Oregon licenses are required in the open waters upstream from the railroad bridge.

(3) Effective Thursday, 12:01 AM, May 6, 2004, the fishing areas as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. 8-23-96; FWC 48-1997, f. & cert. 8-25-97; DFW 15-1998, f. & cert. 3-3-98; DFW 67-1998, f. & cert. 8-24-98; DFW 86-1998(Temp), f. & cert. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. 2-26-99; DFW 48-1999(Temp), f. & cert. 6-24-99 thru 7-2-99; 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 65-2000(Temp) f. & cert. 9-22-00, cert. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. 2-6-01; DFW 84-2001(Temp), f. & cert. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. 2-13-02, cert. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. 2-14-03; DFW 34-2003(Temp), f. & cert. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. 4-30-03, cert. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. 9-8-03, cert. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. 2-13-04; DFW 19-2004(Temp), f. & cert. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. 4-8-04 cert. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. 5-5-04, cert. 5-6-04 thru 7-31-04

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and sturgeon may be taken for commercial purposes from Highway 4 Bridge, downstream to the Deep River boat ramp.

(2) The fishing seasons are open nightly, 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

April 22 - April 23, 2004;
April 29 - April 30, 2004;
May 3 - May 4, 2004;
May 6 - May 7, 2004;
May 10 - May 11, 2004;
May 13 - May 14, 2004;
May 17 - May 18, 2004;
May 20 - May 21, 2004;
May 24 - May 25, 2004;
May 27 - May 28, 2004;
May 31 - June 1, 2004;
June 3 - June 4, 2004;
June 7 - June 8, 2004;
June 10 - June 11, 2004;
June 14 - June 15, 2004;
and June 17 - June 18, 2004.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than 8 inches.

ADMINISTRATIVE RULES

(4) Effective Thursday, 12:01 AM, May 6, 2004, the fishing area as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. & cert. ef. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. & cert. ef. 5-6-04 thru 7-31-04

Adm. Order No.: DFW 40-2004(Temp)

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-13-04 thru 7-1-04

Notice Publication Date:

Rules Amended: 635-019-0090

Subject: Amend rules to implement partial closure of the Umatilla River to angling for spring chinook salmon.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-019-0090

Inclusions and Modifications

(1) The 2004 Oregon Sport Fishing provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2004 Oregon Sport Fishing Regulations.

(2) The Umatilla River from Highway 730 Bridge upstream to Three Mile Dam is closed to angling for spring chinook salmon effective 12:01 AM, May 13, 2004.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 82-1993, f. & cert. ef. 1-1-94; FWC 57-1994(Temp), f. & cert. ef. 8-30-94, cert. ef. 9-1-95; FWC 22-1995, f. & cert. ef. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. & cert. ef. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. & cert. ef. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. & cert. ef. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. & cert. ef. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. & cert. ef. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. & cert. ef. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. & cert. ef. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. & cert. ef. 1-1-99; DFW 5-1999(Temp), f. & cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. & cert. ef. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. & cert. ef. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. & cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. & cert. ef. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. & cert. ef. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. & cert. ef. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. & cert. ef. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. & cert. ef. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. & cert. ef. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. & cert. ef. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. & cert. ef. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. & cert. ef. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. & cert. ef. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. & cert. ef. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. & cert. ef. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. & cert. ef. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. & cert. ef. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. & cert. ef. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. & cert. ef. 1-1-04; DFW 40-2004(Temp), f. & cert. ef. 5-7-04, cert. ef. 5-13-04 thru 7-1-04

Adm. Order No.: DFW 41-2004(Temp)

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-11-04 thru 7-31-04

Notice Publication Date:

Rules Amended: 635-041-0090

Subject: Amend rules in the spring salmon season for Treaty Indian fishers in the Columbia River above Bonneville Dam consistent with action taken May 7, 2004 by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0090

Spring Salmon Season

(1) Salmon, steelhead, walleye, carp, and shad may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m., May 11, 2004 to 6 p.m., May 14, 2004

(2) There are no mesh size restrictions.

(3) Closed areas set forth in OAR 635-041-0045 remain in effect with the exception of the Spring Creek sanctuary.

(4) Sturgeon may not be sold. Sturgeon between 4 and 5 feet in length in The Dalles and John Day pools and sturgeon between 45-60 inches in the Bonneville pool may be kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish and catch from Drano Lake, Wind River, Klickitat River and White Salmon River is allowed from 6 a.m., May 11, 2004 through 6 p.m. May 31, 2004; Only during those days and hours when those tributaries are open under lawfully enacted Yakama Nation Tribal subsistence fisheries.

Stat. Auth.: ORS 496.118 & 506.119
Stats Implemented: ORS 506.109, 506.129 & 507.030
Hist: DFW 37-2004(Temp), f. & cert. ef. 5-4-04 thru 7-31-04; DFW 41-2004(Temp), f. & cert. ef. 5-11-04 thru 7-31-04

Adm. Order No.: DFW 42-2004(Temp)

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-15-04 thru 6-30-04

Notice Publication Date:

Rules Amended: 635-003-0076

Subject: Amend regulation to re-open the commercial troll fishery North of Cape Falcon effective 00:01 Saturday, May 15 through 23:59 Tuesday, May 18 with an open period landing limit of 125 Chinook per vessel.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-003-0076

US-Canada Border to Cape Falcon, May/June All-Except-Coho Season and July-September All Species Season

(1) Vessels must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) **Humbog Mountain to the Oregon/California Border, June-September All-Salmon Except-Coho Season:** Vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(3) Effective 12:01 a.m. Saturday, May 15 through 11:59 p.m. Tuesday, May 18th, the commercial troll fishery season as described above in (1) is open.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: 506.129
Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. & cert. ef. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. & cert. ef. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. & cert. ef. 4-22-04, cert. ef. 5-1-04; DFW 38-2004(Temp), f. & cert. ef. 5-5-04 thru 6-30-04; DFW 42-2004(Temp), f. & cert. ef. 5-14-04, cert. ef. 5-15-04 thru 6-30-04

Department of Forestry Chapter 629

Adm. Order No.: DOF 4-2004

Filed with Sec. of State: 5-4-2004

Certified to be Effective: 5-4-04

Notice Publication Date: 4-1-04

Rules Adopted: 629-065-0210, 629-065-0220, 629-065-0410

Rules Amended: 629-065-0005, 629-065-0200, 629-065-0400

Rules Repealed: 629-065-0100, 629-065-0500

Subject: House Bill 2915 passed by the 2003 Legislature created new provisions for appointment of the Board of Directors for the Oregon Forest Resources Institute (OFRI). The proposed rule changes implement these new provisions by establishing a process for the State Forester to appoint members to the OFRI Board of Directors. Under the rules, the State Forester will solicit nominations and seek recommendations for appointments from producers' organizations, the OFRI Board of Directors, and other interested parties.

Rules Coordinator: Gayle Birch—(503) 945-7210

629-065-0005

Definitions

For purposes of OAR 629-065-0005 through 629-065-0410.

ADMINISTRATIVE RULES

(1) "Forest products processing activity" means an activity, conducted at a facility that converts raw logs to finished products;

(2) "No direct financial interest" means that no more than 10 percent of the gross income of a member of the board of directors is derived from timber or ownership in a timber products processing facility. Ownership in a timber products processing facility does not include the ownership of stock in a publicly held corporation;

(3) "OFRI" means the Oregon Forest Resources Institute;

(4) "OFRI application list" means the list compiled by the State Forester for the purposes of OAR 629-065-0100 and 629-065-0410 which shows persons recommended for consideration of appointment by the State Forester;

(5) "Producer" means a producer of forest products and includes any person, partnership, association, corporation, cooperative or other business entity involved in the growing, harvesting and processing of timber or timber products. "Producer" does not include landowners who meet the requirements of ORS 526.610.

(6) "Producers organization" means a bona fide organization, designated from time to time by the State Forester, that represents producers of timber or timber products, or organizations representing landowners who meet the requirements of ORS 526.610, a majority of whose members reside in Oregon and whose objectives include public policy participation in statewide issues affecting timber and the timber industry in Oregon. A bona fide organization is one which has a charter, by-laws, membership requirements and which conducts meetings on a regular basis. Organizations meeting this definition include: American Forest Resources Council, Oregon Forest Industries Council, Oregon Small Woodlands Association, Associated Oregon Loggers, Southern Oregon Timber Industries Association, Douglas Timber Operators and Western Hardwood Association;

(7) "State Forester" means the State Forester or the State Forester's designee;

(8) "Substantial portion of income" means that 50 percent or more of the gross income of a member of the board of directors is derived from timber or timber products ownership or affiliation;

(9) "Timber" means wood of a tree species acceptable for reforestation under the Forest Practices Act, ORS 527.610 to 527.730, and measured in board feet in the ordinary course of business and common practice of the timber industry. The wood may be growing or dead, mature or immature, standing or down. "Timber" does not include Christmas trees as that term is defined in ORS 215.203 or 321.267;

(10) "Timber products" means a commodity which is the result of growing, harvesting or processing timber and is measured in board feet in the ordinary course of business and common practice of the timber industry.

Stat. Auth.: ORS 526.016(4)

Stats. Implemented: ORS 526.610(2)(a)

Hist.: FB 6-1991(Temp), f. & cert. ef. 10-4-91; FB 3-1993, f. & cert. ef. 2-23-93; FB 7-1996, f. & cert. ef. 10-1-96; DOF 4-2004, f. & cert. ef. 5-4-04

629-065-0200

Duty of the State Forester to Appoint/Remove OFRI Members of the Board

(1) It is the duty of the State Forester to appoint fully qualified members to the Oregon Forest Resources Institute Board of Directors as vacancies occur.

(2) The members of the board of directors of the Oregon Forest Resources Institute shall be appointed for a term ending three years from the date of the expiration of the term for which the member's predecessor was appointed. If there is a vacancy on the board of a voting member, other than a vacancy caused by expiration of a term, the State Forester shall fill the vacancy for the remainder of the unexpired term with a person who represents the same producer or landowner size class, as described in OAR 629-065-0210(1), as the member whose term was vacated.

(3) The State Forester shall immediately declare the office of any member of the board of directors vacant whenever the member becomes a resident of another state or is unable to perform the duties of office.

(4) The State Forester may remove any member of the board of directors for neglect of duty or misconduct in office. Prior to such removal the State Forester shall serve upon such member a copy of the reasons for dismissal. Such member may request a public hearing where the member shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer and explain the facts alleged.

(5) In making the appointments, the State Forester shall take into consideration any nominations or recommendations made to the State Forester by producers or organizations that represent producers.

Stat. Auth.: ORS 526.016(4)

Stats. Implemented: ORS 526.610(2)(a)

Hist.: FB 6-1991(Temp), f. & cert. ef. 10-4-91; FB 3-1993, f. & cert. ef. 2-23-93; FB 7-1996, f. & cert. ef. 10-1-96; DOF 4-2004, f. & cert. ef. 5-4-04

629-065-0210

Make Up of Board — Representation

The board shall consist of 11 voting members plus two nonvoting members appointed as follows:

(1) Three voting members to represent small producers of 20 million board feet or less per year.

(2) Three voting members to represent medium producers of more than 20 million board feet but less than 100 million board feet per year.

(3) Three voting members to represent large producers of 100 million board feet or more per year.

(4) One voting member who is an owner of between 100 and 2,000 acres of forestland and who has no direct financial interest in any forest products processing activity.

(5) One voting member who is an hourly wage employee of a producer or a person who represents such employees. The member appointed under this subsection need not comply with the requirements of ORS 526.615 (3) to (6).

(6) Two nonvoting members:

(a) The Dean of the College of Forestry at Oregon State University.

(b) An individual jointly appointed by the President of the Senate and the Speaker of the House of Representatives to represent the public. The public representative may not be a member of or significantly affiliated with any organization of or business in the timber industry or any organization or business known to support or promote environmental or conservation issues. A person appointed under this subparagraph serves at the pleasure of the President of the Senate and the Speaker of the House of Representatives.

(c) Members referred to in this subsection are not subject to ORS 526.615 to 526.625.

Stat. Auth.: ORS 526.041

Stats. Implemented: ORS 526.610(2)(a)

Hist.: DOF 4-2004, f. & cert. ef. 5-4-04

629-065-0220

Qualifications

Each voting member of the board of directors of the Oregon Forest Resources Institute shall have the following qualifications:

(1) Be a citizen of the United States.

(2) Be a bona fide resident of this state.

(3) Be a producer in this state, an employee of such a producer or own between 100 and 2,000 acres of forestland in this state on which harvest taxes are paid, but have no direct financial interest in any forest products processing activity.

(4) Have been actively engaged in producing forest products for a period of at least five years.

(5) Derive a substantial proportion of income from the production of forest products.

(6) Have demonstrated, through membership in producers' organizations or organizations representing landowners who meet the requirements of ORS 526.610 (4), a profound interest in the development of Oregon's forest products industry.

Stat. Auth.: ORS 526.041

Stats. Implemented: ORS 526.610(2)(a)

Hist.: DOF 4-2004, f. & cert. ef. 5-4-04

629-065-0400

Application for OFRI Board Member

(1) The State Forester shall annually solicit applications for the OFRI board of directors. The solicitation shall be by publication in a newspaper of general statewide circulation, by solicitation to the OFRI Board of Directors and by solicitation to those producers' organizations that request the State Forester to provide such notice.

(2) The State Forester shall supply applications to all those requesting them. Applications must be submitted during the nomination period specified by the State Forester in the solicitation.

(3) The applicant must certify in the application that he/she meets the qualifications for the position, and

(a) Has a written statement from a bona fide producer's organization confirming membership, a letter of recommendation from a bona fide producer's organization and provides information that demonstrates a profound interest in the development of Oregon's forest products industry.

Stat. Auth.: ORS 526.016(4)

Stats. Implemented: ORS 526.610(2)(a)

Hist.: FB 6-1991(Temp), f. & cert. ef. 10-4-91; FB 3-1993, f. & cert. ef. 2-23-93; FB 7-1996, f. & cert. ef. 10-1-96; DOF 4-2004, f. & cert. ef. 5-4-04

ADMINISTRATIVE RULES

629-065-0410

Appointment Generally

(1) Prior to appointing a member to the OFRI board, the State Forester shall furnish names of all applicants to the State Forester to the current OFRI Board for their review and comment.

(2) The State Forester shall appoint the best qualified applications to fill vacant positions with due consideration of comments provided by the current OFRI Board and in consideration of the geographic diversity of Oregon's forests.

(3) Upon appointment, the State Forester shall notify the appointees and other applicants of the results.

(4) The State Forester shall within 5 working days of appointments send a certification letter to the Executive Director of OFRI.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 526.610(2)(a)
Hist.: DOF 4-2004, f. & cert. ef. 5-4-04

Adm. Order No.: DOF 5-2004

Filed with Sec. of State: 5-6-2004

Certified to be Effective: 5-6-04

Notice Publication Date: 3-1-04

Rules Repealed: 629-023-0110, 629-023-0120, 629-023-0130, 629-023-0140, 629-023-0145, 629-023-0150, 629-023-0160, 629-023-0165, 629-023-0170, 629-023-0180

Subject: Rules related to the Western Oregon Small Tract Optional Tax (WOSTOT) Program are being repealed because the 2003 Legislative Assembly repealed the governing statutes for this program. Forestlands previously in the WOSTOT Program have been automatically transferred to the new FORESTLAND Program.

Rules Coordinator: Gayle Birch—(503) 945-7210

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

Adm. Order No.: OMAP 27-2004

Filed with Sec. of State: 4-22-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 4-1-04

Rules Amended: 410-125-0115, 410-125-0121, 410-125-0181

Rules Repealed: 410-125-0115(T), 410-125-0121(T), 410-125-0181(T)

Subject: The Hospital Services program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP temporarily amended rules 410-125-0115, 410-125-0121 and 410-125-0181 to revise contiguous and non-contiguous hospital payment methodology to decrease risk of overpayment and to bring into line with in-state hospitals. These rule amendments are retroactively effective for services rendered on or after October 1, 2003. This filing is to permanently amend these rules. These rules, permanently amended on October 1, 2003, are being re-filed as permanently amended to assure compliance with HB 3120, 2003 Or Laws 749 section 5. There is no change in the content of the rule as amended, except to clarify that it is retroactive to October 1, 2003. To the extent that rule 410-125-0181, amended on October 1, 2003, has been later amended as of January 1, 2004, those changes are incorporated.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0115

Non-Contiguous Area Out-of-State Hospitals — Effective for services rendered on or after October 1, 2003

Non-contiguous area hospitals are out-of-state hospitals located more than 75 miles outside the Oregon border. Unless such hospitals have an agreement or contract with OMAP for specialized services, non-contiguous area out-of-state hospitals will receive DRG reimbursement or billed charges whichever is less. The unit value for non-contiguous out-of-state hospitals will be set at the final unit value for the 50th percentile of Oregon hospitals (see Inpatient Rate Calculations from Other Hospitals, DRG Rate Methodology, OAR 410-125-0141 for the methodology used to calculate the unit value at the 50th percentile). No cost outlier, capital or medical

education payments will be made. The hospital will receive a disproportionate share reimbursement if eligible (see OAR 410-125-0150).

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0570; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 16-2004(Temp), f. & cert. ef. 3-15-04 thru 8-15-04; OMAP 27-2004, f. 4-22-04 cert. ef. 5-1-04

410-125-0121

Contiguous Area Out-of-State Hospitals — Effective for services rendered on or after October 1, 2003

Contiguous area hospitals are out-of-state hospitals located less than 75 miles outside the Oregon border. Unless such hospitals have an agreement or contract with OMAP for specialized services, contiguous area out-of-state hospitals will receive DRG reimbursement or billed charges whichever is less. The unit value for contiguous out-of-state hospitals will be set at the final unit value for the 50th percentile of Oregon hospitals (see Inpatient Rate Calculations for Other Hospitals, DRG Rate Methodology OAR 410-125-0141 for the methodology). Contiguous area out-of-state hospitals are also eligible for cost outlier payments. No capital or medical education payments will be made. The hospital will receive a disproportionate share reimbursement if eligible (see OAR 410-125-0150).

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0570; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 16-2004(Temp), f. & cert. ef. 3-15-04 thru 8-15-04; OMAP 27-2004, f. 4-22-04 cert. ef. 5-1-04

410-125-0181

Non-Contiguous and Contiguous Area Out-of-State Hospitals — Outpatient Services

Effective for services rendered on or after March 1, 2003. Non-contiguous area hospitals are out-of-state hospitals located more than 75 miles outside the Oregon border. Contiguous area hospitals are out-of-state hospitals located less than 75 miles outside the Oregon border. Unless such hospitals have an agreement with OMAP regarding reimbursement for specialized services, these hospitals will be reimbursed as follows:

(1) Laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services will be reimbursed under an OMAP fee schedule.

(2) Effective for services rendered on or after March 1, 2003: All other outpatient services will be reimbursed at 44 percent of billed charges. There is no cost settlement.

(3) Effective for services rendered on or after January 1, 2004: All other outpatient services will be reimbursed at 50 percent of billed charges. There is no cost settlement.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef.

ADMINISTRATIVE RULES

4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 58-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 16-2004(Temp), f. & cert. ef. 3-15-04 thru 8-15-04; OMAP 27-2004, f. 4-22-04 cert. ef. 5-1-04

Adm. Order No.: OMAP 28-2004
Filed with Sec. of State: 4-22-2004
Certified to be Effective: 5-1-04
Notice Publication Date: 4-1-04
Rules Amended: 410-141-0520

Subject: The Oregon Health Plan (OHP) program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP temporarily amended rule 410-141-0520, effective April 1, 2004, to incorporate in rule by reference the April 1, 2004 Oregon Health Services Commission's Prioritized List of Health Services (Prioritized List). Rule 410-141-0520 is permanently amended.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(Effective for services rendered on or after April 1, 2004).

(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 HSC maintains the most current list on the HSC website (http://www.ohpr.state.or.us/hsc/index_hsc.htm) or, for a hardcopy, contact the Office of Health Policy and Research. This rule incorporates by reference the Prioritized List, effective April 1, 2004 and available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

(4) The Prioritized List, effective April 1, 2004, is in effect and condition/treatment pairs through line 549 are funded.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-04; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04

Adm. Order No.: OMAP 29-2004
Filed with Sec. of State: 4-23-2004
Certified to be Effective: 5-1-04
Notice Publication Date: 4-1-04
Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0030 will be amended, effective May 1, 2004 to update

Table 121-0030-1 to add a therapeutic drug class Antiotensin-Converting Enzyme Inhibitors (ACE inhibitors) to the Plan drug List.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research;

(b) Decisions also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price;

(d) The PDL will include other drugs in the class that are Medicaid reimbursable and which the Food and Drug Administration (FDA) has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL;

(e) A copy of the current PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/.

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is (are) available for the best possible price and will consider any input from the HRC about other FDA-approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually:

(A) Review will occur more frequently at the discretion of DHS if new safety information or the release of new drugs in a class or other information makes a review advisable;

(B) New drugs will not be added to the PDL until they have been reviewed by the HRC;

(C) If changes or revisions to the PDL will be made publicly, using the rulemaking process, and will be published on OMAP's Pharmaceutical Services provider rules web page.

(4) Relative cost and best possible price determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the HRC in reaching a final decision;

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0180), in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, the cost of the other FDA-approved drugs in the class will be recalculated using EAC for retail pharmacies in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average available rebate. Drugs with prices under the benchmark drug cost will be included on the PDL.

(5) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155.

Table 121-0030-1, PMPDP PDL (updated effective 05/01/2004)

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

Stat. Auth.: ORS 409

ADMINISTRATIVE RULES

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04

Adm. Order No.: OMAP 30-2004(Temp)

Filed with Sec. of State: 4-28-2004

Certified to be Effective: 5-1-04 thru 10-27-04

Notice Publication Date:

Rules Adopted: 410-050-0100, 410-050-0110, 410-050-0120, 410-050-0130, 410-050-0140, 410-050-0150, 410-050-0160, 410-050-0170, 410-050-0180, 410-050-0190, 410-050-0200, 410-050-0210, 410-050-0220, 410-050-0230, 410-050-0240, 410-050-0250

Subject: Effective May 1, 2004, the Office of Finance and Policy Analysis is adopting as temporary rules, Oregon Administrative Rules 410-050-0100 through 410-050-0250, Medicaid Managed Care Provider Tax, relating to the taxation of Prepaid Health Plans that contract with the Department of Human Services to provide health care coverage to Oregon Health Plan (OHP) enrollees.

Rules Coordinator: Patricia Bougher—(503) 945-5844

410-050-0100

Definitions

(1) "Deficiency" means the amount by which the tax as correctly computed exceeds the tax, if any, reported by the PHP. If, after the original deficiency has been assessed, subsequent information shows the correct amount of tax to be greater than previously determined, an additional deficiency arises.

(2) "Delinquency" means the PHP failed to file a report when due as required under these rules or to pay the tax as correctly computed when the tax was due.

(3) "Department" means the Oregon Department of Human Services or its successor organization.

(4) "Director" means the Director of the Oregon Department of Human Services or the Director's designee or agent.

(5) "Premium Payments" means all capitation payments received by Prepaid Health Plans (PHPs) on a per enrollee per month basis for the provision of health services specified by contract. Premiums do not include any form of payment by Oregon Health Plan enrollees to the Department.

(6) "Managed Care Premiums" means all Premium Payments paid to a PHP including the Capitation Payments as defined in OAR 410-141-0000(12). Managed Care Premiums do not include Medicare premiums.

(7) "Medicaid Managed Care Organization" (MMCO) means a managed health, dental, mental health or chemical dependency organization that contracts with the Department of Human Services on a prepaid capitated basis under ORS 414.725. A MMCO is also referred to as a Prepaid Health Plan (PHP) as defined in OAR 410-141-0000(88). A PHP may be a dental care organization, fully capitated health plan, physician care organization, mental health organization or chemical dependency organization.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 37

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0110

General Administration

(1) The purpose of these rules is to implement the Medicaid managed care tax on the Prepaid Health Plans in the State of Oregon.

(2) The Department will administer, enforce and collect the Medicaid managed care tax. The Department may assign employees, auditors and such other agents as the Director may designate to assist in the administration, enforcement and collection of the taxes.

(3) The Department may make such rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce and collect the taxes.

(4) The Department may adopt such forms and reporting requirements, and change the forms and reporting requirements, as necessary to administer, enforce and collect the taxes.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38; 409.050

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0120

Disclosure of Information

(1) Except as otherwise specifically required by law, the Department must not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the taxes. "Particulars" includes but is not limited to, social security numbers, employer number or other organization identification number, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, or deficiencies payable or paid, or otherwise administer, enforce or collect a health care assessment to the extent that such information would be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Upon request, furnish any PHP, or representative authorized to represent the PHP, with a copy of the PHP's report filed with the Department for any quarter, or with a copy of any other information filed by the PHP in connection with the report, or as the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return;

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and such other employees of the State or Federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement or collection of these taxes.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 37-51

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0130

The Medicaid Managed Care Tax: Calculation; Report; Due Date; Verification of Report

(1) The tax is assessed on the Managed Care Premiums paid to a PHP on or after January 1, 2004, based on calendar quarters. The first calendar quarter begins on January 1; the second calendar quarter begins on April 1; the third calendar quarter begins on July 1; and the fourth quarter begins on October 1. For purposes of this rule, Managed Care Premiums will be taxed as of the calendar quarter in which the Managed Care Premium payment is received by the PHP.

(2) Adjustments to the Managed Care Premium subject to tax shall be determined as follows:

(a) Managed Care Premiums attributable to periods prior to January 1, 2004 are not subject to the tax and shall be deducted from the taxable Managed Care Premiums when calculating the tax due. Managed Care Premiums attributable to the period between January 1, 2004 and April 31, 2004 are taxed at the rate of 0%. This deduction includes maternity payments, adjustments due to changes in the client's status, and other Managed Care Premium adjustments resulting in additional payments received by the PHP on or after May 1, 2004;

(b) If Managed Care Premiums received after May 1, 2004 are reduced by a recoupment by the Department for an overpayment paid prior to May 1, 2004, then the taxable Managed Care Premiums will be deemed to include the recouped amount;

(c) If both the overpayment and recoupment occur after May 1st, 2004, then the PHP will be subject to the tax on the Managed Care Premiums received in the calendar quarter in which the Managed Care Premium payment is received by the PHP;

(d) Sub-capitation payments made to a PHP by another PHP are not included in the total Managed Care Premiums subject to tax if the payor PHP certifies to the payee PHP in writing that the payor PHP is already responsible for the Managed Care Tax on the originating Managed Care Premiums.

(3) The rate of the assessment on and after May 1, 2004, will be determined in accordance with OAR 410-050-0140.

(4) The tax becomes operative on May 1, 2004. The first calendar quarter for which a tax is due is a partial quarter. First quarter taxes will be due on Managed Care Premiums received between May 1, 2004 and June 30, 2004.

(5) The PHP must pay the tax and file the report on a form approved by the Department on or before the 75th day following the end of the cal-

ADMINISTRATIVE RULES

endar quarter for which a tax is due. The PHP must provide all information required on the report.

(6) Any report, statement or other document required to be filed under any provision of these rules shall be certified by the Chief Financial Officer of the PHP or an individual with delegated authority to sign for the PHP's Chief Financial Officer. The certification must attest, based on best knowledge, information and belief, to the accuracy, completeness and truthfulness of the document.

(7) Payments may be made electronically or by paper check. If the PHP pays electronically, the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form. If the PHP pays by paper check, the accompanying report must be mailed with the check to the address provided on the report form.

(8) The Department may charge the PHP a fee of \$100 if, for any reason, the check, draft, order or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the taxes that may also be due.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38, 39 & 45

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0140

Filing an Amended Report

(1) The claims for refunds or payments of additional tax must be submitted by the PHP on a form approved by the Department. The PHP must provide all information required on the report. The Department may audit the PHP, request additional information or request an informal conference prior to granting a refund or as part of its review of a payment of a Deficiency.

(2) Claim for Refund.

(a) If the amount of the tax imposed by these rules is less than the amount paid by the PHP and the PHP does not then owe a tax for any other calendar period, such overpayment may be refunded by the Department to the PHP. In no event will a refund applicable to a particular calendar quarter exceed the tax amount actually paid by the PHP;

(b) The PHP may file a claim for refund on a form approved by the Department within 180 days after the end of the calendar quarter to which the claim for refund applies;

(c) If there is an amount due from the PHP to the Department for any past due taxes or penalties, any refund otherwise allowable will first be applied to the unpaid taxes and penalties and the PHP so notified.

(3) Payment of Deficiency.

(a) If the amount of the tax imposed by these rules is more than the amount paid by the PHP, the PHP may file a corrected report on a form approved by the Department and pay the Deficiency at any time. The penalty under OAR 410-050-0180 will stop accruing after the Department receives of payment of the total Deficiency for the calendar quarter;

(b) If there is an error in the determination of the tax due, the PHP may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, in its sole discretion, may determine that such a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department will consider the circumstances, including but not limited to: nature and extent of the error; PHP explanation of the circumstances related to the error; evidence of prior errors; and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the PHP has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers/identifies information in the administration of these Managed Care tax rules that it determines could give rise to the issuance of a Notice of Proposed Action, or the issuance of a refund, the Department will notify the PHP. The PHP will have 30 calendar days from the date of the Department's notice to respond. It is the PHP's responsibility to determine what response, if any, it will make. The PHP may request a refund pursuant to subsection (2) of this rule or file an amended report pursuant to subsection (3) of this rule. Nothing in this subsection (4) prevents or limits the Department from issuing a Notice of Proposed Action pursuant to OAR 410-050-0190.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38, 40, 41 & 48

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0150

Determining the Date Filed

For the purposes of OAR 410-050-0100 through 410-050-0250, any reports, requests, appeals, payments or other response by the PHP must be received by the Department either:

(1) before the close of business on the date due, or

(2) if mailed, postmarked before midnight of the due date. When the due date falls on a Saturday, Sunday or legal holiday, the response is due on the next business day following such Saturday, Sunday or legal holiday.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0160

Departmental Authority to Audit Records

(1) The PHP must maintain financial records necessary and adequate to determine the amount of Managed Care Premiums for any calendar period for which a tax may be due.

(2) The Department or its designee may audit the PHP's records at any time for a period of five years following the date the tax is due to verify or determine the Managed Care Premiums for the PHP.

(3) Any audit, finding or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the PHP or by the PHP and a representative of the Department.

(4) The Department may notify the PHP of a potential Deficiency or issue a refund based upon its findings during the audit.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 42

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0170

Assessing Tax on Failure to File

(1) The law places an affirmative duty on the PHP to file a timely and correct report.

(2) In the case of a failure by the PHP to file a report or to maintain necessary and adequate records, the Department will determine the tax liability of the PHP according to the best of its information and belief. "Best of its information and belief" means that the Department will use evidence available to the Department at the time of the determination on which a reasonable person would rely in determining the tax. The Department's determination of tax liability will be the basis for the assessment due in any Notice of Proposed Action.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0180

Financial Penalty for Failure to File a Report or Failure to Pay Tax When Due

(1) A PHP that fails to file a report or pay a tax when due under OAR 410-050-0130 is subject to a penalty of \$500 per day of Delinquency. The penalty accrues from the date of Delinquency, notwithstanding the date of any notice under these rules.

(2) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(3) Penalties imposed under this section will be collected by the Department of Human Services and deposited in the Department of Human Services Account established under ORS 409.060.

(4) Penalties paid under this section are in addition to the Medicaid Managed Care tax.

(5) If the Department determines that a PHP is subject to a penalty under this section, it will issue a Notice of Proposed Action as described in OAR 410-050-0190.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 40

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0190

Notice of Proposed Action

(1) Prior to issuing a Notice of Proposed Action, the Department will notify the PHP of a potential deficiency or failure to report that could give rise to the imposition of a penalty and provide the PHP with not less than 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended report under OAR 410-050-0150 in its Notice of Proposed Action.

ADMINISTRATIVE RULES

(2) The Department will notify the PHP if it determines that the PHP is subject to the imposition of a penalty for a calendar quarter or if there is a Deficiency for a calendar quarter.

(3) Contents of the Notice of Proposed Action must include:

- (a) The applicable calendar quarter;
- (b) The basis for determining the corrected amount of tax for the quarter;

(c) The corrected tax due for the quarter as determined by the Department;

(d) The amount of tax paid for the quarter by the PHP;

(e) The resulting Deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of Delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty will stop accruing;

(j) The total penalty accrued up to the date of the notice; and

(k) Instructions for responding to the notice, and a statement of the PHP's right to a hearing.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 50

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0200

Required Notice

(1) Any notice required to be sent under these rules to the PHP will be sent to the person and address identified as the point of contact for the PHP in its contract with the Department of Human Services under ORS 414.725.

(2) Any notice required to be sent to the Department under these rules shall be sent to the contact point identified on the communication from the Department to the PHP.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 50

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0210

Hearing Process

(1) Any PHP that receives a Notice of Proposed Action may request a contested case hearing under ORS 183.310 to 183.550.

(2) The PHP may request a hearing by submitting a written request within 20 days of the date of the Notice of Proposed Action.

(3) Prior to the hearing, the Department and PHP will meet for an informal conference.

(4) Except as provided in subsection (e) of this rule, if the case proceeds to a hearing, the administrative law judge will issue a proposed order with respect to the Notice of Proposed Action. The Department will issue a Final Order.

(5) Nothing in this section will preclude the Department and the PHP from agreeing to informal disposition of the contested case at any time, consistent with ORS 183.415(5).

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 50

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0220

Final Order of Payment

(1) Final Order of Payment.

(2) The Department will issue a Final Order of Payment for deficiencies and/or penalties when:

(a) Any part of the deficiency or penalty was upheld after a hearing;

(b) The PHP did not make a timely request for a hearing; or

(c) Upon the agreement of the PHP and the Department.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 37-51

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0230

Remedies Available after Final Order of Payment

(1) Remedies available after Final Order of Payment.

(2) Any amounts due and owing under the Final Order of Payment and any interest thereon may be recovered by the State of Oregon as a debt to the State, using any available legal and equitable remedies. These remedies include, but are not limited to:

(a) Collection activities including but not limited to deducting the amount of the final Deficiency and/or Penalty from any sum then or later owed to the PHP by the Department;

(b) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the Final Order of Payment and continuing until the payment obligation, including interest has been discharged.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 37-51

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0240

Director Determines the Tax Rate

(1) The tax rate is determined by the Director.

(2) The tax rate for the period beginning January 1, 2004 through April 30, 2004 is 0 percent. The tax rate for the period beginning May 1, 2004 is 5.8 percent.

(3) The rate may not exceed six (6) percent of Managed Care Premiums paid to a PHP.

(4) The Director of Human Services may reduce the rate of assessment to the maximum rate allowed under federal law if the reduction is required to comply with federal law. If the rate is reduced pursuant to this section, the Director will notify the PHPs as to the effective date of the rate reduction.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 38 & 39

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

410-050-0250

Sunset Provisions

The Medicaid managed care tax applies to Managed Care Premiums received by Prepaid Health Plans on or after May 1, 2004 and before January 1, 2008.

Stat. Auth.: ORS 409

Stats. Implemented: OL 2003, Ch 736 § 50

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04

Adm. Order No.: OMAP 31-2004(Temp)

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04 thru 10-15-04

Notice Publication Date:

Rules Amended: 410-121-0157

Subject: Subject Matter: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Releases #129, dated February 19, 2004 and #130, dated April 30, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0157

Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of 1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to the Office of Medical Assistance Programs (OMAP) on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. OMAP includes in rule by reference, Release #129, dated February 19, 2004 and #130, dated April 30, 2004 and the OMAP Master Pharmaceutical Manufacturer's Rebate Lists, alphabetical and numeric, by manufacturer. This information is available on the Department of Human Services' website: <http://www.dhs.state.or.us/policy/healthplan/rules/>, and on the CMS website: www.cms.hhs.gov/medicaid/drugs/drughmpg.asp, and by contacting CMS.

ADMINISTRATIVE RULES

(3) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(4) The actual National Drug Code (NDC) dispensed and the actual metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 22-1991, f. & cert. ef. 5-16-91; HR 23-1991(Temp), f. 6-14-91, cert. ef. 6-17-91; HR 31-1991, f. & cert. ef. 7-16-91; HR 36-1991(Temp), f. 9-16-91, cert. ef. 10-1-91; HR 45-1992, f. & cert. ef. 10-16-91; HR 50-1991(Temp), f. & cert. ef. 10-29-91; HR 1-1992, f. & cert. ef. 1-2-92; HR 13-1992, f. & cert. ef. 6-1-92; HR 21-1992, f. 7-31-92, cert. ef. 8-1-92; HR 31-1992, f. & cert. ef. 10-1-92; HR 34-1992, f. & cert. ef. 12-1-92; HR 4-1993, f. 3-10-93, cert. ef. 3-11-93; HR 7-1993(Temp), f. & cert. ef. 4-1-93; HR 14-1993, f. & cert. ef. 7-2-93; HR 24-1993, f. & cert. ef. 10-1-93; HR 17-1994, f. & cert. ef. 4-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 5-1-01; OMAP 3-2001, f. & cert. ef. 3-16-01; OMAP 24-2001(Temp), f. 5-9-01, cert. ef. 5-10-01 thru 11-1-01; OMAP 25-2001(Temp), f. 6-28-01, cert. ef. 7-1-01 thru 12-1-01; OMAP 27-2001(Temp), f. 7-30-01, cert. ef. 8-1-01 thru 1-26-02; OMAP 48-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 56-2001(Temp), f. & cert. ef. 11-1-01 thru 4-15-02; OMAP 57-2001(Temp), f. 11-28-01, cert. ef. 12-1-01 thru 4-15-02; OMAP 66-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 4-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 16-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 20-2002(Temp), f. & cert. ef. 5-15-02 thru 10-1-02; OMAP 34-2002(Temp), f. & cert. ef. 8-14-02 thru 1-15-03; OMAP 67-2002(Temp), f. & cert. ef. 11-1-02 thru 3-15-03; OMAP 6-2003(Temp), f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 38-2003, f. & cert. ef. 5-9-03; OMAP 39-2003(Temp), f. & cert. ef. 5-15-03; OMAP 48-2003, f. & cert. ef. 7-7-03; OMAP 74-2003, f. & cert. ef. 10-1-03; OMAP 5-2004(Temp), f. & cert. ef. 2-4-04 thru 6-15-04; OMAP 24-2004, f. & cert. ef. 3-30-04; OMAP 31-2004(Temp), f. & cert. ef. 5-14-04 thru 10-15-04

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Notice Publication Date:

Rules Amended: 410-121-0300

Subject: Subject Matter: The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0300 is being amended to update the CMS Federal Upper Limits for Drug Payments listing. This filing is to update Transmittal #37, with Title XIX State Agency Letter Number 04-01, changes to the list are effective for services rendered on or after March 20, 2004, 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 04-01, with changes to be effective March 20, 2004, and is available for downloading on OMAP's Website, (<http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/>). To request a hard copy, call OMAP.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-16-330; HR 20-1990, f. & cert. ef. 7-9-

90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 45-1990, f. & cert. ef. 12-28-90; HR 10-1991, f. & cert. ef. 2-19-91; HR 37-1991, f. & cert. ef. 9-16-91; HR 13-1992, f. & cert. ef. 6-1-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 35-1992(Temp), f. & cert. ef. 12-1-92; HR 1-1993(Temp), f. & cert. ef. 1-25-93; HR 3-1993, f. & cert. ef. 2-22-93; HR 5-1993(Temp), f. 3-10-93, cert. ef. 3-22-93; HR 8-1993(Temp), f. & cert. ef. 4-1-93; HR 11-1993, f. 4-22-93, cert. ef. 4-26-93; HR 15-1993(Temp), f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 25-1993(Temp), f. & cert. ef. 10-1-93; HR 14-1994, f. & cert. ef. 3-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 43-1998(Temp), f. & cert. ef. 11-20-98 thru 5-1-99; OMAP 5-1999, f. & cert. ef. 2-26-99; OMAP 42-2000(Temp), f. & cert. ef. 12-15-00 thru 5-1-01; OMAP 1-2001(Temp), f. & cert. ef. 2-1-01 thru 6-1-01; OMAP 2-2001(Temp), f. 2-14-01, cert. ef. 2-15-01 thru 7-1-01; OMAP 18-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 23-2001(Temp), f. & cert. ef. 4-16-01 thru 8-1-01; OMAP 26-2001(Temp), f. & cert. ef. 6-6-01 thru 1-2-02; OMAP 51-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-15-01; OMAP 58-2001, f. 11-30-01, cert. ef. 12-1-01; OMAP 67-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 3-2002(Temp), f. & cert. ef. 2-15-02 thru 6-15-02; OMAP 5-2002(Temp), f. & cert. ef. 3-5-02 thru 6-15-02; OMAP 19-2002(Temp), f. & cert. ef. 4-22-02 thru 9-15-02; OMAP 29-2002(Temp), f. 7-15-02, cert. ef. 8-1-02 thru 1-1-03; OMAP 71-2002(Temp), f. & cert. ef. 12-1-02 thru 5-15-03; OMAP 10-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 11-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 8-15-03; OMAP 41-2003, f. & cert. ef. 5-29-03; OMAP 51-2003, f. & cert. ef. 8-5-03; OMAP 54-2003(Temp), f. & cert. ef. 8-15-03 thru 1-15-03; OMAP 75-2003, f. & cert. ef. 10-1-03; OMAP 83-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 4-15-04; OMAP 2-2004, f. 1-23-04, cert. ef. 2-1-04; OMAP 32-2004(Temp), f. & cert. ef. 5-14-04 thru 10-15-04

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Department of Human Services, Public Health Chapter 333

Adm. Order No.: PH 17-2004

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 7-1-04

Notice Publication Date: 4-1-04

Rules Repealed: 333-063-0005, 333-063-0010, 333-063-0015, 333-063-0020, 333-063-0025, 333-063-0030, 333-063-0035, 333-063-0040, 333-063-0045, 333-063-0050, 333-063-0055, 333-063-0060, 333-063-0065, 333-063-0070, 333-063-0075, 333-063-0085, 333-063-0090, 333-063-0095, 333-063-0100, 333-063-0105, 333-063-0110, 333-063-0115, 333-063-0120, 333-063-0125, 333-063-0130, 333-063-0135, 333-063-0140

Subject: Repeals rules that govern the Drinking Water Laboratory Certification Program which is obsolete. Drinking water testing laboratories are accredited through the Oregon Environmental Laboratory Accreditation Program (OAR 333-064-0005 to 333-064-0070).

Rules Coordinator: Christina Hartman—(503) 731-4405

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Adm. Order No.: PH 18-2004(Temp)

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-7-04 thru 10-27-04

Notice Publication Date:

Rules Adopted: 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085, 333-015-0090

Rules Amended: 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060

Rules Suspended: 333-015-0055

Subject: Retroactively adopts 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085; amends 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060; and suspends 333-015-0055. These rule changes were previously submitted to the Secretary of State's office and became effective on August 27, 2002. Excepting one new rule regarding the effective date, these rules are identical to the rules previously filed with the Secretary of State's office on August 27, 2002.

These rules relate to House Bill 2828 (2001 Legislative Session) which amends statutes 433.835 through 433.875 and 433.990(4) to broaden the application of Oregon's previous Clean Air Act to prohibit smoking in places of employment.

The rules provide definitions of enclosed area, place of employment, employer, restaurant, bar or tavern, bowling center, local government, local public health authority, minors, person in charge of a public place, public places regularly inspected by the Department of Human Services (DHS), Health Services, and hotel and motel

ADMINISTRATIVE RULES

rooms that pertain to the provisions of the new statute. The definition for “public place” is amended. The places that are not required to be smoke free are outlined and signage required in workplaces is described. Ventilation requirements for employee smoking lounges are also described as well as the provisions concerning waivers. Clarification of the relationship between the new state law and laws passed in local jurisdictions prior to July 1, 2001, is provided. The rules describe steps and procedures through which complaints of violation will be addressed as well as what constitutes a violation. The respective roles of DHS, Health Services and Local Public Health Authorities are described, as well as determining action needed if a violation is noted during a regularly scheduled inspection by these agencies. Also outlined are steps to be followed in establishing a remediation plan for employers found to be in violation, and who is authorized to issue citations if the plan is not followed.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-015-0025

Authority and Purpose

(1) These rules are adopted pursuant to the authority granted the Oregon Department of Human Services, Health Services (formerly the Oregon Health Division) in 433.835 through 433.875 and 433.990(4) concerning smokefree places of employment and public places.

(2) The purpose of the Oregon Indoor Clean Air Act is to reduce the health hazard to persons in confined places caused by inhaling smoke from tobacco products.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0030

Definitions

(1) “Act” means the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875 and 433.990(4).

(2) “Bars or taverns posted as off-limits to minors under rules adopted by the Oregon Liquor Control Commission” means, any enclosed area licensed by the Oregon Liquor Control Commission (OLCC) to serve alcohol by the drink for consumption on premises that are posted with an OLCC Minor Posting prohibiting minors anywhere on the premises or allowing minors only during certain specified days and hours, pursuant to OAR 845-006-0340. For the purposes of the Act, a bar or tavern is included in this definition only during those days and hours when minors are not allowed on the premises.

(3) “Bowling center” means an enclosed area where the primary purpose of the business is the provision of bowling facilities, including bowling lanes.

(4) “Employer” means any entity or individual who engages an individual to perform work or services in an enclosed area under the control of said employer.

(5) “Enclosed area” means all space between a floor and a ceiling that is enclosed on all sides by solid walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as “office landscaping” or similar structures.

(6) “Local government” means any county, district, municipality, port, or political subdivision of this state.

(7) “Local Public Health Authority” means the county government unless a health district has been formed under ORS 431.414 or the County has contracted with a person or agency to act as the public health authority or the county has relinquished its authority to the state.

(8) “Minors” means people under the age of 18 for the purpose of employee smoking lounges in OAR 333-015-0035(3)(g). “Minors” in reference to OLCC minors postings has the meaning given to the term in OLCC statute and rules.

(9) “Place of employment” means every enclosed area under the control of a public or private employer that employees frequent during the course of employment, including but not limited to work areas, employee lounges, rest rooms, conference rooms, classrooms, cafeterias and hallways. “Place of employment” does not include a private residence unless it is used as a child care facility as defined in ORS 657A.250, a facility providing adult day care as defined in ORS 410.490(3) or a health care facility as defined in ORS 442.015.

(10) “Person in Charge of a Public Place” means any person who has responsibility because of ownership, proprietorship, or management of a

place that is open to or frequented by the public. A person in charge of a public place is used to refer to those instances where the person in charge is not an employer.

(11) “Public place” means any enclosed indoor area open to and frequented by the public, except those public places subject to ORS 441.815, including but not limited to restaurants, as defined in ORS 624.010, retail stores, banks, commercial establishments, educational facilities, nursing homes, auditoriums, arenas, meeting rooms and grocery stores.

(12) “Public places which the Department of Human Services regularly inspects” means food service facilities, tourist accommodations, public swimming pools, spas, wading pools and bathhouses.

(13) “Restaurants posted as off-limits to minors or areas of restaurants posted as off-limits to minors under rules adopted by the Oregon Liquor Control Commission” means any restaurant or portion of a restaurant that is posted with an OLCC Minor Posting prohibiting minors anywhere on the premises or allowing minors only during certain specified days and hours pursuant to OAR 845-006-0340. For purposes of the Act, a restaurant or portion of a restaurant is included in this definition only in those specific locations and during those days and hours when minors are not allowed on the premises.

(14) “Rooms designated by the owner or person in charge of a hotel or motel as rooms in which smoking is permitted” means sleeping rooms or suites in that hotel or motel.

(15) “Smoking instrument” means any cigar, cigarette, pipe or other tobacco smoking equipment.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0034

Jury Rooms

(1) Smoking is prohibited in a room during the time that jurors are required to use the room.

(2) All jury rooms shall be posted prominently with “No Smoking” signs having letters no less than one (1) inch in height.

(3) Nothing in this section is intended to allow smoking in a jury room when it would otherwise be prohibited by ORS 433.850 through 433.875.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 19-1985(Temp), f. & ef. 9-26-85; HD 31-1985, f. & ef. 12-9-85; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0035

General Provision

(1) No person shall smoke or carry any lighted smoking instrument in a public place except in those areas that are not required to be smokefree pursuant to ORS 433.850(2) and 333-015-0035(3)(a) through (f) of these rules.

(2) Employers shall provide a place of employment that is free of tobacco smoke for all employees, except in those areas listed in ORS 433.850(2) and in 333-015-0035(3).

(3) The following areas are not required to be smokefree:

(a) Retail business primarily engaged in the sale of tobacco or tobacco products;

(b) Restaurants posted as off-limits to minors or areas of restaurants posted as off-limits to minors under rules adopted by OLCC;

(c) Bars or taverns posted as off-limits to minors under rules adopted by OLCC;

(d) Rooms or halls being used by charitable, fraternal or religious organizations during the time they conduct bingo games under a license issued pursuant to ORS 464.270;

(e) Bowling centers;

(f) Rooms designated by the owner or person in charge of a hotel or motel as rooms in which smoking is permitted;

(g) Employee lounges designated by an employer for smoking if:

(A) The lounge is not accessible to minors;

(B) The air in the lounge is exhausted directly to the outside by an exhaust fan and not re-circulated to other parts of the building;

(C) The lounge is in compliance with ventilation standards and conditions set forth in OAR 333-015-0050,

(D) The lounge is located in a non-work area where no employee is required to enter as part of the employee’s work responsibilities. For purposes of this paragraph, “work responsibilities” does not include custodial or maintenance work carried out in a lounge when it is unoccupied; and

(E) There are sufficient nonsmoking lounges to accommodate nonsmokers.

ADMINISTRATIVE RULES

(4) Nothing in these rules shall prevent an employer in charge of a place of employment or a person in charge (PIC) of a public place listed in OAR 333-015-0035(3) from designating the entire place of employment or public place as smokefree.

(5) Nothing in ORS 433.835 through 433.875 or in these rules requires an employer to provide an employee smoking lounge.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0040

Signs

(1) An employer or PIC, except in those places described in OAR 333-015-0035(3), shall post signs prohibiting smoking. Signs shall use either the "no smoking" symbol (a cigarette with a diagonal slash through it within a circle) or the words "No Smoking" or both. Signs shall be posted prominently at each outside entrance to the place of employment or building.

(2) In a place of employment or public place such as a restaurant or tavern where minors are prohibited in a portion of the enclosed space or are prohibited only during certain times; the employer or PIC shall post signage at the entrances and wherever else necessary to clearly describe where and when smoking is prohibited.

(3) At each entrance to an employee lounge designated for smoking as permitted under section 333-015-0035(3)(g) of these rules, the employer shall post a sign with the words, "This is a smoking area. Occupants will be exposed to secondhand smoke."

(4) All signs used to describe whether smoking is prohibited or allowed in a place of employment or public place shall be placed at a height and location easily seen by a person entering the establishment and shall not be obscured in any way.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0045

Ashtrays

Ashtrays intended for use inside the place of employment or public place are prohibited where and when smoking is prohibited.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0050

Ventilation Standards

(1) Any employee smoking lounge provided by an employer as permitted under OAR 333-015-0035(3)(g) must be enclosed and shall meet the following ventilation standards and conditions:

(a) Smoking lounge must have a negatively pressurized ventilation system that exhausts air to the exterior of the building with smoke-tight ducts. Termination of ducts shall be more than 30 feet from any air intake to any building; from any doors to any building; and from any window capable of being opened in any building.

(b) Doors between the smoking lounge and other parts of the building must be solid and self-closing.

(c) Building heating, ventilation and air conditioning (HVAC) system must be balanced to prohibit any migration of smoke from the smoking room to other parts of the building.

(d) Smoking lounge ventilation system must operate at all times that the room is occupied.

(e) Smoking lounge must be clearly identified with signs as described in OAR 333-015-0040(3).

(2) Prior to permitting smoking in an employee lounge, an employer must obtain written certification by an actively registered professional engineer (PE) that the design, installation and performance of the ventilation system meet the standards described in these rules; and that all conditions and standards described in OAR 333-015-0050(1)(a) through (e) are met. The employer must keep the certification on the premises and must produce it for inspection at the request of DHS-HS or the Local Public Health Authority (LPHA).

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0060

Waivers

The sole discretion for granting a waiver shall reside with the State Public Health Officer. The State Public Health Officer may waive the provision of these rules upon technical review:

(1) If it is demonstrated to the satisfaction of the State Public Health Officer that strict compliance with the rule would be highly burdensome or impractical due to special conditions; and

(2) If the public or private interest in the granting of the waiver is found by the State Public Health Officer to clearly outweigh the interest of the application of uniform rules; and

(3) If alternate measures are provided which, in the opinion of the State Public Health Officer, will provide adequate protection to the health, safety and comfort of non-smoking employees and the public.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0065

Local Governments

(1) A local government may not prohibit smoking in any areas listed in rule 333-015-0035(3), unless the local government prohibition was passed before July 1, 2001.

(2) No local government may allow smoking in any area where it is prohibited by ORS 433.835 through 433.875 or by these rules.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0070

Enforcement

(1) The DHS-HS, shall maintain a system for receiving complaints, providing educational materials, conducting site visits, and issuing notices of violation.

(2) DHS-HS shall:

(a) Provide education and assistance to places of employment and public places to help them comply with the Act, and

(b) Receive, respond to, and investigate complaints of non-compliance with the Act; prepare and follow-up on remediation plans with sites found to be out of compliance with the Act and/or these rules.

(c) Issue citations to violators of the Act and/or these rules, and as necessary conduct contested cases under ORS chapter 183.

(3) On written agreement with DHS-HS, a County and/or LPHA may assume any or all the responsibilities outlined in (2) above. In such cases, DHS-HS will, upon request of the LPHA, be available for consultation and technical assistance with enforcement procedures.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0075

Complaint Response

The DHS-HS or the LPHA shall respond to complaints as follows:

(1) Initial complaint:

(a) The DHS-HS or the LPHA shall assess whether the site in question is required to be smokefree under the provisions of ORS 433.835 through 433.850.

(b) If the DHS-HS or the LPHA determines that the place of employment (or some portion) or public place is required to be smokefree, the DHS-HS or the LPHA shall send a letter ("initial response letter") to the place of employment or public place named in the complaint within 10 business days after receipt of the complaint of violation. The letter shall contain notification that the employer or PIC has been reported as being in violation of the Act and/or these rules, educational materials about how to comply with the Act and/or these rules, and information on whom to contact for further information and assistance in compliance.

(c) The DHS-HS or the LPHA shall send a form letter to the complainant, if the complainant has supplied their name and contact information, notifying them that the complaint has been received and is being investigated, or that the workplace is not required to be smokefree under ORS 433.835 through 433.850.

(2) Second or subsequent complaint:

(a) If the DHS-HS or the LPHA receives additional complaint(s) about the site within 5 business days after the "initial response letter" was sent, the DHS-HS or the LPHA shall send a form letter to the complainant,

ADMINISTRATIVE RULES

if the complainant has supplied their name and contact information, telling them that the complaint has been received and the investigation process begun.

(b) If the DHS-HS or the LPHA receives a second or subsequent complaint about the site more than 5 business days after the "initial response letter" was sent, a representative of the DHS-HS or the LPHA shall make an unannounced site visit within 10 business days of complaint receipt, to determine whether the employer or PIC is in violation of the Act or of these rules.

(3) Finding of violation: A violation is deemed to have occurred if during a site visit pursuant to a second or subsequent complaint, at a time and in an area where smoking is prohibited, the DHS-HS or LPHA representative:

(a) Observes any person smoking or carrying a lighted smoking instrument; or

(b) Observes cigar or cigarette butts; or

(c) Observes any violation of rules concerning ventilation standards for employee lounges set forth in OAR 333-015-0050; or

(d) Observes no signs or insufficient signs as required under these rules; or

(e) Obtains written signed statements from at least two individuals who have personally witnessed smoking or the carrying of a lighted smoking instrument at a time and in an area where smoking is prohibited.

(4) Remediation plan: After a finding of violation, the DHS-HS or the LPHA representative and the employer or PIC will jointly develop a remediation plan. All remediation plans must be completed:

(a) Within 15 days of the site visit if the employer has fewer than 500 employees and fewer than three separate work sites;

(b) Within 15 days of the site visit for public places with no employees;

(c) Within 45 days of the site visit if the employer has 500 or more employees and three or more work sites.

(d) An employer or PIC may request in writing an extension of time in which to complete the remediation plan in special circumstances. An extension may be granted only by the State Public Health Officer.

(e) A DHS-HS or LPHA representative shall make a follow-up visit within 14 days of the remediation plan completion date to confirm completion.

(5) Failure to complete remediation plan on schedule: If, during the follow-up visit, the DHS-HS or the LPHA representative finds that the remediation plan has not been implemented and/or finds additional evidence of violations, the DHS-HS or the LPHA shall notify the State Public Health Officer or designee for further enforcement activity.

(a) The State Public Health Officer or designee shall issue to the employer or PIC a citation of violation containing the following information:

(A) Name and address of site and name of employer or PIC;

(B) Date of initial site visit;

(C) Evidence of violation and citation of rule violated;

(D) Summary of remediation plan and completion date;

(E) Findings and date of follow-up visit;

(F) Citation of legal authority for fine;

(G) Amount of civil penalty;

(H) Options: either pay civil penalty in full within 10 days, request a hearing within 10 days, or have default judgment entered against employer or PIC;

(I) Statement of hearing and appeal rights under ORS chapter 183; and

(J) Signature and title of State Health Officer or designee issuing the citation.

(b) A citation form shall be provided by DHS-HS. This form shall be used for all citations.

(c) The citation shall be personally delivered to the employer or PIC or mailed to the place of employment or public place address by both first class mail and certified mail, return receipt requested.

(d) Payment of civil penalties shall be made by mail to the State Public Health Officer and credited to the General Fund, as required by ORS 433.855(1)(c).

(6) Failure to Cooperate. In addition to assessing fines under OAR 333-015-0075(5) above, the State Public Health Officer may initiate further legal action against an employer or PIC upon notification that they have:

(a) Refused to allow an on-site visit to assess status of compliance;

(b) Refused to cooperate in the development of a remediation plan;

(c) Incurred repeated or multiple violations of the Act or these rules.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0080

Public Places which the DHS-HS Regularly Inspects

If, in public places which the DHS-HS regularly inspects and which are required to be smokefree under these rules, the DHS-HS or the LPHA inspector, during a regular inspection, notes a possible violation of these rules, the inspector shall report the violation to the DHS-HS as a complaint of violation.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0085

Penalties

A violation of the Act and/or these rules shall be punishable by \$50.00 each day the workplace or public place is found to be out of compliance not to exceed \$1000.00 in any 30-day period.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

333-015-0090

Effective Date

The effective date for rules 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060, 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085 and 333-015-0090 shall be August 27, 2002.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04

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

Adm. Order No.: SSP 12-2004(Temp)

Filed with Sec. of State: 4-29-2004

Certified to be Effective: 5-1-04 thru 9-30-04

Notice Publication Date:

Rules Amended: 461-135-0301

Subject: Rule 461-135-0301 is being amended to close the Emergency Assistance (EA) program effective May 1, 2004. There will be no EA payments made after April 30, 2004.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0301

Closure of the Emergency Assistance (EA) Program Effective May 1, 2004

(1) Effective January 1, 2003, the EA program is not funded. Notwithstanding other rules of the Department, the program is closed effective that date.

(2) Effective December 31, 2002, all persons eligible for or receiving benefits of the program become ineligible for the program. The Department will not authorize or provide any benefit for any period after December 31, 2002 except as provided below in this rule.

(3) Effective December 1, 2003, the EA program is funded. The program is open effective that date for any person who meets the eligibility requirements on or after December 1, 2003.

(4) Effective May 1, 2004, the EA program is not funded. Notwithstanding other rules of the Department, the program is closed effective that date.

(5) Effective April 30, 2004, all persons eligible for or receiving benefits of the EA program become ineligible for the program. The Department will not authorize or provide any benefit for any period after April 30, 2004.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 30-2003(Temp), f. & cert. ef. 12-1-03 thru 4-30-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 12-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 9-30-04

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Adm. Order No.: SSP 13-2004

Filed with Sec. of State: 4-29-2004

Certified to be Effective: 5-1-04

Notice Publication Date: 4-1-04

ADMINISTRATIVE RULES

Rules Amended: 461-165-0180

Subject: Rule 461-165-0180 is being amended to change the minimum age of a child care provider eligible to receive payment from DHS from 16 to 18. Providers currently listed with DHS under the age of 18 will continue to be eligible for payment.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-165-0180

Eligibility of Child Care Providers

To be eligible for child care payment from the Department, a provider must meet all of the requirements in sections (1), (2), (3), and (4) of this rule.

(1) The provider must submit a completed Department listing form to the Department. If information available to the Department provides no basis for denial, the Department will approve the provider to receive payment for child care from the Department unless:

(a) The provider was previously found ineligible for payment and was not subsequently determined to be eligible; or

(b) The Department determines, following completion of Criminal History (CH) and Child Protective Service (CPS) records checks, that the provider, or other subject person, is not eligible for payment.

(2) The provider must:

(a) Allow the Department to inspect the site of care while child care is provided.

(b) Keep daily attendance records that show the arrival and departure times each day for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep the records for 12 months and provide them to Department staff on request.

(c) Be the person who actually provides the child care. The provider must notify the Department before using someone else to supervise children on a temporary basis.

(d) Not be in the same filing group as the child cared for and must not be the child's *parent*.

(e) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(f) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(3) Each provider must meet the requirements of either subsection (a) or (b) of this section:

(a) A provider subject to OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 must be currently certified or registered with the Child Care Division (CCD) of the Employment Department and be in compliance with the applicable rules. The Department may deny eligibility for payment to a registered or certified provider when a review of CH or CPS records, an investigation of a complaint, or information provided by another agency indicates a substantial risk to the health or safety of children in the provider's care.

(b) A provider exempt from the rules specified in subsection (a) of this section must:

(A) Submit names of the following persons together with their authorizations for a record check through the CH record system maintained by the Oregon State Police and the CPS record system maintained by the Department:

(i) The provider and each person the provider uses to supervise children in his or her absence.

(ii) In the case of a provider who provides care for children in the provider's home:

(I) Each person 16 years of age or older who lives in the provider's home; and

(II) Each person who frequently visits the home of the provider during the hours care is provided and may have unsupervised access to a child there.

(iii) The site director of a child care facility exempt from the requirement to be certified by CCD, and each employee of the facility who may have unsupervised access to children in the facility.

(B) Comply with the requirements of OAR 461-165-0400.

(C) Meet the following requirements:

(i) Be in such physical and mental health as will not adversely affect his or her ability to care for a child in care and either:

(I) Be 18 years of age or older; or

(II) Be 16 or 17 years of age and listed with the Department in active status before May 1, 2004. When a provider under the age of 18 applies to be listed, a responsible adult must also sign the application and must joint-

ly assume all the responsibilities of the minor provider, including the obligation to repay an overpayment. An adult whose child is cared for by the minor provider may not serve as the responsible adult if the Department makes a payment for that care.

(ii) Report to the Department, with respect to any person covered by paragraph (3)(b)(A) of this rule, any arrest and any involvement with CPS or any other agency that provides child protective services.

(iii) Report to the Department any change to his or her name or address and the addition of any person to the household within 10 days of occurrence.

(iv) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(v) Supervise each child in care at all times.

(vi) Prevent persons who have demonstrated behavior that may have a detrimental effect on a child from having access to the children in his or her care.

(vii) Allow custodial parents of children in his or her care to have immediate access to their children at all times.

(viii) Inform parents of the need to obtain immunizations for their children.

(ix) Take reasonable steps to protect children in his or her care from the spread of infectious diseases.

(x) Provide information, in a manner specified by the Department, required to conduct CH and CPS records checks or determine whether the provider meets health and safety requirements.

(D) Ensure that the facility where care is provided meets the following standards, unless the care is provided in the home of the child. A provider who provides care where the child lives must meet only the requirements of subparagraph (iii) of this paragraph.

(i) The facility has safe drinking water.

(ii) The facility has a working smoke detector on each floor level and in any area where children nap.

(iii) All floor levels used by children have two usable exits to the outdoors (a sliding door or window that can be used to evacuate children is considered a usable exit), or, if a second floor is used for child care, the provider has a written plan for evacuating children in an emergency.

(iv) Fireplaces, space heaters, electrical outlets, wood stoves, stairways and other hazards have barriers to protect children.

(v) Firearms, ammunition, and other dangerous items such as medicine, drugs, cleaning supplies, paints, plastic bags, and poisonous and toxic materials are kept in a secure place out of children's reach.

(vi) The building, grounds, toys, equipment and furniture are maintained in a clean, sanitary and hazard-free condition.

(vii) The facility has a telephone in operating condition.

(4) A provider is not eligible to receive a child care payment if the Department has referred an overpayment against the provider to a collection agency and the claim is unsatisfied.

Stat. Auth.: ORS 181.537 & 411.060

Stats. Implemented: ORS 181.537, 411.060 & 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04

Adm. Order No.: SSP 14-2004(Temp)

Filed with Sec. of State: 5-11-2004

Certified to be Effective: 5-11-04 thru 6-30-04

Notice Publication Date:

Rules Amended: 461-120-0125

Rules Suspended: 461-120-0125(T)

Subject: Rule 461-120-0125 is being amended to comply with federal regulations. For the OSIP, GA, and GAM programs, individuals who are qualified noncitizens who have resided in the United States since August 22, 1996 are not eligible for SSI and therefore not eligible for OSIP, GA or GAM. Victims of trafficking are only eligible for OSIP, OSIPM, GA, and GAM for seven years from the date their status was granted. Additionally for OSIP, a qualified noncitizen who entered the United States on or after August 22, 1996 and has been in the qualified noncitizen status for at least five years must have 40 qualifying quarters of coverage. The policy for OSIP was incorporated into the section with other Medicaid programs. This

ADMINISTRATIVE RULES

section of the rule was clarified to state that individuals who physically entered the United States before August 22, 1996 but obtained their qualified-noncitizen status after August 22, 1996 must have been continuously present in the United States from the date they entered to the date status was granted.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0125

Alien Status; Not REF or REFM

(1) For purposes of this chapter of rules, a person is a “qualified non-citizen” if he or she is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 251(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a “Cuban and Haitian entrant” (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) In all programs except the Food Stamp program—a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the United States Immigration and Naturalization Service.

(i) In the Food Stamp program—a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent’s family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) A person meets the alien status requirements if he or she is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the TANF program, a person meets the alien status requirements if he or she is one of the following:

(a) A person who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) Victims of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(4) In the BCCM, MAA, MAF, OHP, OSIPM and SAC programs, a qualified non-citizen meets the alien status requirements if he or she:

(a) Was a qualified non-citizen before August 22, 1996;

(b) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996 and the date qualified-noncitizen status was obtained. A person is not continuously present in the United States if he or she is absent from the United States for more than 30 consecutive days or for a total of more than 90 days; or

(c) Is a person granted any of the following alien statuses:

(A) Refugee—under section 207 of the INA.

(B) Asylum—under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) Victims of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(d) Meets the alien status requirements in section (2) or (7) of this rule.

(e) In the OSIPM program only, is receiving SSI benefits.

(5) In the GA and GAM programs, a person meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified non-citizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee—under section 207 of the INA.

(B) Asylum—under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A victim of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(c) A person who meets one of the alien status requirements in section (2) or (7) of this rule.

(6) In the OSIP program, a person meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified non-citizen.

(b) A qualified noncitizen who physically entered the United States on or after August 22, 1996, has had the qualified noncitizen status for at least five years, and has forty qualifying quarters of coverage as defined in section (10) of this rule.

(c) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee—under section 207 of the INA.

(B) Asylum—under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A victim of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(d) A person receiving SSI benefits.

(e) A person who meets one of the alien status requirements in section (2) or (7) of this rule.

(7) In all programs except TANF, a qualified non-citizen meets the alien status requirement if he or she is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. § 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of a person described in subsection (a) or (b) of this section.

(d) In the FS program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(8) Except as provided in sections (2), (4), (5), and (7) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the BCCM, MAA, MAF, OHP, OSIPM, and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(9) In the FS program, a person meets the alien status requirement if he or she is one of the following:

(a) A person granted any of the following alien statuses—

(A) Refugee—under section 207 of the INA.

(B) Asylum—under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A victim of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

ADMINISTRATIVE RULES

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (c) of this section.

(f) A qualified non-citizen who is disabled, as defined in OAR 461-110-0110(4).

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the FS program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include FS, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that he or she has fewer than 40 quarters of coverage, may be provisionally certified for food stamp benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for food stamp benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04

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

Adm. Order No.: SPD 8-2004

Filed with Sec. of State: 4-27-2004

Certified to be Effective: 4-27-04

Notice Publication Date: 4-1-04

Rules Amended: 411-015-0005, 411-015-0010, 411-015-0015, 411-015-0100

Rules Repealed: 411-015-0015(T)

Subject: The Service Priority/Clients served rules are permanently amended effective April 27, 2004 for the following reasons: A) to clarify language that has been interpreted by the Administrative Law Judges in a manner that is inconsistent with the actual intent of the rule. B) to tighten the language supporting a more consistent application of the assessment process. C) to more clearly define the time frame of reference for case management assessment of clients' functional abilities and limitations. This rule permanently repeals and

incorporates the changes in temporary rule, 411-015-0015, adopted on 03/23/04.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-015-0005

Definitions

(1) "Activities of Daily Living (ADL)" means those personal functional activities required by an individual for continued well being which are essential for health and safety. This includes eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Alternative Service Resources" means other possible resources for the provision of services to meet the person'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.

(3) "Assessment" for service eligibility means the process of evaluating the functional impairment levels including the individual's requirements for assistance or independence in performing activities of daily living, and determining nursing facility care. The Department requires use of the Client Assessment and Planning System (CA/PS) as the tool used to determine service eligibility and planning. When assessing an individual, the time frame reference for evaluation is how the person functioned during the thirty days prior to the assessment date, with consideration of how the person is likely to function in the thirty days following the assessment date.

(4) Assistance Types needed for activities of daily living include, but are not limited to the following terms:

(a) "Cueing" means giving verbal or visual clues during the activity to help the individual complete activities without hand-on assistance.

(b) "Hands-on" means a provider physically performs all or parts of an activity because the individual is unable to do so.

(c) "Monitoring" means a provider must observe the individual to determine if intervention is needed.

(d) "Reassurance" means to offer encouragement and support.

(e) "Redirection" means to divert the individual to another more appropriate activity.

(f) "Set-up" means getting personal effects, supplies, or equipment ready so that an individual can perform an activity.

(g) "Stand-by" means a person must be at the side of an individual ready to step in and take over the task should the individual be unable to complete the task independently.

(h) "Support" means to enhance the environment to enable the individual to be as independent as possible.

(5) "Assistance/Full Assistance" is defined for each activity of daily living as follows:

(a) Bathing/Personal Hygiene is comprised of two components. To be considered Assist, the individual must require Assistance in Bathing or Full Assistance in Hygiene. To be considered Full Assist, the individual must require Full Assistance in Bathing.

(A) Bathing means the activities of bathing and washing hair and, if needed, using assistive devices. Bathing includes the act of getting in and out of the bathtub or shower.

(i) Assist: The individual requires assistance from another person with bathing, even with assistive devices. This may include hands-on assistance for part of the task, cueing during the activity or stand-by presence for the duration of activity.

(ii) Full Assist: The individual requires at least one other person to provide bathing, even with assistive devices. This means hands-on assistance in all phases of the task.

(B) Personal Hygiene means the activities of shaving and caring for the mouth.

(i) Assist: The individual requires assistance from another person with personal hygiene, even with assistive devices. This may include hands-on assistance for part of the task, cueing during the activity or stand-by presence for the duration of the activity.

(ii) Full Assist: The individual cannot do personal hygiene, even with assistive devices, without the regular assistance of another person. This means hands-on assistance for all phases of the task.

(b) Cognition/Behavior means functions of the brain, which assist in orientation to person, place or time, decision-making, learning, memory, and behaviors, which may affect living arrangements and/or jeopardize safety of self or others. Evaluation of functional limitation without support is based on eight components. To be considered Assist, the individual must require Assistance in at least three of the eight components. To be consid-

ADMINISTRATIVE RULES

ered Full Assist, the individual must require Full Assistance in at least three of the components.

(A) Adaptation means response to major changes in relationship to the individual's environment, such as the possibility of a change in living situation, death of significant other, etc.

(i) Assist: The individual requires reassurance with change. These are multiple occurrences, less than daily.

(ii) Full Assist: The individual requires constant support and reassurance or is unable to adapt to change. These occurrences are ongoing and daily.

(B) Awareness means accurate understanding of needs relating to health, safety, and welfare of the individual.

(i) Assist: The individual has difficulty understanding those needs, that must be met, requiring the assistance of another person.

(ii) Full Assist: The individual does not have the capacity to understand those needs.

(C) Danger to Self or Others means behaviors, other than wandering, that may be a danger to the individual (including self injury), or to those around the individual.

(i) Assist: At least monthly, the individual is disruptive or aggressive in a non-physical way, agitated, or sexually inappropriate. These behaviors are challenging and the individual can be verbally redirected.

(ii) Full Assist: The individual has had more than one episode of aggressive, disruptive, agitated, dangerous, or physically abusive behaviors directed at self or others, including sexual aggression. These behaviors are extreme, may be unpredictable, and necessitate intervention beyond verbal redirection, requiring a client specific behavioral care plan that all staff are trained to deliver.

(D) Demands on Others means behaviors, other than wandering, that negatively impact and affect living arrangements, providers or other residents.

(i) Assist: The individual's habits and emotional states limit the types of living arrangements and companions, but can be modified with individualized routines, changes to the environment e.g. roommates or non client specific training for the caregiver.

(ii) Full Assist: The individual's habits and emotional states can be modified only with a 24-hour specialized care setting or a client specific behavioral care plan that all staff are trained to deliver.

(E) Judgment means the ability to make informed decisions and conduct activities that affect the ability to function independently. This includes understanding the consequences of decisions that jeopardize the health, safety, and welfare of the individual.

(i) Assist: At least weekly, the individual needs protection, monitoring and guidance to make decisions.

(ii) Full Assist: The individual's decisions require daily intervention by another person.

(F) Memory means the ability to remember and appropriately use current information, which impacts the health, safety and welfare of the individual.

(i) Assist: The individual has difficulty remembering and using current information and requires reminding.

(ii) Full Assist: The individual cannot remember or use information and requires directions beyond reminding.

(G) Orientation means accurate understanding of person, place, and time as it relates to the ability of the individual to function independently.

(i) Assist: The individual is disoriented to person, place or time. These occurrences are episodic during the week but less than daily.

(ii) Full Assist: The individual is disoriented to person, place or time and such occurrences are daily.

(H) Wandering means moving about aimlessly, or elopement, without relationship to needs or safety.

(i) Assist: The individual wanders within the home or facility, but does not jeopardize safety.

(ii) Full Assist: The individual wanders inside or out and jeopardizes safety.

(c) Dressing/Grooming: This is comprised of two elements. To be considered Assist, the individual must require Assistance in Dressing or Full Assistance in Grooming. To be considered Full Assist the individual must require Full Assistance in Dressing.

(A) Dressing means the activities of dressing and undressing.

(i) Assist: The individual requires assistance from another person to do parts of dressing or undressing, even with assistive devices. This may include hands-on assistance for part of the task, cueing during the activity, or stand-by presence for the duration of the activity.

(ii) Full Assist: The individual must be dressed or undressed by another person, even with assistive devices. Hands-on assistance is required for every phase of dressing activity.

(B) Grooming means nail care and the activities of brushing and combing hair.

(i) Assist: The individual requires help to do part of the task, even with assistive devices.

(ii) Full Assist: The individual cannot do any part of the task, even with assistive devices.

(d) Eating means the activity of feeding and eating and may include using assistive devices.

(A) Assist: When eating, the individual requires another person to be immediately available and within sight. This requires hands-on feeding, hands-on assistance with special utensils, cueing during the act of eating, or monitoring to prevent choking or aspiration. This is a daily need or can vary if an individual's medical condition fluctuates significantly during a one-month period.

(B) Full Assist: When eating, the individual always requires one-on-one assistance for direct feeding, constant cueing, or to prevent choking or aspiration. This includes nutritional IV or feeding tube set-up by another person.

(e) Elimination: This is comprised of three components. To be considered Assist, the individual must require Assistance in at least one of the three components. To be considered Full Assist the individual must require Full Assist in any of the three components.

(A) Bladder means managing bladder care. This includes tasks such as catheter care, toileting schedule, monitoring for infection, and changing incontinency supplies.

(i) Assist: At least monthly, the individual requires assistance from another person, for parts of the activity, even with assistive devices or supplies, to manage dribbling, incontinence, catheter, or sheath changes.

(ii) Full Assist: The individual always requires another person for all phases of bladder care or catheter care.

(B) Bowel means managing bowel care. This includes tasks such as digital stimulation, toileting schedule, suppository insertion and enemas.

(i) Assist: At least monthly, the individual requires assistance from another person to manage incontinence, ostomy care or suppository insertion, even with assistive devices or supplies.

(ii) Full Assist: The individual always requires another person to provide all phases of bowel care.

(C) Toileting means the activity of getting to and from, and on and off the toilet (including bedpan, commode and urinal), cleansing after elimination or adjusting clothing, cleaning and maintaining assistive devices, or cleaning the toileting area after elimination because of unsanitary conditions that would pose a health risk. This does not include routine bathroom cleaning.

(i) Assist: At least monthly, the individual requires assistance from another person to perform any part of the task, even with assistive devices and supplies.

(ii) Full Assist: The individual always requires another person to manage all care.

(f) Mobility: This is comprised of two components, Ambulation and Transfer. In the Mobility cluster only, assistance is categorized into three levels. To be considered Minimal Assist, the individual must require Minimal Assistance in Ambulation. To be considered Substantial Assist, the individual must require Substantial Assistance with Ambulation or an Assist with Transfer. To be considered Full Assist, the individual must require Full Assistance with Ambulation or Transfer. Mobility does not apply to the activities of getting in and out of a motor vehicle or a bathtub/shower or on and off the toilet. When assessing an individual's inside mobility, consider how the person ambulates and transfers within their home or care setting.

(A) Ambulation means the activity of moving around both inside and outside, using assistive devices, if needed. Ambulation does not include exercise or physical therapy.

(i) Minimal Assist: The individual can get around inside with assistive devices, if needed, without the assistance of another person, but requires assistance from another person when outside or in an unfamiliar environment.

(ii) Substantial Assist: The individual requires the occasional assistance of another person both outside and in a familiar environment, such as the home, even with assistive devices.

(iii) Full Assist: The individual cannot get around, even with assistive devices, without ongoing assistance from another person.

ADMINISTRATIVE RULES

(B) Transfer means the activity of moving to or from a chair, bed or wheelchair using assistive devices, if needed.

(i) Assist: At least four days during the month, the individual can transfer, with assistive devices if needed, only if assisted by another person. This includes hands-on help for weight-bearing individuals or stand-by presence for safety in transfer.

(ii) Full Assist: The individual cannot transfer even with assistive devices, and is dependent on one or more other persons to perform the transfer. This includes hands-on transfer for non-weight bearing individuals.

(6) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual's independence in performing any activity of daily living (ADL). This definition includes the use of service animals, general household items or furniture to assist the individual in performing an ADL.

(7) "Client Assessment and Planning System (CA/PS) is a single entry data system used for completing a comprehensive and holistic client assessment, comprised of critical elements of the individual's physical, mental, and social functioning, including identification of risk factors and outcome measurements. The CA/PS calculates the individual's service priority status, level of care and service payment rates, and accommodates client participation in care planning.

(8) "Department" means the Department of Human Services/Seniors and People with Disabilities.

(9) "Functional Impairment" means a person's pattern of mental and physical limitations that, even in the best of environments, permanently or temporarily restrict his or her capability of functioning independently.

(10) "Home and Community Based Care Waiver Services" means 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) "Independent" means the individual does not meet the definition of "Assist" or "Full Assist".

(12) Service Priority" means the order in which Department clients are found eligible for nursing home, HCB waivers, spousal pay program, and Oregon Project Independence.

Stat. Auth.: ORS 410

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(2)(a) - (l); SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 16-2003(Temp), f. & cert. ef. 10-27-03 thru 4-23-04; SPD 8-2004, f. & cert. ef. 4-27-04

411-015-0010

Priority of Paid Services

To meet service priority, an individual must be found eligible, using CA/PS as the assessment tool, as meeting at least the requirements for Assist or Full Assist in activities of daily living, in the following order and as designated in OAR 411-015-0015.

(1) Requires Full Assistance in Mobility, Eating, Elimination, and Cognition.

(2) Requires Full Assistance in Mobility, Eating, and Cognition.

(3) Requires Full Assistance in Mobility, or Cognition, or Eating.

(4) Requires Full Assistance in Elimination.

(5) Requires Substantial Assistance with Mobility, Assistance with Elimination and Assistance with Eating.

(6) Requires Substantial Assistance with Mobility and Assistance with Eating.

(7) Requires Substantial Assistance with Mobility and Assistance with Elimination.

(8) Requires Minimal Assistance with Mobility and Assistance with Eating and Elimination.

(9) Requires Assistance with Eating and Elimination.

(10) Requires Substantial Assistance with Mobility.

(11) Requires Minimal Assistance with Mobility and Assistance with Elimination.

(12) Requires Minimal Assistance with Mobility and Assistance with Eating.

(13) Requires Assistance with Elimination.

(14) Requires Assistance with Eating.

(15) Requires Minimal Assistance with Mobility.

(16) Requires Full Assistance in Bathing or Dressing.

(17) Requires Assistance in Bathing or Dressing.

(18) Independent in the above levels but requires structured living for supervision for complex medical problems or a complex medication regimen.

Stat. Auth.: ORS 410

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(3); SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 16-2003(Temp), f. & cert. ef. 10-27-03 thru 4-23-04; SPD 8-2004, f. & cert. ef. 4-27-04

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 and are assessed as meeting at least one of the priority levels (1) through (11) as defined in OAR 411-015-0010.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older determined eligible for Developmental Disability services or having a primary diagnosis of mental illness are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age determined eligible for developmental disability services or having a primary diagnosis of mental illness are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age determined to be eligible for developmental disabilities services or having a primary diagnosis and primary need for service due to mental illness are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915C Waiver for seniors and people with physical disabilities.

(5) Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915 (c) Waiver are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Services may be authorized only when the natural support system is unavailable, insufficient or inadequate to meet the needs of the client. Clients with excess income shall contribute to the cost of care pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 410.060, 410.070, 411

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03; SPD 5-2003(Temp), f. & cert. ef. 3-12-03 thru 6-3-03; SPD 6-2003(Temp), f. & cert. ef. 3-20-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 16-2003(Temp), f. & cert. ef. 10-27-03 thru 4-23-04; SPD 5-2004(Temp), f. & cert. ef. 3-23-04 thru 4-27-04; SPD 8-2004, f. & cert. ef. 4-27-04

411-015-0100

Eligibility for Nursing Facility or Community-Based Care Services

(1) To be eligible for nursing facility services, Community-based care waiver services for aged and physically disabled, Independent Choices, Spousal Pay, or the Program of All-inclusive Care for the Elderly (PACE), a person must:

(a) Be age 18 or older; and

(b) Be eligible for OSIPM, GAM or TANF; and

(c) Meet the functional impairment level within the service priority levels currently served by Seniors and People with Disabilities as outlined in OAR 411-015-0000 and the requirements in 411-015-0015; or

(d) To be eligible to have services paid through the State Spousal Pay Program, the person must meet requirements as listed above in (a), (b), (c), and in addition, the requirements in 411-030-0080.

(2) Persons who are age 17 or younger and reside in a nursing facility are eligible for nursing facility services only. They are not eligible to receive community-based care waiver services, including Spousal Pay or Independent Choices program services.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 410 & 414.065
Stats. Implemented: ORS 410.070
Hist.: SSD 7-1991(Temp), f. & cert. ef. 4-1-91; SSD 13-1991, f. 6-28-91, cert. ef. 7-1-91;
SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 17-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SPD 8-2004, f. & cert. ef. 4-27-04

Adm. Order No.: SPD 9-2004(Temp)
Filed with Sec. of State: 4-30-2004
Certified to be Effective: 6-1-04 thru 10-31-04
Notice Publication Date:
Rules Adopted: 411-999-0030

Subject: This temporary rule is being adopted to implement the Seniors Farmers' Market Nutrition Program. The rule adopts eligibility requirements as established by the USDA grant that funds the program.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-999-0030

Seniors Farmers' Market Nutrition Program

(1) This program is funded by a grant from the United States Department of Agriculture and is available to individuals age 60 and older who meet the following eligibility criteria on April 1, 2004:

(a) Have income at or below 135% of the Federal Poverty Level as found in OAR 461-155-0290.

(b) Receive Medicaid benefits while residing in their own home as provided under Title XIX of the Social Security Act, or Food Stamp Benefits.

(2) The program is funded to cover 12,370 eligible participants at \$60 per household.

(3) Benefits will be awarded on a first come first serve basis. Once the funds are depleted no further benefits may be granted.

(4) Program begins June 1, 2004 and ends on October 31, 2004.

(5) Denial notices will not be sent to those who will not qualify. Hearings rights are not available for those who do not qualify.

(6) This benefit will not affect any benefit granted by the Department.

Stat. Authority: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 9-2004(Temp), f. 4-30-04 cert. ef. 6-1-04 thru 10-31-04

Adm. Order No.: SPD 10-2004(Temp)
Filed with Sec. of State: 4-30-2004
Certified to be Effective: 4-30-04 thru 10-25-04
Notice Publication Date:
Rules Amended: 411-340-0130

Subject: OAR 411-340-0130 is being temporarily amended to include provision for the enrollment into Support Service Brokerages of people with developmental disabilities who previously received services under the SPD's Medicaid Home and Community-Based Waiver entitled "Home and Community-Based Services for Individuals Who Are Aged and Adults with Physical Disabilities" (Waiver #0185.90). Recent reviews/determinations have found that individuals with developmental disabilities are no longer eligible for services under the above referenced waiver, but are eligible for services under another SPD Medicaid waiver entitled "Home and Community-Based Support Services for Adults with Developmental Disabilities" (Waiver #0375). This temporary rule amendment will insure that individuals with developmental disabilities are transitioned to the proper waiver services for which they are eligible and provide for the least disruption in current service levels.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-340-0130

Using Support Services Funds to Purchase Supports

(1) Approved written plan required. A Support Services Brokerage may use support services funds to assist individuals to purchase supports in accordance with an ISP which:

(a) Identifies supports that are necessary for an individual to live in his or her own home or in the family home;

(b) Specifies cost-effective arrangements for obtaining the required supports, applying public, private, formal, and informal resources available to the eligible individual;

(c) Projects the amount of support services funds, if any, which may be required to purchase the remainder of necessary supports and which are within the Basic Benefit limits, unless authorized for supplement to the Basic Benefit according to OAR 411-340-0130(4)(a) through (e); and

(d) Has been approved for implementation by the CDDP Support Specialist.

(2) Assistance is a social benefit. Goods and services purchased with support services funds on behalf of individuals are provided only as social benefits as defined in OAR 411-340-0020(63).

(3) Limits of financial assistance. Assistance with purchase of individual supports in any Plan Year as defined in OAR 411-340-0020(50) is limited to the Basic Benefit as defined in OAR 411-340-0020(6) unless individual circumstances meet the conditions of the exceptions indicated in OAR 411-340-0130(4)(a) through (e).

(a) Basic Benefit distribution for full Plan Year. Individuals must have access throughout the Plan Year to the total annual amount of support services funds determined necessary to implement an approved ISP, even if there is a delay in implementation of the plan, unless otherwise agreed to in writing by the individual or the individual's legal representative.

(b) Basic Benefit distribution adjustments. The Department may require that annual Basic Benefit amounts be calculated and applied on a monthly basis when an individual's eligibility for Medicaid changes during a Plan Year or when, for any reason, an individual's ISP is developed and written to be in effect for less than twelve months.

(A) In the case of an individual whose Medicaid eligibility changes, the monthly Basic Benefit limit will be one-twelfth of the annual Basic Benefit amount for which the individual would be eligible should the change in Medicaid status remain in effect for twelve calendar months. The monthly Basic Benefit limit will be applied each month for the remainder of the Plan Year in which the individual's change in Medicaid eligibility occurred, from the date the change occurred.

(B) In the case of an individual with an ISP developed for a partial Plan Year, the monthly Basic Benefit limit will be one-twelfth of the annual Basic Benefit amount for which the individual would be eligible should the individual's ISP be in effect for a twelve months. The monthly Basic Benefit limit will be applied each month during which the ISP of less than 12 months' duration is in effect.

(c) Individual plan costs. Estimates of individual plan costs must be based on written guidelines for costs of frequently used services published and updated periodically by the Department.

(A) Department guidelines notwithstanding, final costs must not exceed local usual and customary charges for these services as evidenced by the Brokerage's own documented survey.

(B) The Support Service Brokerage must establish a process for review and approval of all budgets based on estimates exceeding published guidelines and must monitor the approved individual plans involved for continued cost effectiveness.

(4) Exceptions to Basic Benefit financial limits. Exceptions to the Basic Benefit annual Support Services fund limit may be only as follows:

(a) Extraordinary long-term need. Individuals with extraordinary long-term need as demonstrated by a score of seventy (70) or greater on the Basic Supplement Criteria may have access to more than the Basic Benefit Support Services fund limit in order to purchase necessary supports.

(A) For Medicaid recipients choosing services under the Support Services waiver, the supplement to the Basic Benefit must result in a Plan Year cost which is less than the minimum allowable Plan Year cost for Comprehensive In-Home Support Services in the same biennium; and

(B) For individuals who are not Medicaid recipients choosing services under the Support Services waiver, the supplement to the Basic Benefit must result in a Plan Year cost which is less than the state's General Fund contribution to the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium, calculated according to the Medicaid match rate current at the beginning of the Plan Year and adjusted annually to correspond to changes in the Medicaid match rates; and

(C) The Brokerage Director, or a designee from Brokerage management and administration, must administer the Basic Supplement Criteria only after receiving Department-approved training. The Brokerage Director or designee must score Basic Supplement Criteria according to written and verbal instruction received from the Department.

(D) The trained Brokerage Director or designee must administer the Basic Supplement Criteria within 30 calendar days of the written request of the individual or the individual's legal representative.

(E) The Brokerage Director or designee must send written notice of findings regarding eligibility for a supplement to the Basic Benefit to the

ADMINISTRATIVE RULES

individual and the individual's legal representative within 45 calendar days of the written request for a supplement. This written notice must include:

(i) An offer for the individual and individual's legal representative to discuss the findings in person with the Director and with the individual's Personal Agent in attendance if desired; and

(ii) A notice of appeal processes under 411-340-0060.

(F) Annual ISP reviews for recipients of the supplement must include a review of circumstances and resources to confirm continued need.

(b) Transfers from Employment and Alternative to Employment, Semi-Independent Living, and Self-Directed Support services according to Department-designated schedule of group enrollments under OAR 411-340-0110(2). Support service fund expenditures for individuals enrolled in these services prior to the designated date of group enrollment in Support Services Brokerages may, for a limited amount of time, exceed the Basic Benefit financial limits. To qualify, individuals must be enrolled in Employment and Alternative to Employment services regulated by OAR 411, division 345, enrolled in Semi-Independent Living Services regulated by OAR 309-041-0015 through 0024, or receive Self-Directed Support services regulated by OAR 309-041-1110 through 1170 during the month prior to enrollment in a Support Services Brokerage and the Department's annual cost of this previous service must exceed the financial assistance available through the Basic Benefit.

(A) Each qualified individual transferring from Employment and Alternative to Employment Services November 1, 2001, through June 30, 2002, may have access to support services funds in an amount equal to the Department's previous cost for the individual in these services, as negotiated according to Department guidelines, for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Support Services Brokerage;

(B) Each qualified individual transferring from Employment and Alternative to Employment Services beginning July 1, 2003, and who does not have any other Department-paid residential support services prior to that date, may have access to support services funds in an amount each month equal to the Department's previous Employment and Alternative to Employment monthly costs for the individual, as negotiated according to Department guidelines:

(i) For three hundred sixty-five (365) days, if he or she is a Medicaid recipient eligible for waiver services; or

(ii) For one hundred eighty (180) days, if he or she is not a Medicaid recipient eligible for waiver services.

(C) Each qualified individual transferring from Semi-Independent Living services may have access to support services funds in an amount equal to the Department's previous cost for the individual in these services, as negotiated according to Department guidelines, for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Support Services Brokerage; and

(D) Each qualified individual transferring from Self-Directed Support services November 1, 2001, through June 30, 2002, may have access to support services funds in an amount equal to financial assistance authorized by his or her current Self-Directed Support Plan for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Brokerage when the individual is a Medicaid recipient choosing to receive Support Service waiver services and for no more than ninety (90) calendar days from date of enrollment in the Brokerage when the individual is not Medicaid-eligible or does not otherwise receive Medicaid benefits.

(E) Upon individual enrollment in the Brokerage, the Brokerage must fully inform the individual and the individual's legal representative of the time limit for the supplement to the Basic Benefit.

(F) The Support Services Brokerage must complete assessment, identify resources, and develop a new individualized plan and budget during this period with a goal of reducing Support Services fund annual costs to less than or equal to financial assistance available in the Basic Benefit.

(G) At any point during the individual's first year of enrollment in the Brokerage that annual plan costs are successfully reduced to a cost less than or equal to that available in the Basic Benefit, the individual's new Plan Year will begin on the date the revised ISP is authorized for implementation by the individual's CDDP Support Specialist.

(c) Prior-authorized crisis/diversion services. Individuals who have been assessed as in need of, and meeting criteria for, crisis/diversion services by the CDDP of the individual's county of residence according to OAR 411-320-0160 may receive short-term assistance with purchase of support in excess of the Basic Benefit. Use of crisis/diversion services may only be authorized by the CDDP of the individual's county of residence or by the Regional Crisis Program responsible for the individual's county of residence.

(A) Funds associated with crisis/diversion services may be used to pay the difference in cost between the authorized ISP and budget in place at the time the individual is determined eligible for crisis/diversion services, and the supports authorized by either the CDDP of the individual's county of residence, or the Regional Crisis Program responsible for crisis/diversion services in the individual's county of residence, depending on the source of crisis/diversion funds, to meet the short-term need.

(B) Although costs for crisis/diversion services may bring the individual's total Plan Year cost temporarily at or above the minimum allowable Plan Year cost of in-home Comprehensive Services in the same biennium, in no case may the individual's costs exceed the state's current ICF/MR daily cost per individual nor may Plan Year expenses at or above the minimum for Comprehensive Services make the individual eligible for Comprehensive Services.

(i) Individuals placed in emergent status due to receiving crisis/diversion services authorized and provided according to OAR 411-320-0160 may remain enrolled in, and receive Support Services from, the Support Service Brokerage while both crisis/diversion services and Support Services are required to stabilize and maintain the individual at home or in the family home. In no case, however, may the individual remain enrolled in the Support Service Brokerage under emergent status for more than 270 consecutive days in any 12-month period.

(ii) The individual's Personal Agent must participate with CDDP or regional crisis/diversion staff in efforts to stabilize supports and return costs to the Basic Benefit or approved supplement levels, documenting reviews of effectiveness at least every ninety (90) days while the individual is receiving crisis/diversion services.

(d) Conversions from other Department-regulated services. Individuals whose source of support funds are, in whole or in part, an individual-specific redirection of funds through Department contract from a Department-regulated residential, work, or day habilitation service to support services funds, or to Comprehensive In-Home Support funds regulated by OAR 411, division 330 prior to enrollment in a Support Service Brokerage, may have access to the amount specified in the Department contract as available for the individual's use. This provision is only applicable when each transition is separate and specific to the individual and the services being converted are not subject to statewide service transitions described in OAR 411-340-0130(4)(b).

(A) Individual Plan Year costs must always be less than the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium; and

(B) The Brokerage must review the need for supports and their cost-effectiveness with the individual and, if applicable, the individual's legal representative at least annually, and must make budget reductions when allowed by the ISP.

(e) Funds designated for services to individuals eligible for, and at imminent risk of, civil commitment under ORS 427. Individuals whose support funds were specifically assigned through Department contract to Self-Directed Support Services prior to the date designated by the Department for transfer of the individual from Self-Directed Support services to a Support Service Brokerage may have access to the amount specified in the Department contract as available for the individual's use.

(A) Individual Plan Year costs must always be less than the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium; and

(B) The Brokerage must review the need for supports and their cost-effectiveness with the individual and, if applicable, the individual's legal representative at least annually, and must make budget reductions when allowed by the ISP.

(f) Individuals transferring from Department waiver services for the Aged and Adults with Physical Disabilities. Individuals transferring from the Department's Home and Community-Based waiver services for the Aged and Adults with Physical Disabilities who have been determined ineligible for those waiver service funds, in accordance with OAR 411-015-0015(4)(c) will have limited access to support service funds, as described in OAR 411, division 340. The amount of support service funds available will be equal to the Department's previous service costs for the individual for no more than three hundred and sixty-five (365) calendar days. The three hundred and sixty-five (365) calendar days begins the date the individual starts receiving support services exclusively through a Support Service Brokerage.

(5) Amount, method and schedule of payment.

(a) The Brokerage must disburse, or arrange for disbursement of, support services funds to qualified providers on behalf of individuals up to the amount agreed upon in an ISP that has been signed by the individual or the

ADMINISTRATIVE RULES

individual's legal representative and approved for implementation by the CDDP Support Specialist. The Brokerage is specifically prohibited from reimbursement of individuals or individuals' families for expenses related to services and from advancing funds to individuals or individuals' families to obtain services.

(b) The method and schedule of payment must be specified in written agreements between Brokerage and the individual or individual's legal representative.

(6) Types of supports purchased. Supports eligible for purchase with support services funds are:

(a) Chore services as defined in OAR 411-340-0020(11);

(b) Community inclusion supports as defined in OAR 411-340-0020(13);

(c) Community living supports as defined in OAR 411-340-0020(14);

(d) Environmental accessibility adaptations as defined in OAR 411-340-0020(22);

(e) Family training as defined in OAR 411-340-0020(26);

(f) Homemaker services as defined in OAR 411-340-0020(32);

(g) Occupational therapy services as defined in OAR 411-340-0020(45);

(h) Personal emergency response systems as defined in OAR 411-340-0020(47);

(i) Physical therapy services as defined in OAR 411-340-0020(49);

(j) Respite care as defined in OAR 411-340-0020(59);

(k) Special diets as defined in OAR 411-340-0020(64);

(l) Specialized medical equipment and supplies as defined in OAR 411-340-0020(65) as well as the following provisions:

(A) When specialized medical equipment and supplies are primarily and customarily used to serve a medical purpose, then purchase, rental, and repair with support services funds must be limited to the types of equipment and supplies permitted under the State Medicaid Plan and, specifically, those that are not excluded under OAR 410-122-0080. Support services funds may be used to purchase more of an item than the number allowed under the State Medicaid Plan after the limits specified in the State Medicaid Plan have been reached, requests for purchases have been denied by Medicaid State Plan or private insurance, and the denial has been upheld in applicable Medicaid contested case hearing or private insurance benefit appeals process; and

(B) Devices, aids, controls, supplies, or appliances primarily and customarily used to enable an individual to increase his or her abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which he or she lives, may be purchased with support services funds when the individual's developmental disability otherwise prevents or limits the individual's independence in these areas. Equipment and supplies that can be purchased for this purpose must be of direct benefit to the individual and include:

(i) Adaptive equipment for eating (i.e. utensils, trays, cups, bowls that are specially designed to assist an individual to feed him/herself;

(ii) Adaptive beds;

(iii) Positioning devices;

(iv) Specially designed clothes to meet the unique needs of the individual with the disability, e.g. clothes designed to prevent access by the individual to the stoma, etc.);

(v) Assistive technology items;

(vi) Computer software used by the individual to express needs, control supports, plan and budget supports;

(vii) Augmentative communication devices;

(viii) Environmental adaptations to control lights, heat, stove, etc.; or

(ix) Sensory stimulation equipment and supplies that help an individual calm, provide appropriate activity, or safely channel an obsession (e.g. vestibular swing, weighted blanket, tactile supplies like creams and lotions)

(m) Specialized supports as defined in OAR 411-340-0020(66);

(n) Speech and language therapy services as defined in OAR 411-340-0020(67);

(o) Supported employment as defined in OAR 411-340-0020(69); and

(p) Transportation as defined in OAR 411-340-0020(77).

(7) Conditions of purchase. The Brokerage must arrange for supports purchased with support services funds to be provided:

(a) In settings and under contractual conditions that allow the individual to freely redirect support services funds to purchase supports and services from another qualified provider;

(A) Individuals who choose to combine support services funds to purchase group services must receive written instruction about the limits and conditions of such arrangements;

(B) Combined support services funds cannot be used to purchase existing, or create new, Comprehensive Services;

(C) Individual support expenses must be separately projected, tracked, and expensed, including separate contracts, employment agreements and timekeeping for staff working with more than one individual;

(D) Combined arrangements for community inclusion or supported employment services that result in creation of a provider organization as defined in OAR 411-340-0020(55) must be certified according to OAR 411, division 340; and

(E) Combined arrangements for residential supports must include a plan for maintaining an individual at home after the loss of roommates.

(b) In a manner consistent with positive behavioral theory and practice as defined in OAR 411-340-0020(51) and where behavior intervention is not undertaken unless the behavior:

(A) Represents a risk to health and safety of the individual or others;

(B) Is likely to continue to become more serious over time;

(C) Interferes with community participation;

(D) Results in damage to property; or

(E) Interferes with learning, socializing, or vocation.

(c) In accordance with applicable state and federal wage and hour regulations in the case of personal care, training, and supervision;

(d) In accordance with applicable state or local building codes, in the case of environmental accessibility adaptations to the home;

(e) In accordance with the Oregon Board of Nursing Administrative Rules 851 when services involve performance of nursing care or delegation, teaching, and assignment of nursing tasks; and

(f) In accordance with OAR 411-340-0160 through 411-340-0180 governing provider qualifications and responsibilities.

(8) Independent Provider, Provider Organization, General Business Provider agreements and responsibilities. When Support Service funds are used to purchase care, training, supervision or other personal assistance for individuals, the Brokerage must require and document that providers are informed of:

(a) Mandatory responsibility to report suspected abuse as defined in OAR 411-340-0020(1);

(b) Responsibility to immediately notify the person or persons, if any, specified by the individual or individual's legal representative of any injury, illness, accident, or unusual circumstance that occurs when the provider is providing individual care, training, or supervision and which may have a serious effect on the health, safety, physical or emotional well-being, or level of services required;

(c) Limits of payment:

(A) Support Service fund payments for the agreed-upon services are considered full payment and the provider under no circumstances may demand or receive additional payment for these services from the individual, the family, or any other source unless the payment is a financial responsibility (spend-down) of an individual under the Medically Needy Program; and

(B) The provider must bill all third party resources before using Support Service funds unless another arrangement is agreed upon by the Brokerage and described in the ISP;

(d) The provisions of OAR 411-340-0130(9) regarding sanctions that may be imposed on providers; and

(e) The requirement to maintain a drug-free workplace.

(9) Sanctions for Independent Providers, Provider Organizations, and General Business Providers.

(a) Sanction(s) may be imposed on a provider when the Brokerage determines that, at some point after the provider's initial qualification and authorization to provide supports purchased with support services funds, the provider has:

(A) Been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or authorization of service;

(B) Been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(C) Had his/her professional license suspended, revoked, or otherwise limited, or surrendered his/her license;

(D) Failed to safely and adequately provide the services authorized;

(E) Had an allegation of abuse or neglect substantiated against him or her;

(F) Failed to cooperate with any Department or Brokerage investigation, or grant access to or furnish, as requested, records or documentation;

(G) Billed excessive or fraudulent charges or been convicted of fraud;

(H) Made false statement concerning conviction of crime or substantiation of abuse;

(I) Falsified required documentation;

ADMINISTRATIVE RULES

(J) Not adhered to the provisions of OAR 411-340-0130(8) or 411-340-0140; or

(K) Been suspended or terminated as a provider by another agency within the Department.

(b) The following sanctions may be imposed on a provider:

(A) The provider may no longer be paid with support services funds;

(B) The provider may not be allowed to provide services for a specified length of time or until specified conditions for reinstatement are met and approved by the Brokerage or Department, as applicable;

(C) The Brokerage may withhold payments to the provider.

(c) If the Brokerage makes a decision to sanction a provider, the Brokerage must notify the provider by mail of the intent to sanction. The provider may appeal this action within 30 days of the date of the notice. The provider must appeal this action separately from any appeal of audit findings and overpayments.

(d) A provider of Medicaid services may appeal a sanction by requesting an administrative review by the Administrator of the Department or designee.

(e) For an appeal regarding provision of Medicaid services to be valid, written notice of the appeal must be received by the Department within 30 days of the date the sanction notice was mailed to the provider.

(f) At the discretion of the Department, providers who have previously been terminated or suspended by any Department agency may not be authorized as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1870, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 10-2004(Temp), f. & cert. ef. 4-30-04 thru 10-25-04

Department of Public Safety Standards and Training Chapter 259

Adm. Order No.: DPSST 4-2004

Filed with Sec. of State: 4-23-2004

Certified to be Effective: 4-23-04

Notice Publication Date: 2-1-04

Rules Amended: 259-012-0035

Subject: Amends rule to allow a student attending the academy who is dismissed, suspended or otherwise disciplined due process.

Rules Coordinator: Mary Gaines—(503) 378-2427

259-012-0035

Penalties

(1) A person attending any course as a student or other participant, or a person residing at the Academy for any purpose, is subject to the rules which have been promulgated by the Department. The rules will be posted in a prominent location at the Academy. All persons attending the Academy will be expected to be knowledgeable of and to conform their conduct to the standards set forth in the rules.

(2) Failure to comply with the rules may result in the person being dismissed from the Academy, suspended from participating in Academy activities, or any other disciplinary action deemed appropriate. A student dismissed from the Academy or suspended from Academy participation for conduct or behavior in violation of the rules may not be given training credit or credit for completion of the course in which that student was enrolled. Any decision to withhold credit will be subject to Department approval.

(3) Any alleged violation of these rules, wherein a formal written report is made, shall be communicated to the student's department administrator by the DPSST staff. All disciplinary actions shall be made in accordance with the Oregon Public Safety Academy Student Conduct Guide.

(4) Dismissal, suspension, or other disciplinary action may be ordered by the Director, or any DPSST staff delegated that authority.

(a) In addition to the procedures for due process outlined in the Student Conduct Guide, if a student is to be dismissed the student may request a meeting with the Director and present written evidence.

(A) If the Director, or designee, agrees with the dismissal, the student's agency may appeal within 30 days of the dismissal to the Board. The appeal must be in writing and state the agency's case against the dismissal.

(5) Any person subject to sanctions for violation of these rules can request a hearing in accordance with OAR 259-005-0015.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & cert. ef. 12-15-83; PS 1-1985, f. & cert. ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 4-2004, f. & cert. ef. 4-23-04

Adm. Order No.: DPSST 5-2004

Filed with Sec. of State: 4-23-2004

Certified to be Effective: 4-23-04

Notice Publication Date: 2-1-04

Rules Amended: 259-008-0005, 259-008-0011, 259-008-0020, 259-008-0025, 259-008-0030, 259-008-0060, 259-008-0066, 259-008-0067

Rules Repealed: 259-045-0010

Subject: Three-year rulemaking review of Division 8. Adds definition for leave of absence combining all but "Special Leave of Absence" into one category; adds minimum standards for telecommunicators and EMD's; changes "officer" to "public safety officer." Changes education "points" to education "credits." Deletes rule section listing current forms. Minor housekeeping changes.

Rules Coordinator: Mary Gaines—(503) 378-2427

259-008-0005

Definitions

(1) "Assistant Department Head" means an officer occupying the first position subordinate to a Department Head, and is primarily responsible for supervision of middle managers and/or supervisors.

(2) "Board" means the Board on Public Safety Standards and Training.

(3) "Casual employment" means employment that is occasional, irregular, or incidental and the employee does not receive seniority rights nor fringe benefits.

(4) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(5) "Commissioned" means an authorization granting the power to perform various acts or duties of a police officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(7) "Corrections Officer" means an officer or member of a law enforcement unit who is employed full-time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; and any full-time employee of the Board who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(8) "Department" means the Department of Public Safety Standards and Training.

(9) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit.

(10) "Director" means the Director of the Department of Public Safety Standards and Training.

(11) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under 259-008-0025.

(12) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(13) "First-Level Supervisor" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between the operational level and the middle manager position who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.

(14) "Full-time employment" means the employment of a person who has the responsibilities as defined in ORS 181.610 (3), (5), (9), (13), (14), (18) of this rule, who has the responsibility for, and is paid to perform the duties described in the above statute and administrative rule for more than 80 hours per month for a period of more than 90 consecutive calendar days.

(15) "High School" is a school accredited as a high school by the Oregon Department of Education, or a school accredited as a high school

ADMINISTRATIVE RULES

by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(16) "Law Enforcement Officers" as used throughout this manual collectively means all police, corrections, and parole and probation officers who are included in the Public Safety Standards and Training Act as described in ORS 181.610, and 181.651.

(17)(a) "Law Enforcement Unit" means a police force or organization of the state, a city, port, school district, mass transit district, county, county service district authorized to provide enhanced law enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, or common carrier railroad whose primary duty, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) "Law enforcement unit" also means a police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area whose employees are commissioned by a county sheriff.

(18) "Leave of absence" means a leave granted by the employing agency from the public safety officer's certifiable position as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years.

(19) "Middle Manager" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between first level supervisor and department head position and is primarily responsible for management and/or command duties. A middle manager position does not include a position with limited, or acting middle management duties.

(20) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties described in statutes and administrative rules for public safety personnel for 80 hours per month, or less, for a period of more than 90 consecutive calendar days.

(21) "Parole and Probation Officer" means

(a) any officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers, or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) is employed part-time by the Department of Corrections, a county or a court; and

(C) is charged with and performs the duty of:

(i) community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) investigating adult offenders on parole or probation or being considered for parole or probation.

(22) "Police Officer" means an officer or member of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide enhanced law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, or the Governor, or a member of the Department of State Police who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security; and any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.651.

(23) "Public or private safety agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, police, ambulance or emergency medical services.

(24) "Public safety personnel" and "Public safety professional" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, and telecommunicators.

(25) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(26) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(27) "Reserve Officer" means an officer or member of a law enforcement unit:

(a) Who is a volunteer or who is employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(28) "Seasonal employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year.

(29) "Special assignment leave" is leave from the law enforcement officer's certifiable position, as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years, for such duties as determined by the law enforcement unit administrator. Examples of such leave include, but are not limited to, strategic planning, budget preparation, special task force, or other similar duties.

(30) "Staff" are those employees occupying full-time, part-time, and/or temporary positions with the Department.

(31) "Telecommunicator" means any person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 401.720.

(32) "Temporary employment" means employment that lasts for a limited time, not of long duration and is not permanent.

(33) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(34) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) On or before the date of employment, each telecommunicator and emergency medical dispatcher shall be fingerprinted on standard applicant fingerprint cards.

(a) The hiring agency, if a public agency, is responsible for fingerprinting and shall forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(b) If the hiring agency is a private agency it is responsible for fingerprinting and shall forward two (2) cards to the Department along with the appropriate fee.

(A) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(B) The Oregon State Police Identification Services Section shall notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

ADMINISTRATIVE RULES

(C) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department shall comply with the most current requirements.

(D) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department shall be completed and returned to the Department by the applicant pending fingerprint clearance.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher shall have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Moral Fitness (Moral Character). All telecommunicators and emergency medical dispatchers must be of good moral fitness.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a telecommunicator or emergency medical dispatcher. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the telecommunicator or emergency medical dispatcher's performance on the job which makes the telecommunicator or emergency medical dispatcher both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the telecommunicator or emergency medical dispatcher's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a telecommunicator or emergency medical dispatcher lacks good moral fitness, a rebuttable presumption will be raised that the telecommunicator or emergency medical dispatcher does not possess the requisite moral fitness to be a telecommunicator or emergency medical dispatcher. The burden shall be upon the telecommunicator or emergency medical dispatcher to prove good moral fitness.

(4) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(5) Reading and Writing Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language. The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic telecommunicator or EMD training.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04;

DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0020

Personnel Action Reports

(1) All law enforcement units and public or private safety agencies shall furnish to the Department the name, address, and other pertinent information concerning any newly appointed public safety professional on a Personnel Action Report (DPSST Form F-4) within ten (10) business days after employment.

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, take a leave of absence, or transfer within a law enforcement unit, or private or public safety agency, the department head shall report this information to the Department on a Personnel Action Report (DPSST Form F-4) within ten (10) business days of the action.

(3) All applicable sections of the Personnel Action Report (DPSST Form F-4) must be completed and signed by the department head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Report (DPSST Form F-4) their social security number. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by public safety officers under the Act in connection with revocation proceedings.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0050; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0026; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 2-2001, f. & cert. ef. 2-8-01; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers shall satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion shall be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(d) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and OAR 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that the applicant has current knowledge and skills to perform as a Telecommunicator or an emergency medical dispatcher.

(e) Previously employed law enforcement officers and telecommunicators, may challenge the Basic Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall provide proof of successful completion of prior equivalent training.

(C) The applicant shall provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall obtain a minimum passing score on all written examinations for the course.

ADMINISTRATIVE RULES

(E) The applicant shall demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall only be given one opportunity to challenge a course.

(f) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years shall complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(g) Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(h) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(i) Training on the law, theory, policies and practices related to vehicle pursuit driving and vehicle pursuit training exercises shall be included in the basic course for police officers.

(A) This requirement is subject to the availability of appropriate facilities and funding.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2 1/2) and five (5) years, shall satisfactorily complete the Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course shall also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, shall be trained on how to investigate and report cases of missing children.

(A) The above mandated training is subject to the availability of funds.

(d) Federal training programs shall be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 2-7-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0030

Extension of the Time Limit for Course Completion

The Department may grant an extension of time limit for completion of any course required by OAR 259-008-0025 upon presentation of evidence by a law enforcement unit or public or private safety agency that a law enforcement officer, telecommunicator, or emergency medical dispatcher was unable to complete the required course within the time limit prescribed due to a leave of absence for illness, injury, military service, special duty assignment, or any other reasonable cause as determined by the Department, except where such extensions are limited by ORS 181.652(2), 181.653(2), 181.665(2), and 181.644(2).

Stat. Auth.: ORS 181.644, ORS 181.651, ORS 181.653 & ORS 181.665

Stats. Implemented: ORS 181.644, 181.651, 181.653 & 181.665

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0035; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T).

(6) Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7).

(7) When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the appli-

ADMINISTRATIVE RULES

cant's superior. Elected department heads are authorized to sign as both applicant and department head.

(8) In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) All college credits shall be supported by certified true copies of official transcripts.

(9) Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) With proper documentation, instructors may claim course completion for law enforcement classes instructed. Training points for repeat instruction of the same class within a 12-month period shall not be awarded.

(e) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or it's designated staff may award training points for correspondence courses.

(f) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(10) Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, casual, seasonal, or temporary employment shall not qualify as experience toward certification. Experience as a certified part-time parole and probation officer, as defined under OAR 259-008-0005(22) and (23) and OAR 259-008-0066, shall count on a pro-rated basis.

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(11) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(12) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(13) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(15) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(16) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the

ADMINISTRATIVE RULES

duties associated with that of a department head or assistant department head.

(17) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer shall meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A person who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant shall demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

(c) Retention of Multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For the EMD certificate; a minimum of four (4) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(B) For the Telecommunicator certification, a minimum of twelve (12) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(C) For all other disciplines, a minimum of twenty (20) hours of training, specific to each discipline in which certification is held, must be reported annually on a Form F-15M.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) Failure to comply with subsection (c) of this rule shall result in the recall of the multi-discipline certification by the Board.

(f) Upon documentation of compliance with subsection (c) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

(18) Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]
Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055; PS 1-1990, f. & ef. 2-7-90; PS 1-1995, f. & ef. 3-30-95, PS 2-1995, f. & ef. 9-27-95; PS 7-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & ef. 11-5-97; BPSST 1-1998, f. & ef. 5-6-98; BPSST 2-1998(Temp), f. & ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & ef. 6-30-98; BPSST 1-1999, f. & ef. 3-9-99; BPSST 6-1999, f. & ef. 7-29-99; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & ef. 4-3-02; BPSST 21-2002, f. & ef. 11-21-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & ef. 4-23-04

259-008-0066

Maintenance of Certification for Part-time Parole and Probation Officers

(1) Basic Certification — All certified parole and probation officers who have already obtained basic certification and worked as a full-time parole and probation officer for a minimum of one year may continue certification if that officer begins working in a part-time capacity, as defined in OAR 259-008-0005(13) and ORS 181.610, without having their certification lapsed, denied, or revoked.

(2) In order to maintain certification:

(a) The part-time parole and probation officer shall annually complete 20 hours of training. The content of the training is determined by the agency head of the employing agency;

(b) The employing agency shall maintain documentation of required training on each parole and probation officer; and

(c) The employing agency shall notify DPSST of all part-time parole and probation officers employed annually, and provide documentation as to

their training status by submitting a DPSST Form F-15P to DPSST by December 31st of each year.

(3) Failure to complete the training and/or submit the completed Form F-15P before the deadline date shall result in the lapse of the part-time parole and probation officer's certification.

(4) The person whose certification has lapsed may apply for re-certification in the manner provided in ORS 181.610 to 181.712.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 181.640 & ORS 181.653
Stats. Implemented: ORS 181.640 & ORS 181.653
Hist.: BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0067

Lapsed Certification

(1)(a) The certification of any police officer, corrections officer, parole and probation officer who does serve as a police officer, corrections officer, parole and probation officer, or any certified reserve officer who is not utilized as a certified reserve officer, for any period of time in excess of three consecutive months is lapsed. Upon reemployment as a police officer, corrections officer, parole and probation officer, or recommencing service as a reserve officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(b) Notwithstanding paragraph (a) of this subsection, the certification of a police officer, corrections officer, parole and probation officer or certified reserve officer does not lapse if the officer:

(A) Is on leave from a law enforcement unit; or

(B) Is an honorably retired police officer who meets the requirements established by the Department for maintaining certification.

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency, is lapsed. Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

Stat. Auth.: ORS 181.652, ORS 181.653 & ORS 181.667
Stats. Implemented: ORS 181.652, ORS 181.653 & ORS 181.667
Hist.: BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04

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Rules Amended: 259-060-0020, 259-060-0300

Subject: Adds moral fitness to the minimum standards for certification or licensure. Broadens the falsification portion to include falsification of any documents related to certification or licensure.

Rules Coordinator: Mary Gaines—(503) 378-2427

259-060-0020

Minimum Standards for Certification or Licensure

(1) Age.

(a) An applicant for certification as a private security officer, private security officer-alarm monitor or private security instructor shall be:

(A) At least 18 years of age to receive certification as an unarmed security officer, private security officer-alarm monitor, or unarmed private security instructor; and

(B) At least 21 years of age to receive certification as an armed security officer or armed private security instructor.

(b) All applicants for licensing as a proprietary security manager or security contractor shall be at least 18 years of age.

(2) Training. An applicant for certification or licensing shall satisfactorily complete the applicable training requirements as specified in the Private Security Service Providers Act and these rules.

(3) Moral Fitness (Moral Character). All private security providers must be of good moral fitness as determined by a criminal background check or department investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

ADMINISTRATIVE RULES

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a private security provider. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the private security provider's performance on the job which makes the private security provider both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private security provider's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a private security provider lacks good moral fitness, a rebuttable presumption will be raised that the private security provider does not possess the requisite moral fitness to be a private security provider. The burden shall be upon the private security provider to prove good moral fitness.

(4) Criminal History. An applicant for certification or licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I), 163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i). There will be no waivers granted for Class A felony convictions.

(b) Within the 10-year period prior to applying for, or during, certification or licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction. Class B and Class C felony convictions may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i).

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intimidation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i);

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i);

(d) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the advisory committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2)(i);

(e) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597. There will be no waivers granted for any persons in this category.

(5) Firearms Restrictions. An applicant for armed private security officer or instructor certification shall not be eligible for certification if the applicant:

(a) Has been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(b) Has been found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(c) Is prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

ADMINISTRATIVE RULES

(d) Is prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

(6) Failure to Meet Firearms Criteria. In the event a certified armed private security officer, or an applicant for such certification, should at any time fail to meet the requirements of subsections (4)(a) through (d) herein, the certificant/applicant and the manager, employer or supervisor of the certificant/applicant, shall:

(a) Notify the Department or its designee within 48 hours, in writing, of the circumstance making the certificant/applicant ineligible to purchase, own or possess a firearm. The notification shall list all facts known, including any written documentation, and shall identify a person whom the Department may contact to obtain additional information;

(b) Transfer the employee to an unarmed position until a determination has been made by the Department regarding the status of the certificant/applicant; and

(c) Retrieve any issued weapons and ammunition.

(7) ADA Compliance. Individual employers or entities shall be expected to conform to federal ADA guidelines as they relate to physical fitness standards.

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

Stat. Auth.: ORS 181.875, ORS 181.878 & ORS 181.883

Stats. Implemented: ORS 181.875 & ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04

259-060-0300

Denial/Suspension/Revocation

(1) Grounds for Denying, Suspending or Revoking the Certificate of a Private Security Officer (armed or unarmed), Private Security Officer-Alarm Monitor, Instructor or the License of an Executive or Supervisory Manager; Process for Requesting Board Waiver:

(a) The Department may suspend, revoke or deny a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the certificate or license falsified any information submitted on the application for certification or licensing or on any documents submitted to the Department or falsified any documents pertaining to Private Security certification or licensing;

(B) The license holder or applicant for licensure has violated the temporary assignment provisions of OAR 259-060-0120(1);

(C) The applicant or holder of the certificate or license has failed to timely submit properly completed forms, documentation or fees required under these rules;

(D) The applicant or holder of the certificate or license has violated the provisions of the Private Security Service Providers Act or these administrative rules or has failed to perform any acts required by these rules.

(b) The Department shall revoke or deny a license or certificate after written notice and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the license or certificate at any time fails to meet the criminal history requirements of OAR 259-060-0020(3);

(B) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, fails to meet the minimum qualifications and requirements set forth in OAR 259-060-0020(4);

(C) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, suffers any disqualification, condition or circumstance which, under federal law or the law of this state, would disqualify the person from owning, possessing or purchasing a firearm; or

(c) The Department may suspend a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The holder of the certificate or license has been arrested for or charged with any crime listed in OAR 259-060-0020(3);

(B) The holder of the certificate or license has failed to successfully complete or timely report the annual or biennial refresher training and examination(s) required in OAR 259-060-0080; or

(C) The holder of the armed private security officer certification has failed to successfully complete or timely report the annual firearms marksmanship requalification required under OAR 259-060-0085.

(2) Denial, Suspension and Revocation Procedure:

(a) Employer Request: When the employer of the private security officer, private security officer-alarm monitor, private security manager or private security instructor requests that the person's certification or licen-

sure be denied, suspended or revoked, the request shall be submitted in writing to the Department or its designated staff, stating the reason for the requested suspension, revocation or denial and all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.878, the Department or its designated staff may request that the person's certification or licensure be suspended, revoked or denied.

(c) Department Staff Review: The Department or its designated staff shall review the request and the supporting factual information to determine if the request for suspension, revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule requirements for suspension, revocation or denial, the Department's designated staff shall so notify the employer. If the reason for the suspension, revocation or denial meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department or its designated staff shall request further information from the requesting employer or conduct its own investigation of the matter.

(d) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the Department or its designated committee.

(e) Contested Case Notice: The Department or its designated staff shall cause to be prepared a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its designated staff shall have a copy of the "Notice" served on the person whose certification or licensure is being affected.

(f) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 60 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 90 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(g) Default Order: In the absence of a timely request for a hearing, the Contested Case Notice will become a final order revoking or denying certification pursuant to OAR 137-003-0075(5).

(h) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(i) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards shall be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in OAR 259-060-0020(3). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision shall be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued.

(A) The advisory committee may consider limited waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The petitioner having been licensed or certified under the Private Security Service Providers Act of 1995 on or before October 23, 1999; and

(ii) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years; and

(iii) The substance of reference checks attests to good moral and ethical fitness; and

(iv) The petitioner's age at the time of the conviction; and

(v) Absence of other criminal convictions; and

(vi) Other substantial and compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It shall be the responsibility of the petitioner to present to the advisory committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled adviso-

ADMINISTRATIVE RULES

ry committee meeting. The advisory committee will make its recommendation to the Board, following review of those documents.

Stat. Auth.: ORS 181.878, ORS 181.882 & ORS 181.885

Stats. Implemented: ORS 181.878 & ORS 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04

Adm. Order No.: DPSST 7-2004

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Notice Publication Date: 12-1-03

Rules Amended: 259-008-0070

Subject: Clarifies language regarding time period for requesting hearing as a result of revocation or denial of certification; adds language from statute regarding Court of Appeals rights and when an individual may reapply for certification.

Rules Coordinator: Mary Gaines—(503) 378-2427

259-008-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, in such a way to insure the highest levels of professionalism and discipline.

(a) These standards shall be upheld at all times unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public or respect of the profession will be compromised by a waiver.

(b) In the event that a waiver of denial or revocation is granted the decision shall be made in writing.

(2) The Department shall deny or revoke the certification of any police officer, corrections officer, parole and probation officer, telecommunicator, emergency medical dispatcher or instructor after written notice and hearing, based upon a finding that:

(a) The officer, telecommunicator, or emergency medical dispatcher has been discharged for cause from employment as a police officer, corrections officer, parole and probation officer, telecommunicator, or emergency medical dispatcher.

(b) For purposes of (a) above, "discharged for cause," means an employer initiated termination of employment for any of the following reasons:

(A) Gross Negligence: means where the public safety professional's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;

(B) Insubordination: means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional's refusal to comply with the rule or order constitutes a substantial breach of that person's duties; or

(C) Incompetence or Gross Misconduct: in determining what constitutes "incompetence or gross misconduct," sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.

(c) The officer, telecommunicator, emergency medical dispatcher or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(d) The officer, telecommunicator, emergency medical dispatcher, or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(e) The officer, telecommunicator, emergency medical dispatcher, or instructor has been convicted in this state of violating 162.075 (False

swearing), 162.085 (Unsworn falsification), 162.145 (Escape in 3rd degree), 162.235 (Obstructing government or judicial administration), 162.315 (Resisting arrest), 162.335 (Compounding a felony), 162.355 (Simulating legal processes) 162.365 (Criminal impersonation), 162.369 (Possession of false law enforcement ID card), 162.375 (Initiating a false report), 162.385 (Giving false information to a police officer), 162.405 (Official misconduct 2nd degree), 162.415 (Official misconduct 1st degree), 163.200 (Criminal mistreatment 2nd degree), 163.207 (Female genital mutilation), 163.208 (Assaulting public safety officer), 163.212 (Unlawful use stun gun/tear gas/mace 2nd degree), 163.415 (Sexual abuse 3rd degree), 163.435 (Contributing to sexual delinquency of minor), 163.445 (Sexual misconduct), 163.465 (Public indecency), 163.545 (Child neglect 2nd degree), 163.575 (Endangering welfare of a minor, 163.675 (sale or exhibition of visual reproduction of sexual conduct by a child), 163.687 (Encouraging child sex abuse 3rd degree), 163. 693 (Failure to report child pornography), 164.045 (Theft 2nd degree), 164.170 (Laundering a monetary instrument), 164.172 (Engaging in financial transaction in property derived from unlawful activity), 164.235 (Possession of burglar's tools), 165.007 (Forgery 2nd degree), 165.017 (Criminal possession of forged instruments 2nd degree), 165.037 (Criminal simulation), 165.042 (Fraudulently obtaining a signature), 165.080 (Falsifying business records), 165.095 (Misapplication of entrusted property), 165.100 (Issuing false financial statement), 165.102 (Obtain execution of documents by deception), 165.577 (Cellular counterfeiting 3rd degree), 165.800 (Identity theft), 166.155 (Intimidation 2nd degree), 166.350 (Unlawful possession of armor-piercing ammunition), 166.416 (Providing false information regarding gun transfer), 166.418 (Improperly transferring handgun), 166.425 (Unlawful purchase of firearm), 166.427 (Register of transfers of used firearms), 166.480 (Sale/gift of explosives to children), 167.007 (Prostitution), 167.062 (Sadomasochistic abuse or sexual conduct in live show), 167.065 (Furnishing obscene materials to minors), 167.070 (Sending obscene materials to minors), 167.075 (Exhibiting an obscene performance to minor), 167.080 (Displaying obscene materials to minors), 167.087 (Disseminating obscene materials), 167.090 (Public display of nudity/sex for advertising), 167.122 (Promoting gambling 2nd degree), 167.132 (Possession of gambling records 2nd degree), 167.147 (Possession of gambling device), 167.222 (Frequenting place controlled substance is used), 167.262 (Adult using minor in controlled substance offense), 167.320 (Animal abuse 1st degree), 167.352 (Interfere with assisted search or rescue of animal), 167.355 (Involvement in animal fighting), 167.820 (Concealing birth of infant), 475.960 (Illegally selling drug equipment), any misdemeanor involving any acts of domestic violence as defined in ORS 135.230, or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(A) There is not an option of waiver for the crimes listed above.

(3) Grounds for Denying or Revoking Certification of a Public Safety Professional:

(a) The Department may deny or revoke the certification of any officer, telecommunicator, emergency medical dispatcher or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The officer, telecommunicator, emergency medical dispatcher or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The officer, telecommunicator, emergency medical dispatcher or instructor has been convicted of a crime, other than a mandatory denial or revocation as listed above, in this state or any other jurisdiction.

(i) In making a decision on a discretionary denial or revocation the policy committees may use the criminal disqualifier and decision matrix approved by the Board. (Exhibit A)

(ii) The matrix is designed as an aid in guidance to decision-making only and provides parameters for deviation.

(iii) Policy committees may consider aggravating and/or mitigating circumstances from the criminal disqualifier matrix for the parameters included but not limited to the list below:

(I) Was the conviction a felony, misdemeanor, or violation?

(II) How long ago did the conviction occur? (refer to the matrix)

(III) Was the person a minor at the time and tried as an adult?

(IV) Did it occur before, during, after, or in between employment in law enforcement?

(V) Did the individual serve time in prison/jail? If so, how long?

(VI) If restitution was involved, has the person met all obligations?

(VII) Was the individual on parole or probation? If so, when did the parole or probation end? Is the person still on parole or probation?

(VIII) Are there any aggravating or mitigating circumstances that should be considered?

ADMINISTRATIVE RULES

(IX) Do the actions violate the rule definition of moral fitness (OAR 259-008-0010(5)), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation?

(X) How many other convictions does this person have? Over what period of time?

(XI) Has this person been convicted of this same crime more than once?

(XII) If a DUII, is this the first, second, or third time within the previous 10 years? (Has this DUII become a felony (it's a felony if this is the fourth conviction and the last three were within the previous ten-year period)?)

(XIII) Does this conviction involve any domestic violence situation?

(C) The officer, telecommunicator, emergency medical dispatcher or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640(1)(a) to (d).

(4) Scope of Revocation. Whenever the Department revokes the certification of any public safety professional, the revocation shall embrace all certificates the Department has issued to that person.

(5) Revocation and Denial Procedure.

(a) Agency Request: When the hiring authority having employed the public safety professional requests that the person's certification be revoked or denied, it shall submit in writing to the Department the reason for the requested revocation or denial and all factual information supporting the request.

(b) DPSST Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the person's certification be revoked or denied.

(c) Department Staff Review: The Department shall review the request and the supporting factual information to determine if the request for revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule requirements for revocation or denial the Department shall so notify the requestor. If the reason for the revocation or denial meets statutory and administrative rule requirements but is not supported by adequate factual information, the Department shall request further information from the requesting hiring authority or conduct its own investigation of the matter. If the Department makes a determination that a person's certification should be revoked or denied, as a result of a conviction deemed to be discretionary, the request must be presented to the Board, through a Policy Committee, for review. If the Board should consider a request for waiver of the denial or revocation action, it is the responsibility of the applicant to present to the Board all information relative to the request for waiver, not less than fifteen days prior to the next scheduled Board meeting. The Board may consider a request for waiver under unique circumstances, and only if substantial and compelling reasons have been clearly demonstrated by the applicant.

(d) Initiation of Proceedings: Upon determination that the reason for revocation or denial is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice shall be prepared.

(e) Contested Case Notice: The Department shall prepare, or the Board shall cause the Department to prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department shall have a copy of the notice served on the public safety professional.

(f) Response Time:

(A) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" shall have 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Deny Certification" shall have 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

(g) Default Order: In the absence of a timely request for a hearing, the Contested Case Notice will become a final order revoking or denying certification pursuant to OAR 137-003-0075(5).

(h) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0515.

(i) Findings of Fact, Conclusions of Law and Proposed Final Order. The presiding officer of the Hearings Officer Panel shall prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(j) Exceptions and Arguments to the Findings of Fact, Conclusions of Law and Proposed Final Order. A party shall have 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order to file specific written exceptions and arguments with the Department.

(A) The Department may extend the time within which the exceptions and arguments shall be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments shall serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(k) An officer, telecommunicator, emergency medical dispatcher, or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(l) Any officer, telecommunicator, emergency medical dispatcher, or instructor who has had certification revoked pursuant to ORS 181.661, 181.662 may reapply for certification but not sooner than four years after the date on which the Order of the Department revoking certification became final.

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

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp) f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04

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Rules Amended: 259-009-0005, 259-009-0010, 259-009-0062, 259-009-0067, 259-009-0087

Subject: Requires fire service professionals to complete annual maintenance training to maintain certification(s); defines process for reinstating certifications after a lapse in service; sets minimum passing score for testing at 70 percent; requires accreditation agreements be reviewed every 3 years; housekeeping changes. Updates Wildland Interface certification guide. Updates requirements for Fire Inspector and Investigator.

Rules Coordinator: Mary Gaines—(503) 378-2427

259-009-0005

Definitions

(1) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(5) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

ADMINISTRATIVE RULES

(6) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(7) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(8) "Department" means the Department of Public Safety Standards and Training.

(9) "Director" means the Director of the Department of Public Safety Standards and Training.

(10) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.

(11) "Field Training Officer" means an individual who is authorized by a fire service agency or by the Department to sign as verifying completion of tasks required by task books.

(12) "Fire Company" means a group of fire fighters, usually 3 or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(13) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(14) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(15) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(16) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(17) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing and/or supervising a fire service agency training program.

(18) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(19) "NFPA Driver-Operator" means a member of a fire service agency licensed to operate a fire service agency vehicle/apparatus in accordance with the job performance requirements of NFPA 1002 and who have met the Entry Level Fire Fighter requirements. Fire service agency vehicle/apparatus operators are required to be certified at NFPA 1001 fire fighter I standard prior to driver operator duties. Additional requirements are involved for those driver operators of apparatus equipped with an attack or fire pump, aerial devices, a tiller, aircraft firefighting and rescue vehicles, wildland fire apparatus, and mobile water supply apparatus (tanker/tender).

(20) "NFPA Fire Fighter I" means a member of a fire service agency who has met the level I job performance requirements of NFPA standard 1001. Sometimes referred to as a journeyman fire fighter.

(21) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent level II job performance requirements of NFPA Standard 1001. Sometimes referred to as a senior fire fighter.

(22) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the level I job performance requirements of NFPA Standard 1031.

(23) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the level II job performance requirements of NFPA standard 1031.

(24) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of fire. This individual has met the job performance requirements of NFPA Standard 1033.

(25) "NFPA Fire Officer I" means the fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications. (Company officer rank)

(26) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021. (Station officer, battalion chief rank)

(27) "NFPA Fire Officer III" means the fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021. (District chief, assistant chief, division chief, deputy chief rank)

(28) "NFPA Fire Officer IV" means the fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021. (Fire Chief)

(29) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and ability of a certification level.

(30) "Staff" are those employees occupying full-time, part-time, and/or temporary positions with the Department.

(31) "Task Performance" means to be able to demonstrate the ability to perform the tasks, of a certification level, in a controlled environment while being evaluated.

(32) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(33) "Topical Level Course" is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(34) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0010

Personnel Action Forms

(1) All public or private fire service agencies shall furnish to the Department the name, address, and other pertinent information concerning any newly appointed fire service professional on a Personnel Action Form (DPSST Form PAF-1) within thirty (30) business days after employment.

(2) Whenever fire service personnel resign, retire, or terminate employment, are discharged, or deceased, the agency head shall report this information to the Department on a Personnel Action Form (DPSST Form PAF-1) within thirty (30) business days of the action.

(a) The agency must notify the Department in writing when a fire service professional is promoted to a fire chief position, when a new agency head designee is assigned, or when a fire service professional is promoted to a training officer position.

(b) The agency must notify the Department in writing when a fire service professional is no longer assigned the duties of a fire chief, agency head designee or training officer.

(3) All applicable sections of the Personnel Action Form (DPSST Form PAF-1) must be completed and signed by the agency head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Form (DPSST Form PAF-1) their social security number. The social security number is used to accurately identify the applicant and to verify information provided by fire service professionals under the Act in connection with revocation proceedings.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance evaluations if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard No. 1001, Edition of 1997, entitled "Fire Fighter Professional Qualifications," including Tentative Interim Amendment 97-1 are adopted subject to the following definitions and modifications:

(A) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(B) Delete section 1-3 (Note: this references NFPA 1500).

(C) Delete section 2-1(c) (Note: this references NFPA 1582).

(D) Delete section 2-2 (Note: These are physical requirements for Fire Fighter).

ADMINISTRATIVE RULES

(E) Entry Level Fire Fighter shall mean an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard No. 1403, Edition of 1997, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(F) All applicants for certification as a Fire Fighter I shall complete either the Task Performance Evaluation or a Department approved Task Book.

(b) The provisions of the NFPA Standard No. 1002, Edition of 1998, entitled "Fire Department Vehicle Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) Delete Section 1-3.2.

(B) 3-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 3-1 through 3-2, shall be met prior to certification as a fire service agency driver/operator-pumper.

(C) 4-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 4-1 through 4-2, shall be met prior to certification as a fire service agency driver/operator-aerial.

(D) 5-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Chapter 4 and Section 5-2, shall be met prior to certification as a fire service agency driver/operator-tiller.

(E) 6-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 6-1 through 6-2, shall be met prior to certification as a fire service agency driver/operator-wildland fire apparatus.

(F) 7-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 7-1 through 7-2, shall be met prior to certification as a fire service agency driver/operator-aircraft rescue and fire-fighting apparatus (ARFF).

(G) 8-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 8-1 through 8-2, shall be met prior to certification as a fire service agency driver/operator-mobile water supply apparatus.

(H) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program, Section 4-2" from Sections 2-3.1, 3-1.3, 4-1.3, 5-2.2, 6-1.3, 6-1.4-1.3, and 8-1.3.

(I) Either a Task Performance Evaluation must be completed or a Task Book for Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator must be completed and signed off by the Agency head or Training Officer before an applicant can qualify for certification as a Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator.

(J) An individual who completes the requirements of Chapter 2 and meets the requirements of Entry Level Fire Fighter, may be certified as a Driver.

(c) The provisions of the NFPA Standards No. 1003, Edition 1994, entitled "Standard for Airport Fire Fighter Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) Complete an approved task book.

(B) Amend section 1-3.1 by deleting "Airport fire fighters who drive aircraft rescue and fire fighting (ARFF) vehicles shall meet the requirements of Chapter 7 of NFPA 1002, Standard for Fire Department Vehicle Driver/Operator Professional Qualifications."

(d) The provisions of the NFPA Standard No. 1031, Edition of 1998, entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) November 1, 2000, all new certifications will be based on NFPA 1031.

(ii) November 1, 2000, through January 1, 2005, any certified Fire Prevention/Investigation Officer I may become certified at NFPA Fire Inspector I.

(iii) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer II will be certified as an NFPA Fire Inspector II.

(iv) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer III will be certified as an NFPA Fire Inspector III.

(v) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as an NFPA Fire Inspector I shall:

(i) Successfully complete a Department approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(C) All applicants for certification as an NFPA Fire Inspector II shall:

(i) Hold a certification as a Fire Inspector I; and

(ii) Successfully complete a Department approved Task Book.

(D) All applicants for certification as an NFPA Fire Inspector III shall:

(i) Hold a certification as a Fire Inspector II; and

(ii) Successfully complete a Department approved Task Book.

(E) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(e) The provisions of the NFPA Standard No. 1033, Edition of 1998, entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) Beginning November 1, 2000, all new certifications will be based on NFPA 1033.

(ii) November 1, 2000, anyone certified as an Oregon Fire Investigator II will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator II. No new Oregon Fire Investigator II certificates will be issued after January 1, 2005.

(iii) November 1, 2000, anyone certified as an Oregon Fire Investigator III will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator III. No new Oregon Fire Investigator III certificates will be issued after January 1, 2005.

(iv) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as a Fire Investigator shall successfully complete a Department approved Task Book prior to passing a written certification exam administered by the Department. Exception: Anyone holding a valid IAAI Fire Investigator Certification is exempt from taking the Department's Fire Investigator written exam.

(C) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years fire investigation experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(f) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of "Assessment" to read: "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

(III) 1-4.14 Include "insurance" in list of agencies.

(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services..."

(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.

ADMINISTRATIVE RULES

(VI) 1-4.17 Add "...using state-approved prepared forms and guidelines..."

(VII) 1-4.22 Add "...or by authority having jurisdiction."

(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I."

(iii) Bridging will be available for 12 months after adoption of the standard. To bridge to Juvenile Firesetter Intervention Specialist I, a person will be eligible to take an 8-hour update class if s/he documents all of the following:

(I) Involvement in three fire investigations;

(II) Use of the 10-J and Oregon Screen Tool forms three times;

(III) Five years experience in fire service or a related field;

(IV) Attendance in the current Juvenile Firesetter Intervention class or show participation in the Juvenile Firesetter Network by having the application signed off by the local network.

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(g) The provisions of the NFPA Standard No. 1041, Edition of 1996, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Fundamentals of Instruction" shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for Fire Service Instructor I and II.

(i) This requirement is effective for any application for certification after January 4, 2002.

(h) The provisions of the NFPA Standard No. 1021, Edition of 1997, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 2-1 General. For certification at the Fire Officer Level I, the candidate shall be certified at Fire Fighter II, as defined by the Department, and meet the job performance requirements defined in Sections 2-2 through 2-7 of this standard.

(i) 2-1.1 General requisite Knowledge: the organizational structure of the department, departmental operating procedures for administration, emergency operations, and safety; departmental budget process; information management and record keeping; the fire prevention and building safety codes and ordinances applicable to the jurisdiction; incident management system; socioeconomic and political factors that impact the fire service; cultural diversity; methods used by supervisors to obtain cooperation within a group of subordinates; the rights of management and members; agreements in force between the organization and members; policies and procedures regarding the operation of the department as they involve supervisors and members.

(ii) 2-1.2 General Prerequisite Skills: the ability to communicate verbally and in writing, to write reports, and to operate in the incident management system. These skills may be documented through the following course work: Advanced Writing (such as WR121 or equivalent); Advanced Speech (such as SP111 or equivalent); Technical Writing (such as WR227 or equivalent); Math (such as MTH 052 or equivalent); Physical Science (such as PH201 or equivalent). Through December 31, 2001, an individual with five years experience as a chief officer shall be deemed as meeting the General Prerequisite Skills. The following are recognized courses for portions of the training requirements 2-2 through 2-7: Fire Fighter Law; Managing Fire Personnel currently #39-13; Increasing Personal Effectiveness & Increasing Team Effectiveness or 3 or more credit college level course in principles of supervision or NFA Leadership I, II, and III; Fire Fighter Safety and Survival for Company Officers currently #61-01; MCTO-P, D & T; Instructor I or equivalent.

(iii) Successfully complete an approved task book for Fire Officer 1.

(B) 3-1 General. For certification as Fire Officer Level II, the candidate shall be certified as Fire Officer I and NFPA Instructor I, as defined by the Department, and meet the job performance requirements defined in Section 3-2 through 3-7 of this standard.

(i) 3-2.3 Existing Curricula: Public Education, Relations, and Information; College Fire Codes and Ordinances; or National Fire

Academy Fire Inspection Principles; or International Fire Codes Institute Uniform Fire Code Certificate; Fire Detection Systems & Alarms; College or State Major Emergency Strategy and Tactics; or National Fire Academy Command and Control of Fire Department Operations at Multi-Alarm Incidents; or National Fire Academy Command and Control of Fire Department Operations at Target Hazards; or National Fire Academy Hazardous Materials Incident Management; Incident Safety Officer; NFPA Instructor I; or Department of Public Safety Standards and Training Instructor Development Course; National Fire Academy Initial Fire Investigation; or National Fire Academy Arson Detection for Fire Responders; or College Fire Investigation Course; or National Fire Academy Fire Cause Determination for Company Officers; or Fire Investigation #35-10; Washington Oregon Interface/National Wildfire Coordinating Group (WOI-NWCG) — S-205 (Wildland); College Strategy and Tactics; or National Fire Academy Managing Company Tactical Operations — Tactics and Decision Making; or National Fire Academy Incident Command System; or National Fire Academy Fire Command Operations.

(ii) Successfully complete an approved task book for Fire Officer II.

(C) 4-1 General. For certification at the Fire Officer III/Administrator Level, the candidate shall be certified as Fire Officer II as defined by the Department, and meet the job performance requirements defined in Sections 4-2 through 4-7 of this standard; or, for certification at the Fire Protection Administrator Level, the candidate shall be certified as either Fire Officer II, Fire Prevention Officer III/NFPA Fire Inspector III, Public Education Officer III/NFPA Public Fire & Live Safety Educator II, Instructor II, or Fire Investigator III/NFPA Fire Investigator as defined by the Department, and meet the job performance requirements defined in Sections 4-2 through 4-7 of this standard.

(i) 4-1.3 Existing Curricula — Basic Institute Classes which would meet Fire Protection Administrator Course Requirements: Inspection and investigation; Emergency Service Delivery Principles of Fire Protection Management; Personnel Management; Organization for Fire Protection; Legal Aspects; Fiscal Management.

(D) 5-1 General. For certification at the Fire Officer IV/Executive Level, the candidate shall be certified as Fire Officer III as defined by the Department, and meet the job performance requirements defined in Sections 5-2 through 5-7 of this standard, or, for certification at the Fire Protection Executive Level, the candidate shall be certified as Fire Officer III/Fire Protection Administrator as defined by the Department, and meet the job performance requirements defined in Sections 5-2 through 5-7 of this standard.

(i) 5-1.2 General requisite Skill: the ability to effectively apply pre-requisite knowledge.

(ii) 5-1.3 Existing Curricula — Advanced Institute Classes which would meet Fire Protection Executive Course Requirements: Master Planning; Advanced Legal Aspects; Advanced Fiscal Management; Local Government and Community Politics; Organizational Psychology; Management Information Systems; Labor Management Relations.

(i) Hazardous Materials Responder (DPSST-P-12 1/96).

(j) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader shall first be certified as an NFPA Fire Fighter II.

(C) An applicant would need to document training in nine areas:

(i) Fire Resistive Building Construction;

(ii) Ordinary Building Construction;

(iii) Incident Safety Officer or Fire Fighter Safety;

(iv) Water Supplies;

(v) Strategy and Tactics I, II, and III;

(vi) Incident Command System;

(vii) Fire Investigation.

(D) A task book shall be completed before certification is awarded.

(k) Wildland Interface Fire Fighter, Wildland Interface Engine Boss/Officer, Wildland Strike Team leader, Wildland Division/Group Supervisor (DPSST Wildland Interface Certification Guide, Revised September, 2003).

(l) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book.

(A) Historical Recognition:

(i) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

ADMINISTRATIVE RULES

(iii) All applications received after October 1, 2004, will need to show completion of the approved task book.

(m) Certification guide for Wildland Fire Investigator (August, 1999).

(n) The provisions of the NFPA Standard No. 1006, Edition of 2000, entitled, "Professional Qualifications for Rescue Technician" are adopted subject to the following modifications:

(A) The Authority Having Jurisdiction shall mean the local or regional fire service agency.

(B) Historical Recognition:

(i) Application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application to use historical recognition shall be submitted to DPSST on or before March 31, 2003.

(C) Instructors:

(i) Curriculum must be certified by DPSST to meet NFPA 1006.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(D) Task Books:

(i) A task book must be completed for each of the six specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can sign off the task book.

(iii) The requirements in Chapters 2 and 3 need to be met only one time for all six specialty rescue areas.

(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:

(a) Task performance competency shall be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures shall be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0065

Maintenance

(1)(a) The training officer shall verify that adequate refresher training through service delivery, see OAR 259-009-0005(29), task performance, see OAR 259-009-0005(31) or sufficient training hours has taken place in order to verify each member's certification pursuant to OAR 259-009-0065(2)(a). Any certificate not verified by the agency shall be recalled.

(b) Verification of required refresher training shall be submitted to the Department by December 31st every two years from the date of implementation of this rule.

(2) If the training officer chooses to verify adequate refresher training through training hours, the following are maintenance of certification requirements.

(a) Certified fire service professional shall annually complete the following prescribed hours of accredited education and/or training in the area in which they are certified and performing as a primary duty: [Table not included. See ED. NOTE.]

(b) An individual certified and performing duties in more than one tract must complete the training hours for each tract.

(3) For all levels of certification that require completion of a written test, the minimum score must be 70 percent.

(4) Failure to notify the Department of the individual's required refresher training will result in a warning notification letter being sent to the agency head and the training officer.

(a) A three (3) month extension will be automatically authorized.

(b) Failure to complete the refresher training and/or submit the completed appropriate form, after the warning notification letter and before the three (3) month extension has expired, shall result in the recall of the fire service professional's certification.

(c) Re-certification following a recall may be obtained at the approval of the Department by submitting the following:

(A) The employing agency head request certification, along with an explanation of why the refresher training was not completed or verified; and

(B) Verification that the missed adequate refresher training was completed.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0067

Lapsed Certification

(1) All levels of certification of any fire service professional shall be considered lapsed if the individual has not been employed as such for a period of twelve more than (12) consecutive months.

(2) Upon the reemployment of a fire service professional whose certification has lapsed. The fire chief or training officer may apply to have the fire service professional's certification reinstated:

(a) The fire chief or training officer shall have the lapsed fire service professional complete a Department task book, task performance evaluation and/or complete approved training;

(b) Upon completion of the appropriate testing or evaluation the fire service agency, on behalf of the fire service professional whose certification has lapsed, shall request the Department to reinstate those levels of certification. The request to the Department shall be made by submitting the appropriate form.

Stat. Auth.: ORS 181.652, ORS 181.653 & ORS 181.667

Stats. Implemented: ORS 181.652, ORS 181.653 & ORS 181.667

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0087

Accreditation of Fire Service Agency Training Programs

(1) The Department may accredit fire service agency training programs which meet the following requirements:

(a) The program shall be under the direction of a designated training officer.

(b) Qualified instructors shall be provided to teach the various subjects.

(c) The organizational structure of the program shall be submitted to the Department along with course outlines of subject content, instructor qualifications, and the appropriate application form for accreditation. A plan shall be included which explains how the required training hours will be provided.

(d) The training officer shall schedule and make available annually to fire service personnel the following minimum hours of acceptable education and/or training:

DISCIPLINE — HOURS PER YEAR

Fire Suppression Personnel — 60 Hours

All Other Disciplines — 12 Hours

Instructor I, II, III — 4 Hours

(e) At the conclusion or as a part of the accredited training, the training officer shall require appropriate written examination and/or task performance examination in accordance with standards and procedures adopted by the Department.

(f) Fire Service Personnel training records shall be maintained by the employing fire service agency for at least five years, after the fire service professional has left the agency, on the progress and amount of instruction completed by all fire service personnel in the fire service agency.

(g) The fire service agency shall possess at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901. Apparatus may be accepted by judgment of the Department when it is of a special fire suppression need, and/or will adequately meet the training needs of the proposed program.

(h) A written accreditation agreement shall be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. The agreement shall be signed by the Department's designee; the Agency head of the fire service agency; City Manager or Chairman of the Rural Fire Protection District Board; and the training officer. The accreditation agreement must be reviewed every three (3) years.

(A) The review will consist of a written questionnaire which must be verified by the Fire Chief.

(B) An on-sight review may occur if there is a change in the accreditation agreement.

ADMINISTRATIVE RULES

(C) The Agency head shall agree as a part of the accreditation agreement to allow, at any time, access by Department examiners to the fire service agency's personnel training records to verify training received by fire service agency personnel, and to monitor testing processes.

(2) The Agency head, on behalf of the fire service agency, shall have the right to appeal to the Department any proposed termination of the agreement.

Stat. Auth.: ORS 181.640 & ORS 181.650
Stats. Implemented: ORS 181.640 & ORS 181.650
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

Department of Revenue Chapter 150

Adm. Order No.: REV 2-2004(Temp)

Filed with Sec. of State: 4-30-2004

Certified to be Effective: 5-1-04 thru 9-30-04

Notice Publication Date:

Rules Adopted: 150-118.010(2), 150-118.010(7), 150-316.272, 150-323.630-(A)

Rules Suspended: 150-323.160(3)-(A)

Subject: OAR 150-118.010(2) and 150-316.272 provide that certain expenses that may be claimed either on the Oregon inheritance tax return or the Oregon fiduciary income tax return may be claimed on one return or the other but not both returns.

OAR 150-118.010(7) provides guidance relating to making separate Oregon elections on the Oregon inheritance tax return.

OAR 150-323.630-(A) provides policy regarding civil penalties that may be imposed for violations of Oregon "other tobacco products" tax laws.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-118.010(2)

Deductions Allowed on Either the Inheritance Tax Return or the Fiduciary Income Tax Return.

Deductions allowed under sections 2053 or 2054 of the Internal Revenue Code (IRC) may be claimed on either the Oregon inheritance tax return (Form IT-1) or the Oregon fiduciary income tax return (Form 41), but not both. The personal representative of an estate may make different elections for federal and Oregon returns. If the deductions are claimed on the Oregon Form 41, attach a statement that the deductions are not being claimed on the Oregon Form IT-1. For federal purposes, those deductions may be taken on either the federal estate tax return (Form 706) or the federal estate income tax return (Form 1041) under IRC 642(g).

Example 1: Peter dies in 2004 with a gross estate of \$900,000. The personal representative of the estate elects to deduct \$19,500 of expenses on the federal Form 1041. For Oregon, the personal representative elects to take the deduction on the Oregon Form IT-1. The amount deducted on the federal Form 1041 must be added back to income on the Oregon Form 41.

Example 2: Sally dies in 2004 with a gross estate of \$950,000. The personal representative of the estate elects to claim a deduction of \$15,000 on the federal Form 1041. The personal representative does not claim these deductions on the Oregon Form IT-1. The deductions claimed on the federal Form 1041 flow through to the Oregon Form 41. No modification to income is required.

Example 3: Mildred dies in 2004 with a gross estate of \$2,000,000. The personal representative of the estate elects to claim a deduction of \$15,000 on the federal Form 706. For Oregon, the personal representative elects to claim the deduction on the Oregon Form 41. The election is made by subtracting the deduction from the Oregon return. The deduction is not allowed on the Oregon Form IT-1 if it was claimed on the Oregon Form 41. The personal representative must reduce the deductions by \$15,000 on the Oregon Form IT-1.

[Forms: Forms referenced in this rule are available from the Agency.]

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010
Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04

150-118.010(7)

Separate Oregon Elections

(1) For deaths after December 31, 2001, the Oregon inheritance tax is computed using the Internal Revenue Code (IRC) in effect on December 31, 2000. Federal changes enacted after this date, including the "Economic Growth and Tax Relief Reconciliation Act of 2001", do not affect the computation of Oregon tax. Oregon allows separate elections, including but not limited to elections provided by IRC Sections 2031(c), 2032, 2032A, 2033A, 2056 and 2056A, that would have been allowed under federal law in effect as of December 31, 2000, whether or not a federal estate tax return is filed. The Oregon elections are irrevocable. If a federal estate tax return is not required with respect to the decedent's death, the Oregon elections

must be made in the same manner as required under the IRC on a return filed with the Oregon Department of Revenue.

Example 1: The personal representative may not make a qualified terminal interest property (QTIP) election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Harold dies in 2004 with an estate valued at \$950,000. He is survived by his wife, Wanda. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust is set up to distribute or accumulate income to someone other than the spouse and allows for discretionary distribution of income to the surviving spouse. The trust does not qualify for a QTIP election under IRC 2056(b)(7), as in effect as of December 31, 2000.

Example 2: The personal representative may make a QTIP election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Winifred dies in 2004 with an estate valued at \$1,500,000. She is survived by her husband, Harvey. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust provides for all income to be distributed to the surviving spouse and otherwise qualifies for the federal QTIP election. The personal representative files a 2004 federal estate tax return without claiming a QTIP election. The personal representative may file the 2004 Oregon return claiming a QTIP election because that election would have been allowed under federal law effective on December 31, 2000.

(2) If a QTIP election is taken when the first spouse dies, the estate of the surviving spouse must include the value of any property included in the QTIP election provided in IRC 2044. The Oregon and federal gross estate amount will be different for the surviving spouse's estate when a separate election is taken for Oregon only.

Example 3. Same situation as example 2. The personal representative claimed an Oregon only QTIP election on Winifred's Oregon IT-1 return. Harvey dies in 2005. Harvey's estate for Oregon will include the value of the Oregon only QTIP taken for Winifred per IRC 2044 "Certain property for which a marital deduction was previously allowed". Harvey's gross estate for Oregon and for federal will be different because of the Oregon only QTIP election taken on Winifred's Oregon IT-1 return.

(3) For purposes of the Oregon tax, the obligations of electing parties, agreements required of persons benefiting from elections, and the inclusion of property in the gross estate of a surviving beneficiary are the same as under the IRC.

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

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010
Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04

150-316.272

Deductions Allowed on Either the Inheritance Tax Return or the Fiduciary Income Tax Return.

Certain deductions may not be taken on both the Oregon inheritance tax return (Form IT-1) and the Oregon fiduciary income tax return (Form 41). See OAR 150-118.010(2) for details.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 316.272
Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04

150-323.160(3)-(A)

Definition of "Appropriate Stamp"

As required by ORS 323.160(3), an appropriate stamp must be affixed to each package of cigarettes prior to the distribution of the cigarette; for purposes of that requirement an "appropriate stamp" is considered to be more than 50 percent of a single required Oregon tax stamp.

Stat. Auth.: ORS 305.100 & 323.440
Stats. Implemented: ORS 323.160

Hist.: REV 1-2004(Temp), f. & cert. ef. 4-1-04 thru 8-1-04; Suspended by REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04

150-323.630-(A)

Civil Penalties for Violation of Other Tobacco Products Tax

(1) The Department of Revenue may impose civil penalties on any person who violates any provision of Other Tobacco tax law. The violations include, but are not limited to, those described under subsection (3) of this rule.

(2) The following civil penalties will be imposed on a per incident basis for the violations in subsection (3) of this rule:

Incident — Penalty not to exceed

First — Warning notice
Second — \$250
Third — \$500
Fourth and subsequent — \$1,000

(3) The civil penalties outlined in subsection (2) of this rule may be imposed for the following violations of ORS 323.500 to 323.645:

(a) ORS 323.520: Failure by a distributor to apply for and obtain a distributor's license;

(b) ORS 323.530: Failure to display a license at the business location for which it was issued;

(c) ORS 323.538: Failure by distributor to provide a sales invoices containing the following:

- (A) Name and address of the seller;
- (B) Name and address of the purchaser;
- (C) Quantity and product description of the tobacco products

ADMINISTRATIVE RULES

- (D) Price paid for the tobacco products;
- (E) Any discount applied in determining the price paid for the tobacco products;
- (F) The applicable license identification number for the distributor;
- (G) A certified statement by the distributor that all taxes due under ORS 323.500 to 323.645 have been or will be paid.
- (d) ORS 323.540: Failure of distributors or any persons dealing in, transporting or storing tobacco products in this state to:
 - (A) Keep on premises records, receipts, and invoices of product held, purchased, manufactured, brought in or caused to be brought in from outside this state or shipped or transported to retail dealers in this state, and of all sales of tobacco products made, except to consumers; and
 - (B) Keep all books and records for the required five years after initial date of sale.
 - (4) The department may consider the following factors when deciding the civil penalty under this rule:
 - (a) Number of previous inspections held by the Department of Revenue at the place of business;
 - (b) Number of previous violations of Chapter 323 provisions;
 - (c) Size of business; and
 - (d) Any other factors or information the department considers relevant to its determination.
 - (5) A civil penalty authorized by ORS 323.630 and this rule may be imposed on any distributor, as defined in ORS 323.500(7), who is responsible for complying with ORS 323.500 to 323.645.

Stat. Auth.: ORS 305.100, 323.575
Stats. Implemented: ORS 323.630
Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04

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**Department of Transportation,
Highway Division
Chapter 734**

Adm. Order No.: HWD 4-2004

Filed with Sec. of State: 5-6-2004

Certified to be Effective: 5-6-04

Notice Publication Date: 3-1-04

Rules Amended: 734-020-0010

Subject: House Bill 2661 (Chapter 819, Oregon Laws 2003) amended ORS 810.180, setting the designated speed on interstate highways at 65 MPH. HB 2661 also gave ODOT authority to establish by rule designated speeds on any specified section of interstate highway if the department determines that speed limits established by law are greater or less than is reasonable or safe under the conditions that exist with respect to that section of the interstate highway. OAR 734-020-0010 establishes a procedure for establishing speed zones by rule on interstate highways as directed by ORS 810.180(3). The rule specifies the procedure for ODOT to follow when establishing speeds other than the maximum speed set by law for interstate highways. The procedure for establishing speed zones on interstate highways must be in place before ODOT can begin the process of determining if speeds should be higher or lower than the speed designed by law on certain sections of the interstate highways.

Rules Coordinator: Brenda Trump—(503) 945-5278

734-020-0010

Establishment of Speed Limits on Interstate Highways

(1) Definitions:

- (a) "Commission" means the Oregon Transportation Commission.
- (b) "Department" means the Oregon Department of Transportation.
- (c) "Trucks" means a motor vehicle with a gross vehicle weight greater than 8,000 pounds that is primarily designed or used for carrying or drawing loads other than passengers.
- (d) "Interstate congestion level" means the ratio of average daily traffic volumes to capacity for an interstate highway as reported by the Department's congestion management system.
- (e) "Rate" means the number of crashes, injuries, or fatalities per vehicle miles traveled on a lineal section of roadway.
- (f) "Speed Zone Review Panel" means the advisory committee created (by OAR 734-020-0015) to hear contested speed zone cases on public roadways in Oregon. Membership consists of representatives from the Oregon State Police, the Oregon Transportation Safety Committee, the League of Oregon Cities, the Association of Oregon Counties and the Department of Transportation.

(2) **Process for Establishing a Speed Limit:** The following procedures apply when the Department of Transportation proposes to review or establish a speed limit on any section of interstate highway under ORS 810.180:

(a) The Department will establish sections of interstate highway for investigation based on the site specific characteristics such as crash history, physical conditions and traffic conditions. Sections will be as long as possible in order to achieve consistency in speed zoning on interstate highways. For each section of interstate highway under consideration the Department will prepare an engineering investigation report that will include all of the following:

(A) The average speed and the speed at or below which 85 percent of the vehicles sampled were traveling.

(B) Crash data to include the total number and rates for all crashes, injuries and fatalities.

(C) Law enforcement review and input including enforcement levels.

(D) The speeds, the crash data, and the law enforcement input required by paragraphs (A) through (C) of this subsection collected separately for trucks and for all other vehicles.

(E) Roadway geometry and physical characteristics, including curvature, interchange spacing, lane widths, and shoulder widths.

(F) Traffic characteristics, including the interstate congestion levels, average daily volumes, and the percentage of trucks.

(G) Emergency medical services availability, including response times.

(H) Trucking restrictions, including weight and height restrictions.

(I) Type and frequency of adverse road conditions, including weather, environment, and visibility.

(b) The Department will prepare an issues report documenting potential impacts, benefits, and issues related to changes in interstate highway speed limits. The report will be applicable to all sections under consideration. The issues report will include the following:

(A) Current available local, national and international research on interstate highway speed limits changes as it relates to:

(i) Changes in fatalities and injuries and their corresponding impacts to emergency medical services and trauma care;

(ii) Environmental pollution and fuel efficiency issues; and

(iii) Economic effects, including changes in travel efficiency and movement of goods.

(B) Speed enforcement practices.

(c) The Department will recommend a speed that is indicated by the engineering investigation report and the issues report required by subsections (a) and (b) of this section to be reasonable and safe under the conditions found to exist for each section of interstate highway being considered.

(d) If the speed recommended in subsection (c) of this section is greater or less than the existing speed, the Department will prepare a draft rule specifying the recommended speed(s) and present it to the Speed Zone Review Panel.

(e) The Speed Zone Review Panel will convene one or more public meetings in the same region as the section(s) of interstate highway under consideration for the purpose of receiving comments from the public. The Department will provide notification to the public at least 30 days prior to any such meeting.

(f) The Department will prepare a report of the comments received at the public meeting(s) required by subsection (e) of this section, including both general comments and those for a specific section of interstate highway.

(g) The Speed Zone Review Panel will make a recommendation to the Commission of a reasonable and safe speed for a section of interstate highway under the conditions found to exist and as indicated by the engineering investigation report, the issues report, and comments received at the public meetings. A Panel report shall explain the basis of the recommendation.

(h) The Commission will hold a public hearing prior to adopting the final rule. The Commission, after consideration of the recommendation and explanation from the Speed Zone Review Panel, will make the final determination of a reasonable and safe speed for a section of interstate highway under the conditions found to exist and as indicated by the engineering report, the issues report, and comments received at the public hearing. The Commission will then adopt a rule establishing the interstate highway speed limit for each section(s) of interstate highway under consideration.

(i) The speed zone becomes enforceable when signs are posted.

(3) **Process for review of interstate highway speed limit:**

(a) The Department will conduct an annual review of crash and fatality history on all interstate highways where the speed limit has been estab-

ADMINISTRATIVE RULES

lished pursuant to this rule. A written record of the annual review will be provided to the Governor's office and maintained by the Department.

(b) At any time that interstate highway crash trends significantly change the Department will perform an analysis of the crash patterns on affected sections of interstate highway to determine if a review of speed limits is appropriate. The Department may also review an interstate highway speed limit at any time at the discretion of the Commission or the State Traffic Engineer:

(A) Any interstate highway speed limit review must be conducted in compliance with section (2) of this rule; and

(B) If appropriate, the Department will institute rulemaking to make changes to the interstate speed designations.

Stat. Auth.: ORS 184.616, 810.180 & Ch. 819, OL 2003

Stats. Implemented.: ORS 810.180 & Ch. 819, OL 2003

Hist.: 1 OTC 7(Temp), f. & ef. 11-15-73; 1 OTC 20, f. 1-28-74, ef. 2-11-74; 1 OTC 24(Temp), f. & ef. 3-1-74; 1 OTC 28, f. 6-5-74, ef. 6-25-74; HWY 5-1987, f. & ef. 12-8-87; HWY 3-1989, f. & cert. ef. 5-23-89; HWY 7-1990, f. & cert. ef. 4-18-90; HWY 3-1996, f. & cert. ef. 8-15-96; HWD 4-2004, f. & cert. ef. 5-6-04

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Department of Veterans' Affairs Chapter 274

Adm. Order No.: DVA 6-2004

Filed with Sec. of State: 4-16-2004

Certified to be Effective: 4-16-04

Notice Publication Date:

Rules Amended: 274-001-0000, 274-001-0005

Subject: OAR 274-001-0000 is being amended to correct statutory references.

OAR 274-001-0005 is being amended to update the effective date of the Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure Under the Administrative Procedures Act.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Director of Veterans' Affairs shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.

(2) By mailing a copy of the notice to the following persons, organizations, or publications at least 28 days before the effective date:

(a) Associated Press;

(b) Advisory Committee to the director;

(c) Oregon Department of Veterans' Affairs' mailing list in accordance with ORS 183.335(8);

(d) Legislative Counsel; and

(e) Legislators designated in ORS 183.335(15).

Stat. Auth.: Ch. 602, OL 1997, 183, 406.030, 407.115, 407.135, 407.145, 407.275, 407.305 & 407.375

Stats. Implemented: Ch. 602, OL 1997, 183, 406.030, 406.040, 407.115, 407.177, 407.275, 407.315 & 407.375

Hist.: DVA 44, f. & ef. 12-1-75; DVA 1-1982, f. 1-15-82, ef. 2-1-82; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 11-1993, f. 12-20-93, cert. ef. 12-22-93; DVA 4-1996, f. & cert. ef. 7-22-96; DVA 4-1997, f. & cert. ef. 10-22-97; DVA 6-2004, f. & cert. ef. 4-16-04

274-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Director of Veterans' Affairs adopts the "Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure" dated January 15, 2004. A copy of this manual is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Veterans' Affairs.]

Stat. Auth.: ORS 183.341 & 406

Stats. Implemented: ORS 406, 407 & 408

Hist.: DVA 41, f. 12-1-71, ef. 12-15-71; DVA 43, f. 10-22-73, ef. 11-11-73; DVA 46, f. & ef. 4-20-76; DVA 1-1978, f. & ef. 4-20-78; DVA 2-1980, f. & ef. 5-16-80; DVA 9-1981, f. & ef. 11-19-81; DVA 12-1983, f. & ef. 10-7-83; DVA 3-1986, f. & ef. 2-18-86; DVA 5-1988, f. & cert. ef. 10-27-88; DVA 4-1990, f. 7-13-90, cert. ef. 8-20-90; DVA 8-1991, f. & cert. ef. 12-3-91; DVA 4-1996, f. & cert. ef. 7-22-96; DVA 4-1998, f. & cert. ef. 3-26-98; DVA 11-2000, f. & cert. ef. 12-14-00; DVA 1-2002, f. & cert. ef. 1-18-02; DVA 6-2004, f. & cert. ef. 4-16-04

Adm. Order No.: DVA 7-2004(Temp)

Filed with Sec. of State: 4-28-2004

Certified to be Effective: 4-29-04 thru 10-4-04

Notice Publication Date:

Rules Amended: 274-020-0341

Rules Suspended: 274-020-0341(T)

Subject: This Temporary rule amends and supersedes the Temporary OAR filed on April 6, 2004 and effective April 8, 2004 through October 4, 2004.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after April 29, 2004 shall have the interest rate of 5.50 percent with an origination fee of 1.0 percent or 5.375 percent with an origination fee of 1.5 percent.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

ADMINISTRATIVE RULES

- (a) The interest rate on 6.2 percent loans becomes 7.2 percent;
- (b) The interest rate on 6.7 percent loans becomes 7.7 percent;
- (c) The interest rate on 7.9 percent loans becomes 8.9 percent;
- (d) The interest rate on 8.2 percent loans becomes 9.2 percent.
- (5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows.

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(y) October 8, 2003 shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.5 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(z) January 22, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.125 percent with an origination fee of 1.0 percent; or

(B) 5.0 percent with an origination fee of 1.5 percent. (Temporary)

(aa) March 26, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.0 percent with an origination fee of 1.0 percent; or

(B) 4.875 percent with an origination fee of 1.5 percent.

(bb) April 08, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.25 percent with an origination fee of 1.0 percent; or

(B) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(cc) April 29, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: ORS 407.325 & 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-

ADMINISTRATIVE RULES

1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04; DVA 2-2004(Temp), f. 1-21-04, cert. ef. 1-22-04 thru 4-5-04; DVA 4-2004, f. 3-25-04, cert. ef. 3-26-04; DVA 5-2004(Temp), f. 4-6-04, cert. ef. 4-8-04 thru 10-4-04; DVA 7-2004(Temp), f. 4-28-04, cert. ef. 4-29-04 thru 10-4-04

Adm. Order No.: DVA 8-2004(Temp)

Filed with Sec. of State: 5-10-2004

Certified to be Effective: 5-11-04 thru 10-4-04

Notice Publication Date:

Rules Amended: 274-020-0341

Rules Suspended: 274-020-0341(T)

Subject: This Temporary rule amends and supersedes the Temporary OAR filed on April 28, 2004 and effective April 29, 2004 through October 4, 2004.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after May 11, 2004 shall have the interest rate of 5.75 percent with an origination fee of 1.0 percent or 5.625 percent with an origination fee of 1.5 percent.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

ADMINISTRATIVE RULES

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows.

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(y) October 8, 2003 shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.5 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(z) January 22, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.125 percent with an origination fee of 1.0 percent; or

(B) 5.0 percent with an origination fee of 1.5 percent. (Temporary)

(aa) March 26, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.0 percent with an origination fee of 1.0 percent; or

(B) 4.875 percent with an origination fee of 1.5 percent.

(bb) April 08, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.25 percent with an origination fee of 1.0 percent; or

(B) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(cc) April 29, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(dd) May 11, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: ORS 407.325 & 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92, DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04; DVA 2-2004(Temp), f. 1-21-04, cert. ef. 1-22-04 thru 4-5-04; DVA 4-2004, f. 3-25-04, cert. ef. 3-26-04; DVA 5-2004(Temp), f. 4-6-04, cert. ef. 4-8-04 thru 10-4-04; DVA 7-2004(Temp), f. 4-28-04, cert. ef. 4-29-04 thru 10-4-04; DVA 8-2004(Temp), f. 5-10-04, cert. ef. 5-11-04 thru 10-4-04

Employment Department Chapter 471

Adm. Order No.: ED 2-2004(Temp)

Filed with Sec. of State: 5-3-2004

Certified to be Effective: 5-4-04 thru 10-31-04

Notice Publication Date:

Rules Amended: 471-040-0040

Subject: The Employment Department is amending the "Reopening of a Case" rules to address the procedure that will be followed when the filing party failed to appear at the hearing that led to the decision on appeal.

Rules Coordinator: Richard L. Luthe—(503) 947-1724

471-040-0040

Reopening of a Case

(1) After service of a referee's decision as set forth in ORS 657.270, a referee may reopen the case at any time if the party:

(a) Requesting the reopening failed to appear at the hearing;

(b) Makes, in writing to the referee promptly after gaining knowledge of the decision, a request to reopen; and

(c) Has good cause for failing to appear at the hearing.

(2) Good cause for the purpose of subsection (1)(c) exists when:

(a) Notice of hearing was not personally delivered or mailed to the party or the party's authorized agent at the last known address as shown by the Employment Department record; or

ADMINISTRATIVE RULES

(b) The circumstances causing the failure to appear are beyond the reasonable control of the party.

(3) The referee's ruling on a request to reopen the case shall be in writing and served upon the parties.

(4) The Office of Administrative Hearings will treat as a request to reopen the hearing any application for review that a party files with the Employment Appeals Board or the Employment Department, where the filing party failed to appear at the hearing that led to the decision on appeal, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. In the event that the Office of Administrative Hearings subsequently denies the request to reopen the hearing, it shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.

(5) This rule is effective for all hearings scheduled under OAR chapter 471, division 040 after the effective date of this rule.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280, 657.610 & 657
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 2-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04

Adm. Order No.: ED 3-2004(Temp)

Filed with Sec. of State: 5-3-2004

Certified to be Effective: 5-4-04 thru 10-31-04

Notice Publication Date:

Rules Amended: 471-041-0060

Subject: The Employment Appeals Board is amending the "Application for Review" rules to address the procedure that will be followed when the filing party failed to appear at the hearing that led to the decision on appeal.

Rules Coordinator: Richard L. Luthe—(503) 947-1724

471-041-0060

Application for Review

(1) A party, or the party's authorized representative, entitled to receive a Hearing Decision in an unemployment insurance matter over which the EAB has jurisdiction, may file an Application for Review. An Application for Review shall:

(a) Be in writing, and in legible form;

(b) Explicitly state that the applicant requests EAB review of a Hearing Decision and identify the Hearing Decision for which review is requested;

(c) Specify the claimant's name;

(d) Specify the applicant's current mailing address;

(e) Specify the applicant's name or the name of the applicant's representative; and

(f) Specify if the applicant intends to file a written argument.

(2) An application for review may be filed in person, by mail or by fax to the office of the EAB or to any office of the Employment Department. An Application for Review may be filed in person or by mail to any Employment Security Agency in any other state or jurisdiction where the claimant is claiming benefits.

(3) If filed by mail, the application must be properly addressed and bear sufficient postage.

(4) If faxed, the application must be received by 5:00 p.m. The EAB will not accept faxed documents after 5:00 p.m. on any business day, nor will the EAB accept documents faxed on Saturdays, Sundays or legal holidays.

(5) The EAB shall dismiss any application for review which does not conform to the requirements of subsections (a) through (e) of this rule.

(6) Where a party filing an application for review did not appear at the hearing that led to the decision being appealed, the Employment Appeals Board will treat the application for review as a request to reopen the hearing under OAR 471-040-0040, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. The Employment Appeals Board will forward such application for review to the Office of Administrative Hearings, which will treat the application as a request to reopen the hearing, pursuant to OAR 471-040-0040(4).

(7) Notwithstanding OAR 471-041-0060(6), where a party's failure to appear led to a substantive decision — one that did more than dismiss the case for the failure to appear — and where the Office of Administrative Hearings subsequently denies the request to reopen, the Office of Administrative Hearings shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive deci-

sion. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.

(8) This rule is effective for all hearings scheduled under OAR Chapter 471, Division 041 after the effective date of this rule.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.685

Hist.: EAB 1-1983(Temp), f. & ef. 9-14-83; EAB 1-1984, f. & ef. 3-20-84; ED 3-1993, f. & cert. ef. 10-1-93; ED 4-1993, f. & cert. ef. 11-22-93; Renumbered from 472-010-0005; ED 1-1995, f. & cert. ef. 1-9-95; ED 6-1996, f. 10-15-96, cert. ef. 10-21-96; ED 5-1999, f. 7-28-99, cert. ef. 8-1-99; ED 3-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04

Land Conservation and Development Department Chapter 660

Adm. Order No.: LCDD 1-2004

Filed with Sec. of State: 4-30-2004

Certified to be Effective: 4-30-04

Notice Publication Date: 1-1-04

Rules Amended: 660-033-0020, 660-033-0090, 660-033-0120, 660-033-0130, 660-033-0135

Subject: The amendments incorporate the 2003 Legislative amendments to ORS Chapter 215 into the Land Conservation and Development Commission's (LCDC's) Goal 3 rules regarding Agricultural Lands (OAR Chapter 660, Division 033), authorizes limited accessory food service facilities on golf courses separate from the clubhouse, distinguishes between the farm use activities considered the "preparation" of a farm product raised on a farm vs. those activities considered to be "processing" and other amendments which clarify and correct errors in the existing rule.

Rules Coordinator: Shelia Preston—(503) 373-0050, ext. 222

660-033-0020

Definitions

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals and OAR chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

(2)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

(A) Contribute in a substantial way to the area's existing agricultural economy; and

(B) Help maintain agricultural processors and established farm markets.

(b) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

(3) "Contiguous" means connected in such a manner as to form a single block of land.

(4) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

(5) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the

ADMINISTRATIVE RULES

western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(6) "Exception Area" means an area no longer subject to the requirements of Goal 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and OAR chapter 660, division 4.

(7)(a) "Farm Use" as that term is used in ORS Chapter 215 and this division means "farm use" as defined in ORS 215.203.

(b) As used in the definition of "farm use" in ORS 215.203 and in this division:

(A) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by-products; and

(B) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

(8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

(A) Irrigated and classified prime, unique, Class I or II; or

(B) Not irrigated and classified prime, unique, Class I or II.

(b) In addition to that land described in subsection (a) of this section, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

(c) In addition to that land described in subsection (a) of this section, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(B) Subclassification IIIw, specifically, Concord, Conser, Cornelius, Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(d) In addition to that land described in subsection (a) of this section, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(B) Subclassification IIIw, specifically, Brennar and Chitwood;

(C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

(D) Subclassification IVw, specifically, Coquille.

(e) In addition to that land described in subsection (a) of this section, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay Loam;

(B) Subclassification IIIe, specifically, Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

(C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

(f) For the purposes of approving a land use application under ORS 215.705, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if:

(A) The property owner submits a statement of agreement from the Natural Resources Conservation Service (NRCS) that the soil class, soil

rating or other soil designation should be adjusted based on new information; or

(B) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(C) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in paragraph (5)(f)(B) of this rule and finds the analysis in the report to be soundly and scientifically based.

(g) For the purposes of approving a land use application under ORS 215.705, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation before November 4, 1993 except for changes made pursuant to subsection (f) of this rule. Within six months of the effective date of this rule, the department shall provide to all counties and other interested persons a list of soils that qualify land as high-value farmland under this subsection.

(h) For the purposes of approving a land use application under OAR 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation.

(i) Lands designated as "marginal lands" according to the marginal lands provisions adopted before January 1, 1993, and according to the criteria in ORS 215.247 (1991), are excepted from this definition of "high-value farmlands";

(j) Any county that adopted marginal lands provisions before January 1, 1993, may continue to designate lands as "marginal lands" according to those provisions and criteria in ORS 215.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to lands zoned for exclusive farm use.

(9) "Irrigated" means watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this division, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

(10) "Tract" means one or more contiguous lots or parcels in the same ownership.

(11) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(12) "Willamette Valley" is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Benton and Lane Counties lying east of the summit of the Coast Range.

(13) "Lot" shall have the meaning set forth in ORS 92.010 and "parcel" shall have the meaning set forth in ORS 215.010.

(14) "Manufactured dwelling" and "manufactured home" shall have the meaning set forth in ORS 446.003(26).

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

Stat. Auth.: ORS 183, 197 & 215

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283 & 215.700 - 215.710

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04

660-033-0090

Uses on High-Value and Non High-Value Farmland

(1) Uses on land identified as high-value farmland and uses on land not identified as high-value farmland shall be limited to those specified in OAR 660-033-0120. Except as provided for in section (2) of this rule, counties shall apply zones that qualify as exclusive farm use zones under ORS chapter 215 to "agricultural land" as identified under OAR 660-033-0030 which includes land identified as high-value farmland and land not identified as high-value farmland.

(2) "Abandoned mill sites" may be zoned for industrial use as provided for by ORS 197.719.

Stat. Auth.: ORS 197 & 215

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283 & 215.700 - 215.710

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2004, f. & cert. ef. 4-30-04

ADMINISTRATIVE RULES

660-033-0120

Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A — Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) R — Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) * — Use not permitted.

(4) # — Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

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

Stat. Auth.: ORS 183, 197.040, 197.245 & 215

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2) The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.

(3)(a) A dwelling may be approved if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule;

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a); and

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

(ii) The dwelling will comply with the provisions of ORS 215.296(1);

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule.

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the State Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d); and

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C)(i) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(ii) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(D) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(i) "flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(e) If land is in a zone that allows both farm and forest uses is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS Chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;

(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

ADMINISTRATIVE RULES

(A) Exceed the facilities and service capabilities of the area;
(B) Materially alter the stability of the overall land use pattern of the area; or

(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

(h) The county assessor shall be notified that the governing body intends to allow the dwelling.

(i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.

(4) Requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:

(a) In the Willamette Valley, the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:

(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsections (3)(a), (3)(d) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;

(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;

(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(11) of this rule, the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(c) In counties located outside the Willamette Valley require findings that:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B)(i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(C) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of section (4) of this rule;

(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3)-(8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

ADMINISTRATIVE RULES

(6) Such facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation

(8)(a) A lawfully established dwelling is a single family dwelling which:

- (A) Has intact exterior walls and roof structure;
- (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (C) Has interior wiring for interior lights; and
- (D) Has a heating system.

(b) In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section;

(c) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

(9)(a) To qualify, a dwelling shall be occupied by persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(b) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel requirements under ORS 215.780, if the owner of a dwelling described in OAR 660-033-0130(9) obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(c) For the purpose of OAR 660-033-0130(9)(b), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(7)(a).

(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recre-

ational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(u) or 215.283(1)(t). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the National Register of Historic Places.

(13) Such uses may be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.

(14) Home occupations and the parking of vehicles may be authorized. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16)(a) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (A) Technical and engineering feasibility;
- (B) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
- (C) Lack of available urban and nonresource lands;
- (D) Availability of existing rights of way;
- (E) Public health and safety; and
- (F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

ADMINISTRATIVE RULES

(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

(17) A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 004.

(18) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in section (19) of this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f) and this division means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight

rooms; wholesale or retail operations oriented to the non-golfing public; or housing.

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

(22) A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 004.

(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(24) Accessory farm dwellings as defined by subsection (24)(e) of this section may be considered customarily provided in conjunction with farm use if:

(a) Each accessory farm dwelling meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(B) The accessory farm dwelling will be located:

(i) On the same lot or parcel as the primary farm dwelling; or

(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules; or

(iv) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a non-residential use when farm worker housing is no longer required; or

ADMINISTRATIVE RULES

(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(5) or (7), whichever is applicable; and

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

(i) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of ORS 215.213(2)(a) or (b) or OAR 660-033-0130(24)(b)(A); or

(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(iii) A Producer License for the sale of dairy products under ORS 621.072.

(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in OAR 660-033-0100;

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.

(e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code."

(25) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, an armed forces reserve center, if the center is within one-half mile of a community college. An "armed forces reserve center" includes an armory or National Guard support facility.

(26) Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.

(27) Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the State Department of Agriculture. Notice shall be provided in

accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(28) The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. A county shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

(29) Except for those composting facilities that are a "farm use" as defined in OAR 660-033-0020(7), composting facilities allowed on land not defined as high-value farmland under this section shall be limited to the composting operations and facilities defined by the Environmental Quality Commission under OAR 340-096-0024(1), (2) or (3). Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(a) A public right of way;

(b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this Division.

(34) Any gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings and any part of which is held in open spaces are those of more than 3,000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three-month period.

(35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-0130(5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and

(b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or 215.283(2)(y) may be altered, restored or replaced pursuant to ORS 215.130(5), (6) and (9).

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

Stat. Auth.: ORS 183, 195 & 197

Stats. Implemented: ORS 197.040 & 215.213

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04

660-033-0135

Dwellings in Conjunction with Farm Use

(1) On land not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least:

(A) 160 acres and not designated rangeland; or

(B) 320 acres and designated rangeland; or

(C) As large as the minimum parcel size if located in a zoning district with an acknowledged minimum parcel size larger than indicated in paragraph (A) or (B) of this subsection.

ADMINISTRATIVE RULES

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203;

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;

(d) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition), there is no other dwelling on the subject tract.

(2) If a county prepares the potential gross sales figures pursuant to section (4) of this rule, the county may determine that on land, not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract; and

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres in western Oregon or 20 acres in eastern Oregon; and

(e) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

(3) In order to identify the commercial farm or ranch tracts to be used in section (2) of this rule, the gross sales capability or each tract in the study area including the subject tract must be determined, using the gross sales figures prepared by the county pursuant to section (4) of this rule as follows:

(a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;

(b) Determine for each tract in the study area the number of acres in every land classification from the county assessors data;

(c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Commission pursuant to section (4) of this rule. Add these to obtain the potential earning capability for each tract;

(d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (3)(c) of this rule;

(e) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2)(a) and (b) of this rule.

(4) In order to review a farm dwelling pursuant to section (2) of this rule, a county may prepare, subject to review by the Director, a table of the estimated potential gross sales per acre for each assessor land class (irrigated and nonirrigated) required in section (3) of this rule. The Director shall provide assistance and guidance to a county in the preparation of this table. The table shall be prepared as follows:

(a) Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates", or other USDA/Extension Service documentation;

(b) Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows:

(A) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type);

(B) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during the five year period;

(C) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types;

(D) Multiply the combined sales per acre for each crop type identified under paragraph (B) of this subsection by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop;

(E) Add the weighted sales per acre amounts for each indicator crop type identified in paragraph (D) of this subsection. The result provides the combined weighted gross sales per acre.

(c) Determine the average land rent value for irrigated and nonirrigated land classes in the county's exclusive farm use zones according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308.345;

(d) Determine the percentage of the average land rent value for each specific land rent for each land classification determined in subsection (c) of this section. Adjust the combined weighted sales per acre amount identified in paragraph (b)(E) of this section using the percentage of average land rent (i.e., multiply the weighted average determined in paragraph (4)(b)(E) of this rule by the percent of average land rent value from subsection (4)(c) of this rule). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to each county to be used as explained under subsection (3)(c) of this rule.

(5) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

(A) At least \$40,000 in gross annual income from the sale of farm products; or

(B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-057 owned by the farm or ranch operator or on the farm or ranch operation; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;

(d) In determining the gross income required by subsection (a) of this section:

(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(ii) Only gross income from land owned, not leased or rented, shall be counted; and

(iii) Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(6) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, a dwelling may be considered customarily provided in conjunction with farm use if it is not on a lot or parcel identified as high-value farmland and it meets the standards and requirements of ORS 215.213(2)(a) or (b).

(7) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; and

(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;

(d) In determining the gross income required by subsection (a) of this section:

(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(ii) Only gross income from land owned, not leased or rented, shall be counted; and

ADMINISTRATIVE RULES

(iii) Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(8) For the purpose of sections (5) or (7) of this rule, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Except for Hood River and Wasco counties and Jackson and Klamath counties, when a farm or ranch operation has lots or parcels in both "Western" and "Eastern" Oregon as defined by this division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.

(9)(a) Prior to the final approval for a dwelling authorized by sections (5) and (7) of this rule that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

(i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

(ii) The use any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(10) A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined by OAR 660-033-0135(11) if:

(a) The subject tract will be employed as a commercial dairy as defined by OAR 660-033-0135(11); and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by ORS 215.213(r) and 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved the following:

(A) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(B) A Producer License for the sale of dairy products under ORS 621.072.

(11) As used in this division, the following definitions apply:

(a) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk; and

(b) "Farm or ranch operation" means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

(12) A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by OAR 660-033-0135(5) or (7) of this rule, whichever is applicable;

(b) The subject lot or parcel on which the dwelling will be located is:

(A) Currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the gross farm income required by OAR 660-033-0135(5) or (7) of this rule, whichever is applicable; and

(B) At least the size of the applicable minimum lot size under OAR 215.780; and

(a) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract; and

(b) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;

(c) In determining the gross income required by subsections (a) and (b)(A) of this section:

(A) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(B) Only gross income from land owned, not leased or rented, shall be counted.

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

Stat. Auth.: ORS 183, ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780

Hist.: LCDC 3-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04

Adm. Order No.: LCDD 2-2004

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-7-04

Notice Publication Date: 1-1-04

Rules Amended: 660-001-0000

Subject: The adopted amendments incorporate past and recent changes to the statutory requirements for rulemaking under the Oregon Administrative Procedures Act (ORS Chapter 183) and incorporate the specific statutory authorization for the adoption of temporary rules in ORS 183.335(5).

Rules Coordinator: Shelia Preston—(503) 373-0050, ext. 222

660-001-0000

Notice of Proposed Rule

(1) Except as provided in OAR 660-001-0000(2) and ORS 183.335(7), prior to the adoption, amendment, or repeal of any permanent rule, the Department of Land Conservation and Development 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 prior to the effective date of the rule;

(b) By mailing a copy of the notice and proposed rule(s) to persons on the Department of Land Conservation and Development's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(c) By mailing a copy of the notice to the persons, groups of persons, organizations, and associations who the department considers to be interested in such adoption;

(d) By mailing or furnishing a copy of the notice to the Associated Press and Capitol Press Room;

(e) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(f) The department, at its discretion, may purchase a display ad in a newspaper of statewide circulation to publicize the rulemaking; and

(g) In instances where the rulemaking adopts, amends or repeals a statewide planning goal, the department shall provide additional notice as required by statute.

(2) The Commission may adopt, amend or suspend any rule by temporary rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable pursuant to ORS 183.335(5). At the time the Commission adopts, amends or suspends any rule under this section, it shall:

(a) Prepare and adopt the statements and rule documents required by ORS 183.335(5)(a) to (e) which includes the Commission's statement of its findings "that its failure to act promptly will result in serious prejudice to the public interest or the parties concerned and the specific reasons for its findings of prejudice;" and

ADMINISTRATIVE RULES

(b) Include in the notice of adoption of any temporary rule a statement explaining the opportunity for judicial review of the validity of the rule as provided in ORS 183.400.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183
Hist.: LCD 7-1976, f. & ef. 6-4-76; LCDC 1-1995, f. & cert. ef. 1-4-95; LCCD 2-2004, f. & cert. ef. 5-7-04

Adm. Order No.: LCDD 3-2004

Filed with Sec. of State: 5-7-2004

Certified to be Effective: 5-7-04

Notice Publication Date: 1-1-04

Rules Adopted: 660-018-0150

Rules Amended: 660-002-0010, 660-003-0025, 660-004-0005, 660-004-0010, 660-004-0018, 660-004-0020, 660-004-0022, 660-004-0035, 660-004-0040, 660-006-0015, 660-006-0025, 660-008-0000, 660-008-0005, 660-012-0045, 660-012-0055, 660-012-0070, 660-013-0030, 660-013-0070, 660-013-0080, 660-013-0160, 660-016-0005, 660-016-0010, 660-017-0000, 660-018-0005, 660-020-0060, 660-020-0065, 660-023-0090, 660-023-0140, 660-023-0190, 660-025-0010, 660-025-0040, 660-025-0120, 660-025-0130, 660-025-0140, 660-025-0150, 660-025-0160, 660-025-0175, 660-030-0005, 660-034-0000, 660-034-0040, 660-037-0030

Subject: The Land Conservation and Development Commission adopted minor and technical "housekeeping" amendments to several administrative rules. The adopted rule amendments conform with current statutes or other laws, clarify ambiguous or ungrammatical wording, and correct citation errors to other rules or statutes, and adopts rules establishing time lines required by Or Laws Chapter 800, Section 17(2).

Rules Coordinator: Shelia Preston—(503) 373-0050, ext. 222

660-002-0010

Authority to Director

In addition to the other duties and responsibilities conferred on the Director by ORS Chapter 197, the Director shall exercise and hereinafter be vested with authority to:

(1) Assent to a modification of a planning extension or a compliance schedule of a city or county in accordance with ORS 197.251(2);

(2) Condition a compliance schedule in accordance with ORS 197.252;

(3) Approve a planning assistance grant agreement with a city or county, including modifications thereto; and

(4) Request that the Commission schedule a hearing to consider an enforcement order if the Director has good cause to believe that any of the conditions exist as set forth in ORS 197.320(1) through (10);

(5) Execute any written order, on behalf of the Commission, which has been consented to in writing by the parties adversely affected thereby;

(6) Prepare and execute written orders, on behalf of the Commission, implementing any action taken by the Commission on any matter;

(7) Establish procedures by which the Director shall periodically review and report to the Commission the status of comprehensive plans within each city and county.

Stat. Auth.: ORS 183, 196 & 197
Stats. Implemented: ORS 197.040, 197.045 & 197.090
Hist.: LCD 4-1978, f. & ef. 3-24-78; LCD 3-1979, f. & ef. 3-27-79; LCDC 7-1980(Temp), f. & ef. 12-17-80; LCD 1-1981, f. & ef. 2-23-81; LCD 4-1981, f. & ef. 4-3-81; LCDC 2-1983(Temp), f. & ef. 2-9-83; LCDC 3-1983, f. & ef. 5-5-83; LCDC 5-1988, f. & cert. ef. 9-29-88; LCDC 3-1990, f. & cert. ef. 6-6-90; LCDD 3-2004, f. & cert. ef. 5-7-04

660-003-0025

Acknowledgment Review

(1) When an acknowledgment request, corrections submitted pursuant to a Commission's Continuance Order or a new acknowledgement request subsequent to a Commission's Denial Order has been received by the Commission, the Director shall conduct an evaluation of the submitted plan, ordinances or land use regulations in order to advise the Commission whether or not they comply with the Statewide Planning Goals. The Director may investigate and resolve issues raised in the comments and objections or upon the Director's own review of the comprehensive plan and land use regulations. The Director may collect or develop evidence which rebuts any supporting documents, comments, objections or evidence submitted pursuant to OAR 660-003-0010(2) or 660-003-0020(1). The results of this evaluation including response to all objections timely submitted shall be set forth in a written report. However, the failure to respond

to an objection which was timely filed shall not be grounds for invalidation of a Commission order issued under this rule. Copies of the Director's report shall be sent to the local government requesting acknowledgment, the local coordination body, any person who has in writing commented or objected to the acknowledgment request, within the time period required by OAR 660-003-0020(1), and any other person requesting a copy in writing. The Department shall send out copies of the report on an acknowledgment request at least 21 days before Commission review of the acknowledgment request. However, the Department shall send out copies of the report on corrections submitted pursuant to a Commission's Continuance Order at least 14 days before Commission review of such request.

(2) The local government, persons who have submitted written comments or objections under OAR 660-003-0020(1) or persons who own property which is the subject of site specific objections received under OAR 660-003-0020(1) shall have ten calendar days from the date of mailing of the Director's report to file with the Director written exceptions to that report. Except as provided in section (3) of this rule, written exceptions shall not include additional evidence. Persons or local governments submitting exceptions are urged to file a copy with the affected local government or affected commentors or objectors. The Director shall promptly submit exceptions to the Commission.

(3) Written exceptions to the Director's report filed pursuant to section (2) of this rule may include evidence to rebut any additional evidence submitted pursuant to OAR 660-003-0020(1) or developed by the Director pursuant to section (1) of this rule. Written exceptions which include rebuttal evidence pursuant to this section, shall clearly identify the additional evidence being rebutted and shall be limited to rebuttal evidence. Final rebuttal evidence allowed under this section shall not create a right to submit additional evidence to the Commission under section (5) of this rule.

(4) The Director may submit a written or oral opinion to the Commission regarding any evidence, comments, objections, or exceptions submitted to the Commission concerning an acknowledgment request. Persons submitting comments, objections, or exceptions within the time periods set forth in OAR 660-003-0020(1) or section (2) of this rule shall be permitted to submit evidence to rebut any new evidence submitted for the first time pursuant to section (4) of this rule.

(5) The Commission may allow any person who filed written comments or objections within the time period set forth in OAR 660-003-0020(1) to appear before the Commission to present oral argument on their written comments, objections or exceptions. The Commission shall not allow any additional evidence and testimony, that could have been presented to the local government or to the Director in accordance with OAR 660-003-0020(1) or section (3) of this rule, but was not. Any new evidence submitted during, or as part of, oral argument shall not be considered by the Commission unless the Commission determines that such evidence could not have been presented to the local government or to the Director in accordance with OAR 660-003-0020(1) or section (3) of this rule.

(6) The Commission may allow any interested person who has not filed written comments or objections pursuant to OAR 660-003-0020 to comment on evidence, testimony or the Director's report that has already been presented to the Commission. Such comments shall not be part of the record before the Commission and shall not be considered comments or objections submitted pursuant to ORS 197.251(2).

(7) At the time of consideration of the acknowledgment request, the Commission shall either grant, continue, postpone for extenuating circumstances or deny the acknowledgment request pursuant to ORS 197.251(1).

(8) Commission orders for acknowledgment, continuance or denial shall be provided to the local government requesting acknowledgment, commentors, and objectors.

(9) When the Commission resumes its consideration of the acknowledgment request, submitted subsequent to a continuance order, it shall limit its review to a determination of whether the corrections submitted bring the acknowledgment submission into conformance with the Statewide Planning Goals found not to be complied with in the previous review, unless conformance with other Goals is affected by the corrections.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.251, 197.254, 197.340, 197.747 & 197.757
Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1985, f. & ef. 7-2-85; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0005

Definitions

For the purpose of this Division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition the following definitions shall apply:

ADMINISTRATIVE RULES

(1) An "Exception" is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with the provisions of this Division.

(2) "Resource Land" is land subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d).

(3) "Nonresource Land" is land not subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.015 & 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals which prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands," however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS Chapter 215 and OAR 660 Division 033, "Agricultural Lands";

(b) Goal 4 "Forest Lands" however, an exception to Goal 4 "Forest lands" is not required for any of the forest or nonforest uses permitted in a forest or mixed farm/forest zone under OAR Division 006, "Forest Lands";

(c) Goal 14 "Urbanization" except as provided for in paragraphs (1)(c)(A) and (B) of this rule, and OAR 660-014-0000 through 660-014-0040;

(A) An exception is not required to an applicable goal(s) for the establishment of an urban growth boundary around or including portions of an incorporated city when resource lands are included within that boundary. Adequate findings on the seven Goal 14 factors, accompanied by an explanation of how they were considered and applied during boundary establishment, provide the same information as required by the exceptions process findings;

(B) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning", Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the Commission under ORS 197.251, 197.625 or 197.626. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14.);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(d) Goal 11 "Public Facilities and Services";

(e) Goal 16 "Estuarine Resources";

(f) Goal 17 "Coastal Shorelands"; and

(g) Goal 18 "Beaches and Dune".

(2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards which do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

(a) Goal 5 "Natural Resources";

(b) Goal 6 "Air, Water, and Land Resources Quality";

(c) Goal 7 "Natural Disasters and Hazards";

(d) Goal 8 "Recreational Needs";

(e) Goal 9 "Economy of the State";

(f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3);

(g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";

(h) Goal 13 "Energy Conservation";

(i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and

(j) Goal 19 "Ocean Resources".

(3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

Stat. Auth.: ORS 183 & 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef. 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef. 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, plan and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:

(a) Which are the same as the existing land uses on the exception site;

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; or

(c) The uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable.

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

ADMINISTRATIVE RULES

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts". The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptions lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land;

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land; or

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites

ADMINISTRATIVE RULES

include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

(4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:

(a) A demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:

(A) The use requires a location near a resource located on rural land; or

(B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:

(i) For industrial use, it would have a significant comparative advantage due to its location (i.e., near a rural energy facility, or near products available from other activities only in the surrounding area; or it is reliant on an existing work force in an existing unincorporated community);

(ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or UGB, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.

(b) Need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and UGBs in the area. "Area" encompasses those communities, exception areas, and UGBs which may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors;

(c) Expansion requires demonstrated ability to serve both the expanded area and any remaining infill development potential in the community at time of development with the level of facilities determined to be appropriate for the existing unincorporated community.

(5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.

(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:

(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;

(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;

(c) The use will provide a significant public benefit; and

(d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322.

(7) Goal 16 C Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:

(a) Factors of Goal 9 or for recreational uses the factors of Goal 8;

(b) The generally predicted level of market demand for the proposed use;

(c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements; and

(d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use;

(e) The economic analysis must be based on Goal 9 element of the County Comprehensive Plan and consider and respond to all economic

needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.

(8) Goal 16 — Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:

(a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material including adjacent upland soils or stockpiling of material from approved dredging projects can not reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;

(b) Dredging to maintain adequate depth to permit continuation of present level of navigation in the area to be dredged;

(c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;

(d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;

(e) Dredge or fill or other alteration for expansion of an existing public nonwater — dependent use or a nonsubstantial fill for a private nonwater-dependent use (as provided for in ORS 541.625) where:

(A) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and

(B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and

(C) That the size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.

(f) In each of the situations set forth in subsections (7)(a) to (e) of this rule, the exception must demonstrate that proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner which minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 — Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:

(a) These Coastal Shoreland Areas include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and in unincorporated communities pursuant to OAR chapter 660, division 022 (Unincorporated Communities) that are suitable for water dependent uses;

(C) Designated dredged material disposal sites;

(D) Designated mitigation sites.

(b) To allow a use which is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule the exception must demonstrate:

(A) A need, based on the factors in Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site considering the unique characteristics of the use or the site which require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and where applicable consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area;

(d) Uses which would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible, be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.

(e) Exceptions to designate and protect for water-dependent uses an amount of shorelands less than is required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate compliance with the following:

ADMINISTRATIVE RULES

(A) Based on the factors of Goals 8 and 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority if any, and be consistent with the Goal 8 and Goal 9 elements of the comprehensive plans of those jurisdictions.

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 — Fore-dune Breaching: A fore-dune may be breached when the exception demonstrates an existing dwelling located on the fore-dune is experiencing sand inundation and the grading or removal of sand is:

- (a) Only to the grade of the dwelling;
- (b) Limited to the immediate area in which the dwelling is located;
- (c) Sand is retained in the dune system by placement on the beach in front of the dwelling; and
- (d) The provisions of Goal 18 Implementation Requirement 1 are met.

(11) Goal 18 — Fore-dune Development: An exception may be taken to the fore-dune use prohibition in Goal 18 “Beaches and Dunes”, implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or is of minimal value; and

- (b) The use is designed to minimize adverse environmental effects;
- (c) The provisions of OAR 660-004-0020 shall also be met.

(12) Goal 12 — Transportation Improvements on Rural Lands. Transportation improvements not allowed on rural lands as provided for in OAR 660-012-0065 require an exception pursuant to OAR 660-012-0070 and this division.

Publications: Publications referenced are available from the agency.
Stat. Auth.: ORS 197
Stats. Implemented ORS 197.732
Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0035

Appeal of an Exception

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.830, or to the Commission as an objection to the local government’s request for acknowledgment, pursuant to ORS 197.251 and OAR 660-003-0000.

(2) After acknowledgment, an exception taken as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board, pursuant to ORS 197.620 and OAR chapter 660, division 18.

(3) After acknowledgment, an exception taken as part of a periodic review work task submitted under OAR 660-025-0130, or failure to take a required exception when amending a plan, may be appealed to the Commission pursuant to ORS 197.633 and OAR 660-025-0150 and 0160.

Stat. Auth.: ORS 197
Stats. Implemented ORS 197.610 - 197.625, 197.732 & 197.830
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0040

Application of Goal 14 (Urbanization) to Rural Residential Areas

(1) The purpose of this rule is to specify how Statewide Planning Goal 14, *Urbanization*, applies to rural lands in acknowledged exception areas planned for residential uses.

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (*Agricultural Lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as *rural residential areas*.

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

- (A) land inside an acknowledged urban growth boundary;

(B) land inside an acknowledged unincorporated community boundary established pursuant to OAR Chapter 660, Division 022;

(C) land in an acknowledged urban reserve area established pursuant to OAR Chapter 660, Division 021;

(D) land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) resource land, as defined in OAR 660-004-0005(2);

(F) nonresource land, as defined in OAR 660-004-0005(3);

(G) marginal land, as defined in ORS 197.247, 1991 Edition;

(H) land planned and zoned primarily for rural industrial, commercial, or public use.

(3)(a) This rule shall take effect on the effective date of an amendment to Goal 14 to provide for development of all lawfully created lots and parcels created in rural residential areas prior to the effective date of the amendment to Goal 14.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court’s 1986 ruling in *1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County)*, and before the effective date of this rule. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan’s provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14, *Urbanization*, which prohibits urban use of rural lands.

(5)(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone’s minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

(c) For purposes of this section, “rural residential zone currently in effect” means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

(6) After the effective date of this rule, a local government’s requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

(c) If, on the effective date of this rule, a local government’s land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

(d) If, on the effective date of this rule, a local government’s land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

ADMINISTRATIVE RULES

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(t)(A)-(t)(D).

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

(A) Ashland;

(B) Central Point;

(C) Medford;

(D) Newberg;

(E) Sandy.

(b) If a city or urban area listed in Subsection (8)(a):

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021; or

(B) is part of a regional growth plan that contains at least a twenty-year regional reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem

Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan.

(c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional growth plan as described in Subsection (b), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance.

(e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if the Portland metropolitan area does not have an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of Section 7 and Subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in Subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at the densities set forth in the Metro 2040 plan. In no case shall the minimum area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(t)(A) - (D).

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.175 & 197.732

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04

660-006-0015

Plan Designation Outside an Urban Growth Boundary

(1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone which conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), [or] the land is zoned with an Exclusive Farm Use Zone pursuant to ORS Chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by Or Laws 2003, Ch 688, Section 3. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to for-

ADMINISTRATIVE RULES

est lands and its purpose and shall contain criteria which clearly indicate where the zone(s) will be applied.

(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 3-2004, f. & cert. ef. 5-7-04

660-006-0025

Uses Authorized in Forest Zones

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

- (a) Uses related to and in support of forest operations;
- (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;
- (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.;
- (d) Dwellings authorized by ORS 215.720 to 215.750; and
- (e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones:

- (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- (b) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;
- (c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and
- (d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

- (a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
- (b) Farm use as defined in ORS 215.203;
- (c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- (d) Temporary portable facility for the primary processing of forest products;
- (e) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;
- (f) Private hunting and fishing operations without any lodging accommodations;
- (g) Towers and fire stations for forest fire protection;
- (h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n);
- (i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;
- (j) Caretaker residences for public parks and public fish hatcheries;
- (k) Uninhabitable structures accessory to fish and wildlife enhancement;
- (l) Temporary forest labor camps;
- (m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of com-

pressors, separators and other customary production equipment for an individual well adjacent to the well head;

(n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8;

(o) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation; and

(p) Alteration, restoration or replacement of a lawfully established dwelling that:

- (A) Has intact exterior walls and roof structures;
- (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (C) Has interior wiring for interior lights;
- (D) Has a heating system; and
- (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(q) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this Division.

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

- (a) Permanent facility for the primary processing of forest products;
- (b) Permanent logging equipment repair and storage;
- (c) Log scaling and weigh stations;
- (d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;

(e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

(h) Television, microwave and radio communication facilities and transmission towers;

ADMINISTRATIVE RULES

- (i) Fire stations for rural fire protection;
- (j) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 004;
- (k) Aids to navigation and aviation;
- (l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
- (m) Reservoirs and water impoundments;
- (n) Firearms training facility;
- (o) Cemeteries;
- (p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:
 - (A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;
 - (B) Only minor incidental and accessory retail sales are permitted;
 - (C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 - (D) A governing body may impose other appropriate conditions.

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;

(s) Home occupations as defined in ORS 215.448;

(t) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under subsection (3)(p) of this rule. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designee shall require the removal of such mobile homes. Oregon Department of Environmental Quality review and removal requirements also apply to such mobile homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

(u) Expansion of existing airports;

(v) Public road and highway projects as described in ORS 215.213(2)(q) through (s) and (10) and 215.283(2)(p) through (r) and (3);

(w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029, and 660-006-0035 and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

(D) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and

(E) A governing body may impose other appropriate conditions.

(x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(y) Any gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) which exist on forest lands.

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

Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; ; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2004, f. & cert. ef. 5-7-04

660-008-0000

Purpose

(1) The purpose of this rule is to assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs. This rule is intended to define standards for compliance with Goal 10 "Housing" and to implement ORS 197.303 through 197.307.

(2) OAR 660-007-0000 et seq., Metropolitan Housing, are intended to complement and be consistent with OAR 660-008-0000 et seq., Goal 10 Housing. Should differences in interpretation between OAR 660-008-0000 et seq. and 660-007-0000 et seq. arise, the provisions of OAR 660-007-0000 et seq. shall prevail for cities and counties within the Metro urban growth boundary.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - 197.314 & 197.475 - 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDD 3-2004, f. & cert. ef. 5-7-04

660-008-0005

Definitions

For the purpose of this rule, the definitions in ORS 197.015, 197.295, and 197.303 shall apply. In addition, the following definitions shall apply:

(1) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot.

(2) "Buildable Land" means residentially designated vacant and, at the option of the local jurisdiction, redevelopable land within the Metro urban growth boundary that is not severely constrained by natural hazards (Statewide Planning Goal 7) or subject to natural resource protection measures (Statewide Planning Goals 5 and 15). Publicly owned land is generally not considered available for residential use. Land with slopes of 25 percent or greater unless otherwise provided for at the time of acknowledgment and land within the 100-year floodplain is generally considered unbuildable for purposes of density calculations.

(3) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.

(4) "Government Assisted Housing" means housing that is financed in whole or part by either a federal or state housing agency or a local housing authority as defined in ORS 456.005 to 456.720, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(5) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types and densities that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;

(b) Consistent with any adopted regional housing standards, state statutes and Land Conservation and Development Commission administrative rules; and

(c) Consistent with Goal 14 requirements.

(6) "Manufactured Dwelling" means:

(a) Residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962;

ADMINISTRATIVE RULES

Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDC 3-1990, f. & cert. ef. 6-6-90; LCDD 3-2004, f. & cert. ef. 5-7-04

(b) Mobile home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

(c) Manufactured home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction;

(d) Does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(7) "Manufactured Dwelling Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(8) "Manufactured Homes" means structures with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Sections 5401 et seq.), as amended on August 22, 1981.

(9) "Mobile Home Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(10) "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot.

(11) "Needed Housing" defined. Until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Subsections (11) (a) and (d) of this rule shall not apply to:

(A) A city with a population of less than 2,500;

(B) A county with a population of less than 15,000.

(12) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.

(13) "Suitable and Available Land" means residentially designated vacant and redevelopable land within an urban growth boundary that is not constrained by natural hazards, or subject to natural resource protection measures, and for which public facilities are planned or to which public facilities can be made available. Publicly owned land generally is not considered available for residential use.

Stat. Auth.: ORS 183, 196 & 197

Stats. Implemented: ORS 197.295 - 197.314 & 197.475 - 197.490

660-012-0045

Implementation of the Transportation System Plan

(1) Each local government shall amend its land use regulations to implement the TSP.

(a) The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the TSP and, under ordinary circumstances do not have a significant impact on land use:

(A) Operation, maintenance, and repair of existing transportation facilities identified in the TSP, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals;

(B) Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;

(C) Uses permitted outright under ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n), consistent with the provisions of 660-012-0065; and

(D) Changes in the frequency of transit, rail and airport services.

(b) To the extent, if any, that a transportation facility, service or improvement concerns the application of a comprehensive plan provision or land use regulation, it may be allowed without further land use review if it is permitted outright or if it is subject to standards that do not require interpretation or the exercise of factual, policy or legal judgment;

(c) In the event that a transportation facility, service or improvement is determined to have a significant impact on land use or to concern the application of a comprehensive plan or land use regulation and to be subject to standards that require interpretation or the exercise of factual, policy or legal judgment, the local government shall provide a review and approval process that is consistent with 660-012-0050. To facilitate implementation of the TSP, each local government shall amend its land use regulations to provide for consolidated review of land use decisions required to permit a transportation project.

(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors and sites for their identified functions. Such regulations shall include:

(a) Access control measures, for example, driveway and public road spacing, median control and signal spacing standards, which are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities;

(b) Standards to protect future operation of roads, transitways and major transit corridors;

(c) Measures to protect public use airports by controlling land uses within airport noise corridors and imaginary surfaces, and by limiting physical hazards to air navigation;

(d) A process for coordinated review of future land use decisions affecting transportation facilities, corridors or sites;

(e) A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites;

(f) Regulations to provide notice to public agencies providing transportation facilities and services, MPOs, and ODOT of:

(A) Land use applications that require public hearings;

(B) Subdivision and partition applications;

(C) Other applications which affect private access to roads; and

(D) Other applications within airport noise corridors and imaginary surfaces which affect airport operations.

(g) Regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and levels of service of facilities identified in the TSP.

(3) Local governments shall adopt land use or subdivision regulations for urban areas and rural communities as set forth below. The purposes of this section are to provide for safe and convenient pedestrian, bicycle and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel.

(a) Bicycle parking facilities as part of new multi-family residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots;

ADMINISTRATIVE RULES

(b) On-site facilities shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Single-family residential developments shall generally include streets and accessways. Pedestrian circulation through parking lots should generally be provided in the form of accessways.

(A) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;

(B) Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along arterials, collectors and most local streets in urban areas, except that sidewalks are not required along controlled access roadways, such as freeways;

(C) Cul-de-sacs and other dead-end streets may be used as part of a development plan, consistent with the purposes set forth in this section;

(D) Local governments shall establish their own standards or criteria for providing streets and accessways consistent with the purposes of this section. Such measures may include but are not limited to: standards for spacing of streets or accessways; and standards for excessive out-of-direction travel;

(E) Streets and accessways need not be required where one or more of the following conditions exist:

(i) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;

(ii) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or

(iii) Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

(c) Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along arterials and major collectors;

(d) For purposes of subsection (b) "safe and convenient" means bicycle and pedestrian routes, facilities and improvements which:

(A) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;

(B) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and

(C) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile.

(e) Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.

(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in (a)-(g) below:

(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate;

(b) New retail, office and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in (A) and (B) below.

(A) Walkways shall be provided connecting building entrances and streets adjoining the site;

(B) Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable as provided for in OAR 660-012-0045(3)(b)(E). Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;

(C) In addition to (A) and (B) above, on sites at major transit stops provide the following:

(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;

(ii) A reasonably direct pedestrian connection between the transit stop and building entrances on the site;

(iii) A transit passenger landing pad accessible to disabled persons;

(iv) An easement or dedication for a passenger shelter if requested by the transit provider; and

(v) Lighting at the transit stop.

(c) Local governments may implement (4)(b)(A) and (B) above through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of (4)(b)(C) above;

(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;

(e) Existing development shall be allowed to redevelop a portion of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate;

(f) Road systems for new development shall be provided that can be adequately served by transit, including provision of pedestrian access to existing and identified future transit routes. This shall include, where appropriate, separate accessways to minimize travel distances;

(g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit.

(5) In MPO areas, local governments shall adopt land use and subdivision regulations to reduce reliance on the automobile which:

(a) Allow transit-oriented developments (TODs) on lands along transit routes;

(b) Implements a demand management program to meet the measurable standards set in the TSP in response to 660-012-0035(4);

(c) Implements a parking plan which:

(A) Achieves a 10% reduction in the number of parking spaces per capita in the MPO area over the planning period. This may be accomplished through a combination of restrictions on development of new parking spaces and requirements that existing parking spaces be redeveloped to other uses;

(B) Aids in achieving the measurable standards set in the TSP in response to OAR 660-012-0035(4);

(C) Includes land use and subdivision regulations setting minimum and maximum parking requirements in appropriate locations, such as downtowns, designated regional or community centers, and transit oriented developments; and

(D) Is consistent with demand management programs, transit-oriented development requirements and planned transit service.

(d) As an alternative to (c) above, local governments in an MPO may instead revise ordinance requirements for parking as follows:

(A) Reduce minimum off-street parking requirements for all non-residential uses from 1990 levels;

(B) Allow provision of on-street parking, long-term lease parking, and shared parking to meet minimum off-street parking requirements;

(C) Establish off-street parking maximums in appropriate locations, such as downtowns, designated regional or community centers, and transit-oriented developments;

(D) Exempt structured parking and on-street parking from parking maximums;

(E) Require that parking lots over 3 acres in size provide street-like features along major driveways (including curbs, sidewalks, and street trees or planting strips); and

(F) Provide for designation of residential parking districts.

(e) Require all major industrial, institutional, retail and office developments to provide either a transit stop on site or connection to a transit stop along a transit trunk route when the transit operator requires such an improvement.

(6) In developing a bicycle and pedestrian circulation plan as required by 660-012-0020(2)(d), local governments shall identify improvements to facilitate bicycle and pedestrian trips to meet local travel needs in developed areas. Appropriate improvements should provide for more direct, convenient and safer bicycle or pedestrian travel within and between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops). Specific measures include, for example, constructing walkways between cul-de-sacs and adjacent roads, providing walkways between buildings, and providing direct access between adjacent uses.

(7) Local governments shall establish standards for local streets and accessways that minimize pavement width and total right-of-way consistent

ADMINISTRATIVE RULES

with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Notwithstanding subsection (1) or (3) of this section, local street standards adopted to meet this requirement need not be adopted as land use regulations.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040

Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDC 11-1995, f. & cert. ef. 12-22-95; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 3-2004, f. & cert. ef. 5-7-04

660-012-0055

Timing of Adoption and Update of Transportation System Plans; Exemptions

(1) MPOs shall complete regional TSPs for their planning areas by May 8, 1996. For those areas within a MPO, cities and counties shall adopt local TSPs and implementing measures within one year following completion of the regional TSP:

(a) If by May 8, 2000, a Metropolitan Planning Organization (MPO) has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area does not have an approved alternative standard established pursuant to 0035(5), then the cities and counties within the metropolitan area shall prepare and adopt an integrated land use and transportation plan as outlined in 0035(5)(c)(A)-(E). Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years;

(b) Urban areas designated as MPOs subsequent to the adoption of this rule shall adopt TSPs in compliance with applicable requirements of this rule within three years of designation.

(2) For areas outside an MPO, cities and counties shall complete and adopt regional and local TSPs and implementing measures by May 8, 1997.

(3) By November 8, 1993, affected cities and counties shall, for non-MPO urban areas of 25,000 or more, adopt land use and subdivision ordinances or amendments required by OAR 660-012-0045(3), (4)(a)-(f) and (5)(d). By May 8, 1994 affected cities and counties within MPO areas shall adopt land use and subdivision ordinances or amendments required by OAR 660-012-0045(3), (4)(a)-(e) and (5)(e). Affected cities and counties which do not have acknowledged ordinances addressing the requirements of this section by the deadlines listed above shall apply OAR 660-012-0045(3), (4)(a)-(g) and (5)(e) directly to all land use decisions and all limited land use decisions.

(4)(a) Affected cities and counties that either:

(A) Have acknowledged plans and land use regulations that comply with this rule as of May 8, 1995, may continue to apply those acknowledged plans and land use regulations; or

(B) Have plan and land use regulations adopted to comply with this rule as of April 12, 1995, may continue to apply the provisions of this rule as they existed as of April 12, 1995, and may continue to pursue acknowledgment of the adopted plans and land use regulations under those same rule provisions provided such adopted plans and land use regulations are acknowledged by April 12, 1996. Affected cities and counties that qualify and make this election under this subsection shall update their plans and land use regulations to comply with the 1995 amendments to OAR 660-012-0045 as part of their transportation system plans.

(b) Affected cities and counties that do not have acknowledged plans and land use regulations as provided in subsection (a) of this section, shall apply relevant sections of this rule to land use decisions and limited land use decisions until land use regulations complying with this amended rule have been adopted.

(5) Cities and counties shall update their TSPs and implementing measures as necessary to comply with this division at each periodic review subsequent to initial compliance with this division. This shall include a reevaluation of the land use designations, densities and design standards in the following circumstances:

(a) If the interim benchmarks established pursuant to OAR 660-012-0035(6) have not been achieved; or

(b) If a refinement plan has not been adopted consistent with the requirements of OAR 660-012-0025(3).

(6) The director may grant a whole or partial exemption from the requirements of this division to cities under 2,500 population outside MPO areas and counties under 25,000 population. Eligible jurisdictions may, within five years following the adoption of this rule or at subsequent periodic reviews, request that the director approve an exemption from all or

part of the requirements in this division until the jurisdiction's next periodic review:

(a) The director's decision to approve an exemption shall be based upon the following factors:

(A) Whether the existing and committed transportation system is generally adequate to meet likely transportation needs;

(B) Whether the new development or population growth is anticipated in the planning area over the next five years;

(C) Whether major new transportation facilities are proposed which would affect the planning areas;

(D) Whether deferral of planning requirements would conflict with accommodating state or regional transportation needs; and

(E) Consultation with the Oregon Department of Transportation on the need for transportation planning in the area, including measures needed to protect existing transportation facilities.

(b) The director's decision to grant an exemption under this section is appealable to the Commission as provided in OAR 660-002-0020 (Delegation of Authority Rule).

(7) Portions of TSPs and implementing measures adopted as part of comprehensive plans prior to the responsible jurisdiction's periodic review shall be reviewed pursuant to OAR Chapter 660, Division 18, Post Acknowledgment Procedures.

Stat. Auth.: ORS 183, 197.040 & 197.245

Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.610 - 197.625, 197.628 - 197.646, 197.712 & 197.717

Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 1-1993, f. & cert. ef. 6-15-93; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 2-2000, f. & cert. ef. 2-4-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-012-0070

Exceptions for Transportation Improvements on Rural Land

(1) Transportation facilities and improvements which do not meet the requirements of OAR 660-012-0065 require an exception to be sited on rural lands.

(2) Where an exception to Goals 3, 4, 11, or 14 is required, in addressing Goal 2, Part II(c), the exception shall be taken pursuant to ORS 197.732(1)(c), Goal 2, OAR chapter 660, division 4 and this division.

(3) An exception adopted as part of a TSP or refinement plan shall, at a minimum, decide need, mode, function and general location for the proposed facility or improvement:

(a) The general location shall be specified as a corridor within which the proposed facility or improvement is to be located, including the outer limits of the proposed location. Specific sites or areas within the corridor may be excluded from the exception to avoid or lessen likely adverse impacts;

(b) The size, design and capacity of the proposed facility or improvement shall be described generally, but in sufficient detail to allow a general understanding of the likely impacts of the proposed facility or improvement. Measures limiting the size, design or capacity may be specified in the description of the proposed use in order to simplify the analysis of the effects of the proposed use;

(c) The adopted exception shall include a process and standards to guide selection of the precise design and location within the corridor and consistent with the general description of the proposed facility or improvement. For example, where a general location or corridor crosses a river, the exception would specify that a bridge crossing would be built but would defer to project development decisions about precise location and design of the bridge within the selected corridor subject to requirements to minimize impacts on riparian vegetation, habitat values, etc.;

(d) Land use regulations implementing the exception may include standards for specific mitigation measures to offset unavoidable environmental, economic, social or energy impacts of the proposed facility or improvement or to assure compatibility with adjacent uses.

(4) To address Goal 2, Part II(c)(1) the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Further, the exception shall demonstrate that there is a transportation need identified consistent with the requirements of OAR 660-012-0030 which cannot reasonably be accommodated through one or a combination of the following measures not requiring an exception:

(a) Alternative modes of transportation;

(b) Traffic management measures; and

(c) Improvements to existing transportation facilities.

(5) To address Goal 2, Part II(c)(2) the exception shall demonstrate that non-exception locations cannot reasonably accommodate the proposed transportation improvement or facility.

(6) To determine the reasonableness of alternatives to an exception under sections (4) and (5) of this rule, cost, operational feasibility, eco-

ADMINISTRATIVE RULES

conomic dislocation and other relevant factors shall be addressed. The thresholds chosen to judge whether an alternative method or location cannot reasonably accommodate the proposed transportation need or facility must be justified in the exception.

(7) To address Goal 2, Part II(c)(3), the exception shall:

(a) Compare the economic, social, environmental and energy consequences of the proposed location and other alternative locations requiring exceptions;

(b) Determine whether the net adverse impacts associated with the proposed exception site are significantly more adverse than the net impacts from other locations which would also require an exception. A proposed exception location would fail to meet this requirement only if the affected local government concludes that the impacts associated with it are significantly more adverse than the other identified exception sites;

(c) The evaluation of the consequences of general locations or corridors need not be site-specific, but may be generalized consistent with the requirements of section (3) of this rule.

(8) To address Goal 2, Part II(c)(4), the exception shall:

(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;

(b) Demonstrate how the proposed transportation improvement is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts;

(c) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.

Stat. Auth.: ORS 183 & 197.040

Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717 & 197.732

Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDD 3-2004, f. & cert. ef. 5-7-04

660-013-0030

Preparation and Coordination of Aviation Plans

(1) The Oregon Department of Aviation (ODA) shall prepare and adopt a state Aviation System Plan (state ASP) in accordance with ORS Chapters 835 and 836 and the State Agency Coordination Program approved under ORS 197.180. ODA shall coordinate the preparation, adoption, and amendment of land use planning elements of the state ASP with local governments and airport sponsors. The purpose of the state ASP is to provide state policy guidance and a framework for planning and operation of a convenient and economic system of airports, and for land use planning to reduce risks to aircraft operations and nearby land uses. The state ASP shall encourage and support the continued operation and vitality of Oregon's airports.

(2) A city or county with planning authority for one or more airports, or areas within safety zones or compatibility zones described in this division, shall adopt comprehensive plan and land use regulations for airports consistent with the requirements of this division and ORS 836.600 through 836.630. Local comprehensive plan and land use regulation requirements shall be coordinated with acknowledged transportation system plans for the city, county, and Metropolitan Planning Organization (MPO) required by OAR 660, Division 12. Local comprehensive plan and land use regulation requirements shall be consistent with adopted elements of the state ASP and shall be coordinated with affected state and federal agencies, local governments, airport sponsors, and special districts. If a state ASP has not yet been adopted, the city or county shall coordinate the preparation of the local comprehensive plan and land use regulation requirements with ODA. Local comprehensive plan and land use regulation requirements shall encourage and support the continued operation and vitality of airports consistent with the requirements of ORS 836.600 through 836.630.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 836.600 - 836.630 & 1997 OL, Ch. 859

Hist.: LCDC 6-1996, f. & cert. ef. 12-23-96; LCDD 3-1999, f. & cert. ef. 2-12-99; LCDD 3-2004, f. & cert. ef. 5-7-04

660-013-0070

Local Government Safety Zones for Imaginary Surfaces

(1) A local government shall adopt an Airport Safety Overlay Zone to promote aviation safety by prohibiting structures, trees, and other objects of natural growth from penetrating airport imaginary surfaces.

(a) The overlay zone for public use airports shall be based on **Exhibit 1** incorporated herein by reference.

(b) The overlay zone for airports described in ORS 836.608(2) shall be based on **Exhibit 2** incorporated herein by reference.

(c) The overlay zone for heliports shall be based on **Exhibit 3** incorporated herein by reference.

(2) For areas in the safety overlay zone, but outside the approach and transition surface, where the terrain is at higher elevations than the airport runway surface such that existing structures and planned development exceed the height requirements of this rule, a local government may authorize structures up to 35 feet in height. A local government may adopt other height exceptions or approve a height variance when supported by the airport sponsor, the Oregon Department of Aviation, and the FAA.

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

Stat. Auth.: ORS 183

Stats. Implemented: ORS 836.600 - 836.630 & 1997 OL, Ch. 859

Hist.: LCDC 6-1996, f. & cert. ef. 12-23-96; LCDD 3-1999, f. & cert. ef. 2-12-99; LCDD 3-2004, f. & cert. ef. 5-7-04

660-013-0080

Local Government Land Use Compatibility Requirements for Public Use Airports

(1) A local government shall adopt airport compatibility requirements for each public use airport identified in ORS 836.610(1). The requirements shall:

(a) Prohibit new residential development and public assembly uses within the Runway Protection Zone (RPZ) identified in Exhibit 4;

(b) Limit the establishment of uses identified in **Exhibit 5** within a noise impact boundary that has been identified pursuant to OAR 340, Division 35 consistent with the levels identified in **Exhibit 5**;

(c) Prohibit the siting of new industrial uses and the expansion of existing industrial uses where either, as a part of regular operations, would cause emissions of smoke, dust, or steam that would obscure visibility within airport approach corridors;

(d) Limit outdoor lighting for new industrial, commercial, or recreational uses or the expansion of such uses to prevent light from projecting directly onto an existing runway or taxiway or into existing airport approach corridors except where necessary for safe and convenient air travel;

(e) Coordinate the review of all radio, radiotelephone, and television transmission facilities and electrical transmission lines with the Oregon Department of Aviation;

(f) Regulate water impoundments consistent with the requirements of ORS 836.623(2) through (6); and

(g) Prohibit the establishment of new landfills near airports, consistent with Department of Environmental Quality (DEQ) rules.

(2) A local government may adopt more stringent regulations than the minimum requirements in section (1)(a) through (e) and (g) based on the requirements of ORS 836.623(1)

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

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 836.600 - 836.630 & 1997 OL, Ch. 859

Hist.: LCDC 6-1996, f. & cert. ef. 12-23-96; LCDD 3-1999, f. & cert. ef. 2-12-99; LCDD 3-2004, f. & cert. ef. 5-7-04

660-013-0160

Applicability

This division applies as follows:

(1) Local government plans and land use regulations shall be updated to conform to this division at periodic review, except for provisions of chapter 859, OR Laws 1997 that became effective on passage. Prior to the adoption of the list of airports required by ORS 836.610(3), a local government shall be required to include a periodic review work task to comply with this division. However, the periodic review work task shall not begin prior to the Oregon Department of Aviation's adoption of the list of airports required by ORS 836.610(3). For airports affecting more than one local government, applicable requirements of this division shall be included in a coordinated work program developed for all affected local governments concurrent with the timing of periodic review for the jurisdiction with the most land area devoted to airport uses.

(2) Amendments to plan and land use regulations may be accomplished through plan amendment requirements of ORS 197.610 to 197.625 in advance of periodic review where such amendments include coordination with and adoption by all local governments with responsibility for areas of the airport subject to the requirements of this division.

(3) Compliance with the requirements of this division shall be deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR 660, Division 12 related Airport Planning.

(4) Uses authorized by this division shall comply with all applicable requirements of other laws.

(5) Notwithstanding the provisions of OAR 660-013-0140 amendments to acknowledged comprehensive plans and land use regulations,

ADMINISTRATIVE RULES

including map amendments and zone changes, require full compliance with the provisions of this division, except where the requirements of the new regulation or designation are the same as the requirements they replace.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 836.600 - 836.630 & 1997 OL, Ch. 859
Hist.: LCDC 6-1996, f. & cert. ef. 12-23-96; LCDD 3-1999, f. & cert. ef. 2-12-99; LCDD 3-2004, f. & cert. ef. 5-7-04

660-016-0005

Identify Conflicting Uses

(1) It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:

(2) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provisions, as appropriate, which ensure preservation of the resource site.

(3) Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.040
Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81; LCDD 3-2004, f. & cert. ef. 5-7-04

660-016-0010

Develop Program to Achieve the Goal

Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must "develop a program to achieve the Goal." Assuming there is adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to "resolve" conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan's overall ability to protect and conserve each Goal 5 resource. The issue of adequacy of the overall program adopted or of decisions made under sections (1), (2), and (3) of this rule may be raised by the Department or objectors, but final determination is made by the Commission, pursuant to usual procedures:

(1) Protect the Resource Site: Based on the analysis of the ESEE consequences, a jurisdiction may determine that the resource site is of such importance, relative to the conflicting uses, and the ESEE consequences of allowing conflicting uses are so great that the resource site should be protected and all conflicting uses prohibited on the site and possibly within the impact area identified in OAR 660-016-0000(5)(c). Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

(2) Allow Conflicting Uses Fully: Based on the analysis of ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

(3) Limit Conflicting Uses: Based on the analysis of ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and

under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.040
Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81; LCDD 3-2004, f. & cert. ef. 5-7-04

660-017-0000

Purpose

(1) This rule carries out requirements of the Estuarine Resources Goal (State-Wide Planning Goal 16). To assure diversity among the estuaries of the state, the Estuarine Resources Goal requires in part that LCDC, with the cooperation and participation of local governments, special districts, and state and federal agencies, shall classify the Oregon estuaries to specify the most intensive level of development or alteration allowable within each estuary. This rule is adopted pursuant to ORS 197.040(1)(b). (See **Appendix A**.)

(2) The estuarine classification system adopted by this rule:

(a) Specifies the most intensive level of development or alteration allowable within each estuary;

(b) Directs the kinds of management units appropriate and allowable in each estuary;

(c) Affects the extent of detail required and items inventoried for each estuary;

(d) Affects the issuance of and conditions attached to permits by state and federal agencies;

(e) Provides guidance for the dispersal of state and federal public works funds; and

(f) Indirectly affects decisions concerning private investment in and around estuaries.

(3) Appendix A — Oregon Estuary Classification System, is incorporated into this rule.

[ED. NOTE: Appendix & Publications referenced are available from the agency.]

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.040
Hist.: LCD 12, f. & ef. 10-14-77; LCDD 3-2004, f. & cert. ef. 5-7-04

660-018-0005

Purpose

This division is intended to implement provisions of ORS 197.610 through 197.625. The overall purpose is to carry out the state policies outlined in ORS 197.010 and Or Laws 2003, Chapter 800, Section 17(2)).

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.610 - 197.625
Hist.: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-018-0150

Time Limits Regarding Certified Industrial Sites

(1) Upon application for a comprehensive plan or land use regulation amendment or a new land use regulation necessary to expedite and facilitate industrial or traded sector development on any of the certified industrial sites identified and prioritized under Or Laws 2003, Chapter 800, Section 12, a local government shall take final action approving, approving with modifications, or denying the application no later than 180 days after the date the application is deemed complete by the local government.

(2) For purposes of this rule, "certified industrial sites" are those sites so designated by the Economic Revitalization Team Regulatory Efficiency Group established by Or Laws 2003, Chapter 800, Section 13(2) in accordance with the requirements of Or Laws 2003, Chapter 800, Section 12.

(3) Persons, including the Director, who participated in the local government proceedings leading to the adoption of a comprehensive plan or land use regulation amendment or new land use regulation described in section (1) of this rule may appeal the final decision by the local government in accordance with requirements and time limits specified in ORS 197.610 through 197.625, except as provided in section (4) of this rule.

(4) For a final action to expand an urban growth boundary or designate an urban reserve necessary to expedite and facilitate industrial or traded sector development on any of the certified industrial sites identified and prioritized under Or Laws 2003, Chapter 800, Section 12, and provided the decision is subject to ORS 197.626, the Commission shall review the action following the timelines and procedures specified in OAR 660-025-040, 660-025-140 through 660-025-160, and 660-025-175.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.610 - 197.625
Hist.: LCDD 3-2004, f. & cert. ef. 5-7-04

ADMINISTRATIVE RULES

660-020-0060

Willamette River Greenway Plan Segments

The Land Conservation and Development Commission hereby adopts by reference orders approving the Oregon Department of Transportation Willamette River Greenway Plan Segments for the following: Cities of: Salem; Milwaukie; Gladstone; Corvallis; St. Helens; Dundee; Independence; Albany; Harrisburg; Millersburg; Eugene; Cottage Grove; Lake Oswego; Oregon City; West Linn; Wilsonville; Portland; and Springfield. Counties of: Multnomah; Lane, Benton (left bank); Columbia; Yamhill; Marion; Polk; Linn; and Clackamas.

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

Stat. Auth.: ORS 390

Stats. Implemented: ORS 197.040 & 390.318

Hist.: LCD 2-1978, f. & ef. 1-30-78; LCD 6-1978(Temp), f. & ef. 4-10-78; LCD 7-1978, f. & ef. 5-12-78; LCD 10-1978, f. & ef. 12-12-78; LCD 1-1979, f. & ef. 2-22-79; LCD 3-1980(Temp), f. & ef. 5-20-80; LCD 4-1980, f. & ef. 6-24-80; LCD 8-1981, f. & ef. 7-1-81; LCDC 2-1982, f. & ef. 5-27-82; LCDC 1-1988, f. & cert. ef. 3-18-88; LCDD 3-2004, f. & cert. ef. 5-7-04

660-020-0065

Amending Willamette Greenway Plan

The following procedure is established for amending segments of the Willamette River Greenway Plan:

(1) A request for a Willamette Greenway Plan modification of the plan that had previously been approved by LCDC shall be submitted by the Oregon Parks and Recreation Department (OPRD).

(2) If the plan change is initiated by a city or county the request shall be made by council or board action in writing to the Oregon Parks and Recreation Department requesting submission of the amendment to LCDC for adoption of an administrative rule amending the Greenway Plan. This request shall include the proposed plan change, and reasons why such a plan change is necessary. The Oregon Parks and Recreation Department shall, within 30 days submit the request with comments to LCDC.

(3) If the plan change is initiated by the Oregon Parks and Recreation Department, the request shall be made in writing to LCDC:

(a) Requesting that LCDC adopt by administrative rule certain changes to OPRD Greenway Plan;

(b) Explaining the proposed change to the plan;

(c) Explaining why the proposed change to the plan is necessary. The Oregon Parks and Recreation Department shall notify the affected city or county 30 days prior to the submission of the proposed plan change to LCDC. The affected city or county comments on the proposed change shall be forwarded with the request to LCDC.

(4) The LCDC shall provide public notice of the proposed plan amendment, including the time and place of a public hearing on the proposed plan amendment.

(5) The LCDC shall review and consider testimony regarding the proposed plan amendment, pursuant to the requirements of ORS Chapter 183.

(6) The LCDC may adopt by rule the plan amendment if the plan change is consistent with the intent and purposes of the Willamette River Greenway as stated in Goal 15 of the Statewide Planning Goals and ORS 390.310 to 390.368.

(7) The local jurisdiction shall adopt the Willamette Greenway Plan amendment by ordinance. Such ordinance shall not have an effective date which is prior to LCDC's adoption of the plan amendment.

(8) A copy of the approved plan amendment shall be sent to the Oregon Parks and Recreation Department, and the boundary change(s) shall be recorded on the OPRD and LCDC Greenway maps as well as the local Greenway map(s) in the appropriate County Recorder's office.

Stat. Auth.: ORS 197 & ORS 390

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1980, f. & ef. 7-2-80; LCDD 3-2004, f. & cert. ef. 5-7-04

660-023-0090

Riparian Corridors

(1) For the purposes of this rule, the following definitions apply:

(a) "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

(b) "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

(c) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

(d) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank, for example, as specified in section (5) of this rule.

(e) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

(f) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

(g) "Top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0010(12).

(h) "Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

(2) Local governments shall amend acknowledged plans in order to inventory riparian corridors and provide programs to achieve Goal 5 prior to or at the first periodic review following the effective date of this rule, except as provided in OAR 660-023-0250(5).

(3) Local governments shall inventory and determine significant riparian corridors by following either the safe harbor methodology described in section (5) of this rule or the standard inventory process described in OAR 660-023-0030 as modified by the requirements in section (4) of this rule. The local government may divide the riparian corridor into a series of stream sections (or reaches) and regard these as individual resource sites.

(4) When following the standard inventory process in OAR 660-023-0030, local governments shall collect information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors. Local governments may postpone determination of the precise location of the riparian area on lands designated for farm or forest use until receipt of applications for local permits for uses that would conflict with these resources. Local governments are encouraged, but not required, to conduct field investigations to verify the location, quality, and quantity of resources within the riparian corridor. At a minimum, local governments shall consult the following sources, where available, in order to inventory riparian corridors along rivers, lakes, and streams within the jurisdiction:

(a) Oregon Department of Forestry stream classification maps;

(b) United States Geological Service (USGS) 7.5-minute quadrangle maps;

(c) National Wetlands Inventory maps;

(d) Oregon Department of Fish and Wildlife (ODFW) maps indicating fish habitat;

(e) Federal Emergency Management Agency (FEMA) flood maps; and

(f) Aerial photographs.

(5) As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:

(a) Along all streams with average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian corridor boundary shall be 75 feet upland from the top of each bank.

(b) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank.

(c) Where the riparian corridor includes all or portions of a significant wetland as set out in OAR 660-023-0100, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

(d) In areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs, local governments shall apply OAR 660-023-0030 rather than apply the safe harbor provisions of this section.

(6) Local governments shall develop a program to achieve Goal 5 using either the safe harbor described in section (8) of this rule or the standard Goal 5 ESEE process in OAR 660-023-0040 and 660-023-0050 as modified by section (7) of this rule.

(7) When following the standard ESEE process in OAR 660-023-0040 and 660-023-0050, a local government shall comply with Goal 5 if it identifies at least the following activities as conflicting uses in riparian corridors:

(a) The permanent alteration of the riparian corridor by placement of structures or impervious surfaces, except for:

(A) Water-dependent or water-related uses; and

ADMINISTRATIVE RULES

(B) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area; and

(b) Removal of vegetation in the riparian area, except:

(A) As necessary for restoration activities, such as replacement of vegetation with native riparian species;

(B) As necessary for the development of water-related or water-dependent uses; and

(C) On lands designated for agricultural or forest use outside UGBs.

(8) As a safe harbor in lieu of following the ESEE process requirements of OAR 660-023-0040 and 660-023-0050, a local government may adopt an ordinance to protect a significant riparian corridor as follows:

(a) The ordinance shall prevent permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

(A) Streets, roads, and paths;

(B) Drainage facilities, utilities, and irrigation pumps;

(C) Water-related and water-dependent uses; and

(D) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

(b) The ordinance shall contain provisions to control the removal of riparian vegetation, except that the ordinance shall allow:

(A) Removal of non-native vegetation and replacement with native plant species; and

(B) Removal of vegetation necessary for the development of water-related or water-dependent uses;

(c) Notwithstanding subsection (b) of this section, the ordinance need not regulate the removal of vegetation in areas zoned for farm or forest uses pursuant to statewide Goals 3 or 4;

(d) The ordinance shall include a procedure to consider hardship variances, claims of map error, and reduction or removal of the restrictions under subsections (a) and (b) of this section for any existing lot or parcel demonstrated to have been rendered not buildable by application of the ordinance; and

(e) The ordinance may authorize the permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary established under subsection (5)(a) of this rule upon a demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040 & 197.225 - 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96; LCDD 3-2004, f. & cert. ef. 5-7-04

660-023-0140

Groundwater Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Delineation" is a determination that has been certified by the Oregon Health Division pursuant to OAR 333-061-0057, regarding the extent, orientation, and boundary of a wellhead protection area, considering such factors as geology, aquifer characteristics, well pumping rates, and time of travel.

(b) "Groundwater" is any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water.

(c) "Protect significant groundwater resources" means to adopt land use programs to help ensure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty that the carrying capacity of groundwater resources will not be exceeded.

(d) "Public water system" is a system supplying water for human consumption that has four or more service connections, or a system supplying water to a public or commercial establishment that operates a total of at least 60 days per year and that is used by 10 or more individuals per day.

(e) "Wellhead protection area" is the surface and subsurface area surrounding a water well, spring, or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield.

(2) Local governments shall amend acknowledged plans prior to or at each periodic review in order to inventory and protect significant groundwater resources under Goal 5 only as provided in sections (3) through (5) of this rule. Goal 5 does not apply to other groundwater areas, although other statewide Goals, especially Goals 2, 6, and 11, apply to land use decisions concerning such groundwater areas. Significant groundwater resources are limited to:

(a) Critical groundwater areas and restrictively classified areas designated by the Oregon Water Resources Commission (OWRC), as provided in ORS 340 and 536, subject to the requirements in section (3) of this rule applied in conjunction with the requirements of OAR 660-023-0030 through 660-023-0050; and

(b) Wellhead protection areas, subject to the requirements in sections (4) and (5) of this rule instead of the requirements in OAR 660-023-0030 through 660-023-0050.

(3) Critical groundwater areas and restrictively classified areas are significant groundwater resources. Following designation by OWRC, and in coordination with the Oregon Water Resources Department (WRD), local plans shall declare such areas as significant groundwater resources as per OAR 660-023-0030(5). Following the requirements of OAR 660-023-0040 and 660-023-0050 and this rule, local governments shall develop programs to protect these significant groundwater resources.

(4) A local government or water provider may delineate a wellhead protection area for wells or wellfields that serve lands within its jurisdiction. For the delineation of wellhead protection areas, the standards and procedures in OAR chapter 333, division 61 (Oregon Health Division rules) shall apply rather than the standards and procedures of OAR 660-023-0030.

(5) A wellhead protection area is a significant groundwater resource only if the area has been so delineated and either:

(a) The public water system served by the wellhead area has a service population greater than 10,000 or has more than 3,000 service connections and relies on groundwater from the wellhead area as the primary or secondary source of drinking water; or

(b) The wellhead protection area is determined to be significant under criteria established by a local government, for the portion of the wellhead protection area within the jurisdiction of the local government.

(6) Local governments shall develop programs to resolve conflicts with wellhead protection areas described under section (5) of this rule. In order to resolve conflicts with wellhead protection areas, local governments shall adopt comprehensive plan provisions and land use regulations, consistent with all applicable statewide goals, that:

(a) Reduce the risk of contamination of groundwater, following the standards and requirements of OAR chapter 340, division 40; and

(b) Implement wellhead protection plans certified by the Oregon Department of Environmental Quality (DEQ) under OAR 340-040-0180.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040 & 197.225 - 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96; LCDD 3-2004, f. & cert. ef. 5-7-04

660-023-0190

Energy Sources

(1) For purposes of this rule,

(a) "Energy source" includes naturally occurring locations, accumulations, or deposits of one or more of the following resources used for the generation of energy: natural gas, surface water (i.e., dam sites), geothermal, solar, and wind areas. Energy sources applied for or approved through the Oregon Energy Facility Siting Council (EFSC) or the Federal Energy Regulatory Commission (FERC) shall be deemed significant energy sources for purposes of Goal 5.

(b) "Protect," for energy sources, means to adopt plan and land use regulations for a significant energy source that limit new conflicting uses within the impact area of the site and authorize the present or future development or use of the energy source at the site.

(2) In accordance with OAR 660-023-0250(5), local governments shall amend their acknowledged comprehensive plans to address energy sources using the standards and procedures in OAR 660-023-0030 through 660-023-0050. Where EFSC or FERC regulate a local site or an energy facility that relies on a site specific energy source, that source shall be considered a significant energy source under OAR 660-023-0030. Alternatively, local governments may adopt a program to evaluate conflicts and develop a protection program on a case-by-case basis, i.e., upon application to develop an individual energy source, as follows:

(a) For proposals involving energy sources under the jurisdiction of EFSC or FERC, the local government shall comply with Goal 5 by amending its comprehensive plan and land use regulations to implement the EFSC or FERC decision on the proposal as per ORS 469.504; and

(b) For proposals involving energy sources not under the jurisdiction of EFSC or FERC, the local government shall follow the standards and procedures of OAR 660-023-0030 through 660-023-0050.

(3) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040 & 197.225 - 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96; LCDD 3-2004, f. & cert. ef. 5-7-04

ADMINISTRATIVE RULES

660-025-0010

Purpose

The purpose of this division is to carry out the state policy outlined in ORS 197.010. This division is intended to implement provisions of ORS 197.626 through 197.646. The purpose for periodic review of each local government's comprehensive plan and land use regulations is to assure that comprehensive plans and land use regulations remain in compliance with the statewide planning goals adopted pursuant to ORS 197.230, and that adequate provision for needed housing, employment, transportation, and public facilities and services, are coordinated as described in ORS 197.015(5). Periodic Review is a cooperative process between the state, local governments, and other interested persons.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0040

Exclusive Jurisdiction of LCDC

(1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction to review the evaluation, work program, and all work program tasks for compliance with the statewide planning goals. Pursuant to ORS 197.626, the commission has exclusive jurisdiction to review the following land use decisions for compliance with the statewide planning:

(a) If made by a city with a population of 2,500 or more inside its urban growth boundary, amendments to an urban growth boundary to include more than 50 acres;

(b) If made by a metropolitan service district, amendments to an urban growth boundary to include more than 100 acres;

(c) plan and land use regulations that designate urban reserve areas.

(2) The Land Use Board of Appeals shall have exclusive jurisdiction over land use decisions described in section (1) of this rule for issues that do not involve compliance with the statewide planning goals, and over all other land use decisions as provided in ORS 197.825.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0120

Commission Review of Referrals and Appeals (Work Program Phase)

(1) Except as provided in sections (4) or (5) of this rule, the Commission shall take final action on an appeal or a referral within 90 days of the date the appeal was filed or the date the Director issued notice of the referral.

(2) Upon completion of a report, the Department shall mail a copy of the report to the local government, persons who submitted objections, and other persons who appealed the Director's decision. The report shall be mailed at least 21 days before the Commission meeting to consider the appeal or referral.

(3) The local government and persons who filed valid objections or an appeal may file written exceptions to the Directors report within ten (10) days of the date the report is mailed. The Department may issue a response to exceptions and may make revisions to its report in response to exceptions. A response or revised report may be provided to the Commission at or prior to its hearing on the referral or appeal.

(4) At the request of a local government and a person who filed a valid objection or an appeal, the Department may provide mediation services to resolve disputes related to the appeal. Where mediation is underway, the Commission shall delay its hearing until the mediation process is concluded or the Director, after consultation with the mediator, determines that mediation is of no further use in resolution of the work program disagreements.

(5) If the appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit specified in section (1) of this rule, the Commission is not required to take final action within that time limit.

(6) The Commission shall hear referrals and appeals based on the written record unless the Commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information. No oral argument shall be allowed unless the director recommends it or the Commission on its own motion accepts it. In such case, the hearing may be postponed to allow parties to prepare for the hearing. If the Commission chooses to hear oral argument, such argument shall be limited to the Director, the local government, the appellant, and parties who filed objections, exceptions, or an appeal. The commission may authorize additional parties to present testimony in

support of the local government decision, provided such parties participated in the local decision process. Parties may address the Commission concerning only those issues raised in their objections or exceptions, or appeal.

(7) Following its referral or appeal hearing, the Commission shall issue an order which either:

(a) Establishes a work program; or

(b) Determines that no work program is necessary.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0130

Submission of Completed Work Task

(1) A local government shall submit completed work tasks as provided in the approved work program. A local government shall submit to the Department a list of persons who requested notice of the local government's final decision on a work task.

(2) After receipt of a work task, the Department shall determine whether the submittal is complete. To be complete a submittal shall be a final decision containing all required elements identified for that task in the work program.

(3) If the Department determines that a submittal is incomplete, it shall notify the local government. If the Department determines that the submittal should be reviewed despite missing information, the Department may commence a formal review of the submittal. Missing material may be identified as a deficiency in the review process and be a basis to require further work by the local government.

(4) A local government may request an extension of time for submitting a work task. The Director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than one year.

(5) A decision by the Director to grant or deny a request for an extension may be appealed to the Commission, or the Director may refer the request to the Commission, according to the procedures in OAR 660-025-0090(4).

(6) If a local government fails to submit a complete work task by the deadline set by the Director, or the Commission, including any extension, the Director shall schedule a hearing before the Commission. The hearing shall be conducted according to the procedures in OAR 660-025-0090(5).

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0140

Notice and Filing of Objections (Work Task Phase)

(1) After the local government makes a final decision on a work task, the local government shall notify the Department and persons who requested notice in writing. The local government notice shall contain the following information:

(a) Where a person can review a copy of the local government's final decision, and how a person may obtain a copy of the final decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the work task;

(c) That objectors must give a copy of the objection to the local government; and

(d) That, for matters outside the jurisdiction of the Commission, objectors must appeal to the Land Use Board of Appeals as provided by ORS 197.825 through 197.830.

(2) To be valid, objections shall:

(a) Be in writing and filed no later than 21 days from the date the notice was mailed by the local government;

(b) Clearly identify an alleged deficiency in the work task;

(c) Suggest specific revisions that would resolve the objection; and

(d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

(3) Objections that do not meet the requirements of section (2) of this rule shall not be considered by the Director or Commission.

(4) If no valid objections are received within the 21-day objection period, the Director may approve the work task. Regardless of whether valid objections are received, the Department may make its own determination of the sufficiency and completeness of the work task. Except as provided in section (5) of this rule, if no objections are received and the Department does not notify the local government of a decision to conduct its own review within 60 days of the date the Department provided notice, the work task shall be deemed acknowledged. The Department shall pro-

ADMINISTRATIVE RULES

vide a letter to the local government certifying that the work task is deemed acknowledged.

(5) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal related to a previous work task, the Director or Commission shall not approve the submittal until all conflicts and goal compliance issues are resolved. In such case, the Director or Commission may enter an order deferring acknowledgment of all, or part, of the work task until completion of additional tasks.

(6) If valid objections are received or the Department conducts its own review, the Department shall issue a report. The report shall focus on the issues raised in valid objections and concerns of the Department. The report shall identify specific work tasks to resolve valid objections or Department concerns. A valid objection shall either be sustained or rejected by the Department or Commission based on the standards set forth in OAR 660-025-0070.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0150

Director Action (Work Task Phase)

(1) The Director may:

(a) Issue an order approving the completed work task;

(b) Issue an order remanding the work task to the local government including a date for resubmittal;

(c) Refer the work task and recommendation to the Commission for review and action; or

(d) The Director may issue an order approving portions of the completed work task provided these portions are not affected by an order remanding or referring the completed work task.

(2) The Director shall send the order to the local government, persons who filed objections, and persons who, in writing, requested a copy of the action.

(3) The Director's action in section (1) of this rule shall be sent pursuant to section (2) of this rule within 120 days of the date the department received the task submittal from the local government unless the local government waives the 120-day deadline or the commission grants the Director an extension. If the Director does not take action as prescribed in this section:

(a) If no objections to the work task pursuant to OAR 660-025-0140 (2) were received, the work task shall be deemed approved and the department shall provide a letter to the local government certifying that the work task is approved;

(b) If objections to the work task pursuant to OAR 660-025-0140 (2) were received, the Director shall refer the work task to the Commission for review and action.

(4) The local government, a person who filed a valid objection, or other person who participated orally, or in writing, at the local level, may appeal the Director's decision to the Commission.

(a) Appeals of the Director's decision shall be filed with the Department within 21 days of the date the Director's action was mailed;

(b) A person appealing the Director's decision must show that the person participated in the local government decision. The person appealing the Director's decision must show a deficiency in the work task. The person appealing the Director's decision also must suggest a specific modification to the work task necessary to resolve the alleged deficiency.

(5) In response to a referral or appeal, the Director may prepare and submit a report to the Commission.

(6) If no appeal to the Commission is filed within the time provided by section (3) of this rule, the work tasks approved by the Director are considered acknowledged. The Department shall provide a letter to the local government, and persons who filed objections, certifying that the work task is acknowledged.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0160

Commission Review of Referrals and Appeals (Work Task Phase)

(1) Except as provided in sections (5) and (6) of this rule, the Commission shall take final action on an appeal or referral within 90 days of the date the appeal was filed or the Director issued notice of the referral.

(2) The Department shall mail a copy of the report to the local government, all persons who submitted objections, and other persons who

appealed the Director's decision. The Department shall mail the report at least 21 days before the Commission meeting to consider the referral or appeal.

(3) Persons who filed objections, or an appeal, may file written exceptions to the Director's report within ten (10) days of the date the report is mailed. The Director may issue a response to exceptions and may make revisions to its report in response to exceptions. A response or revised report may be provided to the Commission at or prior to its hearing on the referral or appeal. A revised Director's report does not require mailing 21 days prior to the Commission hearing. Where the Director's report is substantially revised in response to exceptions, oral argument shall be allowed at the time of the scheduled Commission review. Oral argument shall be limited to issues resulting from the change in the Director's report.

(4) The Director may postpone the hearing on a revised report in order to allow the parties to submit written exceptions to the revised report. Such a postponement shall provide at least ten (10) days for filing exceptions. Where the Director postpones review for the purpose of filing exceptions to a revised Director's report the Commission review shall be pursuant to section (7) of this rule.

(5) At the request of a local government and a person who files a valid objection or a person who appeals the Director's decision, the Department may provide mediation services to resolve disputes related to the appeal. Where mediation is underway, the Commission shall delay its hearing until the mediation process is concluded or the Director, after consultation with the mediator, determines that mediation is of no further use in resolution of the work task disagreements.

(6) If the appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit specified in section (1) of this rule, the Commission is not required to take final action within that time limit.

(7) The Commission shall hear appeals based on the written record unless the Commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information. The written record shall consist of the submittal, timely objections, the Director's report, and timely exceptions to the Director's report, and the appeal if one was filed. No oral argument shall be allowed unless the Director recommends it or the Commission on its own motion accepts it. In such case, the hearing may be postponed to the next regular meeting of the Commission to allow parties to prepare for the hearing. If the Commission chooses to hear oral argument, argument shall be limited to the Director, the local government, and parties who filed objections, exceptions, or an appeal. Parties may address the Commission concerning only those issues raised in their objections, exceptions, or appeal.

(8) Following its referral, or appeal hearing, the Commission shall issue an order which does one or more of the following:

(a) Approves the work task;

(b) Remands the work task to the local government, including a date for resubmittal;

(c) Requires specific plan or land use regulation revisions to be completed by a specific date. Where specific revisions are required, the order shall specify that no further review is necessary. These changes are final when adopted by the local government. The failure to adopt the required revisions by the date established in the order shall constitute failure to complete a work task by the specified deadline requiring the Director to initiate a hearing before the Commission according to the procedures in OAR 660-025-0090(5);

(d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or

(e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

(9) If no appeal to the Court of Appeals is filed within the time provided in ORS 183.482, the work task shall be deemed acknowledged. The Department shall provide a letter to the local government and persons who filed objections certifying that the work task is acknowledged.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-025-0175

Review of UGB Amendments and Urban Reserve Area Designations.

(1) A metropolitan service district that amends its urban growth boundary to include more than 100 acres, or a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth boundary to include more than 50 acres, or that designates urban reserve areas under ORS 195.145, shall submit the amendment, or the des-

ADMINISTRATIVE RULES

ignation, to the Department for review for compliance with the statewide planning goals. The standards and procedures in this rule govern the local government process and submittal, and Department and Commission review.

(2) The local government shall follow the procedures and requirements for post-acknowledgement plan amendments in ORS 197.610, et seq., and any applicable statewide planning goals and administrative rules.

(3) The local government shall submit its final decision amending its urban growth boundary, or designating urban reserve areas, to the Department according to all the requirements for a work task submittal in OAR 660-025-0130 and 660-025-0140.

(4) Department and Commission review and decision on the submittal from the local government shall follow the procedures and requirements for review and decision of a work task submittal in OAR 660-025-0140 through 660-025-0160.

Stat. Auth.: ORS 183-325 - 183.355 & 197.040 - 197.245
Stats. Implemented: ORS 195 - 197 & 215 - 227
Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04

660-030-0005

Definitions

For the purpose of this division, the definitions in ORS 197.015 and the following definitions shall apply:

(1) "Acknowledged Comprehensive Plan" means a comprehensive plan and land use regulations or plan or regulation amendment which complies with the goals as provided in ORS 197.251, 197.625 and 197.626 through 197.650.

(2) "Rules and Programs Affecting Land Use":

(a) Are state agency's rules and programs (hereafter referred to as "land use programs") which are:

(A) Specifically referenced in the statewide planning goals; or

(B) Reasonably expected to have significant effects on:

(i) Resources, objectives or areas identified in the statewide planning goals; or

(ii) Present or future land uses identified in acknowledged comprehensive plans.

(b) Do not include state agency rules and programs, including any specific activities or functions which occur under the rules and programs listed in paragraph (2)(a)(A) of this rule, if:

(A) An applicable statute, constitutional provision or appellate court decision expressly exempts the requirement of compliance with the statewide goals and compatibility with acknowledged comprehensive plans; or

(B) The rule, program, or activity is not reasonably expected to have a significant effect on:

(i) Resources, objectives or areas identified in the statewide goals; or

(ii) Present or future land uses identified in acknowledged comprehensive plans; or

(C) A state agency transfers or acquires ownership or an interest in real property without making any change in the use or area of the property. Action concurrent with or subsequent to a change of ownership that will affect land use or the area of the property is subject to either the statewide goals or applicable city or county land use regulations.

(c) A final determination of whether or not an agency rule or program affects land use will be made by the Commission pursuant to ORS 197.180 and OAR chapter 660, division 30.

(3) "Agency Coordination Program" is the submittal made by a state agency to the Department pursuant to ORS 197.180(2)(a)-(d) and OAR 660-030-0060.

(4) "Certification" is an order issued by the Commission which finds that a state agency's coordination program satisfies the requirements of ORS 197.180(2)(a)-(d) and OAR chapter 660, division 30.

(5) "Compatibility with Comprehensive Plans" as used in ORS 197.180 means that a state agency has taken actions pursuant to OAR 660-030-0070, including following procedures in its coordination program where certified, and there are no remaining land use conflicts between the adoption, amendment or implementation of the agency's land use program and an acknowledged comprehensive plan.

(6) "Compliance with the Goals" means that the state agency land use programs and actions must comply with the applicable requirements of the statewide planning goals as provided in OAR 660-030-0065.

(7) "Agency Consistency with Comprehensive Plans" as used in Statewide Goal 2 shall have the same meaning as the term "compatibility" as provided in section (5) of this rule and OAR 660-030-0070.

(8) "Coordination" as used in ORS 197.015(5) means the needs of all levels of government, semipublic and private agencies and the citizens of

the State of Oregon have been considered and accommodated as much as possible.

(9) "Commission" means the State Land Conservation and Development Commission.

(10) "Department" means the Department of Land Conservation and Development.

(11) "Director" means the Director of Land Conservation and Development.

(12) "Goals" means the mandatory statewide planning standards adopted by the Commission pursuant to ORS 197.005 to 197.855.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.040 & 197.180
Hist.: LCD 12, f. & ef. 10-14-77; LCDC 6-1982, f. & ef. 7-22-82; LCDC 5-1986, f. & ef. 12-24-86; LCDD 3-2004, f. & cert. ef. 5-7-04

660-034-0000

Purpose

(1) The purpose of this division is to establish policies and procedures for the planning and zoning of state and local parks in order to address the recreational needs of the citizens of the state. This division is intended to interpret and carry out requirements of Statewide Planning Goal 8 and ORS 195.120 through 195.125.

(2) In general, this division directs local government planning and zoning activities regarding state and local park master plans. OAR chapter 736, division 018, directs the Oregon Parks and Recreation Department (OPRD) with respect to state park master planning, and does not apply to local governments except where specified by this division.

Stat. Auth.: ORS 183, 195 & 197
Stats. Implemented: ORS 197.040, 197.225 - 197.245 & 195.120 - 195.125
Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98; LCDD 3-2004, f. & cert. ef. 5-7-04

660-034-0040

Planning for Local Parks

(1) Local park providers may prepare local park master plans, and local governments may amend acknowledged comprehensive plans and zoning ordinances pursuant to the requirements and procedures of ORS 197.610 through 197.625 in order to implement such local park plans. If a local government decides to adopt a local park plan as part of the local comprehensive plan, the adoption shall include:

(a) A plan map designation, as necessary, to indicate the location and boundaries of the local park; and

(b) Appropriate zoning categories and map designations (a "local park" zone or overlay zone is recommended), including objective land use and siting review criteria, in order to authorize the existing and planned park uses described in local park master plan.

(2) Unless the context requires otherwise, this rule does not require changes to:

(a) Local park plans that were adopted as part of an acknowledged local land use plan prior to the effective date of this rule; or

(b) Lawful uses in existence within local parks on the effective date of this rule.

(3) All uses allowed under Statewide Goal 3 are allowed on agricultural land within a local park and all uses allowed under Statewide Goal 4 are allowed on forest land within a local park, in accordance with applicable laws, statewide goals, and rules.

(4) A local government is not required to adopt an exception to Statewide Planning Goals 3 or 4 for the uses listed in OAR 660-034-0035(2)(a) through 660-034-0035(2)(g) on agricultural or forest land within a local park provided such uses, alone or in combination, meet all other statewide goals and are described and authorized in a local park master plan that:

(a) Is adopted as part of the local comprehensive plan in conformance with Section (1) of this rule and consistent with all statewide goals;

(b) Is prepared and adopted applying criteria comparable to those required for uses in state parks under OAR 736, division 18; and

(c) Includes findings demonstrating compliance with ORS 215.296 for all uses and activities proposed on or adjacent to land zoned for farm or forest use.

Stat. Auth.: ORS 183, ORS 195 & ORS 197
Stats. Implemented: ORS 197.040, 197.225 - 197.245 & 195.120 - 195.125
Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98; LCDD 3-2004, f. & cert. ef. 5-7-04

660-037-0030

Statement of Applicability

(1) This division applies to any post-acknowledgment plan amendment or periodic review work task that:

(a) Would directly affect a designated water-dependent shoreland site; and

(b) Is initiated on or after the effective date of this division.

ADMINISTRATIVE RULES

(2) For purposes of this division, a designated water-dependent shoreland site is directly affected when any post-acknowledgment plan amendment or periodic review work task would:

(a) Change the size or shape of the site;

(b) Allow or authorize a nonwater-dependent use or activity at a site, unless the use or activity is a "permissible nonwater-dependent use" as allowed by Goal 17 Coastal Shoreland Uses Requirement 2 (OAR 660-015-0010(2)); or

(c) Prohibit all water-dependent uses and activities at the site.

(3) For purposes of this division, a post-acknowledgment plan amendment is "initiated" when a local government files a proposed amendment to or adoption of a comprehensive plan or land use regulation with the director in accordance with OAR 660-018-0020.

(4) For purposes of this division, a periodic review work task is "initiated" when a local government's periodic review work program is approved in accordance with OAR 660-25-0100 or modified in accordance with OAR 660-25-0100.

(5) This division does not mandate any changes to existing local comprehensive plans or land use regulations for water-dependent shorelands. Local cities and counties may retain their existing comprehensive plan designations and land use regulation designations for water-dependent shorelands.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.010 - 197.830
Hist.: LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-2004, f. & cert. ef. 5-7-04

Oregon Department of Education Chapter 581

Adm. Order No.: ODE 8-2004(Temp)

Filed with Sec. of State: 5-11-2004

Certified to be Effective: 5-11-04 thru 10-15-04

Notice Publication Date:

Rules Amended: 581-015-0062

Subject: The Department of Education needs to correct an unintended consequence of a rule amendment in March 2003. At that time, ODE amended OAR 581-015-0062 to comply with 34 CFR 300.306, and mistakenly deleted language required by 34 CFR 300.553. The United States Department of Education's Office of Special Education Programs (OSEP) requires this rule change to approve Oregon's State Application for receiving funding under the Individuals with Disabilities Education Act.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-015-0062

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. School districts shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

(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, including both employment by the school district and assistance in making outside employment available.

Stat. Auth.: ORS 343.041, 343.045 & 343.055
Stats. Implemented: ORS 343.045 & 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; ODE 8-2004(Temp), f. & cert. ef. 5-11-04 thru 10-15-04

Oregon Liquor Control Commission Chapter 845

Adm. Order No.: OLCC 5-2004(Temp)

Filed with Sec. of State: 4-27-2004

Certified to be Effective: 5-1-04 thru 10-28-04

Notice Publication Date:

Rules Adopted: 845-015-0199

Subject: OAR 845-015-0199 will be a new rule. The rule establishes a pilot program which would allow appointment of temporary retail sales agents to operate retail sales agencies (liquor stores) which will be physically located within large retail grocery stores. The pilot program would allow appointment of a pilot agent for up to two years, and would allow for consideration of permanent appointment at the end of the pilot project period if the pilot is successful. The purpose of the pilot project is to test this retail concept in time to gather data which can be presented to the 2005 legislative assembly in time for the legislature to consider it in considering budget decisions.

Because of the time constraints of the legislative budget process, it is imperative that we enact this rule on a temporary basis in order to gather data which will be of critical importance to the 2005 legislative assembly in their budget process.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-015-0199

Liquor Stores-Within-Grocery Stores Pilot Program

(1) Purpose. The Liquor Stores-Within-Grocery Stores Pilot Program is a program wherein the Commission appoints temporary retail sales agents to operate liquor stores which are physically located within large grocery stores. The purpose of the pilot program is to obtain data on the efficacy of such a retail operation for the benefit of the Legislative Assembly as it considers alternative liquor retailing models.

(2) Definitions. The following definitions apply only to this rule:

(a) "Large grocery stores" are those that sell both fresh produce and fresh meat.

(b) The Liquor Stores-within-Grocery Stores Pilot Program is called the "pilot program."

(c) The temporary agent appointed to the pilot agency is called a "pilot program retail sales agent," or "pilot program agent."

(d) "Pilot program agency agreement" is the agreement between the pilot program agent and the Oregon Liquor Control Commission.

(3) Scope and Length of pilot program. The pilot program will consist of up to six new liquor stores located within large grocery stores. The Commission will determine the locations of pilot liquor stores using the criteria in OAR 845-015-0110 and depending upon the Commission's ability to negotiate acceptable terms with the interested large grocery store. The pilot program will last for up to two years from the effective date of the pilot program liquor agent's appointment.

(4) The pilot program agent and the Commission will execute a pilot program agency agreement, the duration of which will not exceed two years from the effective date of the pilot program liquor agent's appointment.

(5) Conversion to permanent program. Ninety days before the pilot program agency agreement expires, the performance of the pilot will be evaluated, and if found to have been successful, a process to create a permanent agency will commence.

(6) All statutes and administrative rules governing retail liquor agents will apply to this pilot program, with the following exceptions:

(a) OAR 845-015-0115(2) Retail Sales Agent Eligibility;

(b) OAR 845-015-0120 Retail Sales Agent Procedure;

(c) OAR 845-015-0130(1)(b) Advertising a Retail Liquor Store;

(d) OAR 845-015-0190 Resignation Buy-Out Program for Retail Liquor Agents;

(e) OAR 845-0150193(1)&(2) Terminating an Agency Agreement;

(f) OAR 845-015-0196 Appointment of a Temporary Agent.

(7) The Retail Operations Manual and other relevant Commission policies will apply to the pilot program, unless otherwise provided in the pilot program agency agreement.

(8) Grocery store clerks working in the pilot program liquor store must meet all the standards and requirements for liquor store clerks which are required by the pilot program agency agreement and the Retail Operations manual.

(9) Pilot program agents will provide the Commission with any and all data related to the operation of the pilot liquor store as specified in the pilot program agency agreement.

Stat. Auth.: ORS 471.730(5)

Stats. Implemented: ORS 471.750

Hist.: OLCC 5-2004(Temp), f. 4-27-04, cert. ef. 5-1-04 thru 10-28-04

ADMINISTRATIVE RULES

Oregon State Marine Board Chapter 250

Adm. Order No.: OSMB 1-2004
Filed with Sec. of State: 5-11-2004
Certified to be Effective: 5-11-04
Notice Publication Date: 2-1-04
Rules Adopted: 250-010-0053

Subject: Following a suggestion from the Appellate Court the Marine Board undertook a project to adopt rules to provide guidance to law enforcement officers regarding their process for conducting boating safety checks on boats where probable cause or reasonable suspicion had not been established. The rule clarifies officers' authority to stop a boat for a random safety check.
Rules Coordinator: Jill E. Andrick—(503) 378-8587

250-010-0053 Safety Inspections

The sheriff of each county and all other police officers responsible for enforcement of Oregon Revised Statutes, Chapter 704 and 830 and the amplifying Oregon Administrative Rules Chapter 250, are authorized to "signal boat operator to bring the boat to a stop" to conduct safety inspections:

- (1) With the owner or operator's consent; or
- (2) If a sheriff or other police officer confirms that a safety violation has occurred the sheriff or officer shall conduct a complete safety inspection to determine compliance with all other applicable safety laws.

Stat. Auth: ORS 830.110, 830
Stats. Implemented:
Hist.: OSMB 1-2004, f. & cert. ef. 5-11-04

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Oregon Student Assistance Commission, Office of Degree Authorization Chapter 583

Adm. Order No.: ODA 4-2004
Filed with Sec. of State: 5-14-2004
Certified to be Effective: 5-14-04
Notice Publication Date: 4-1-04
Rules Amended: 583-050-0031

Subject: Revises method and standards used to determine validity of unaccredited degrees.
Rules Coordinator: Susan Taylor—(503) 687-7443

583-050-0031 Unaccredited Degree Claims

(1) A claimant of an unaccredited U.S. degree may submit to the Office information indicating that the school conferring the degree is operating legally in another state and could reasonably be considered for approval in Oregon under OAR 583-030.

(a) A reasonable possibility of approval can be demonstrated by submitting to ODA the appropriate review fee and sufficient evidence that the unaccredited institution could meet ODA academic standards under OAR 583-030 for authorization to operate in Oregon if it chose to make such an application.

(b) ODA may, upon its own motion, evaluate an unaccredited institution and determine whether it has a reasonable chance to meet Oregon authorization standards without a degree user making such a request.

(c) If a request for evaluation under this section is not made to ODA within 30 days of notification that an unaccredited degree is being used contrary to Oregon law, the degree user's right to such a review is waived and ODA may pursue appropriate enforcement action. Degree users may, within the first 30 days, request up to 30 additional days for the purpose of gathering material necessary to apply for an evaluation.

(2) A claimant of a non-U.S. degree issued by a degree supplier not accredited by a U.S. accreditor may submit to the Office information proving that the supplier issuing the degree has the following characteristics.

(a) The supplier is operating legally in its host country.
(b) The host country has a postsecondary approval system equivalent to U.S. accreditation.

(c) The supplier has been approved through the demonstrable application of appropriate standards by the host country's accreditor equivalent.

(d) All degrees issued by the supplier are legally valid for use within the host country.

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

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603, ORS 348.609 & ORS 348.992
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 4-2004, f. & cert. ef. 5-14-04

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Oregon University System, University of Oregon Chapter 571

Adm. Order No.: UO 1-2004
Filed with Sec. of State: 5-11-2004
Certified to be Effective: 5-17-04
Notice Publication Date: 4-1-04
Rules Amended: 571-020-0120, 571-020-0180
Subject: Amends current rule to include protocol for law enforcement subpoenas which requires review by General Counsel's Office prior to release of student records.
Rules Coordinator: Deb Eldredge—(541) 346-3082

571-020-0120 Location and Custody of Student Records

Education records and official personal records shall be kept in locations central to the University or the division or department that maintains them. The control of such records should be assigned to designated personnel responsible for preserving the confidentiality of records. Education records may also be maintained by individual employees and others acting on behalf of the University. The Vice President for Student Affairs or his or her designee(s) is the custodian of all education records maintained by the University or on its behalf and shall have ultimate control of all education records. The Office of the Registrar is the initial point of contact for questions related to these rules. Subpoenas seeking education records are typically served on the University Registrar, and the Office of the Registrar should be informed whenever the University or a University employee is served with a subpoena seeking education records. If the University or a University employee is served with a law enforcement subpoena ordering that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed to the student, a copy shall be sent immediately to the Office of the General Counsel. No documents shall be released or information disclosed until University legal counsel determines that the subpoena is valid.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03; UO 1-2004, f. 5-11-04, cert. ef. 5-17-04

571-020-0180 When Prior Consent Is Not Required for the Disclosure of Personally Identifiable Information from Education Records

The University may disclose personally identifiable information from an education record without the student's consent if one of the following conditions is met:

(1) The disclosure is to a school official who has a legitimate educational interest.

(2) The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

(3) The disclosure is to comply with a judicial order or lawfully issued subpoena and the University makes a reasonable effort to notify the student of the order or subpoena in advance of compliance so that the student may seek protective action. If the disclosure is to comply with a federal grand jury subpoena or any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed and University legal counsel has determined that the subpoena is valid, then the University shall not notify the student.

(4) The disclosure is in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This shall be strictly construed. The factors to be taken into account in determining whether this exception applies shall include the following:

(a) The seriousness of the threat to the health or safety of the student or other individual;

(b) The need for the information to meet the emergency;

(c) Whether the individuals to whom the information is disclosed are in a position to deal with the emergency;

(d) The extent to which time is of the essence in dealing with the emergency.

ADMINISTRATIVE RULES

(5) The disclosure is information the University has designated as directory information.

(6) The disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense.

(7) The disclosure is in connection with a disciplinary proceeding at the University and the University determines that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and the student has committed a violation of the institution's rules or policies with respect to the allegation made against him or her. The University may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student. This subsection applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(8) The disclosure is otherwise in compliance with the Act or other applicable law.

Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2003, f. & cert. ef. 9-15-03; UO 1-2004, f. 5-11-04, cert. ef. 5-17-04

Adm. Order No.: UO 2-2004

Filed with Sec. of State: 5-11-2004

Certified to be Effective: 7-1-04

Notice Publication Date: 3-1-04

Rules Amended: 571-060-0005

Subject: Increase in family housing rental rates to cover projected operating costs for 2004-2005.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-060-0005

Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year:

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed with in the master copy.

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

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

Stat. Auth.: ORS 351.070, 351 & 352
Stats. Implemented: ORS 351.070

Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981(Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85; UOO 1-1986, f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f. 6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef. 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2004, f. 5-11-04, cert. ef. 7-1-04

Oregon Youth Authority Chapter 416

Adm. Order No.: OYA 1-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Adopted: 416-105-0000, 416-105-0010, 416-105-0020, 416-105-0030, 416-105-0040

Subject: This rule is adopted and includes language from OAR Chapter 416, Division 110. Division 110 has been repealed and renumbered as Division 105. Language has also been added to define "authorized representative." Agency name changes will be adopted, language changes from "shall" to "will," and minor grammatical errors will be corrected. The OYA is aligning its rules to more closely follow its policies and procedures.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-105-0000

Definition

Authorized representative: Attorneys, law students, special investigators, and other persons who have legitimate connection with the legal issue being pursued.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 192 & 419A.255
Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0010

Disclosure of Offender Case Record Information

(1) The OYA will disclose information contained in offender case records in compliance with applicable federal and state laws, rules, and its own policies and procedures.

(a) Case records include any official agency information that identifies an individual who was committed to the OYA by the court and who received services from the OYA. These records include any writing or recording of information including automated records and printouts, including Juvenile Justice Information System records, handwriting, type-writing, printing, photocopying, photographing, magnetic tapes, video tapes, or other documents.

(b) When such information concerns offenders in the legal custody of the Department of Corrections that are assigned to OYA facilities, Department of Corrections' rules also apply.

(2) Offenders are entitled to know the conditions under which information may be divulged. Case record information may be used by the OYA for purposes directly connected with the administration of the agency's programs. Other uses are prohibited unless:

(a) Required by federal or state law or regulation;

(b) Ordered by a judge;

(c) Pursuant to a subpoena;

(d) Authorized by statute or these rules; or

(d) Requested in writing by the offender or his/her authorized representative.

(3)(a) Individuals, agencies or organizations that receive confidential information from the OYA are expected to preserve the confidential nature of the communication.

(b) Information obtained by the OYA from another social agency, public department, institution, hospital, physician or attorney will be for the

ADMINISTRATIVE RULES

exclusive use of the OYA in the administration of the program for which it is responsible. Such information may be disclosed to persons or agencies other than those specifically authorized in writing by the offender when the disclosure is directly related to the administration of the OYA and its programs.

(A) Information received by the OYA from Old Age Survivor and Disability Insurance (OASDI), Veteran's Administration or the Workers' Compensation Board, or information contained in child abuse investigation reports may not be released even with the authorization of the offender;

(B) Alcohol and Drug Treatment information may be released only when criteria in the federal regulations are met;

(C) Release of offender medical records or mental health information may be released only in compliance with Oregon law.

(4) Copies of offender information used for ad hoc consultation (e.g., case staffing) and not needed for the consultant's permanent file will be promptly destroyed.

(5) When an OYA record or part of a record has been sealed or marked as expunged, the provisions of Division 140 (Expunction of Records) of these rules will apply.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 192 & 419A.255
Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0020

Requests for Case Record Information

Requests for case record information will be processed in compliance with Division 130 (Inspection and Copying of Records) of these rules.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 192 & 419A.255
Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0030

Use of Case Record Information by the OYA and Other Service Agencies

Unless otherwise prohibited by statutes, rules, or court order, the OYA may disclose information in order to administer programs and provide services to offenders. Social service agencies, courts, foster parents, service providers (including medical providers), and all agents of the OYA providing services to an offender at the request of the agency are subject to these rules and OYA policy and procedures discussing appropriate release of information. Reasons for disclosure include, but are not limited to:

(1) Juvenile or tribal court proceedings involving the jurisdiction, custody, placement, supervision or provision of services to an offender;

(2) A social service agency, service provider or agent of the OYA for the purpose of arranging appropriate services for the affected offender and the offender's family, e.g., intensive family service workers, foster parents, youth care centers, private youth caring agencies, treatment centers, Indian social service or child welfare agencies, physicians and other health care providers, mental health professionals, volunteers, student interns etc.;

(3) A legislator or committee member of a legislative body with a release signed by the offender. If the representative requests information to respond to an offender's letter, the OYA will consider the letter as authorization for release of information. If the representative requests information to respond to an offender's telephonic request, the OYA may briefly discuss the case if the representative can provide assurance that the offender has authorized disclosure and there is neither physical inspection nor copying of the records by that representative;

(4) The Division of Child Support when information is needed in order to locate children or absent parents, and to establish support for offenders in OYA custody;

(5) Agencies for the purpose of program review or audit, with prior written authorization from the OYA;

(6) Divisions of the Department of Human Services that need information to determine an offender's eligibility for services or for administration of its programs;

(7) A law enforcement officer or a district attorney's office needing information for a child abuse assessment or criminal investigation or civil or criminal proceedings connected with administering OYA programs;

(8) Citizen Review Boards in connection with official duties of the board;

(9) A public disclosure in compliance with OYA policy, including, but not limited to instances where:

(a) An offender escapes from a secure facility or absconds from community placement; has been abducted or missing and believed to be in danger; or is missing and believed to be a threat to the welfare of others;

(b) Information indicates that the offender presents a clear and immediate danger to another person or society. Information will be provided to proper authorities and the person or entity in danger;

(c) The OYA determines that providing public recognition is in the best interest of an offender in order to secure essential services for the offender or in recognition of a special achievement.

(10) The offender authorizes release of information by signing an appropriate release form.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 192 & 419A.255
Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0040

Other Access

Other types of access to case record information include, but are not limited to:

(1) Judicial proceedings:

(a) Information from confidential records will not be divulged in any judicial proceedings unless it is directly connected with the administration of OYA programs, or when the offender has given written and specific authorization for such release, or when ordered by the court.

(b) Whenever any OYA staff is served with a subpoena or any other legal process that might involve the release of confidential information, the staff will act in accordance with OYA policy

(2) Research: The OYA may give approval to a person or organization to review records for the purpose of research, in accordance with Division 170 (Approval of Research Proposals) of these rules.

(3) Offenders or Authorized Representative:

(a) The offender may see only his/her record.

(b) OYA staff will review each request and record individually before it is released to the offender for review in accordance with OYA policy

(A) The offender may read the record in the presence of an OYA staff person.

(B) The OYA may ask the Attorney General to review a request when it believes the release of information may be harmful to the offender or others.

(c) For Department of Corrections' offenders temporarily assigned to OYA facilities, Department of Corrections' rules also apply.

(d) An offender's appointed attorney may inspect and receive copies of the entire case record upon request.

(4) Parents:

(a) Reports and other materials relating to the offender's history and prognosis may be disclosed to parents upon request, as defined by Oregon law.

(b) The OYA may ask the Attorney General to review a request when it believes the release of information may be harmful to the offender.

(c) Unless ordered by the court to release the information, the OYA may withhold from a parent or guardian the address of the person caring for the offender if the OYA has reason to believe such action is necessary to protect the safety of the offender or the person caring for the offender.

(5) Law enforcement:

(a) Except as authorized by federal or state law and OYA policy, OYA staff will not give law enforcement officers any information about offenders from case records, conversations, or sources obtained because the person is or has been a committed offender with the OYA.

(b) Information may be released in relation to a child abuse assessment or criminal investigation or civil or criminal proceedings connected with administering OYA programs.

(c) An offender's current address may be provided to law enforcement officers when all the following are true:

(A) The law enforcement officer provides the name and social security number of the offender;

(B) The officer satisfactorily demonstrates that the offender is a fugitive, the location or apprehension of such fugitives is within the law enforcement officer's official duties, and the request is made in the proper exercise of those duties.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 192 & 419A.255
Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

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Adm. Order No.: OYA 2-2004

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Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Adopted: 416-150-0040, 416-150-0050

ADMINISTRATIVE RULES

Rules Amended: 416-150-0000, 416-150-0010, 416-150-0020, 416-150-0030

Subject: This rule is amended to re-name the title of the rule, addresses law enforcement interrogation or polygraph, and incorporate OAR 416-440-0010 and OAR 416-440-0030 which are repealed at this time.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-150-0000

Purpose

(1) These rules establish guidelines to ensure the rights of offenders are maintained when persons seek to interview offenders in OYA custody.

(2) These rules apply to all offenders who are committed to the legal or physical custody of the OYA, and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0010

Law Enforcement Interrogation or Polygraph

When a law enforcement agency (LEA) asks to interrogate or conduct a polygraph examination of an offender suspected of violating the law or having knowledge of a law violation, OYA staff will do the following:

(1) Obtain consent from the Parole/Probation Supervisor, or facility Superintendent/Camp Director.

(2) Obtain consent from the offender following informed consent procedures.

(a) Informed consent is defined as consent that is freely given by a person with no pressure, bribes, threats or promises and no consequences for refusal.

(3) Assure the LEA representative has proper identification.

(4) Determine if the LEA representative has a warrant.

(a) If a warrant exists, OYA staff will assist the LEA representative insofar as such assistance does not infringe upon the offender's right to remain silent and to have legal representation present;

(b) If no warrant exists, OYA staff will ensure that:

(A) The offender's legal guardian, if other than the OYA, consents to the interrogation and/or polygraph.

(B) The offender's attorney, if any, is notified.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0020

Attorney Interview

(1) When an attorney asks to interview an offender, the following provisions shall apply:

(a) The attorney of record representing the offender may interview the offender privately. If the attorney, or the offender requests, an OYA staff will be present during the interview.

(b) An adversarial attorney will not be permitted to interview an offender unless the offender's legal guardian consents to the interview and the offender's own attorney is also present.

(2) Offenders may request an opportunity to privately consult with legal counsel, either face-to-face or by telephone.

(a) Attorneys of record who wish to consult face-to-face with offenders will make an appointment in advance.

(b) When an offender requests to telephone an attorney or an attorney attempts to make contact via telephone with his/her client, OYA staff will arrange the call as soon as reasonably practical within normal business hours, and in all cases within 24 hours of the request, excluding weekends or holidays. In an emergency, the call will be arranged as soon as reasonably practical without regard to normal business hours, weekends or holidays.

(c) Staff will not screen or inquire into the reason for or the purpose of the call, except to determine if an emergency exists.

(3) A copy of the current directory of attorneys in Oregon will be maintained at each OYA facility.

(4) All offenders may access the courts, without obstruction or interference by OYA staff, in order to challenge unlawful commitments and to seek redress for violations of their constitutional rights.

(5) All offenders will be permitted to retain legal papers and correspondence in a confidential manner. Written correspondence between attorneys and offenders is discussed in OAR 416-440-0020.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0030

Media Interviews

(1) The OYA will deny media access to OYA facilities, programs, and/or offenders when the purpose of the request is to profile specific offenders. Access to offenders includes interviews conducted in-person or by telephone.

(2) The OYA will consider media access to OYA facilities, programs, and/or offenders when the purpose of the request is to promote an understanding of OYA programs or services, but only when such access benefits the agency, the offender, and/or the community.

(3) When determining whether to approve media access, the OYA will consider the safety, security, and order of its facilities or programs; the effective treatment, rehabilitation, reformation, and education of offenders; and due regard for the mental and emotional well-being of offenders.

(4) Media representatives who wish to access OYA facilities or programs, or interview offenders will make written application to do so, detailing the name of the organization making the request and the purpose for the access. If access is granted, the following conditions apply:

(a) The OYA will determine which offenders and/or OYA staff are appropriate to be involved.

(b) Offender participation is voluntary.

(c) Offenders will not receive compensation or anything of value for an interview.

(d) Offenders will not be identified by any means, including the use of full name, physical description, photographs, filming, or voice records that might reveal the offender's identity.

(e) Media representatives will make advance arrangements for visits to OYA facilities or programs. Media visits may be suspended during a facility emergency or when media representatives refuse or fail to adhere to OYA rules and policies.

(5) OYA staff will always provide public information upon request, as provided by statute, rule, policy or procedure.

(6) Offenders may receive and respond to mail from media representatives as provided in OAR 416-440-0020.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0040

Other Interviews

(1) Other persons may request to interview an offender relating to benefits for the offender (such as Social Security, Veterans' Administration, or Department of Revenue), or to seek information in support of pending litigation or other matters.

(2) When such request is received, OYA staff will do the following:

(a) Determine the reason for the interview;

(b) Contact appropriate Central Office staff, if request is related to litigation or in response to subpoena;

(c) Seek the offender's consent to the interview;

(d) Determine whether legal counsel, the offender's parents/guardians, or OYA staff should consent or be present;

(e) Set the time and place of the interview.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0050

Recording Interviews

If the interviewer requests to make a mechanical or electronic recording of the interview, OYA staff will ensure the following events occur:

(1) The offender is informed about the type of recording to be made and its purpose, including how information will be used in the future and who will have access to it.

(2) The offender consents in writing to the recording.

(3) The offender understands his/her right to refuse the recording, and/or seek legal assistance before the recording is made.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014, 420A.010

Hist.: OYA 2-2004, f. & cert. ef. 5-14-04

Adm. Order No.: OYA 3-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Amended: 416-180-0000, 416-180-0010, 416-180-0020, 416-180-0030, 416-180-0040, 416-180-0050

ADMINISTRATIVE RULES

Subject: These rules are amended to revise the project vision, refine the steering committee participants' list, delineate the JJIS policy review process, and clarify personal use of JJIS.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-180-0000

Purpose

The purpose of these rules is to set forth procedures by which the Juvenile Justice Information System (JJIS) will be administered by the state through the Oregon Youth Authority (OYA), in conjunction with its partners within the juvenile justice community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0010

Project Vision

To promote public safety and youth accountability and to offer opportunities for reformation to youth, through the development of a statewide juvenile justice information system that:

(1) Provides a comprehensive view of information about juvenile offenders across Oregon's state and county juvenile justice agencies;

(2) Provides comprehensive support for managing individual juvenile offender cases and tracking juveniles through the juvenile justice process;

(3) Provides the capacity for and aids in the overall planning, development, and evaluation of programs designed to reduce juvenile crime; and

(4) Recognizes and supports the common needs of juvenile justice partner agencies.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0020

Steering Committee

The JJIS project will be administered by the state of Oregon through the OYA, with continual project oversight vested with the JJIS Steering Committee.

(1) The Steering Committee will consist of juvenile justice partners who will adopt the JJIS vision and goals. The Steering Committee will review the project to ensure its viability and the appropriate deployment of resources. The Steering Committee's responsibilities include, but are not limited to:

(a) Development of data collection information and processes;

(b) Assignment of duties between partnering state and local agencies;

(c) Determination of system features, including prioritizing development and implementation of such features; and

(d) Final approval of JJIS policy and procedure, decisions relating to implementation and maintenance of the system and upgrades, and training.

(2) The Steering Committee may develop advisory groups, as necessary, to reach JJIS goals.

(3) The Steering Committee membership will include both internal and external partners. Internal partners are those organizations who will directly record data, report information, or manage youth offender case-loads using JJIS. External partners will share information with JJIS but will not input data directly into the JJIS system or database.

(a) The Steering Committee will include the following members:

(A) Three OYA representatives, including the Steering Committee chairperson, appointed by the OYA Director;

(B) Five county juvenile department directors, including the Steering Committee co-chair, appointed by the Oregon Juvenile Department Directors' Association (OJDDA); and

(C) External partners with interest in the JJIS system or database may be invited by the Steering Committee chairperson to attend Steering Committee meetings. These partners are encouraged to participate in Committee discussions but will not have voting rights on Committee recommendations.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0030

Intergovernmental Agreements

(1) Intergovernmental agreements will be maintained between internal partners that outline the division of state and county roles and costs; intergovernmental agreements may be written to describe such roles of external partners, as determined by the Steering Committee.

(2) The language of the intergovernmental agreements will be approved by the Steering Committee and reviewed on a timeline deter-

mined by the Steering Committee. Revisions to the intergovernmental agreements require prior approval of the Steering Committee.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0040

JJIS Policy and Procedure Development

(1) The Steering Committee will define a process whereby JJIS policy and procedures are developed and approved. JJIS policy and procedure will be contained within JJIS and made available electronically; each participating state and county agency is responsible to ensure that its daily operations adhere to the standards contained within such policies and procedures.

(2) Prior to adoption, amendment or repeal of any JJIS policy or procedure by the JJIS Steering Committee, draft policies and procedures will be distributed to all juvenile department directors, the OYA Director's Group, and the OYA Rules/Policy Coordinator for review. The Steering Committee has final authority to approve all JJIS policies and procedures.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0050

Security of Information

(1) The JJIS system will comply with all federal, state, and local laws regarding public information and confidentiality, as well as information technology standards set forth by the Oregon Legislature, the Department of Administrative Services, and the Criminal Justice Information Standards. The Steering Committee will establish methods for data interchange and information access between partnering agencies that comply with such laws and standards.

(2) JJIS partners will conform to system security measures, as defined by JJIS Policy/Procedure and implemented at the local level through related procedures, to protect the integrity of the system.

(3) Persons are prohibited from using the JJIS system or JJIS data for their own interest, advantage, personal gain, or for any private purpose.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.223

Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

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Adm. Order No.: OYA 4-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Repealed: 416-030-0000, 416-030-0010, 416-030-0020, 416-030-0030, 416-030-0040, 416-030-0050, 416-030-0060, 416-030-0070, 416-030-0080, 416-030-0090, 416-030-0100, 416-030-0110

Subject: This rule is repealed as it is no longer relevant and the Agency uses other avenues to receive input from local partners and community members.

Rules Coordinator: Kimberly Walker—(503) 378-3864

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Adm. Order No.: OYA 5-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Repealed: 416-110-0000, 416-110-0010, 416-110-0020, 416-110-0030

Subject: This rule is being repealed in its entirety. The language will be adopted in a new division number. The OYA is aligning its rules to more closely follow its policies and procedures.

Rules Coordinator: Kimberly Walker—(503) 378-3864

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Adm. Order No.: OYA 6-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 4-1-04

Rules Repealed: 416-440-0010, 416-440-0030

Subject: These rules are being repealed and incorporated in Division 150.

Rules Coordinator: Kimberly Walker—(503) 378-3864

ADMINISTRATIVE RULES

Parks and Recreation Department Chapter 736

Adm. Order No.: PRD 5-2004

Filed with Sec. of State: 4-27-2004

Certified to be Effective: 4-30-04

Notice Publication Date: 2-1-04

Rules Amended: 736-040-0070, 736-040-0071

Subject: The rule amendments affect boaters on the lower 100 miles of the Deschutes River Scenic Waterway. Changes include an increase in overnight camping length of stay for motorized boaters between May 15 and October 15 in those areas where they are allowed; clarification that annual passes are not valid on Fridays, in addition to Saturdays and Sundays, from May 15 through September 15 in segments 1, 2, and 3 and from May 15 through October 15 in segment 4, nor are they valid within any river segment on any day under a limited entry system; and clarification as to where daily boater passes for segment 1 may be purchased.

Rules Coordinator: Angie Springer—(503) 986-0719

736-040-0070

Deschutes River Scenic Waterway

(1) Deschutes River Scenic Waterway Recreation Area:

(a) ORS 390.932 creates the Deschutes River Scenic Waterway Recreation Area. ORS 390.934 directs the State Parks and Recreation Department to adopt a management plan by rule to administer the Deschutes River Scenic Waterway Recreation Area. ORS 390.124 authorizes the Oregon Parks and Recreation Commission to adopt rules to carry out the duties, functions and powers imposed by law upon the Commission and the Department.

(b) Pursuant to ORS 390.934, the Oregon Parks and Recreation Commission adopts by reference the Lower Deschutes River Management Plan and Environmental Impact Statement, Volume 1 (January 1993), and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System, (June 1997) as the management plan for the Deschutes River Scenic Waterway Recreation Area. Copies of the Lower Deschutes River Management Plan and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System are available from the Parks and Recreation Department, 1115 Commercial, N.E., Suite 1, Salem, OR 97301-1002.

(c) The state managing agencies, including the State Parks and Recreation Department, Department of Fish and Wildlife, State Marine Board, and Oregon State Police and the local managing agencies, including Sherman, Wasco and Jefferson Counties and the City of Maupin shall perform their management responsibilities relating to the Deschutes River Scenic Waterway Recreation area according to the management plan adopted by this rule and ORS 390.805 to 390.925 and 390.930 to 390.940.

(d) The Confederated Tribes of Warm Springs and the Bureau of Land Management are encouraged to exercise their jurisdiction and to manage their lands in a manner consistent with the management plan adopted by section (3) of this rule and with ORS 390.805 to 390.925 and 390.930 to 390.940.

(2) Recreational River Area:

(a) The segment of the scenic waterway extending from the Deschutes River intersection with the northerly extension of the common section line of Section 29 and Section 30, Township 9 South, Range 13 East, of the Willamette Meridian, (T 9S, R 13E, W.M.), Jefferson County, downstream approximately 96 miles to the Columbia River, but excluding the right bank shoreline (as seen when facing downstream) and adjacent lands opposite the City of Maupin, as its boundaries were established on December 3, 1970, is classified as a Recreational River Area.

(b) Within this area, no new structures or improvements which are visible from the river, other than those erected or made in connection with compatible existing uses, or those needed for public outdoor recreation or resource protection will be permitted.

(c) Additional dwellings, other than those necessary to existing agricultural uses, and commercial public service facilities, including resorts and motels and lodges which are visible from the river, will not be permitted.

(3) River Community Areas:

(a) The segment of the scenic waterway extending from Pelton Re-Regulating Dam downstream approximately four miles to the Deschutes River intersection with the northerly extension of the common section line of Section 29 and Section 30, Township 9 South, Range 13 East, of the

Willamette Meridian (T 9S, R 13E, W.M.), Jefferson County, is classified as a River Community Area. The shoreline and related adjacent lands opposite the City of Maupin, as its boundaries were established on December 3, 1970, is likewise classified as a River Community Area.

(b) Within these areas, when consistent with Jefferson County and Wasco County zoning ordinances, permitted uses and structures may include agriculture, single-family and multiple-family dwellings, churches, lodges, resorts, motels, transient public trailer parks, and necessary public service facilities. Permitted densities of improvements and structures which are visible from the river may be established by the Commission after consultation with the appropriate county planning commission, the State Fish and Wildlife Commission, the U.S. Bureau of Land Management, the City of Maupin or the Warm Springs Confederated Tribes and such other persons and agencies as the Commission may select.

(4) Public use of the Deschutes River Scenic Waterway:

(a) Policy: The Oregon Parks and Recreation Commission finds that in order to protect and enhance the Deschutes River Scenic Waterway's unique aesthetic, scenic, fish and wildlife, scientific and recreational features, and because these outstanding and unique features caused this river segment to be designated by the people of Oregon as a scenic waterway, it is necessary to adopt rules for public recreation use of the lands and waters within this scenic waterway area. These rules have as their basis the need to protect and preserve the waterway's outstanding scenic beauty and natural features while maintaining the river's wide range of recreational opportunities. Therefore, in accordance with the management requirements of ORS 390.845, the following rules shall be adhered to by persons using the Deschutes River Scenic Waterway for recreation purposes. These rules are in addition to other rules of the Commission promulgated for the management of all scenic waterways. Where more restrictive or specific than the general rules, these rules will prevail over the general rules except in the instance of private property owners where only OAR 736-040-0035 (Rules for Land Management) or this rule shall apply.

(b) Restricted Areas:

(A) All persons using the Deschutes River Scenic Waterway shall be advised that the Confederated Tribes of the Warm Springs Reservation of Oregon have closed all Reservation lands to public use except by permit. This closure, enacted by the Confederated Tribes, also affects all islands west of the middle of the river between the Pelton re-regulating dam and the north boundary of the Reservation near Two Springs Ranch at the power boat deadline.

(B) All persons using the Deschutes River Scenic Waterway shall be advised that the Confederated Tribes of the Warm Springs Reservation of Oregon own the east and west banks of the Deschutes River between Sandy Beach and the State Route 16 bridge crossing downstream from Sherars Falls. Sandy Beach shall be the last designated boat take out upstream from Sherars Falls. The banks of the Deschutes River from Sandy Beach downstream to the State Route 16 bridge crossing, including the former take out on the west bank of the Deschutes River immediately upstream from Sherars Falls, shall be closed to boat put in or take out. Plan at page 74.

(C) All persons using the Deschutes River Scenic Waterway shall be advised that the Deschutes River from the upstream end of Rattlesnake Rapids at about river mile 2.5 and extending downstream to the no wake zone at the downstream end of Moody Rapids at about river mile .5 is a pass through zone. All floating craft, except float tubes, shall pass through this segment of river and shall not stop along or tie up to the riverbank except in the event of an emergency. Plan at pages 58-60.

(D) Nothing in these rules gives to any person any right to trespass on the private property of others or in any way alters the rights of private property owners in regards to trespass.

(c) Definitions: For purposes of this rule, the following definitions shall apply:

(A) "Camping" means overnight occupation within the Deschutes River Scenic Waterway.

(B) "Day Use" means human presence within the Deschutes River Scenic Waterway between the hours of one hour before sunrise to 10:00 PM.

(C) "Designated Non-Fee Site" means a marked and designated campsite for which no fee is charged. The Deschutes River Managers shall designate river segments or zones where non-fee camping is allowed only in designated sites.

(D) "Fee Sites" means a marked and designated drive-in or developed camp site for which a fee is charged. Any reference in this rule, or OAR 736-040-0071, to drive-in or developed sites shall have the same meaning as Fee Site.

ADMINISTRATIVE RULES

(E) "Group" as used in this rule means a party of two or more persons while present within the Deschutes River Scenic Waterway.

(F) "Group Site" as used in this rule means a fee site, designated non-fee site, or any other site designated by the Managing Agencies as a group site. Group sites shall be designated for use by nine persons or more, up to the maximum site capacity as designated by the Managing Agencies. Where no maximum capacity is designated, the maximum capacity shall be the maximum group size for the river segment.

(G) "Non-Fee Site" means a campsite for which a fee is not charged. As used in this rule, all references to undeveloped campsites or undeveloped sites have the same meaning as non-fee sites.

(H) "Occupied Non-Designated and/or Designated Non-Fee Boat-In Campsite" as used in this rule means the presence of at least one person for each campsite, who, if not physically present within the campsite, prominently displays in a readily legible manner, within the campsite, the person's name and boater pass number, or if the person is covered under a group pass, the person's name and the name and boater pass number of the group leader.

(I) "Overnight Occupation" means human presence between the hours of 10:00 PM and one hour before sunrise.

(J) "Recreation Site" means a marked and designated, general camping or activity area as designated by the Deschutes River Scenic Waterway Managers, or a public agency or political subdivision of the state. A recreation site shall generally contain individual campsites or a day use area.

(K) "Unoccupied" as used in this rule means the absence of human presence during the period one hour after legal sunset to one hour before legal sunrise.

(L) "Walk-In Fee Site" means a marked and designated fee site in which the main recreation site is designated to be accessed by vehicle or boat. The individual campsite is generally a satellite campsite accessed on a walk-in basis from the main recreation site. Vehicle access is prohibited.

(d) Camping:

(A) Overnight camping is prohibited on all islands. Plan at page 63.

(B) Overnight camping length of stay shall be limited to:

(i) Four nights in undeveloped sites. Plan at page 63;

(ii) Fourteen nights in developed sites except at Deschutes State Park where the camping limit shall be ten days out of 14. Plan at page 63;

(iii) Nine nights for motorized boats between May 15 and October 15 in those areas where they are allowed. Plan at page 63.

(C) No person shall leave camping equipment or personal property overnight at or in an unoccupied, public, non-fee, campsite as a means to claim, hold, reserve or secure the site for subsequent occupancy by the same person, or their friends, clients, business associates, or clients of business associates. For the purposes of this paragraph, unoccupied means the absence of human presence during the period one hour after legal sunset to one hour before legal sunrise.

(D) At the end of a consecutive four night, overnight camping length of stay specified in subparagraph (4)(c)(B)(i) of this rule, all camping equipment and personal property shall be removed from the area and cannot be relocated within 1/4-mile of the same site for a period of at least 14 nights. Plan at page 63.

(E) Between May 15 and October 15, whenever motorized boaters vacate a campsite and it will be unoccupied as that term is defined in paragraph (4)(c)(C) of this rule, all camping and personal property shall be removed from the area and cannot be relocated within 1/4 mile of the same site for a period of at least 14 nights.

(F) Group size within the Deschutes River Scenic Waterway will be limited to 16 persons in segments 1, 3 and 4, and 24 persons in segment 2.

(G) Overnight camping group size shall be determined by the size and capability of the site. In no case shall group size exceed 16 people per site in Segments 1, 3 or 4 and 24 in Segment 2. Plan at page 63.

(H) Overnight occupancy in vehicle accessible public areas of the Deschutes Scenic Waterway will be allowed within designated fee sites only.

(I) Overnight occupancy within river areas that are managed as designated non-fee camping zones will be permitted only within designated and marked non-fee sites. Non-fee areas of river segment 1 are designated non-fee zones.

(J) Any group occupying fee or designated non-fee sites is required to abide by the designated capacity of the site. No group leader shall allow violation of this rule by any member of his/her group.

(K) Any group occupying fee or designated non-fee sites shall be required to contain all group and personal equipment within the site. Where a site boundary is marked, all group and personal equipment shall be contained within those boundaries. Where no site boundary is provided, all

group and personal equipment shall be contained within a line 1/2 the distance between site designation markers. As far as is practical, all camping equipment such as tents and/or tables shall be erected or used within the most impacted core area of the site.

(L) Groups shall, as far as practical, occupy fee and designated non-fee sites that display a capacity that generally corresponds with the size of the group. As far as practical, small groups shall not occupy large capacity sites.

(M) Groups of eight persons or less, except in an emergency, are prohibited from occupying designated group sites.

(N) All non-designated and/or designated non-fee boat-in campsites within the Deschutes River Scenic Waterway shall be occupied on a first come first serve basis. Campsites may not be reserved or held for later occupation. One person may occupy and thereby hold only one campsite. Placing group or personal property in a campsite not occupied by at least one person, for the purpose of holding or reserving the site for later occupation is prohibited

(e) Campfires, Fuel, Firepans, Smoking:

(A) Open fires and charcoal shall be prohibited from June 1 to October 15. Periods of fire closure may be extended if conditions warrant. Plan at page 77. When not prohibited, fire shall be contained in a firepan or similar device of metal. A firepan is a metal container with sides at least two inches high to prevent ashes or burning material from spilling onto the ground.

(B) Commercially manufactured metal camp stoves and lanterns are permissible for outdoor use only when fueled with bottled liquified petroleum gas (e.g., propane) or liquid gas. Such stoves or lanterns shall be operated in a responsible manner at all times.

(C) Burning of any living, dead or down vegetation within the Lower Deschutes River Management Plan area shall be prohibited. Plan at page 77.

(D) Every overnight camp, overnight hiking party or person using fire or operating a motor driven vehicle or boat within the Deschutes River Scenic Waterway designated by ORS 390.825, shall carry and keep reasonably accessible one bucket of at least one gallon capacity and one spade or shovel.

(E) No person shall leave a fire unattended.

(F) All fires shall be completely extinguished after use. The extinguished remains shall be taken out of the scenic waterway for disposal or deposited in a proper garbage receptacle provided at recreation sites or litter collection stations.

(G) Smoking shall be limited to buildings, closed vehicles, boats on the water or while standing in the water. Plan at page 77.

(f) Firearms: The discharge of firearms is prohibited within the Lower Deschutes River planning area boundaries from the third Saturday in May through August 31 of each year. Plan at page 77.

(g) Water cannons: The use of motorized/mechanized water cannons is prohibited. No person shall use manual water cannons, hydro sticks, water balloons/water balloon launchers, or other water projectile device in any way that creates a hazardous or physically offensive condition or that causes personal or public alarm, nuisance, jeopardy, or violence. Plan at page 59.

(h) Litter and Personal Sanitation:

(A) Persons using the Deschutes River Scenic Waterway for recreational purposes shall place refuse, scrap, trash and garbage in proper receptacles provided for that purpose at maintained recreation sites or litter collection stations. No such refuse, litter, garbage or similar materials shall be buried, abandoned or burned and buried or abandoned. When no approved receptacle or container is available, the material shall be taken out of the scenic waterway area for disposal. Plan at page 62.

(B) All persons using the Deschutes River Scenic Waterway for recreational purposes shall use the developed toilet facilities provided at public recreation sites. An approved portable toilet shall be carried and used by overnight boating groups (1 to 16 persons in segments 1, 3 and 4; 1 to 24 persons in segment 2) that remain, intend to remain, or display intent to remain overnight within the Deschutes River Scenic Waterway, except that this requirement shall not apply to overnight kayak trips that are entirely self-contained and not supported by other craft carrying gear. While present within the Deschutes River Scenic Waterway on an overnight boating basis, all persons shall, whenever practical, use either an approved portable toilet or an agency provided toilet facility for all solid human waste. All persons who remain, intend to remain, or display intent to remain overnight in an undeveloped camp site shall set up an approved portable toilet, ready for use, as soon as practical upon landing at the camping site to be occupied. No person shall leave, deposit, or scatter human waste, toilet paper, or

ADMINISTRATIVE RULES

items used as toilet paper, on the ground within the Deschutes River Scenic Waterway. While within the Deschutes River Scenic Waterway, portable toilets shall only be dumped at facilities developed and identified especially for that purpose. Plan at page 62. Where toilets are not provided, and the situation makes it impractical to use a portable toilet, persons shall bury all human waste and toilet paper, or material used as toilet paper, at least six inches below the surface of the ground in natural soil and at least 50 feet from the edge of the river or any other water source. For purposes of this paragraph, the following definitions shall apply:

(i) "Approved portable toilet" is any non-biodegradable, rigid, durable, container designed to receive and hold human waste, in any container position, without leaking, and equipped with a dumping system that allows the container to be emptied and rinsed into a standard receiving or dump system designed for that purpose, such as a SCAT machine or recreational vehicle dump station, in a sanitary manner, without spills, seepage or human exposure to human waste.

(ii) "Remain overnight" means human presence in the Deschutes River Scenic Waterway on a boat-in basis for any period of time from one hour after legal sunset to one hour before legal sunrise.

(iii) "Display intent to remain overnight" while within the Deschutes River Scenic Waterway on a boat-in basis includes, but is not limited to, any off-loading onto the river bank, or preparing for use, common overnight camping equipment such as tents, sleeping bags or bedding, food, cooking or dining equipment, or lighting equipment, or to prepare common camping equipment for use in or on any boat.

(iv) "Developed camp site" means a motor vehicle accessible, fee site.

(i) No person shall use fireworks within the Deschutes River Scenic Waterway: Defined as any combustible or explosive composition or substance or any combination of any such compositions or substances or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, or any other article of like construction or any article containing any explosive or inflammable compound or any tablets or other device containing any explosive substance or inflammable compound.

(j) Vehicle restrictions: The limitations set forth in paragraphs (A) through (B) of this subsection shall apply to all vehicles, operators and passengers on the following roads within the Deschutes River Scenic Waterway: Mecca Flat Road; Trout Creek Road; BLM Upper River Access Road-Maupin to Locked Gate; BLM Middle River Access Road-Bakeoven Road to Highway 216; and BLM Lower River Access Road-Highway 216 to Macks Canyon.

(A) No person shall operate a vehicle with a seating capacity greater than 24 passengers (each seat to hold no more than two persons) plus one driver and/or a total vehicle length greater than 28 feet. Plan at page 71.

(B) No person shall ride or allow another person to ride in or on top of a boat or boats within or on the back of any open bed motor vehicle, or on a boat or boats loaded on the top of any other motor vehicle. A person or persons may ride within a single boat that is properly secured by ropes or straps within the bed rails of a pickup truck, or properly secured as above on the bed of a flat bed motor vehicle. No person will be allowed to ride on the exterior portion of any motor vehicle within the Deschutes River Scenic Waterway.

(k) Inner tubes, float tubes, boogie boards:

(A) Swimming or floating with or without a flotation device and/or the use of inner tubes, float tubes, boogie boards, surf boards and other similar water toys used for transport of persons or property is prohibited in the Deschutes River channel in Moody Rapids on those days when power boats are allowed, except as provided below. This prohibition is in effect from the upstream end of Moody Rapids down river to the downstream side of the Moody Rapids channel marker from legal sunrise to legal sunset when power boats are allowed under the regulations of the Oregon State Marine Board. Anglers using float tubes may cross the Moody Rapids channel during these times provided they do so in the most direct route possible. Float tube anglers crossing the Moody Rapids channel shall look out for and give right-of-way to any motorized boat, which is in Moody Rapids channel or about to enter the rapids from downstream or upstream, or in any event when motorboats are approaching close enough to create a hazard.

(B) It is unlawful to secure any person(s), inner tube, float tube, boogie board, surf board or other similar water toys used for transport of persons or property, in or on the waters of the Deschutes River, to the river

bank or to any tree, fixed object or anchoring device on lands adjacent to the river bank or to any such object or device within the boundaries of the river and river banks of the Deschutes River by any cable, rope, line, bungee cord, or other means except to secure boats to the river bank as a normal and recognized necessity. No person shall hold on to any such line or to any device secured to such line in order to ride or be transported into any channel of the Deschutes River.

(C) It is unlawful to secure any cable, rope, line or bungee cord or any device across the river except as necessary for rescue and/or salvage operations and other necessary uses upon consent of the managing agencies of the Confederated Tribes of Warm Springs, Oregon Parks and Recreation Department, Bureau of Land Management and Oregon State Police.

(D) The cables presently in place across the Deschutes River at Dant and the upstream area (approximately river mile 52) of the City of Maupin are exempt from this rule. Any permanent device, as described in this paragraph, will require approval from the Scenic Waterways Program of the Oregon Parks and Recreation Department in accordance with ORS 390.845 and OAR 736-040-0030 and 0035.

(E) The rules set forth in this rule shall not be applicable to the Deschutes River State Recreation Area Campground, the use of which shall instead be governed by general park area rules and the authority and discretion of the park manager.

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

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.934(2) & 390.938(3)

Hist.: HC 1285, f. 6-27-72; PR 3-1982, f. & ef. 3-26-82; PR 4-1983, f. & ef. 3-30-83; PR 3-1985, f. & ef. 6-4-85; PR 5-1985(Temp), f. 7-15-85, ef. 11-1-85; Suspended by PR 6-1985(Temp), f. & ef. 10-1-85; PR 9-1986, f. & ef. 6-12-86; PR 5-1990, f. & ef. 12-18-90; PR 4-1994, f. & ef. 4-22-94; PRD 2-1998, f. & ef. 1-28-98; PRD 5-1999, f. 5-14-99, cert. ef. 6-1-99; PRD 6-2002, f. 5-15-02, cert. ef. 6-1-02; PRD 8-2003f. 7 cert. ef. 10-3-03; PRD 5-2004, f. 4-27-04, cert. ef. 4-30-04

736-040-0071

Deschutes River Scenic Waterway Boater Pass System Rules

(1) Policy:

(a) The Oregon Parks and Recreation Commission finds that in order to carry out the intent of Chapter 798, Oregon Laws 1981, monies collected from the sale of the Deschutes River Scenic Waterway Boater Pass shall be used for the following purposes:

(A) For operation of the pass system;

(B) For providing river-user oriented law enforcement services;

(C) For providing river recreation information and education;

(D) For developing and maintaining river oriented recreation facilities; and

(E) For any other purposes the Department considers appropriate for the maintenance, enhancement or protection of the natural and scenic beauty of the Deschutes River Scenic Waterway consistent with ORS 390.805 to 390.925.

(b) As provided by the statute, monies collected from this program shall be used exclusively within the Deschutes River Scenic Waterway;

(c) It shall further be the policy of the Commission that these monies shall be used first, to operate the pass system; and secondly, to provide as directly as possible, education, information and rule enforcement services to those river users who contribute directly to this fund. When in the judgment of the State Parks and Recreation Department Director, these priority needs can be continually met, additional uses of these funds shall be allowed consistent with paragraphs (1)(a)(D) and (E) of this rule;

(d) In determining the future use of these funds for purposes other than those listed in paragraphs (1)(a)(A), (B), and (C) of this rule, the State Parks and Recreation Department Director may consider input from the various local, state, and federal agencies involved with managing resources within the Deschutes River Scenic Waterway, the Confederated Tribes of Warm Springs Reservation of Oregon, and the general public;

(e) The Oregon Parks and Recreation Commission, by adoption of this rule, delegates the administration of this Deschutes River Scenic Waterway Boater Pass program and the funds derived from it as authorized by Chapter 798, Oregon Laws 1981, to the State Parks and Recreation Department Director or the Director's designed;

(f) The Commission encourages all local, state and federal agencies involved in resource management of the Deschutes River Scenic Waterway and the river users themselves, to give their full cooperation to this program;

(g) The Commission recognizes that the Deschutes River Scenic Waterway Boater Pass program is experimental in nature. It will endeavor to annually adjust the program as new information about visitation, river user needs and trends become apparent.

(2) Definitions: For purposes of this rule, the following definitions shall apply:

ADMINISTRATIVE RULES

(a) "Deschutes River Scenic Waterway": That portion of the Deschutes River designated in ORS 390.825 as a State Scenic Waterway. The portion of the Deschutes River Scenic Waterway that is affected by this rule (736-040-0071) covers approximately 100 miles from Pelton Re-regulating Dam to the Columbia River, excluding the city limits of Maupin as established on October 4, 1977. The Scenic Waterway area includes all water and lands within 1/4 mile of the bank on either side of the river;

(b) "Boat": Every watercraft or device used as a means of transport on the water of the Deschutes River Scenic Waterway;

(c) "Deschutes River Scenic Waterway Boater Pass" - A receipt for a fee paid pursuant to Section 2, Chapter 798, Oregon Laws 1981;

(d) "In Possession": Possessed in such a manner as to be readily available, nearby, or in close proximity to the passholder and able to be easily and quickly produced on the site in the event the passholder is requested to do so by an authorized agent or law enforcement officer, or State Park and Recreation Department employee authorized to issue citations pursuant to Section 2, Chapter 692, Oregon Laws 1981;

(e) "Day": Any part of a 24-hour period running from 12:01 a.m. to the following midnight;

(f) "Group": A boating party not to exceed 16 persons in segments 1, 3 and 4 and not to exceed 24 persons in segment 2; the group leader(s) of which possess a properly signed and valid boater pass(es) for not fewer than the total number of persons in the group;

(g) "Group Leader": A person who obtains and signs a Deschutes boater pass via the Internet application process or an authorized boater pass vendor on behalf of a boating group. By signing the boater pass, the group leader accepts legal responsibility for the leader's and group members' compliance with all applicable Oregon Parks and Recreation Department, Oregon Marine Board, State of Oregon Liquor, Controlled Substance, Juvenile and Criminal laws and Deschutes River Scenic Waterway rules;

(h) "Passholder": Any individual person or person within a group for which the appropriate fee has been paid and that individual or a member of the group is in possession of a Deschutes River Scenic Waterway Boaters Pass;

(i) "Immediate Family": The spouse and any natural or adopted children of a property owner or the property owner's spouse who reside with the owner of property which immediately abuts the Deschutes River Scenic Waterway.

(j) "Boat Accessed Presence": A person's or group's physical presence in the Deschutes River Scenic Waterway in conjunction with being transported in or on a boat; which presence shall be covered by a valid Deschutes boater pass from the time of initial transport by boat until the person or group leaves the Deschutes River Scenic Waterway by boat regardless of whether or not the person or group uses a boat during each day of their presence in the Deschutes River Scenic Waterway.

(3) When Pass is Required:

(a) No person shall launch, operate or ride in any boat or engage in any camping, fishing or other activity in connection with being transported by a boat on those portions of the Deschutes River designated as scenic waterways under ORS 390.825, during the time period established in section (4) of this rule, without having first obtained a valid Deschutes River Scenic Waterway Boater Pass (hereinafter referred to as "pass") for the days during which these activities are conducted. A person will be issued, upon payment of the appropriate fee and completion of the pass form, either an individual pass, annual pass, a group pass, or a special pass as specified in section (10) of this rule;

(b) Every person landing, operating or riding in a boat or engaging in any camping, fishing or other activity in connection with being transported by a boat on that portion of the Deschutes River Scenic Waterway specifically described in subsection (2)(a) of this rule, shall display his/her individual, annual, group or special pass upon the demand of any law enforcement officer or employee of the State Parks and Recreation Department who is authorized to enforce these rules.

(4) Time Period of Pass: The time period for which a valid pass is required is year round.

(5) Requirements for Valid Pass:

(a) The pass will consist of the following information to be placed on a form provided by the State Parks and Recreation Department and completed at the time of purchase:

- (A) Calendar date(s) pass will be used;
- (B) Number of days pass will be valid;
- (C) Total fee paid for issuance of the pass;
- (D) Number of persons authorized by pass;
- (E) Signature of passholder or group leader;
- (F) A summary of appropriate river use rules;

(G) Driver's license number;

(H) Date of birth.

(b) In order for a pass to be valid in subsection (a) of this section, the recipient must:

(A) Provide all of the above information as requested;

(B) Have the completed pass in possession while boating within the Deschutes River Scenic Waterway;

(C) Be boating within the Deschutes River Scenic Waterway only on the calendar days authorized for on the recipient's completed pass; and

(D) Have paid the appropriate fee.

(c) A passholder may also be issued with the pass, informational and educational material designed to encourage an appreciation of the scenic waterway and promote minimum impact recreation use.

(6) Cost of Pass:

(a) The fee for issuance of a pass, either individual or group, shall be \$2 per person per day, except that the fee for individuals or groups using only that portion of the Deschutes River Scenic Waterway from the Heritage Landing launch ramp, or the bank moorage adjacent to Deschutes River State Recreation Area, downstream to the Columbia River solely for boat access to the Columbia River, shall be \$1 per person per day. Use of the \$1 pass, also known as the Heritage to Columbia pass, for boating recreation on or access to the Deschutes River, or access to islands in the Deschutes River is prohibited.

(b) The fee for issuance of an individual annual pass shall be \$15 per person per year. Except as provided in subsection (c) of this section, each annual pass will be valid only for a single calendar year beginning on January 1 and ending on December 31 of each year a pass is required under section (4) of this rule.

(c) An annual pass shall not be valid on Fridays, Saturdays and/or Sundays from May 15 through September 15 in segments 1, 2 and 3, and from May 15 through October 15 in segment 4. An annual pass shall not be valid within any river segment on any day under a limited entry system. Annual pass holders who engage in boating, or activities involving boating, within the Deschutes Scenic Waterway during these periods, shall be required to obtain a daily boater pass for those days the annual pass is not valid.

(7) Group Pass:

(a) No group shall exceed the number of persons shown on the pass. In the event the number of persons in the group exceeds the number shown on the pass, the group leader shall be in violation of this rule;

(b) Group passes will be issued only for 16 persons or less for segments 1, 3 and 4, and 24 persons or less for segment 2;

(c) The daily pass shall be in the possession of the group leader at all times while within the Deschutes River Scenic Waterway.

(8) Sale of Pass:

(a) With the exception of daily passes for segment 1, daily boater passes will be available for purchase on the Internet, at selected state park offices, certain cooperating businesses and selected public agency locations throughout the state. Daily boater passes for segment 1 will be available for purchase on the Internet only. Selection of vendors will be based on location, days and hours of operation, past performance in similar governmental sales and the ability to provide service to a large number of potential Deschutes River Scenic Waterway boaters;

(b) Private vendors and cooperating agencies must comply fully with the terms of the Department/Vendor agreement and the Department's policies for vending the Deschutes River Scenic Waterway Boater Pass. Private vendors and cooperating agencies may charge a \$.50 handling fee for dispensing each pass or duplicate pass. Such fee will be in addition to any fee charged under section (6) of this rule;

(c) Passes will be available for purchase year-round. The State Parks and Recreation Department will publish and make available to the public, at no cost, a listing of all vendors of the Deschutes River Scenic Waterway Boater Pass. The list will include location of vendors and days and hours the pass will be available for purchase.

(d) The annual pass shall be available for purchase in person or by mail only from the Parks and Recreation Department office in Salem and such other outlets as the Department may determine necessary. The Department may require that annual pass holders submit periodic reports detailing the use of their annual pass during any calendar year. The frequency and format of such reports shall be as prescribed by the Department. The Department may require that the issuance of an annual pass to any person be contingent on that person having submitted annual pass use reports for the previous season, if applicable.

(9) Refunds, Replacements:

(a) No cash refunds will be permitted in the event a pass is not used;

ADMINISTRATIVE RULES

(b) The passholder may get a duplicate pass to replace one that is lost or destroyed by applying for a duplicate from the same vendor from which he purchased the original pass. A duplicate pass may only be issued prior to the effective date of the original pass. The passholder must provide to the vendor all information necessary to permit the vendor to confirm the original pass sale.

(10) Special Exceptions:

(a)(A) Pursuant to Section 2(3), Chapter 798, Oregon Laws 1981, the State Parks and Recreation Director shall issue without charge annual passes to comply with the requirements of this rule to persons who own ranch, farm, or residential property immediately abutting those portions of the Deschutes River designated as a Scenic Waterway under ORS 390.825 and more particularly described in subsection (2)(a) of this rule and to members of the immediate family of such persons. This rule does not authorize the issuance, without charge, of passes to persons holding less than a majority interest in a firm, corporation or cooperative organization which owns land immediately abutting the Deschutes River designated as a scenic waterway under ORS 390.825;

(B) Free annual passes shall be issued by the State Parks and Recreation Department to persons who qualify under this section and have contacted the State Parks and Recreation Department or the Department's designated contractor. All passes issued under this section are nontransferable. They are for the sole use of the person(s) to whom they are issued;

(C) Persons who believe they qualify for a free annual pass must contact in person or by mail: River Programs, State Parks and Recreation Department, 1115 Commercial St. N.E., Suite 1, Salem, OR 97301-1002 (Attn: Free Annual Pass), or the Department's designated contractor, and present for the Department's review evidence that substantiates the applicant's claim to a free annual pass. Evidence may consist of property tax information, deeds, birth certificates or similar legal or real estate devices.

(b)(A) The State Parks and Recreation Director may issue a \$5 annual access pass to persons who own, either wholly or in partnership, farm, ranch or residential land within the specific reach of the Deschutes River Scenic Waterway described in subsection (2)(a) of this rule, and whose sole or customary means of access to their farm, ranch or residential facilities is by boat. The purpose of this pass is to permit unrestricted access to private property not reasonably or traditionally accessible by any means other than by boat. Each annual access pass will be valid for up to four persons;

(B) Prior to the issuance of this pass, an individual must submit a written request to the Director or the Department's designated contractor, clearly stating the reasons, factors or circumstances requiring the issuance of the annual access pass.

(c) The Director, or the Department's designated contractor, may issue a \$5 annual occupational pass to persons or employees of farm, ranch or residential property owners and lessees of farm, ranch or residential property. The farm, ranch or residential property must be immediately abutting that portion of the Deschutes River Scenic Waterway more particularly described in subsection (2)(a) of this rule. The annual occupational pass shall be for those persons engaged in boating in order to access, supervise, or maintain property immediately abutting the Deschutes River Scenic Waterway. This pass will not be valid for boating in connection with any recreational activity. The pass is transferable among employees and caretakers of a single property-owner or organization; the pass is also transferable among leaseholders of a particular parcel of property. Proof of employment or lease agreement will be required prior to the issuance of this pass;

(d) Pursuant to Section 3(2), Chapter 798, Oregon Laws 1981, no Deschutes River Scenic Waterway boater pass will be required of:

(A) Peace officers, members or employees of a governmental body, or their agents, while engaged in the discharge of official duties; or

(B) Any member of the Confederated Tribes of the Warm Springs Indian Reservation.

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

Stat. Auth.: ORS 390.124 & 390.848

Stats. Implemented: ORS 390.124, 390.848 & 390.851

Hist.: PR 2-1982, f. 2-3-82, ef. 5-15-82; PR 2-1983, f. & ef. 3-11-83; PR 15-1992, f. & cert. ef. 11-12-92; PR 5-1994, f. 4-22-94, cert. ef. 6-1-94; PR 2-1999, f. & cert. ef. 4-15-99; PR 5-1999, f. 5-14-99, cert. ef. 6-1-99; Administrative correction 12-27-99; PR 6-2002, f. 5-15-02, cert. ef. 6-1-02; PR 8-2003, f. & cert. ef. 10-3-03; PR 5-2004, f. 4-27-04, cert. ef. 4-30-04

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Adm. Order No.: PRD 6-2004

Filed with Sec. of State: 5-5-2004

Certified to be Effective: 5-5-04

Notice Publication Date: 3-1-04

Rules Adopted: 736-006-0140

Rules Amended: 736-006-0100, 736-006-0105, 736-006-0110, 736-006-0115, 736-006-0125

Rules Repealed: 736-006-0120

Rules Ren. & Amended: 736-006-0130 to 736-006-0145, 736-006-0135 to 736-006-0150

Subject: Oregon Administrative Rule 736-006-0100 provides operating rules for the Local Government Grant Program in providing recreation opportunities. Additional criteria for grant selections will include the applicant's use of sustainable practices within their project and will allow for an increased maximum amount of grant funds. The rules change will also allow for the increase or decrease of funds based upon biennial allocations.

Rules Coordinator: Angie Springer—(503) 986-0719

736-006-0100

Purpose of Rule

This division establishes the procedures and standards used by the Oregon Parks and Recreation Department when distributing state monies to eligible local governments for outdoor park and recreation areas and facilities, and the process for establishing the priority order in which projects shall be funded.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0105

Statutory Authority and Procedure

ORS 390.180 requires the Director of the Oregon Parks and Recreation Department to adopt rules establishing procedures the Oregon Parks and Recreation Department shall use when the Department disburses money to local governments.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0110

Definitions

As used in this division, unless the context requires otherwise:

(1) "Acquisition" — Means the gaining of property rights, including but not limited to fee title or easements, for public use.

(2) "Commission" — Means the Oregon Parks and Recreation Commission.

(3) "Committee" — Means the Local Government Grant Advisory Committee appointed by the Director to prioritize local government project applications.

(4) "Conversion" — Means the act of utilizing property acquired or developed using either Local Government Grant Program funds or Land and Water Conservation Funds for purposes other than public outdoor recreation uses.

(5) "Current Master Plan" — Means a site-specific resource-based plan guiding recreational site acquisition, development, protection and management of park areas and facilities.

(6) "Department" — Means the Oregon Parks and Recreation Department (OPRD).

(7) "Development" — Means the construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.

(8) "Director" — Means the Director of the Oregon Parks and Recreation Department.

(9) "Eligible Project" — Means an acquisition, development, or major rehabilitation undertaking which satisfies the requirements of the Local Government Grant Program.

(10) "Force Account" — Means the governmental entity's own work force performing project work rather than contracting out for the services.

(11) "LWCF or Land and Water Conservation Fund" — Means those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

(12) "Local Comprehensive Plan" — Means the acknowledged comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS Chapter 197.

(13) "Local Government Grant Policies and Procedures Manual" — Means a manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in the Local Government Grant Program.

ADMINISTRATIVE RULES

(14) "Local Government Grant Program" — Means the program and process for distributing state monies to eligible local governments for outdoor park and recreation areas and facilities.

(15) "Major Rehabilitation" — Means the repair, restoration, or reconstruction of facilities, which is necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of maintenance.

(16) "OPRD" — Means the Oregon Parks and Recreation Department.

(17) "Project" — Means the site and associated improvements where acquisition, development, or major rehabilitation will occur.

(18) "Project Authorization" — Means the State/Local Agreement that authorizes the project to begin effective on or after the date signed by both the Director and Project Sponsor.

(19) "Project Sponsor" — Means the recipient of the grant funds and the entity responsible for implementation of the project and the maintenance and operation of the site.

(20) "SCORP" — Means the Statewide Comprehensive Outdoor Recreation Plan that is Oregon's basic five-year plan for outdoor recreation and that provides the state with an up-to-date regional information and planning tool serving as the basis by which all Oregon recreation providers (state, federal, local, and private) catalogue and rank their recreation needs, obtain funding through partnerships and grants, and affirm their respective roles.

(21) "State/Local Agreement" — Means the signed agreement between the Department and Project Sponsor, which authorizes the project to begin on, or after the date signed by both the Director and the Project Sponsor and that describes the contractual relationship and responsibilities of the parties to the Project.

(22) "Sustainability" — Means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0115

Apportionment of Monies Between Small and Large Grants

(1) Ten percent (10%) of available funds shall be set aside for small grants. Small grants are projects with a maximum \$50,000 grant request.

(2) The remainder of available funds shall be for large projects with a maximum \$500,000 grant request. Funding cycles shall be on a biennial basis.

(3) In consultation with the Committee, the Commission and the Director may set the maximum at less than that above amounts based upon the availability of funds.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0125

Application Procedure

The purpose of this section is to set forth requirements that must be met by local government applicants in submitting an application for Local Government Grant Program funding assistance.

(1) Eligibility for Funding Assistance. Public agencies eligible for state funding assistance are:

- (a) Cities, Municipal Corporations;
- (b) Counties, Political Subdivisions;
- (c) Park and Recreation Districts;
- (d) Port Districts;
- (e) Metropolitan Service Districts.

(2) Matching Requirements:

(a) The Local Government Grant Program provides for up to 50 percent funding assistance for cities/districts with a population greater than 5,000 and for counties with a population greater than 30,000.

(b) The Local Government Grant Program provides for up to 60 percent funding assistance for cities/districts with a population of less than 5,000 and counties with a population of less than 30,000.

(c) The eligible match by the Project Sponsor may include local budgeted funds, local agency labor or equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated funds, the value of private donated property, equipment, materials, labor, the value of land acquired within the past six year period, cost of appraisals, pre-development costs within the past two year period (cannot exceed 15 percent of total project costs), or any combination thereof.

(3) Eligible Projects:

(a) Acquisition, development and major rehabilitation projects that are consistent with the outdoor recreation goals and objectives contained in the SCORP, and/or recreation elements of local comprehensive plans and local master plans. Only outdoor park and recreation areas and facilities are eligible.

(b) Water based outdoor recreation facilities such as short-term transient moorages and non-motorized boat and watercraft projects and water access.

(4) Planning Requirements. Project Sponsors participating in the funding assistance program must show that there is a current master plan in effect and/or that the project is consistent with the local comprehensive land use plan and SCORP.

(5) Application Form. All applications for funding assistance for outdoor park and recreation program projects must be submitted on forms as prescribed and supplied by the Department. All applications must be consistent with the Local Government Grant Policies and Procedures Manual and contain the following information:

- (a) Program narrative;
- (b) Environmental assessment;
- (c) Vicinity map;
- (d) Project boundary map;
- (e) Civil Rights compliance;
- (f) Copy of property deed or lease;
- (g) Preliminary plans and specifications for construction projects;
- (h) Estimate of development costs and project construction schedule;
- (i) Copy of property Purchase Agreement (for acquisitions only);
- (j) Local/County Planning Department Certification/Review;
- (k) All required permits and certifications as identified in the Local Government Grant Policies and Procedure Manual;

(l) Government-to-Government Inquiries (Tribal) — Certification to the Department that the Project Sponsor has communicated their grant proposal to the appropriate federally recognized tribe for the review and determination of tribal interest or concern for those areas of known or suspected tribal archeological resources.

(m) Other documentation that may be required by the Department.

(6) Project Award Procedure:

(a) Upon receipt of the application by the Department, the Grants Program staff shall perform a technical review of all applications and forward eligible large grant applications to the Committee. The Committee will meet to evaluate the applications and make recommendations to the Director for Commission approval.

(b) Project Sponsors with large project grant requests may be expected to provide a presentation to the Committee under a procedure established by the Department.

(c) Project Sponsors whose projects have been approved by the Commission and are scheduled for funding assistance must submit to the Department the following project information:

- (A) Certification by project sponsor of availability of local match;
- (B) Preliminary plans and specifications (for construction projects);
- (C) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards for Federal Land Acquisitions;
- (D) Preliminary title report for acquisitions;
- (E) Documented Americans with Disabilities Act Compliance Plan;
- (d) The Department will remove those project applications from the Commission approved list that are unable to provide the required documentation required in subsection (c) of this section.

(e) In the event that the funding assistance available cannot fully fund the last priority project, the Project Sponsor will be given the option of reducing the scope of the project. The Department, at its discretion, may pass the available funds to the next priority project.

(f) Projects that do not receive funding assistance for the fiscal year submitted will be returned to the applicant without prejudice.

(7) Project Agreement:

(a) A signed State/Local agreement shall constitute project authorization. No project may begin without a signed State/Local agreement from the Department.

(b) The sponsor shall have one year from the date of authorization to begin substantial work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force account). Projects not conforming to this schedule will be cancelled, unless substantial justification warrants an extension. Extensions in such cases will be made for a six-month period only.

(c) All projects shall be completed and billed by the dates as specified in the State/Local Agreement.

ADMINISTRATIVE RULES

(d) Projects may be inspected by the Department.

(e) Partial payments up to 90 percent of the grant amount may be billed during the project for work completed. Final payment will be made upon certification of project completion by the Project Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed in escrow for the closing of a property acquisition.

(f) Project amendments that increase the Local Government Grant award amount will generally not be allowed.

(g) Requests for time extensions to complete work must be submitted to the Department in writing and must be approved prior to the expiration of the approved project period as set forth in the State/Local Agreement.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0140

Conversion Requirements

(1) Park and recreation areas and facilities must be dedicated in perpetuity for park and recreation purposes. Leases for federally owned property must be at least 25 years. If the current lease is within 5 years of termination, a letter of intent to renew the lease will be required from the federal agency. Project sponsors must insure that the land within the project boundary will be used only for park and recreational purposes, Project Sponsor controls or will control the land, and that the Project Sponsor will not change the use of, sell, or otherwise dispose of land within the project boundary, except upon written State approval. If the Project Sponsor converts land within the project boundary to use for other than outdoor park and recreation purposes or disposes of such land by sale or otherwise, applicant must provide replacement property within 24 months of either the conversion or the discovery of the conversion.

(2) If replacement property cannot be obtained within the 24 months, the Project Sponsor will provide payment of the grant program's prorated share of the current fair market value to OPRD. The prorated share is that percentage of the original grant (plus any amendments) as compared to the original project cost(s). The replacement property must be equal to the current fair market value of the converted property, as determined by an appraisal. The recreation utility of the replacement property must also be equal to that of the lands converted or disposed.

(3) If conversion should occur through processes outside of the Project Sponsor's control such as condemnation or road placement or realignment, the Project Sponsor will be required to pass through to OPRD the prorated share of whatever consideration is provided to the Project Sponsor by the entity that caused the conversion. The monetary value of whatever consideration provided by the taking entity will normally consist of the fair market value of the property established by an appraisal.

(4) Project Sponsors that have not addressed or submitted documentation to the Department or National Park Service (NPS) for review and approval of an active conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program are not eligible to apply for Local Government Grant Program assistance.

(5) Project Sponsors who have addressed a conversion at the local level and have submitted documentation to the Department and/or NPS for review and approval of the conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program may apply for funding assistance.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0145

Local Government Grant Advisory Committee

(1) The Committee shall be composed of ten (10) members appointed by the Director to four-year terms and shall represent the following interests:

- (a) Counties east of the Cascade Mountains;
- (b) Counties west of the Cascade Mountains;
- (c) Cities under 15,000 people;
- (d) Cities over 15,000 people;
- (e) Park and Recreation Districts, Metropolitan Service Districts or Port Districts;

(f) Oregon Parks and Recreation Department;

(g) People with Disabilities; and

(h) Three members of the public at large, with at least one member who represents the ethnic diversity of the state's population;

(i) The chair shall be appointed by the Director from the Committee membership, considering the recommendations of the Committee.

(2) Committee members shall be selected for each position by:

(a) County representation shall be from lists supplied by the Oregon Parks Association and the Association of Oregon Counties;

(b) City representation shall be from lists supplied by the Oregon Recreation and Park Association and the League of Oregon Cities;

(c) Park and Recreation Districts, Port Districts, or Metropolitan Service Districts representation shall be from a list supplied by the Special Districts Association of Oregon;

(d) Representatives for Public at Large, People with Disabilities, and the Department shall be selected by the Director.

(3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by the Department according to the rates established by the Department of Administrative Services and approved by the Director.

(4) Function of Local Government Grant Advisory Committee:

(a) The Committee shall meet upon the call of the Director. The Committee will establish a priority order of eligible local government projects for state funding assistance and provide other assistance as requested by the Department. The meeting will assure full and open project selection processes that will include an outreach to all citizens of the state.

(b) The Department will provide public notice of all projects to be presented to the Committee at least 30 days prior to their meeting.

(5) Priority Selection Criteria. Large projects shall be prioritized by the Committee based on at least the following:

(a) Department review and recommendations, including a technical review of each project to confirm eligibility of the local government and the proposed project.

(b) The Committee shall score all applications using project selection criteria, including but not limited to the following:

(A) Extent the project demonstrates user benefits, public interest and support;

(B) Extent the project demonstrates conformance with local and state planning guidelines, the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and local Park Master Plans; all projects must be identified in local comprehensive plans and current master plans;

(C) Financial considerations, including cost/benefit ratio;

(D) Environmental assessment as defined in the Local Government Grant Procedure Manual;

(E) Extent the project increases outdoor recreation opportunity in the service area;

(F) Extent the Project Sponsor employs the principles of sustainability in their project(s);

(G) How well the project's design accommodates people with disabilities.

(c) Small project requests will be scored and prioritized for funding by a committee appointed by the Director using the above criteria in subsection (b) of this section.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04, Renumbered from 736-006-0130

736-006-0150

Emergency Procedure

(1) Under certain conditions such as reduction or increase of these funds an emergency procedure for awarding or canceling grants may be initiated at the discretion of the Director.

(2) In implementing the emergency procedure, the Director shall consider the availability of funds; the scope and need of projects available for funding; the urgency and statewide importance of prospective projects; including the readiness of projects ranked, but not funded, on the most recent priority list; and the need to expend additional funds that may become available in a timely manner. The Director may propose projects to the Commission for funding under this section and the Commission may waive other requirements of this rule for the purpose of obligating funds in a timely manner.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04, Renumbered from 736-006-0135

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Adm. Order No.: PRD 7-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 2-1-04

Rules Amended: 736-018-0045

ADMINISTRATIVE RULES

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 Umpqua Lighthouse 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 Douglas County.

Rules Coordinator: Angie Springer—(503) 986-0719

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) Champoege State Park;
- (i) Willamette Mission State Park;
- (j) Cascadia State Park;
- (k) Elijah Bristow State Park;
- (l) Cove Palisades State Park Master Plan, as amended in 2002;
- (m) Silver Falls State Park Master Plan, as amended in 1999;
- (n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;
- (o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;
- (p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;
- (q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park; William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakam Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;
- (r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;
- (s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State

Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area; and

(y) Illinois River Forks State Park.

(z) Wallowa County State Parks Master Plan, 2000.

(aa) Master Plan for a Proposed New State Park in Washington County, currently unnamed, 2001.

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003.

(cc) South Beach State Park Master Plan, 2003.

(dd) Prineville Reservoir Resource Management Plan/Master Plan, 2003.

(ee) Detroit Lake State Park Master Plan, 2002.

(ff) Umpqua Lighthouse State Park Master Plan, 2004.

(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)

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

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03; PRD 5-2003, f. & cert. ef. 7-8-03; PRD 9-2003, f. & cert. ef. 10-13-03; PRD 11-2003, f. & cert. ef. 11-7-03; PRD 7-2004, f. & cert. ef. 5-14-04

Public Utility Commission Chapter 860

Adm. Order No.: PUC 9-2004

Filed with Sec. of State: 4-21-2004

Certified to be Effective: 4-21-04

Notice Publication Date: 12-1-03

Rules Adopted: 860-028-0195

Subject: This rule requires the Commission to issue a final order in any pole attachment complaint within 360 days of the filing of such complaint. The rule will allow time for the Commission to sufficiently review pole attachment complaints while issuing a final order within the time frame prescribed by the FCC.

Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-028-0195

Time Frame for Final Action by Commission

The Commission shall issue its final order within 360 days of the date a complaint is filed in accordance with these rules. This rule does not apply to a complaint involving the attachment(s) of an "incumbent local exchange carrier" (as that phrase is defined in 47 U.S.C. Section 251(h) (2002)).

Stat. Auth.: ORS 183, 756, 757 & 759, 47 USC § 224(c)(3)(B)(ii)

Stats. Implemented: ORS 756.040, 757.270-290, 759.045 & 759.650-675

Hist.: PUC 9-2004, f. & cert. ef. 4-21-04

ADMINISTRATIVE RULES

Adm. Order No.: PUC 10-2004
Filed with Sec. of State: 4-29-2004
Certified to be Effective: 4-29-04
Notice Publication Date: 3-1-04
Rules Amended: 860-011-0001

Subject: This amendment adds the word "permanent" to OAR 860-011-0001(1) to reflect the Commission's practice of providing written notification to interested persons regarding the adoption, amendment or repeal of any permanent rule.

Rules Coordinator: Lauri Salsbury—(503) 378-4372

860-011-0001

Notice to Interested Persons

Prior to the adoption, amendment, or repeal of any permanent rule, the Commission shall notify, by mail, the persons whose names appear on the Commission's list of persons requesting notice of rule changes.

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

Stats. Implemented: ORS 756.040 & 756.500-756.575

Hist.: PUC 169, f. & ef. 11-10-75 (Order No. 75-936); 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 10-2004, f. & cert. ef. 4-29-04

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Real Estate Agency
Chapter 863

Adm. Order No.: REA 3-2004
Filed with Sec. of State: 4-28-2004
Certified to be Effective: 5-3-04
Notice Publication Date: 4-1-04

Rules Amended: 863-001-0007, 863-015-0015, 863-015-0020, 863-015-0025, 863-015-0050, 863-015-0055, 863-015-0065, 863-015-0080, 863-015-0085, 863-015-0180, 863-015-0200

Rules Repealed: 863-015-0270

Subject: OAR 863-015-0015, 863-015-0055 and 863-015-0200 were previously amended by temporary rule. This notice includes the permanent amendment of those rules. The proposed changes to the remaining rules are required to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill 206 and are necessary to further implement the policies and procedures contemplated by the legislation.

Rules Coordinator: Brian DeMarco—(503) 378-4170, ext. 237

863-001-0007

Refunds and Charges

(1) The agency shall not refund fees, civil penalties or other moneys overpaid by an amount of \$15 or less unless such repayment is requested in writing by the payor within one year after the date of the overpayment.

(2) If the Agency receives payment of any fees by check and the check is returned to the Agency as an NSF check, the payor of the fees will be assessed an NSF charge of \$25 in addition to the required payment of the fees.

Stat. Auth.: ORS 181, ORS 183, ORS 293 & ORS 696

Stats. Implemented: ORS 293.445(4)

Hist.: REA 3-1990, f. 12-13-90, cert. ef. 2-1-90; REA 1-1997, f. 4-28-97, cert. ef. 5-5-97; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0015

Application; Background Check Application and Fingerprint Cards

(1) Applicants for real estate broker, principal real estate broker or real estate property manager licenses shall submit to a background check, except applicants who are currently licensed as a real estate broker, principal real estate broker or real estate property manager or who are eligible for renewal of such licenses. The background check application shall be made in writing on a form prescribed by the Commissioner with all information provided by the applicant and verified by the applicant.

(2) The background check application shall include, but is not limited to, the following information:

(a) The name, residence address and telephone number for the applicant;

(b) The date and place of birth of the applicant;

(c) The Social Security Number of the applicant (for identification purposes only);

(d) Whether the applicant has ever been convicted of or is under arrest, investigation or indictment for a felony or misdemeanor; and

(e) Whether the applicant has ever been refused a real estate license or any other occupational or professional license in any other state or country, or whether any real estate license or other occupational or professional license held by the applicant has ever been revoked or suspended or the licensee fined or reprimanded; and

(f) Any other information considered necessary by the Commissioner to evaluate the applicant's trustworthiness and competency to engage in professional real estate activity in a manner that protects the public interest.

(3) As part of any application submitted under section (2) of this rule, the applicant shall submit two completed fingerprint cards on the form prescribed by the Oregon State Police and FBI and an additional fee sufficient to recover the costs of processing the applicant's fingerprint information and securing any criminal offender information pertaining to the applicant.

(4) The background check application, fingerprint cards and processing fee shall be submitted to the Agency prior to issuance of a license.

(5) At the request of an applicant, agency staff designated by the Commissioner may perform the fingerprinting process for such applicant during the Agency's posted hours at the Agency's office upon payment to the Agency of a \$10 fee.

(6) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The Commissioner shall keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(7) If the information developed by the Agency on an applicant indicates that additional information should be obtained from the applicant, it will be the duty of the applicant, upon notice and request by the Agency, to provide the requested information in order to complete the application. Failure to comply may result in a determination that the application is incomplete which will result in termination of the application.

(8) An applicant who has otherwise qualified for licensing, may not be considered for licensing as a real estate broker, principal real estate broker, or property manager until the background check process and review has been completed including but not limited to receipt by the Agency of criminal offender information from the Oregon State Police, other regulatory or law enforcement agencies, and the FBI. If an individual who has had a successfully completed background check process and review does not successfully complete the remaining portions of the entire licensing application process within twelve months from the date of the successfully completed background check process and review, the successfully completed background check process and review is no longer valid.

(9) An applicant for a license pursuant to OAR 863-015-0080(2) may be issued a license following submission of a background check application and fingerprints cards and prior to receipt by the Agency of criminal offender information from the Oregon State Police, other regulatory or law enforcement agencies, and the FBI. Such license shall be subject to successful completion of the background check process and review.

Stat. Auth.: ORS 696.385 & 183.335

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 4-2003(Temp), f. 12-18-03, cert. ef. 1-1-04 thur 6-29-04; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0020

Licensing; Examinations

(1) All applicants for a real estate broker's license shall be required to pass a basic written real estate examination to be conducted by the Real Estate Board. The examination shall include subject matter determined by the Board and published in the Agency's *Real Estate License and Examination Information* booklet.

(2) Those applicants licensed as salespersons as of June 30, 2002 shall be required to pass a written real estate examination to be conducted by the Real Estate Board, after July 1, 2002, to be licensed as a principal real estate broker or to engage in professional real estate activity as a sole practitioner. The examination shall include subject matter determined by the Board and published in the Agency's *Real Estate License and Examination Information* booklet.

(3) All applicants for a real estate property manager's license shall be required to pass a written property management examination to be conducted by the Real Estate Board. The examination shall include subject matter determined by the Board and published in the Agency's *Real Estate License and Examination Information* booklet.

(4) To be considered eligible to sit for a licensing examination, the applicant shall apply for the examination on a form prescribed by the Commissioner. The completed application form shall be filed with the Agency on or before the fifth day of the month in which the examination is

ADMINISTRATIVE RULES

scheduled. The examination application fee prescribed in ORS 696.270 shall accompany every application for a licensing examination.

(5) An applicant may be scheduled for the requested examination even if the Agency has not completed the processing of the applicant's fingerprint card, has not received and reviewed all the criminal offender information on the applicant, or has not received documentation that all required education has been completed by the applicant. However, an applicant may not be considered for licensing until the Agency has completed such processing and review.

(6) The Real Estate Board shall hold licensing examinations at such times and places as it may determine, except that the board shall hold the examinations no less frequently than every 120 days and shall hold not fewer than four examinations in each calendar year.

(7) An applicant who fails to appear for a scheduled examination who fails to pass an examination, or who changes an examination date after the scheduling deadline is not entitled to the return of any examination fees previously paid.

(8) If any individual who has completed successfully both the national portion and the state-specific portion of the examination for any real estate license category does not become licensed in that category within one year from the date of the examination, the individual is no longer eligible for the license on the basis of the examination. In order to again qualify, the individual must resubmit to the entire examination. If any individual who has successfully completed one portion of a license examination does not successfully complete the remaining portion within twelve months from the date of the examination of the completed portion, the successfully completed portion of the examination is no longer valid.

(9) The successful passing of the national portion of a broker examination held in another state may be accepted by the board in lieu of the national portion of the examination required in this rule, if the license issued as a result of that examination has not been expired for more than one year.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 696.385, 696.425 & ORS 183.335
Stats. Implemented: ORS 696.020 & ORS 696.022
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04, cert. ef. 5-3-04

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 real estate licensee and acting only as the agent of such licensee.

(3) A real estate broker who is operating as an administrative or managerial supervisor for one or more other real estate brokers must be licensed as a principal real estate broker.

(4) Every real estate broker shall either designate the principal real estate broker the real estate broker will be "associated with" as defined in ORS 696.010(2); or designate and register a place of business and/or a business name under which the real estate broker will be conducting professional real estate activity as a sole practitioner. A real estate broker cannot be "associated with" more than one principal broker or real estate business during the same period of time. Whether or not an individual is designated a "real estate broker" or "principal real estate broker" in a real estate business with more than one licensee shall be a business decision made by the owners of the real estate business.

(5) A principal real estate broker may operate two or more affiliated or subsidiary entities registered at the same time, allowing the principal real estate broker to operate separately through each such affiliated or subsidiary entity. The principal real estate broker must control and supervise the professional real estate activity conducted through each affiliated and subsidiary entity.

(6) A real estate broker associated with a principal real estate broker may have an ownership interest in any real estate business through which the principal real estate broker engages in professional real estate activity, but may not control or supervise the professional real estate activity of any real estate broker in such real estate business.

(7) A nonlicensed person may have an ownership interest in any real estate business. However, a real estate licensee shall not allow a nonlicensed person to control or supervise the professional real estate activity of the licensee.

(8) A real estate business may have two or more principal real estate brokers who share responsibility for the supervision and control of the professional real estate activity conducted through the real estate business, if the principal real estate brokers enter into a written agreement and adopt written office policies identifying the supervisory responsibilities of each principal real estate broker.

(9) An individual shall not act as a real estate broker, principal real estate broker or real estate property manager, or advertise or assume to act as such, without first being licensed. Nothing contained in this chapter shall be construed as authorizing a licensee to perform any service constituting the practice of law.

Stat. Auth.: ORS 696.385 & ORS 183.335
Stats. Implemented: ORS 696.020 & ORS 696.022
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0050

Licensing; Renewal

(1) Each real estate broker's license, principal real estate broker's license and real estate property manager's license may be renewed by the Commissioner upon payment of the renewal fee specified in ORS 696.270 and completion of the renewal application form provided by the Commissioner.

(2) If a licensee fails to renew the licensee's license in the manner set forth in section (1) on or before the expiration date of the license, the license expires. Following such expiration and for a period of one calendar year following such expiration the licensee may renew the license late by paying a late fee in addition to the requirements for renewal in section (1). However, between the day following the expiration date of the license and the effective date of the late renewal of the license, the licensee is considered expired and the licensee may not engage in any professional real estate activity. Any such activity during this time period is unlawful and subject to sanction by the Commissioner under ORS 696.301.

(3) Any real estate licensee whose license has not been renewed within one year from the expiration date of such license shall not be eligible for renewal of such license. In order for former licensee to be relicensed, the former licensee shall be considered an original applicant and shall apply, meet license qualifications, and be examined as prescribed for other original applicants under ORS Chapter 696 and OAR chapter 863.

ADMINISTRATIVE RULES

(4) To reactivate a license that has been renewed as an inactive license, 30 hours of continuing education are required during the preceding two license years. Only inactive licenses may be renewed on inactive status without completion of continuing education.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0055

Licensing; Continuing Education

(1) Generally. To renew an active license, a licensee shall provide evidence of completion during the preceding two license years of at least 30 clock hours of real estate oriented continuing education.

(a) A licensee shall complete fifteen clock-hours of continuing education courses in at least one of the following required topics:

- (A) Trust Accounts;
- (B) Misrepresentation;
- (C) Anti-Trust;
- (D) Rule and Law Update;
- (E) Property Management;
- (F) Commercial Brokerage and Leasing;
- (G) Real Estate Taxation: Federal, State and Local;
- (H) Agency;
- (I) Fair Housing;
- (J) Contracts;
- (K) Evaluation of Property;
- (L) Brokerage Management; or
- (M) Land;
- (N) Business Ethics.

(b) A licensee shall complete the remaining fifteen hours in any of the above required course topics or in other elective real estate oriented continuing education courses.

(c) Courses related to personal skills such as time management, and routine meetings and luncheons shall not be considered real estate oriented continuing education courses.

(d) Courses shall be a minimum of one clock hour in length. A clock-hour is measured in sixty-minute increments, exclusive of meal breaks or rest breaks.

(e) Credit shall not be given for repeating a continuing education course with the same content during a two-year renewal period.

(2) Certification Generally. "Certifying licensee" means a principal real estate broker or real estate property manager who certifies on the Agency's license renewal form that a licensee completed the continuing education requirements. "Evidence of completion" as used in ORS 696.174(4) and this rule means the certification on the Agency license renewal form, supplemented by a standard Certificate of Attendance developed by the Real Estate Agency for each course completed by a licensee.

(a) In completing the standard Certificate of Attendance, the certifying licensee shall decide:

- (A) Whether a continuing education course meets the continuing education requirements; and
- (B) What category in which to classify the course: required topic or elective topic.

(b) A certifying licensee may approve continuing education courses completed outside of Oregon. The number of approved credit hours shall reflect the clock hours of course content related to the practice of real estate in Oregon. Credit hours shall not be approved for courses with content specific to another state or jurisdiction.

(c) The certifying licensee shall retain the Certificate of Attendance in their records as prescribed in OAR 863-015-0260. The certifying licensee shall produce a copy of the Certificate of Attendance upon request by the associated licensee or upon request of the Agency.

(d) Principal real estate brokers, real estate property managers and sole practitioner real estate brokers who are sole practitioners shall self-certify completion of their continuing education requirements, shall retain their Certificate of Attendance as prescribed in OAR 863-015-0260 and shall produce a copy of the Certificate of Attendance upon request of the Agency.

(e) Filing a false Agency license renewal form or Certificate of Attendance shall be prima facie evidence of a violation of ORS 696.301(1), (6), (12), (25), (27), (28) and (31).

(3) Certification Criteria. In certifying a continuing education course, the certifying licensee shall consider the totality of the information provided and the content of the class, and may consider additional criteria including, but not limited to:

- (a) Evidence of instructor qualifications to teach the course;

(b) A review of the course content to assure it is current and accurate, the learning objectives for the course, and whether the course content fulfills the learning objectives;

(c) Whether means of measuring learning outcome, such as a final examination, are included; and

(d) Whether students have a means of evaluating the course and instructor.

(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 active renewal of the real estate broker's license or prior to the first license reactivation following an inactive first renewal. A certifying licensee may accept Advanced Real Estate Practices as satisfying the continuing education requirements for a licensee's renewal. The Advanced Real Estate Practices course requirement does not apply to principal brokers, sole practitioner real estate brokers or property managers.

(5) Alternative Delivery. "Alternative delivery" means presentation of continuing education material in a method other than classroom lecture, including but not limited to correspondence, and electronic means such as satellite broadcast, videotape, computer disc, and Internet.

(a) Certifying licensees may approve continuing education courses completed through alternative delivery methods.

(b) In addition to the certification criteria in section (3), in determining whether to certify an alternative delivery method course, the certifying licensee may consider:

- (A) Whether the course offers operational or electronic security measures;
- (B) The ability of the student to interact with an instructor or access other resources to support their learning;
- (C) Whether the learning environment and technical requirements are explained to students in advance of the course; and
- (D) Whether the course includes a proctored final examination.

(c) In determining the number of credit hours to approve for an alternative delivery course, the certifying licensee may consider:

- (A) The number of questions in the examination, with a minimum standard of 10 questions per hour of credit;
- (B) The number of pages for Internet, Computer-Based Training, CD-ROM and book courses, with a minimum standard of 10 pages per hour of credit; and
- (C) The clock hours elapsed for videocassette, audiotape or teleconference courses.

(6) Course Sponsors. Sponsors of continuing education courses may:

- (a) State in their advertising that continuing education requirements; e.g., course content, topics and hours, shall be approved by the licensee's principal broker; and

(b) Complete the following information on a Certificate of Attendance:

- (A) Real estate licensee's name;
- (B) Continuing education course title and date of completion;
- (C) Instructor's name and location of course; and
- (D) Method of course delivery and whether a final examination was administered.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.174 & ORS 696.301

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2004(Temp), f. & cert. ef. 1-15-04 thru 6-25-04; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0065

Return of License; Inactive License

(1) Under ORS 696.221, an active real estate license remains outstanding and on active status until received by the Agency. Except as provided in section (2) of this rule, the principal real estate broker with whom the licensee is associated, remains responsible for the professional real estate activity of the licensee until the licensee's real estate license is received in the Agency's office. If a principal real estate broker voluntarily gives the license to the individual named in the license to return the license to the Agency's office or for any other purpose, the principal real estate broker remains responsible for any subsequent professional real estate activity of the licensee until the license is received in the Agency's office.

(2) If a real estate license has been lost or if the individual named in the license has removed the license from the principal real estate broker's possession without permission from the principal real estate broker, the principal real estate broker may terminate the relationship with the licensee by certifying in writing to the Commissioner that the license has been lost or has been removed without authority. The certification is effective for

ADMINISTRATIVE RULES

licensing purposes on the date the certification is received in the Agency's office.

(3) Upon receipt by the Commissioner of the returned license, the license is placed on inactive status. For a period of thirty calendar days following such receipt the licensee may reactivate with the same principal real estate broker, become associated with another principal real estate broker or, if qualified, become licensed as a sole practitioner real estate broker or as a principal real estate broker. During such 30-day period, the licensee may reactivate the license by completing the forms prepared by the Commissioner and paying the transfer fee specified in ORS 696.270. After the 30-day period has elapsed, the license may only be reactivated subject to subsection (5)(b) below.

(4) When a real estate license is returned to the Commissioner for any reason, the license is held by the Commissioner as an inactive real estate license. While the licensee's license is on inactive status with the Commissioner, the licensee may not engage in any professional real estate activity.

(5) Inactive licenses may be:

(a) Renewed upon payment to the Commissioner of the renewal fee specified in ORS 696.270; or

(b) Reactivated upon application for reactivation and payment to the Commissioner of the fee specified in ORS 696.270. The inactive renewal of a license and reactivation of the same license within 60 days shall be considered an active renewal for purposes of this subsection; or

(c) Revoked or suspended by the Commissioner for reasons on which the Commissioner would have been authorized to revoke or suspend the licenses if they were active.

(6) The examination required to reactivate a license under ORS 696.235(2)(b) may be taken in the Agency's office during business hours by appointment. Reactivation examinations may also be taken on the same day license examinations are administered following the same procedures required of license examination applicants described in OAR 863-015-0020.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.020 & ORS 696.022

Hist.: REA 1-1991, f. & cert. ef. 11-4-91; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0081; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0080

Nonresident License Recognition

(1) As used in ORS 696.265 and this rule, unless the context requires otherwise:

(a) "Nonresident real estate broker" means an individual residing in another state or country who is licensed by that state or country to transact professional real estate activity and whose license authorizes that individual to employ, engage or otherwise supervise other real estate brokers or salespersons.

(b) "Nonresident real estate salesperson" means an individual residing in another state or country who is licensed by that state or country to transact professional real estate activity.

(c) "Nonresident licensee" means either a nonresident real estate broker or a nonresident real estate salesperson.

(d) "State or country of residence" means, presumptively, the state or country where an individual's resident license is located.

(2) Nonresident License Recognition. An individual who is not a resident of Oregon, is actively engaged in professional real estate activity in his or her state or country of residence and has been duly licensed by that state or regulatory agency within that country, may be issued an Oregon nonresident license if:

(a) The state or country of residence of the applicant allows an Oregon real estate broker to be licensed in that state or country under terms and conditions similar to those prescribed in ORS 696.255 and 696.265 ; 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 696.022(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 an active and valid license issued by the state or country of residence.

(4) An applicant for a license under subsection (2) may be issued a license following submission of a background check application and fingerprints cards and prior to receipt by the Agency of criminal offender information from the Oregon State Police, other regulatory or law enforcement agencies, and the FBI. Such license shall be subject to successful completion of the background check process and review.

(5) 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.

(6) 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.

(7) 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 863-015-0250 to 863-015-0275.

(8) 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.

(9) 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.

(10) 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.

(11) Except as otherwise provided in reciprocity agreements entered into pursuant to subsection (12) below, or except as provided at the discretion of the Real Estate Commissioner, 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.

(12) **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.

(13) The Commissioner may include in such agreements the terms and conditions prescribed in OAR 863-015-0080(2) to (11), and additional terms and conditions at the Commissioner's discretion.

(14) 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 & 183.335

Stats. Implemented: ORS 696.255 & 696.265

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 4-2003(Temp), f. 12-18-03, cert. ef. 1-1-04 thru 6-29-04; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0085

Authorization to Control Broker's Business

(1)(a) A sole practitioner real estate broker or principal real estate broker, for a period not to exceed 90 days, may authorize another sole practitioner real estate broker, real estate broker 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, real estate broker or principal real estate broker authorized to act in the absence of the

ADMINISTRATIVE RULES

authorizing sole practitioner real estate broker or principal real estate broker shall have joint responsibility for all professional real estate activity conducted during the authorizing sole practitioner real estate broker or principal real estate broker's absence.

(b) A property manager for a period not to exceed 90 days, may authorize another property manager to control and supervise the property management activity conducted by or through the authorizing property manager during the absence of the authorizing property manager. Both the authorizing property manager and the property manager authorized to act in the absence of the authorizing property manager shall have joint responsibility for all property management activity conducted during the authorizing property manager's absence.

(2) A copy of the written authorization, signed by the authorizing sole practitioner real estate broker, property manager or principal real estate broker and the licensee accepting supervisory responsibility under section (1), shall be filed with the Commissioner prior to the effective date of such authorization. The Commissioner may allow a later filing for good cause shown.

(3) Except as authorized under sections (1) and (2) to cover an absence of a sole practitioner real estate broker, property manager or principal real estate broker, a licensee shall not control or supervise the professional real estate activities of any licensee.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.026

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03

863-015-0180

Unlicensed Activity

A real estate licensee may be required by the Real Estate Commissioner to forfeit and pay a civil penalty under ORS 696.990(4) and (5), if the licensee engages in professional real estate activity while the licensee's real estate license is:

(1) On an inactive status under OAR 863-015-0065(4);

(2) Expired under OAR 863-015-0050(2); or

(3) Suspended or revoked by Order of the Real Estate Commissioner under ORS 696.301.

Stat. Auth.: ORS 100 & ORS 696

Stats. Implemented: ORS 696.022, 696.174, 696.301 & 696.990(4) & (5)

Hist.: REA 1-1990, f. & cert. ef. 4-18-90; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0130; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04

863-015-0200

Agency Relationships

(1) Unless the parties expressly agree to a different relationship not otherwise prohibited by law, the types of agency relationships a real estate licensee may establish in a real estate transaction are limited to the following:

(a) An agency relationship between a real estate licensee and the seller exclusively;

(b) An agency relationship between a real estate licensee and the buyer exclusively;

(c) A disclosed limited agency relationship where one or more real estate licensees associated with the same principal broker represent both the seller and the buyer in the same real estate transaction;

(d) A disclosed limited agency relationship where real estate licensees associated with the same principal broker are designated to represent, respectively, the buyer exclusively and the seller exclusively;

(e) A disclosed limited agency relationship where one or more real estate licensees associated with the same principal broker represent more than one buyer in the same real estate transaction.

(2) Unless the parties expressly agree to a different relationship not otherwise prohibited by law:

(a) A licensee representing a seller by written agreement or course of conduct establishes an agency relationship under sections (1)(a) or (d) above;

(b) A licensee representing a buyer by written agreement or course of conduct establishes an agency relationship under sections (1)(b) or (d) above;

(c) A licensee representing both a buyer and a seller or two or more buyers in the same real estate transaction is a disclosed limited agent of both the buyer and seller or all buyers under sections (1)(c) or (e) above,

(3) When an agency relationship is formed between a real estate licensee and a client under section (2) above, the following apply:

(a) The principal broker with whom the licensee is associated is the agent of the client;

(b) In a real estate transaction in which different real estate licensees associated with the same principal broker establish agency relationships with different parties to the real estate transaction, the principal broker shall be the only disclosed limited agent of both parties.

(c) In a real estate transaction in which one or more real estate licensees associated with the same principal broker establish agency relationships with more than one party to the real estate transaction, those licensees and the principal broker shall be the only disclosed limited agents of those parties.

(4) Except as provided in sections (2) and (3) above, licensees affiliated with the same real estate business are not agents of all clients of the real estate business.

(5) Payment, or promise of payment, of a real estate commission or other fee does not by itself create an agency relationship.

(6) A principal real estate broker acting as a disclosed limited agent under section (3)(b) above, shall do each of the following:

(a) Supervise the licensees associated with the principal broker in fulfillment of their duties and obligations to their respective clients;

(b) Avoid advocating on behalf of either the seller or the buyer; and

(c) Avoid disclosing or utilizing, without permission, confidential information of any client with whom the principal broker has an agency relationship.

(7) Real estate licensees associated with a principal broker who is acting as a disclosed limited agent under section (3)(b) above, shall do both of the following:

(a) Serve as the agent of only the party or parties in the transaction with whom the real estate licensee has established an agency relationship; and

(b) Fulfill the duties owed to the respective client as set forth in the ORS 696.815 and as agreed in a disclosed limited agency agreement entered into pursuant to OAR 863-015-0210.

(8) All real estate licensees associated with a principal broker who are acting as disclosed limited agents under section (2)(c) above, shall refrain from disclosing or utilizing any confidential information relating to the other party that has been acquired as a result of the licensee's association with the principal broker, unless authorized to do so by that party.

(9) Nothing in this rule prohibits licensees from disclosing or utilizing factual, non-confidential information relating to all parties to a transaction in order to fulfill a licensee's duties to the client under ORS 696.815.

(10) If a principal real estate broker acting as a disclosed limited agent under section (3)(b) above, determines that confidential information of one principal to a transaction has become known to another client in the transaction as the result of a violation of sections (6)(c) or (7)(b) above, the principal broker shall promptly and fully disclose the violation to the affected client in writing.

(11) Affirmative duties under ORS 696.805 and 696.810, where appropriate, apply to the agents, principal, other principals and the principals' agents but do not create fiduciary, or other similar, duties inconsistent with the actual legal relationship between an agent and other principals to a transaction or that principals' agents.

(12)(a) The Final Agency Acknowledgement of the agency relationships described in this section and required by ORS 696.845 shall be printed in substantially the following form: [Form not included. See ED. NOTE.]

(b) If incorporated as a part of a preprinted agreement, the Final Agency Acknowledgement required by subsection (a) shall appear at the top of the first page of the preprinted agreement, separate and apart from the sale agreement and shall be signed separately from the sale agreement. If the Final Agency Acknowledgement required by subsection (a) is not included within a preprinted agreement, the Final Agency Acknowledgement shall also include the property address or legal description of the subject property, a reference to the attached sale agreement, and shall include separate signature lines for buyers and sellers.

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

Stat. Auth.: ORS 696.385 & 183.335

Stats. Implemented: ORS 696.805, 696.810 & 696.815

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 4-2003(Temp), f. 12-18-03, cert. ef. 1-1-04 thru 6-29-04; REA 3-2004, f. 4-28-04 cert. cr. 5-3-04

Adm. Order No.: REA 4-2004

Filed with Sec. of State: 4-28-2004

Certified to be Effective: 5-3-04

Notice Publication Date: 4-1-04

Rules Adopted: 863-050-0035

Rules Amended: 863-050-0020, 863-050-0115

ADMINISTRATIVE RULES

Subject: OAR 863-050-0035 was previously adopted by temporary rule effective January 14, 2004. This notice includes the permanent adoption of that rule. OAR 863-050-0020 and 863-050-0115 are being amended to fix inconsistencies within those rules, which were promulgated subsequent to the passage of Senate Bill 207 and the amendments are necessary to further implement the policies and procedures contemplated by the legislation.

Rules Coordinator: Brian DeMarco—(503) 378-4170, ext. 237

863-050-0020

Notice of Interest

(1) An escrow agent shall act without partiality to any of the principals to an escrow transaction.

(2) An escrow agent must disclose to the principals in an escrow transaction in a separate written notice any of the following interests:

(a) A family relationship by blood or marriage with the escrow officer or such other staff member who may be assigned responsibility for the administration of the escrow agent's transaction file, with respect to any principal in the transaction, real estate licensee, lender, mortgage or loan broker, builder or subdivider interested in the transaction; and

(b) The nature of any pecuniary business interest in the transaction other than as escrow agent, title insurer or title insurance agent; and

(c) The nature of any financial interest of the escrow agent, escrow officer or such other staff member assigned responsibility for the administration of the escrow agent's file when that interest is more than 10 percent ownership interest in any principal in the transaction or in any real estate licensee, lender, mortgage or loan broker, developer, builder or subdivider interest in the transaction.

(3) The following statement must be included in a disclosure made under section (2) of this rule:

"We call this interest to your attention in order to be open and fair with you. In our opinion this interest will not prevent us from being a fair and impartial escrow agent in this transaction. Nevertheless, you may request that this transaction be closed by some other licensed escrow agent if you so desire."

(4) The statement described in section (3) of this rule and the interest must be disclosed to the principals when the escrow is accepted by the escrow agent and before any of the principals become liable for any costs or signs any written escrow instruction; or, if the interest is discovered later, promptly upon discovery of the interest.

(5) Each escrow agent making any disclosure required by section (2) of this rule shall take a written receipt for the disclosure statement or shall document the disclosure and its delivery to a principal. The escrow agent shall maintain the receipts and documentation as records under OAR 863-050-0115.

(6) The disclosure required by section (2) of this rule shall be given if the escrow agent, its owners, officers, management staff in the office of the escrow agent handling the escrow transaction, or the escrow officer handling the escrow transaction knows of any relationship described in section (2) of this rule. The Commissioner may impute to the escrow agent any knowledge of the individual having an interest described in section (2) of this rule, if the Commissioner finds that the escrow agent did not have an implemented internal policy requiring disclosure of any such interest by its owners, officers and employees described in section (2) of this rule in order to comply with this rule; or that the escrow agent was, in practice, attempting to evade the disclosure requirements of this rule to the potential detriment of a principal in the escrow transaction.

(7) As used in this rule, "owner" means a person having an ownership interest in the escrow agent equaling more than ten percent of the total ownership interest in the escrow agent.

(8) For the purposes of subsections (2)(b) and (c) of this rule, if an escrow agent gives any services, property or anything of value as a marketing tool to induce the recipient to bring or refer escrow business to the escrow agent, such giving shall not be considered a pecuniary business interest or financial interest for which disclosure must be made under this rule.

(9) The receipt by an escrow agent of bank services described in OAR 863-050-0065(2) and interest earned on clients trust funds under ORS 696.578(2) are not subject to the disclosure requirements of section (2) of this rule.

Stat. Auth.: ORS 183.335, 696.385, 696.541(1), 696.578(3)&(4) & 696.581(6)

Stats. Implemented: ORS 696.535(1)(e) & 696.581

Hist.: REC 29, f. 12-9-70, ef. 1-10-71; REC 5-1978, f. 11-15-78, ef. 1-1-79; REC 6-1984, f. 6-18-84, ef. 7-1-84; REA 2-1990, f. 4-18-90, cert. ef. 7-1-90; REA 5-1992, f. 8-4-92, cert. ef. 9-1-92; REA 5-2003, f. 12-24-03, cert. ef. 1-1-04; REA 4-2004, f. 4-28-04 cert. ef. 5-3-04

863-050-0035

Letters of Credit

(1) As used in this rule, unless the context requires otherwise:

(a) "Applicant" means the licensee who applies for and causes the financial institution to issue the letter of credit.

(b) "Financial institution" means any financial institution as defined in ORS 706.008 doing business in the State of Oregon.

(c) "Beneficiary" means the State of Oregon Real Estate Agency.

(d) "Clean and unconditional" means a letter of credit or confirmation which makes no reference to any other conditional agreement, document or entity.

(2) For the purposes of complying with ORS 696.527(4)(b), and for a certified, annually renewable letter of credit to be satisfactory to the commissioner, it must:

(a) Be issued by a financial institution doing business in the state of Oregon;

(b) Name the State of Oregon Real Estate Agency as Beneficiary;

(c) Be clean and unconditional;

(d) Be automatically extended, without amendment, for successive one-year periods from the stated expiration or any future expiration date until such time as notice is given in accordance with subsection (2)(d);

(e) Provide for no less than sixty (60) days notice to the Beneficiary of any election not to renew the letter of credit; and

(f) Be payable by sight draft or upon presentation at an office of the bank by an authorized representative of the Beneficiary accompanied by a signed statement certifying that "The attached order from the Commissioner of the Oregon Real Estate Agency represents that the applicant is in violation of ORS 696.505-696.590."

(3) The Commissioner may require that a Letter of Credit include additional terms and conditions at the Commissioner's discretion.

Stat. Auth.: ORS 183.335, 696.385

Stats. Implemented: ORS 696.527

Hist.: REA 2-2004(Temp), f. & cert. ef. 1-15-04 thru 6-25-04; REA 4-2004, f. 4-28-04 cert. ef. 5-3-04

863-050-0115

Records Retention

(1) An escrow agent shall retain for six years all bank statements of the agent's bank accounts and all records required by OAR 863-050-0005 to 863-050-0150 and the Oregon Escrow Law.

(2) In addition to and not in lieu of the requirements of ORS 192.825 to 192.855 (The Electronic Signature Act), the requirements of OAR 863-050-0005 through 863-050-0150 and the Oregon Escrow Law shall apply to all records, including any items generated through E-mail or any other means which does not require the creation of a paper document.

(3) An escrow agent may use electronic image storage media to retain and store copies of, deposit receipts, canceled checks and other documents executed by him or her or obtained by him or her in connection with any escrow activity and transaction, provided 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 escrow agent or escrow agent 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.

(4) An escrow agent shall maintain at the escrow agent's office a means of viewing copies of documents or records stored pursuant to this section. An escrow agent shall provide, at the escrow agent's expense, a paper copy of any document or record requested by the Agency.

Stat. Auth.: ORS 696.541

Stats. Implemented: OL 2003 ch. 427, Sec. 3

Hist.: REC 29, f. 12-9-70, ef. 1-10-71; REC 5-1978, f. 11-15-78, ef. 1-1-79; REC 6-1984, f. 6-18-84, ef. 7-1-84; REA 5-2003, f. 12-24-03, cert. ef. 1-1-04; REA 4-2004, f. 4-28-04 cert. ef. 5-3-04

ADMINISTRATIVE RULES

Secretary of State, Business Services Division Chapter 167

Adm. Order No.: BSD 1-2004(Temp)
Filed with Sec. of State: 5-5-2004
Certified to be Effective: 5-5-04 thru 10-15-04
Notice Publication Date:
Rules Adopted: 167-001-0080

Subject: The purpose of this rule is to allow the Secretary to reinstate an expired Personal Services Contract when specific conditions are met. This rule is necessary for the purpose of enabling the requirements of the duties of the Secretary to be carried out.
Rules Coordinator: Jeff Morgan—(503) 986-2239

167-001-0080 Reinstatement of Expired Contracts

(1) The Secretary of State, Business Services Division, Director or Purchasing and Contracts Manager may approve reinstatement of an expired Personal Services Contract if the following conditions are met:

(a) Failure to renew or extend the Personal Services Contract would prevent the Secretary from carrying out the duties of the Secretary;

(b) Written request for reinstatement is submitted to the Business Services Division Director or Purchasing and Contracts Manager for approval within ninety (90) days after the expiration of the original contract;

(c) A written statement justifying the Contractor's completion of the work after expiration of the contract, there is no change in the Statement of Work, and either:

(A) The reinstatement is exclusively for the purpose of permitting completion of the work or services for no additional compensation; or

(B) When services are of a continuing or repetitive nature which are compensated at an hourly, daily or similar periodic rate, the reinstatement either:

(i) Does not increase the rate of compensation; or

(ii) Does not increase the rate of compensation so as to exceed the rate of the increase determined by comparing the Portland, Oregon Metropolitan Area Consumer Price Index (all items) published immediately prior to the date the original contract was established with the same Index published immediately prior to the date of the reinstatement and extension.

(2) When a Personal Services Contract is reinstated pursuant to this section, the Secretary may compensate the Contractor, at the rate of compensation established in the original contract, for work performed in the interim between the expiration of the original contract and the execution and approval(s) of the extension or amendment.

(3) This rule authorizes only one reinstatement of a Personal Services Contract.

(4) No reinstatement of a Personal Services Contract shall modify the original contract except with respect to the time for performance.

(5) If the reinstatement of a Personal Services Contract pursuant to this rule raises the aggregate amount of compensation to a level that requires Attorney General approval under ORS 291.045 and 291.045, the Secretary shall obtain such approval before the extension becomes binding and before any services may be performed under the reinstated contract.

Stat. Auth.: ORS 279.051

Stats. Implemented: ORS 279.051

Hist.: BSD 1-2004(Temp), f. & cert. ef. 5-5-04 thru 10-15-04

Secretary of State, Corporation Division Chapter 160

Adm. Order No.: CORP 1-2004
Filed with Sec. of State: 5-3-2004
Certified to be Effective: 5-3-04
Notice Publication Date: 4-1-04
Rules Amended: 160-001-0000, 160-001-0005

Subject: The amendment to OAR 160-001-0000 directs the Secretary of State to give Notice of Intent to Adopt, Amend or Repeal any permanent rules 21 days prior to the effective date.

The amendment to OAR 160-001-0005 states the Corporation Division of the Secretary of State will adopt the January 1, 2004 ver-

sion of the Model Rules of Procedure as the Division's rules of procedure.

Rules Coordinator: Kristine T. Hume—(503) 986-2356

160-001-0000

Notice of Intent to Adopt, Amend or Repeal Rules

Prior to the adoption, amendment or repeal of any permanent rule under ORS Chapters 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 194, 554, 647, 648, 649 and 661 the Secretary of State shall give notice of the proposed adoption, amendment, or repeal at least 21 days prior to the effective date.

(1) By placing a notice in the Secretary of State's Bulletin referred to in ORS 183.360;

(2) By mailing a copy of the notice to persons on the Division mailing list established pursuant to ORS 183.335(7); and

(3) By mailing a copy of the notice to the following persons and publication for:

(a) Business Registry:

(A) The Oregon State Bar;

(B) Capitol Press Room;

(C) Associated Press;

(D) Oregon Bankers Association;

(E) Department of Revenue;

(F) Internal Revenue Service;

(G) Fairchild Record Search;

(H) CSC;

(I) Unisearch;

(J) Data Research;

(K) CT Corporation System;

(L) U.S. Corporate Services;

(M) Chairperson of the Executive Committee of the Business Law Section of the Oregon State Bar;

(N) Chairperson of the Executive Committee of the Patent and Trademark Section of the Oregon State Bar.

(b) Notary Public:

(A) Associated Press;

(B) Capitol Press Room;

(C) Oregon State Bar Association;

(D) Department of Justice;

(E) Oregon Bankers Association.

(c) Uniform Commercial Code:

(A) Associated Press;

(B) Capitol Press Room;

(C) Oregon State Bar Association;

(D) Department of Justice;

(E) Oregon Bankers Association;

(F) Department of Revenue;

(G) Internal Revenue Service;

(H) Department of Employment;

(I) Fairchild Record Search;

(J) CSC;

(K) Data Research;

(L) U.S. Corporate Services;

(M) Oregon Escrow Council;

(N) Oregon Land Title Association;

(O) Unisearch.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554, 647 & 648

Stats. Implemented: ORS 183.335

Hist.: CC 2-1985, f. & ef. 3-6-85; Renumbered from 815-050-0001; PRD 1-1988, f. & cert. ef. 2-5-88; Renumbered from former paragraphs 164-001-0000(3)(b)(A) - (K) & (c)(A) - (M); CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2004, f. & cert. ef. 5-3-04

160-001-0005

Model Rules of Procedure

The Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act effective January 1, 2004, are adopted as the rules of procedure for the Corporation Division of the Secretary of State's office.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Corporation Division.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: CC 1-1988, f. & cert. ef. 8-12-88; CORP 3-1990, f. & cert. ef. 12-5-90; CORP 3-1991, f. & cert. ef. 12-6-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2004, f. & cert. ef. 5-3-04

ADMINISTRATIVE RULES

Teacher Standards and Practices Commission Chapter 584

Adm. Order No.: TSPC 3-2004

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04

Notice Publication Date: 12-1-03, 4-1-04

Rules Amended: 584-036-0062, 584-060-0171

Subject: OAR 584-036-0062 - Clarifies fingerprint check requirement as part of criminal background check. OAR 584-060-0171 - Removes requirement of passing the Basic Skills Test for renewal of the Limited Teaching License.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-036-0062

Criminal Records Check Requirement

(1) For the first Oregon license as an educator, or for reinstatement of a license that has been expired for more than three years, the applicant must submit two fingerprint cards for checking Oregon and Federal Bureau of Investigation criminal history records as follows:

(a) Secure two original FBI fingerprint cards from TSPC, an Oregon school district or Education Service District, or an Oregon Approved Teacher Education Institution.

(b) Arrange to have fingerprints taken by any local or state police jurisdiction in the United States, or by authorized personnel at an Oregon school district or Education Service District, or an Oregon Approved Teacher Education Institution which provides this service.

(c) Provide for the authorized fingerprinter at least one form of picture identification, such as a photo driver's license, Division of Motor Vehicles photo identification card, military identification card, student body card, etc.

(d) Submit to the authorized fingerprinter the 8-1/2" x 10" envelope furnished by TSPC and the form entitled "Instructions for Handling Fingerprint Cards."

(e) Submit to TSPC as a part of the complete application, the fingerprint cards and a personal check, money order, or cashier's check in the amount of \$42 to cover the actual cost of acquiring and processing the fingerprint information.

(2) A criminal history records check as specified in section (1) of this rule, is required for renewal of licensure if the applicant has not previously submitted to a records check with TSPC.

(3) An applicant may only be fingerprinted through the process described in subsection (1) of this rule. A fingerprint check for employment in an Oregon school district does not qualify as a TSPC verified fingerprint and criminal background check.

(4) The Commission may issue a temporary license valid until receipt of fingerprint reports from the Oregon State Police and the Federal Bureau of Investigation.

Stat. Auth.: ORS 181 & ORS 342

Stats. Implemented: ORS 181.525, 342.120-342.200, 342.223, 342.400, 342.985

Hist.: TS 6-1993, f. & cert. ef. 12-7-93; TS 2-1994, f. & cert. ef. 7-19-94; TS 2-1995(Temp), f. 8-16-95, cert. ef. 9-11-95; TS 4-1995, f. & cert. ef. 11-9-95; TSPC 5-2003(Temp), f. & cert. ef. 9-17-03 thru 1-15-04; TSPC 3-2004, f. & cert. ef. 5-14-04

584-060-0171

Limited Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Limited Teaching License.

(2) This license, issued for three years and renewable, is valid at any level and designated for one or more highly specialized subjects of instruction for which the commission does not issue a specific endorsement.

(3) This license is valid for substitute teaching at any level but only in subjects listed on the license.

(4) To be eligible for a Limited Teaching License the applicant must have:

(a) An accredited associate's degree or its approved equivalent in objectively evaluated post-secondary education related to the intended subject of instruction,

(b) Demonstrate knowledge of applicable civil rights laws,

(c) Furnish fingerprints in the manner prescribed by the commission; and

(d) Obtain an approved first aid card within 90 days of receiving the license.

(5) The Limited Teaching License is restricted to use within a district that has applied for it jointly with the teacher, whose qualifications and job description are subject to commission approval.

(6) Upon application, the co-applicant district must describe its particular need in relation to the co-applicant teacher's qualifications summarized on a submitted resume, agree to provide a mentor during the first year of the assignment, and attest that circumstances prevent hiring a suitable teacher holding any other full-time license appropriate for the role to be filled.

(7) To be eligible for renewal of the Limited Teaching License, an applicant must:

(a) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission; and

(b) Submit a letter from the district attesting that the students taught by the teacher continue to make satisfactory academic progress.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127 & 342.165

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TPSC 6-2003(Temp), f. & cert ef 11-13-03 thru 4-9-04; TSPC 3-2004, f. & cert. ef. 5-14-04

Adm. Order No.: TSPC 4-2004(Temp)

Filed with Sec. of State: 5-14-2004

Certified to be Effective: 5-14-04 thru 11-9-04

Notice Publication Date:

Rules Adopted: 584-100-0037

Rules Amended: 584-100-0026, 584-100-0036

Subject: Implements new Highly Objective Uniform State Standards of Evaluation (HOUSSE) for teachers who are eligible for HOUSSE assessment with regard to meeting the definitions of Highly Qualified Teacher under the federal No Child Left Behind Act.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-100-0026

Highly Qualified Middle Level Teacher Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary (grades five and six), Five-Year Secondary, or Preliminary Teaching License and satisfy one of the following:

(a) Pass the prescribed rigorous state exam; or

(b) Hold an undergraduate major in the subject area(s); or

(c) Hold a graduate degree in the subject area(s); or

(d) Complete coursework equivalent to an undergraduate major; or

(e) Hold advanced certification or credentialing; or

(f) Meet the HOUSSE requirements as defined in OAR 584-100-0037.

(2) Be properly assigned in the subject area in a departmental classroom in grades seven or eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04

584-100-0036

Highly Qualified Secondary (grades 9-12) Teacher Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, in the core academic area(s) taught; or

(2) Hold a Preliminary Teaching License contained in OAR 584-100-0045; or

(3) Meet the HOUSSE requirements as defined in OAR 584-100-0037; and

(4) Be properly assigned in the subject area in a departmental classroom in grades nine through twelve.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04

ADMINISTRATIVE RULES

584-100-0037

Highly Objective Uniform State Standard of Evaluation for Middle-Level and Secondary Teachers

(1) Teachers with three years or more experience may meet the definitions of Highly Qualified Teacher through meeting one of the following combinations of years of experience teaching a core academic subject and college coursework or professional development relevant to the core academic subject:

(a) Have taught on an approved license in the subject area for at least three complete school years; and have completed twenty-four quarter or sixteen semester hours from a regionally accredited college or university in the subject area; or

(b) Have taught on an approved license in the subject area for at least four complete school years, and have completed twenty-one quarter or fourteen semester hours from a regionally accredited college or university in the subject area; or

(c) Have taught on an approved license in the subject area for at least five complete school years, and have completed eighteen quarter or twelve semester hours from a regionally accredited college or university in the subject area; or

(d) Have taught on an approved license in the subject area for at least six complete school years, and have completed fifteen quarter or ten semester hours from a regionally accredited college or university in the subject area; or

(e) Have taught on an approved license in the subject area for at least seven complete school years, and have completed twelve quarter or eight semester hours from a regionally accredited college or university in the subject area; or

(f) Have taught on an approved license in the subject area for at least eight or more complete school years, and have completed nine quarter or

six semester hours from a regionally accredited college or university in the subject area.

(2) Professional development directly relevant to the core academic subject may be substituted for college coursework and will be considered equivalent to the coursework under the following conditions:

(a) Twenty hours of continuing professional development is equal to one quarter hour of college credit; or thirty hours of continuing professional development is equal to one semester hour of college credit.

(b) School district personnel authorized to certify professional development must verify that the professional development is directly relevant to the core academic subject in which the teacher is seeking to meet the definition of being "highly qualified." "Directly relevant" means that upon scrutiny, the professional development is more content related than pedagogy related.

(3) The teacher must only teach the subject at least one period or more for the designated complete school years and be properly assigned in grade four or above under Oregon's administrative rules. (See OAR 584-100-0006(3) for definition of complete school year. See, OAR 584-060-0081 for Conditional Assignment in Teaching.)

(4) A high school teacher who meets the academic and experience requirements in subsection (1) above, may only be considered highly qualified for up to three years without having the actual core-academic subject endorsement only if the teacher is on an approved conditional assignment permit (CAP). The highly qualified designation will be removed if the endorsement is not obtained within three years after applying for the highly qualified status.

(5) Special education, alternative education and English for speakers of other languages teachers may meet the highly qualified definitions with the standards set forth in subsection (1) above.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-001-0020	12-4-03	Adopt	1-1-04	122-070-0070	12-4-03	Amend	1-1-04
101-005-0010	12-4-03	Adopt	1-1-04	122-070-0080	12-4-03	Amend	1-1-04
101-005-0020	12-4-03	Adopt	1-1-04	123-006-0005	12-23-03	Amend(T)	2-1-04
101-005-0030	12-4-03	Adopt	1-1-04	123-006-0015	12-23-03	Amend(T)	2-1-04
101-005-0040	12-4-03	Adopt	1-1-04	123-006-0041	12-23-03	Adopt(T)	2-1-04
101-005-0050	12-4-03	Adopt	1-1-04	123-006-0051	12-23-03	Adopt(T)	2-1-04
101-005-0060	12-4-03	Adopt	1-1-04	123-020-0000	2-21-04	Adopt(T)	3-1-04
101-005-0070	12-4-03	Adopt	1-1-04	123-020-0005	2-21-04	Amend(T)	3-1-04
101-005-0080	12-4-03	Adopt	1-1-04	123-020-0010	2-21-04	Amend(T)	3-1-04
101-005-0090	12-4-03	Adopt	1-1-04	123-020-0015	2-21-04	Amend(T)	3-1-04
101-005-0100	12-4-03	Adopt	1-1-04	123-020-0020	2-21-04	Amend(T)	3-1-04
101-005-0110	12-4-03	Adopt	1-1-04	123-020-0025	2-21-04	Amend(T)	3-1-04
101-005-0120	12-4-03	Adopt	1-1-04	123-020-0030	2-21-04	Amend(T)	3-1-04
101-005-0130	12-4-03	Adopt	1-1-04	123-020-0035	2-21-04	Amend(T)	3-1-04
101-005-0140	12-4-03	Adopt	1-1-04	123-020-0040	2-21-04	Amend(T)	3-1-04
101-006-0010	12-4-03	Adopt	1-1-04	123-020-0050	2-21-04	Suspend	3-1-04
101-006-0020	12-4-03	Adopt	1-1-04	123-025-0005	2-3-04	Amend(T)	3-1-04
101-010-0005	12-4-03	Amend	1-1-04	123-025-0010	2-3-04	Amend(T)	3-1-04
101-020-0010	12-4-03	Amend	1-1-04	123-025-0012	2-3-04	Adopt(T)	3-1-04
101-020-0015	12-4-03	Amend	1-1-04	123-025-0015	2-3-04	Amend(T)	3-1-04
101-020-0018	12-4-03	Amend	1-1-04	123-025-0017	2-3-04	Amend(T)	3-1-04
101-020-0020	12-4-03	Amend	1-1-04	123-025-0021	2-3-04	Amend(T)	3-1-04
101-020-0030	12-4-03	Amend	1-1-04	123-025-0023	2-3-04	Amend(T)	3-1-04
101-020-0035	12-4-03	Amend	1-1-04	123-025-0025	2-3-04	Amend(T)	3-1-04
101-020-0040	12-4-03	Amend	1-1-04	123-025-0030	2-3-04	Amend(T)	3-1-04
101-030-0005	12-4-03	Amend	1-1-04	123-027-0035	2-3-04	Amend(T)	3-1-04
101-030-0022	12-4-03	Adopt	1-1-04	123-027-0040	2-3-04	Amend(T)	3-1-04
101-030-0040	12-4-03	Amend	1-1-04	123-027-0050	2-3-04	Amend(T)	3-1-04
101-040-0005	12-4-03	Amend	1-1-04	123-027-0055	2-3-04	Adopt(T)	3-1-04
101-040-0010	12-4-03	Amend	1-1-04	123-027-0060	2-3-04	Amend(T)	3-1-04
101-040-0025	12-4-03	Amend	1-1-04	123-027-0070	2-3-04	Amend(T)	3-1-04
101-040-0030	12-4-03	Amend	1-1-04	123-027-0080	2-3-04	Suspend	3-1-04
101-040-0035	12-4-03	Amend	1-1-04	123-027-0105	2-3-04	Adopt(T)	3-1-04
101-040-0040	12-4-03	Amend	1-1-04	123-027-0155	2-3-04	Adopt(T)	3-1-04
101-040-0045	12-4-03	Amend	1-1-04	123-027-0160	2-3-04	Adopt(T)	3-1-04
101-040-0050	12-4-03	Amend	1-1-04	123-027-0165	2-3-04	Adopt(T)	3-1-04
101-040-0060	12-4-03	Repeal	1-1-04	123-027-0170	2-3-04	Adopt(T)	3-1-04
101-040-0070	12-4-03	Repeal	1-1-04	123-027-0200	2-3-04	Adopt(T)	3-1-04
101-040-0080	12-4-03	Adopt	1-1-04	123-027-0210	2-3-04	Adopt(T)	3-1-04
101-050-0010	12-4-03	Amend	1-1-04	123-030-0004	2-3-04	Amend(T)	3-1-04
101-050-0015	12-4-03	Amend	1-1-04	123-030-0010	2-3-04	Amend(T)	3-1-04
101-050-0025	12-4-03	Amend	1-1-04	123-030-0020	2-3-04	Amend(T)	3-1-04
105-040-0030	12-20-03	Amend(T)	2-1-04	123-030-0030	2-3-04	Amend(T)	3-1-04
105-040-0030	3-5-04	Amend	4-1-04	123-030-0040	2-3-04	Amend(T)	3-1-04
105-040-0030(T)	3-5-04	Repeal	4-1-04	123-030-0050	2-3-04	Amend(T)	3-1-04
105-040-0050	11-25-03	Amend(T)	1-1-04	123-035-0000	2-3-04	Adopt(T)	3-1-04
105-040-0050	3-15-04	Amend	4-1-04	123-035-0005	2-3-04	Adopt(T)	3-1-04
121-040-0010	12-24-03	Amend	2-1-04	123-035-0010	2-3-04	Adopt(T)	3-1-04
122-040-0040	12-30-03	Adopt	2-1-04	123-042-0010	2-3-04	Amend(T)	3-1-04
122-040-0050	12-30-03	Adopt	2-1-04	123-042-0020	2-3-04	Amend(T)	3-1-04
122-040-0060	12-30-03	Adopt	2-1-04	123-042-0030	2-3-04	Amend(T)	3-1-04
122-070-0000	12-4-03	Amend	1-1-04	123-042-0040	2-3-04	Amend(T)	3-1-04
122-070-0010	12-4-03	Amend	1-1-04	123-042-0050	2-3-04	Suspend	3-1-04
122-070-0030	12-4-03	Amend	1-1-04	123-042-0060	2-3-04	Suspend	3-1-04
122-070-0060	12-4-03	Amend	1-1-04	123-042-0070	2-3-04	Amend(T)	3-1-04
122-070-0065	12-4-03	Adopt	1-1-04	123-042-0075	2-3-04	Suspend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-042-0080	2-3-04	Amend(T)	3-1-04	125-125-0200	3-5-04	Adopt(T)	4-1-04
123-042-0140	2-3-04	Suspend	3-1-04	125-125-0250	3-5-04	Adopt(T)	4-1-04
123-042-0150	2-3-04	Amend(T)	3-1-04	125-125-0300	3-5-04	Adopt(T)	4-1-04
123-042-0160	2-3-04	Amend(T)	3-1-04	125-125-0350	3-5-04	Adopt(T)	4-1-04
123-042-0170	2-3-04	Suspend	3-1-04	125-125-0400	3-5-04	Adopt(T)	4-1-04
123-042-0180	2-3-04	Amend(T)	3-1-04	125-125-0450	3-5-04	Adopt(T)	4-1-04
123-042-0190	2-3-04	Amend(T)	3-1-04	137-001-0070	12-9-03	Amend	1-1-04
123-043-0035	3-22-04	Amend	5-1-04	137-001-0085	12-9-03	Repeal	1-1-04
123-043-0045	3-22-04	Amend	5-1-04	137-003-0000	1-1-04	Amend	1-1-04
123-043-0055	3-22-04	Amend	5-1-04	137-003-0501	1-1-04	Amend	1-1-04
123-043-0075	3-22-04	Amend	5-1-04	137-003-0510	1-1-04	Amend	1-1-04
123-049-0005	2-3-04	Amend	3-1-04	137-003-0515	1-1-04	Amend	1-1-04
123-049-0010	2-3-04	Amend	3-1-04	137-003-0520	1-1-04	Amend	1-1-04
123-049-0020	2-3-04	Amend	3-1-04	137-003-0525	1-1-04	Amend	1-1-04
123-049-0030	2-3-04	Amend	3-1-04	137-003-0528	1-1-04	Amend	1-1-04
123-049-0040	2-3-04	Amend	3-1-04	137-003-0530	1-1-04	Amend	1-1-04
123-049-0050	2-3-04	Amend	3-1-04	137-003-0535	1-1-04	Amend	1-1-04
123-049-0060	2-3-04	Adopt	3-1-04	137-003-0540	1-1-04	Amend	1-1-04
123-055-0100	2-3-04	Amend(T)	3-1-04	137-003-0545	1-1-04	Amend	1-1-04
123-055-0120	2-3-04	Amend(T)	3-1-04	137-003-0555	1-1-04	Amend	1-1-04
123-055-0200	2-3-04	Amend(T)	3-1-04	137-003-0560	1-1-04	Amend	1-1-04
123-055-0240	2-3-04	Amend(T)	3-1-04	137-003-0565	1-1-04	Amend	1-1-04
123-055-0300	2-3-04	Amend(T)	3-1-04	137-003-0570	1-1-04	Amend	1-1-04
123-055-0340	2-3-04	Amend(T)	3-1-04	137-003-0572	1-1-04	Amend	1-1-04
123-055-0400	2-3-04	Amend(T)	3-1-04	137-003-0573	1-1-04	Amend	1-1-04
123-055-0420	2-3-04	Amend(T)	3-1-04	137-003-0575	1-1-04	Amend	1-1-04
123-055-0440	2-3-04	Amend(T)	3-1-04	137-003-0580	1-1-04	Amend	1-1-04
123-055-0460	2-3-04	Amend(T)	3-1-04	137-003-0585	1-1-04	Amend	1-1-04
123-055-0525	2-3-04	Amend(T)	3-1-04	137-003-0590	1-1-04	Amend	1-1-04
123-055-0600	2-3-04	Amend(T)	3-1-04	137-003-0595	1-1-04	Amend	1-1-04
123-055-0620	2-3-04	Amend(T)	3-1-04	137-003-0600	1-1-04	Amend	1-1-04
123-055-0900	2-3-04	Amend(T)	3-1-04	137-003-0605	1-1-04	Amend	1-1-04
123-057-0110	2-3-04	Amend(T)	3-1-04	137-003-0610	1-1-04	Amend	1-1-04
123-057-0130	2-3-04	Amend(T)	3-1-04	137-003-0615	1-1-04	Amend	1-1-04
123-057-0170	2-3-04	Amend(T)	3-1-04	137-003-0625	1-1-04	Amend	1-1-04
123-057-0190	2-3-04	Amend(T)	3-1-04	137-003-0630	1-1-04	Amend	1-1-04
123-057-0210	2-3-04	Amend(T)	3-1-04	137-003-0635	1-1-04	Amend	1-1-04
123-057-0230	2-3-04	Amend(T)	3-1-04	137-003-0640	1-1-04	Amend	1-1-04
123-057-0310	2-3-04	Amend(T)	3-1-04	137-003-0645	1-1-04	Amend	1-1-04
123-057-0330	2-3-04	Amend(T)	3-1-04	137-003-0650	1-1-04	Amend	1-1-04
123-057-0350	2-3-04	Amend(T)	3-1-04	137-003-0655	1-1-04	Amend	1-1-04
123-057-0410	2-3-04	Amend(T)	3-1-04	137-003-0660	1-1-04	Amend	1-1-04
123-057-0430	2-3-04	Amend(T)	3-1-04	137-003-0665	1-1-04	Amend	1-1-04
123-057-0450	2-3-04	Amend(T)	3-1-04	137-003-0670	1-1-04	Amend	1-1-04
123-057-0470	2-3-04	Amend(T)	3-1-04	137-003-0675	1-1-04	Amend	1-1-04
123-057-0510	2-3-04	Amend(T)	3-1-04	137-003-0690	1-1-04	Amend	1-1-04
123-057-0530	2-3-04	Amend(T)	3-1-04	137-003-0695	1-1-04	Amend	1-1-04
123-057-0710	2-3-04	Amend(T)	3-1-04	137-004-0800	12-9-03	Amend	1-1-04
123-068-0015	12-15-03	Adopt(T)	1-1-04	137-008-0000	12-9-03	Amend	1-1-04
123-068-0105	12-15-03	Adopt(T)	1-1-04	137-008-0010	12-9-03	Amend	1-1-04
123-068-0205	12-15-03	Adopt(T)	1-1-04	137-008-0010	12-10-03	Amend(T)	1-1-04
123-068-0305	12-15-03	Adopt(T)	1-1-04	137-025-0020	4-1-04	Amend	4-1-04
125-020-0610	3-26-04	Amend	5-1-04	137-025-0160	4-1-04	Amend	4-1-04
125-125-0050	3-5-04	Adopt(T)	4-1-04	137-025-0180	4-1-04	Amend	4-1-04
125-125-0100	3-5-04	Adopt(T)	4-1-04	137-040-0017	1-2-04	Amend	2-1-04
125-125-0150	3-5-04	Adopt(T)	4-1-04	137-040-0500	1-2-04	Amend	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-040-0510	1-2-04	Amend	2-1-04	137-055-6020	1-5-04	Amend	2-1-04
137-040-0520	1-2-04	Amend	2-1-04	137-055-6025	1-5-04	Amend	2-1-04
137-040-0550	1-2-04	Amend	2-1-04	137-055-6110	1-5-04	Amend	2-1-04
137-040-0560	1-2-04	Amend	2-1-04	137-060-0010	2-11-04	Repeal	3-1-04
137-040-0565	1-2-04	Adopt	2-1-04	137-060-0011	2-11-04	Repeal	3-1-04
137-045-0010	12-9-03	Amend	1-1-04	137-060-0012	2-11-04	Repeal	3-1-04
137-045-0015	12-9-03	Amend	1-1-04	137-060-0013	2-11-04	Repeal	3-1-04
137-045-0030	12-9-03	Amend	1-1-04	137-060-0014	2-11-04	Repeal	3-1-04
137-045-0035	12-9-03	Amend	1-1-04	137-060-0015	2-11-04	Repeal	3-1-04
137-045-0050	12-9-03	Amend	1-1-04	137-060-0016	2-11-04	Repeal	3-1-04
137-045-0055	12-9-03	Adopt	1-1-04	137-060-0020	2-11-04	Repeal	3-1-04
137-045-0060	12-9-03	Amend	1-1-04	137-060-0021	2-11-04	Repeal	3-1-04
137-045-0070	12-9-03	Amend	1-1-04	137-060-0022	2-11-04	Repeal	3-1-04
137-045-0080	12-9-03	Amend	1-1-04	137-060-0023	2-11-04	Repeal	3-1-04
137-045-0090	12-9-03	Amend	1-1-04	137-060-0024	2-11-04	Repeal	3-1-04
137-055-1020	1-5-04	Amend	2-1-04	137-060-0025	2-11-04	Repeal	3-1-04
137-055-1140	4-1-04	Amend	5-1-04	137-060-0026	2-11-04	Repeal	3-1-04
137-055-1160	1-5-04	Amend	2-1-04	137-060-0030	2-11-04	Repeal	3-1-04
137-055-1320	4-1-04	Amend	5-1-04	137-060-0031	2-11-04	Repeal	3-1-04
137-055-1340	4-1-04	Repeal	5-1-04	137-060-0032	2-11-04	Repeal	3-1-04
137-055-1360	4-1-04	Amend	5-1-04	137-060-0033	2-11-04	Repeal	3-1-04
137-055-1600	4-1-04	Amend	5-1-04	137-060-0034	2-11-04	Repeal	3-1-04
137-055-2140	4-1-04	Amend	5-1-04	137-060-0035	2-11-04	Repeal	3-1-04
137-055-3200	1-5-04	Adopt	2-1-04	137-060-0036	2-11-04	Repeal	3-1-04
137-055-3220	1-5-04	Amend	2-1-04	137-060-0040	2-11-04	Repeal	3-1-04
137-055-3300	4-1-04	Amend	5-1-04	137-060-0041	2-11-04	Repeal	3-1-04
137-055-3360	1-5-04	Amend	2-1-04	137-060-0042	2-11-04	Repeal	3-1-04
137-055-3400	1-5-04	Amend	2-1-04	137-060-0043	2-11-04	Repeal	3-1-04
137-055-3420	1-5-04	Amend	2-1-04	137-060-0044	2-11-04	Repeal	3-1-04
137-055-3440	1-5-04	Amend	2-1-04	137-060-0045	2-11-04	Repeal	3-1-04
137-055-3480	4-1-04	Amend	5-1-04	137-060-0100	2-11-04	Adopt	3-1-04
137-055-3490	1-5-04	Amend	2-1-04	137-060-0110	2-11-04	Adopt	3-1-04
137-055-3660	1-5-04	Adopt	2-1-04	137-060-0120	2-11-04	Adopt	3-1-04
137-055-4060	1-5-04	Amend	2-1-04	137-060-0130	2-11-04	Adopt	3-1-04
137-055-4080	1-5-04	Amend	2-1-04	137-060-0140	2-11-04	Adopt	3-1-04
137-055-4100	1-5-04	Amend	2-1-04	137-060-0150	2-11-04	Adopt	3-1-04
137-055-4110	1-5-04	Adopt	2-1-04	137-060-0160	2-11-04	Adopt	3-1-04
137-055-4120	1-5-04	Amend	2-1-04	137-060-0200	2-11-04	Adopt	3-1-04
137-055-4130	1-5-04	Amend	2-1-04	137-060-0210	2-11-04	Adopt	3-1-04
137-055-4140	1-5-04	Repeal	2-1-04	137-060-0220	2-11-04	Adopt	3-1-04
137-055-4160	1-5-04	Amend	2-1-04	137-060-0230	2-11-04	Adopt	3-1-04
137-055-4180	1-5-04	Amend	2-1-04	137-060-0240	2-11-04	Adopt	3-1-04
137-055-4200	1-5-04	Repeal	2-1-04	137-060-0250	2-11-04	Adopt	3-1-04
137-055-4220	1-5-04	Repeal	2-1-04	137-060-0260	2-11-04	Adopt	3-1-04
137-055-4240	1-5-04	Repeal	2-1-04	137-060-0300	2-11-04	Adopt	3-1-04
137-055-4260	1-5-04	Repeal	2-1-04	137-060-0310	2-11-04	Adopt	3-1-04
137-055-4280	1-5-04	Repeal	2-1-04	137-060-0320	2-11-04	Adopt	3-1-04
137-055-4440	1-5-04	Amend	2-1-04	137-060-0330	2-11-04	Adopt	3-1-04
137-055-4450	1-5-04	Adopt	2-1-04	137-060-0340	2-11-04	Adopt	3-1-04
137-055-4520	1-5-04	Amend	2-1-04	137-060-0350	2-11-04	Adopt	3-1-04
137-055-5020	1-5-04	Amend	2-1-04	137-060-0360	2-11-04	Adopt	3-1-04
137-055-5025	1-5-04	Adopt	2-1-04	137-060-0400	2-11-04	Adopt	3-1-04
137-055-5040	1-5-04	Amend	2-1-04	137-060-0410	2-11-04	Adopt	3-1-04
137-055-5110	1-5-04	Amend	2-1-04	137-060-0420	2-11-04	Adopt	3-1-04
137-055-5220	1-5-04	Amend	2-1-04	137-060-0430	2-11-04	Adopt	3-1-04
137-055-5510	1-5-04	Adopt	2-1-04	137-060-0440	2-11-04	Adopt	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-060-0450	2-11-04	Adopt	3-1-04	141-040-0214	1-1-04	Amend	1-1-04
137-084-0001	1-29-04	Adopt	3-1-04	141-040-0220	1-1-04	Amend	1-1-04
137-084-0005	1-29-04	Adopt	3-1-04	141-045-0005	1-1-04	Amend	1-1-04
137-084-0010	1-29-04	Adopt	3-1-04	141-045-0010	1-1-04	Amend	1-1-04
137-084-0020	1-29-04	Adopt	3-1-04	141-045-0015	1-1-04	Amend	1-1-04
137-084-0030	1-29-04	Adopt	3-1-04	141-045-0021	1-1-04	Amend	1-1-04
137-085-0001	2-1-04	Adopt(T)	3-1-04	141-045-0031	1-1-04	Amend	1-1-04
137-085-0010	2-1-04	Adopt(T)	3-1-04	141-045-0041	1-1-04	Amend	1-1-04
137-085-0020	2-1-04	Adopt(T)	3-1-04	141-045-0061	1-1-04	Amend	1-1-04
137-085-0030	2-1-04	Adopt(T)	3-1-04	141-045-0100	1-1-04	Amend	1-1-04
137-085-0040	2-1-04	Adopt(T)	3-1-04	141-045-0105	1-1-04	Amend	1-1-04
137-085-0050	2-1-04	Adopt(T)	3-1-04	141-045-0115	1-1-04	Amend	1-1-04
141-030-0010	1-1-04	Amend	1-1-04	141-045-0120	1-1-04	Amend	1-1-04
141-030-0015	1-1-04	Amend	1-1-04	141-045-0121	1-1-04	Amend	1-1-04
141-030-0025	1-1-04	Amend	1-1-04	141-045-0122	1-1-04	Amend	1-1-04
141-030-0034	1-1-04	Amend	1-1-04	141-045-0123	1-1-04	Amend	1-1-04
141-030-0035	1-1-04	Amend	1-1-04	141-045-0124	1-1-04	Amend	1-1-04
141-030-0036	1-1-04	Amend	1-1-04	141-045-0125	1-1-04	Amend	1-1-04
141-030-0037	1-1-04	Amend	1-1-04	141-045-0126	1-1-04	Amend	1-1-04
141-030-0038	1-1-04	Repeal	1-1-04	141-045-0130	1-1-04	Amend	1-1-04
141-030-0039	1-1-04	Am. & Ren.	1-1-04	141-045-0150	1-1-04	Amend	1-1-04
141-030-0039	1-1-04	Amend	1-1-04	141-045-0155	1-1-04	Amend	1-1-04
141-030-0040	1-1-04	Renumber	1-1-04	141-045-0160	1-1-04	Amend	1-1-04
141-030-0045	1-1-04	Adopt	1-1-04	141-045-0170	1-1-04	Amend	1-1-04
141-035-0005	1-1-04	Amend	1-1-04	141-045-0180	1-1-04	Amend	1-1-04
141-035-0010	1-1-04	Repeal	1-1-04	141-045-0185	1-1-04	Amend	1-1-04
141-035-0011	1-1-04	Adopt	1-1-04	141-085-0010	11-26-03	Amend	1-1-04
141-035-0012	1-1-04	Adopt	1-1-04	141-085-0027	11-26-03	Amend	1-1-04
141-035-0013	1-1-04	Amend	1-1-04	141-085-0028	11-26-03	Amend	1-1-04
141-035-0015	1-1-04	Amend	1-1-04	141-085-0029	11-26-03	Amend	1-1-04
141-035-0016	1-1-04	Adopt	1-1-04	141-085-0075	11-26-03	Amend	1-1-04
141-035-0018	1-1-04	Adopt	1-1-04	141-085-0096	11-26-03	Amend	1-1-04
141-035-0020	1-1-04	Amend	1-1-04	141-085-0115	11-26-03	Amend	1-1-04
141-035-0025	1-1-04	Amend	1-1-04	141-085-0121	11-26-03	Amend	1-1-04
141-035-0030	1-1-04	Amend	1-1-04	141-085-0126	11-26-03	Amend	1-1-04
141-035-0035	1-1-04	Amend	1-1-04	141-085-0131	11-26-03	Amend	1-1-04
141-035-0040	1-1-04	Amend	1-1-04	141-085-0141	11-26-03	Amend	1-1-04
141-035-0045	1-1-04	Amend	1-1-04	141-085-0146	11-26-03	Amend	1-1-04
141-035-0047	1-1-04	Amend	1-1-04	141-085-0151	11-26-03	Amend	1-1-04
141-035-0048	1-1-04	Amend	1-1-04	141-085-0156	11-26-03	Amend	1-1-04
141-035-0050	1-1-04	Amend	1-1-04	141-085-0161	11-26-03	Amend	1-1-04
141-035-0055	1-1-04	Amend	1-1-04	141-085-0176	11-26-03	Amend	1-1-04
141-035-0060	1-1-04	Amend	1-1-04	141-085-0263	11-26-03	Amend	1-1-04
141-035-0065	1-1-04	Amend	1-1-04	141-085-0410	11-26-03	Amend	1-1-04
141-035-0068	1-1-04	Adopt	1-1-04	141-085-0421	11-26-03	Amend	1-1-04
141-035-0070	1-1-04	Amend	1-1-04	141-085-0430	11-26-03	Amend	1-1-04
141-035-0075	1-1-04	Adopt	1-1-04	141-085-0450	11-26-03	Adopt	1-1-04
141-040-0005	1-1-04	Amend	1-1-04	141-089-0180	11-26-03	Amend	1-1-04
141-040-0010	1-1-04	Amend	1-1-04	141-090-0020	11-26-03	Amend	1-1-04
141-040-0020	1-1-04	Amend	1-1-04	141-090-0030	11-26-03	Amend	1-1-04
141-040-0030	1-1-04	Amend	1-1-04	150-118.010(2)	5-1-04	Adopt(T)	6-1-04
141-040-0035	1-1-04	Amend	1-1-04	150-118.010(7)	5-1-04	Adopt(T)	6-1-04
141-040-0040	1-1-04	Amend	1-1-04	150-180.455	4-1-04	Adopt(T)	5-1-04
141-040-0200	1-1-04	Amend	1-1-04	150-294.175(2)-(A)	12-31-03	Adopt	2-1-04
141-040-0211	1-1-04	Amend	1-1-04	150-294.175(2)-(B)	12-31-03	Adopt	2-1-04
141-040-0212	1-1-04	Amend	1-1-04	150-294.187	12-31-03	Amend	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
150-294.211(26)	12-31-03	Renumber	2-1-04	150-321.379(1)-(B)	12-31-03	Repeal	2-1-04
150-294.435(1)-(C)	12-31-03	Adopt	2-1-04	150-321.379(2)-(A)	12-31-03	Repeal	2-1-04
150-305.220(1)	12-31-03	Amend	2-1-04	150-321.379(2)-(C)	12-31-03	Repeal	2-1-04
150-305.220(2)	12-31-03	Amend	2-1-04	150-321.430(1)	12-31-03	Repeal	2-1-04
150-306.115	12-31-03	Amend	2-1-04	150-321.430(3)-(A)	12-31-03	Repeal	2-1-04
150-308.156(5)-(B)	12-31-03	Amend	2-1-04	150-321.430(3)-(B)	12-31-03	Repeal	2-1-04
150-308.159	12-31-03	Adopt	2-1-04	150-321.430(3)-(C)	12-31-03	Repeal	2-1-04
150-308.219	12-31-03	Amend	2-1-04	150-321.430(3)-(D)	12-31-03	Repeal	2-1-04
150-308.250	12-31-03	Amend	2-1-04	150-321.432-(A)	12-31-03	Amend	2-1-04
150-309.100(3)-(B)	12-31-03	Amend	2-1-04	150-321.434	12-31-03	Repeal	2-1-04
150-309.100(3)-(C)	12-31-03	Amend	2-1-04	150-321.434(1)	12-31-03	Repeal	2-1-04
150-309.110(1)-(A)	12-31-03	Amend	2-1-04	150-321.434(2)	12-31-03	Repeal	2-1-04
150-309.110(1)-(B)	12-31-03	Amend	2-1-04	150-321.515	12-31-03	Repeal	2-1-04
150-309.110(1)-(D)	12-31-03	Adopt	2-1-04	150-321.815(2)(b)	12-31-03	Am. & Ren.	2-1-04
150-309.110(1)-(E)	12-31-03	Adopt	2-1-04	150-321.815(4)	12-31-03	Am. & Ren.	2-1-04
150-309.115(1)-(C)	12-31-03	Adopt	2-1-04	150-321.950	12-31-03	Repeal	2-1-04
150-309.115(2)-(f)	12-31-03	Renumber	2-1-04	150-323.160(3)-(A)	4-1-04	Adopt(T)	5-1-04
150-311.205(1)(b)	12-31-03	Renumber	2-1-04	150-323.160(3)-(A)	5-1-04	Suspend	6-1-04
150-311.205(1)(c)-(A)	12-31-03	Renumber	2-1-04	150-323.480(1)	4-1-04	Am. & Ren.(T)	5-1-04
150-311.205(1)(c)-(C)	12-31-03	Am. & Ren.	2-1-04	150-323.480(1)-(B)	4-1-04	Adopt(T)	5-1-04
150-311.672(1)(a)	12-31-03	Amend	2-1-04	150-323.630-(A)	5-1-04	Adopt(T)	6-1-04
150-311.708	12-31-03	Amend	2-1-04	150-570.560	12-31-03	Renumber	2-1-04
150-311.806-(A)	12-31-03	Amend	2-1-04	150-Ch. 1078 Sec. 2 & 35 1999 Session	12-31-03	Renumber	2-1-04
150-312.040(1)(b)	12-31-03	Amend	2-1-04	150-Ch. 1078 Sec. 2 & 35 1999 Session	12-31-03	Renumber	2-1-04
150-314.295	12-31-03	Adopt	2-1-04	150-OL 2003 Ch. 454 Sec. 1(1)	12-31-03	Adopt	2-1-04
150-314.385(c)-(B)	12-31-03	Amend	2-1-04	150-OL 2003 Ch. 454 Sec. 1(12)	12-31-03	Adopt	2-1-04
150-314.415(1)(b)	12-31-03	Am. & Ren.	2-1-04	150-OL 2003 Ch. 454 Sec. 1(13)	12-31-03	Adopt	2-1-04
150-314.415(1)(c)	12-31-03	Am. & Ren.	2-1-04	150-OL 2003 Ch. 454 Sec. 4(1)(c)	12-31-03	Adopt	2-1-04
150-314.505-(A)	12-31-03	Amend	2-1-04	150-OL 2003 Ch. 454 Sec. 4(3)	12-31-03	Adopt	2-1-04
150-314.610(1)-(A)	12-31-03	Amend	2-1-04	150-OL 2003 Ch. 541 Sec. 3	12-31-03	Adopt	2-1-04
150-314.610(1)-(B)	12-31-03	Amend	2-1-04	150-OL 2003 Ch. 621 Sec. 109(1)	12-31-03	Adopt	2-1-04
150-314.610(1)-(C)	12-31-03	Amend	2-1-04	150-OR Laws 2003, Ch. 818	1-1-04	Adopt(T)	1-1-04
150-314.615-(F)	12-31-03	Amend	2-1-04	160-001-0000	5-3-04	Amend	6-1-04
150-314.655(2)-(B)	12-31-03	Amend	2-1-04	160-001-0005	5-3-04	Amend	6-1-04
150-314.665(6)(c)	12-31-03	Adopt	2-1-04	161-002-0000	2-3-04	Amend	3-1-04
150-314.840	12-31-03	Amend	2-1-04	161-006-0160	11-24-03	Amend	1-1-04
150-315.113	12-31-03	Adopt	2-1-04	161-015-0030	11-24-03	Amend	1-1-04
150-315.262	12-31-03	Amend	2-1-04	161-020-0045	11-24-03	Amend	1-1-04
150-316.054	12-31-03	Amend	2-1-04	161-020-0055	11-24-03	Amend	1-1-04
150-316.127-(D)	12-31-03	Amend	2-1-04	161-020-0140	11-24-03	Amend	1-1-04
150-316.272	5-1-04	Adopt(T)	6-1-04	161-025-0050	11-24-03	Amend	1-1-04
150-321.005	12-31-03	Amend	2-1-04	161-025-0060	2-3-04	Amend	3-1-04
150-321.045	12-31-03	Amend	2-1-04	161-050-0040	11-24-03	Amend	1-1-04
150-321.282(1)-(C)	12-31-03	Repeal	2-1-04	161-050-0050	11-24-03	Amend	1-1-04
150-321.282(1)-(D)	12-31-03	Repeal	2-1-04	165-001-0090	12-31-03	Adopt	2-1-04
150-321.282(1)-(E)	12-31-03	Repeal	2-1-04	165-002-0005	12-5-03	Amend	1-1-04
150-321.282(1)-(I)	12-31-03	Repeal	2-1-04				
150-321.282(2)(a)	12-31-03	Repeal	2-1-04				
150-321.282(2)(c)	12-31-03	Repeal	2-1-04				
150-321.282(5)	12-31-03	Repeal	2-1-04				
150-321.282(6)(a)-(A)	12-31-03	Am. & Ren.	2-1-04				
150-321.282(6)(a)-(D)	12-31-03	Am. & Ren.	2-1-04				
150-321.358(2)(b)	12-31-03	Am. & Ren.	2-1-04				
150-321.358(3)(b)	12-31-03	Am. & Ren.	2-1-04				
150-321.358(4)	12-31-03	Am. & Ren.	2-1-04				
150-321.379(1)-(A)	12-31-03	Repeal	2-1-04				

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
165-002-0010	12-5-03	Amend	1-1-04	177-045-0060(T)	4-6-04	Suspend	5-1-04
165-002-0025	12-5-03	Amend	1-1-04	177-045-0070	1-5-04	Adopt(T)	2-1-04
165-007-0030	12-31-03	Amend	2-1-04	177-045-0070(T)	4-6-04	Suspend	5-1-04
165-010-0005	12-5-03	Amend	1-1-04	177-045-0080	1-5-04	Adopt(T)	2-1-04
165-010-0005	4-9-04	Amend(T)	5-1-04	177-045-0080	4-6-04	Adopt(T)	5-1-04
165-010-0060	12-5-03	Amend	1-1-04	177-045-0080(T)	4-6-04	Suspend	5-1-04
165-010-0080	12-5-03	Amend	1-1-04	177-082-0100	12-19-03	Repeal	2-1-04
165-010-0090	12-5-03	Amend	1-1-04	177-091-0000	12-19-03	Adopt	2-1-04
165-012-0005	12-12-03	Amend	1-1-04	177-091-0010	12-19-03	Adopt	2-1-04
165-012-0050	12-5-03	Amend	1-1-04	177-091-0020	12-19-03	Adopt	2-1-04
165-012-0060	12-5-03	Amend	1-1-04	177-091-0030	12-19-03	Adopt	2-1-04
165-012-0210	12-5-03	Repeal	1-1-04	177-091-0040	12-19-03	Adopt	2-1-04
165-012-0230	12-5-03	Amend	1-1-04	177-091-0050	12-19-03	Adopt	2-1-04
165-012-0230	12-15-03	Amend(T)	1-1-04	177-091-0060	12-19-03	Adopt	2-1-04
165-012-1000	12-5-03	Repeal	1-1-04	177-091-0070	12-19-03	Adopt	2-1-04
165-013-0010	12-5-03	Amend	1-1-04	177-091-0080	12-19-03	Adopt	2-1-04
165-013-0010	2-13-04	Amend	3-1-04	177-091-0090	12-19-03	Adopt	2-1-04
165-013-0020	12-5-03	Amend	1-1-04	177-091-0100	12-19-03	Adopt	2-1-04
165-014-0005	12-5-03	Amend	1-1-04	177-091-0110	12-19-03	Adopt	2-1-04
165-014-0006	12-5-03	Repeal	1-1-04	177-099-0050	2-23-04	Amend(T)	4-1-04
165-014-0030	4-15-04	Amend	5-1-04	213-001-0000	1-1-04	Amend	2-1-04
165-014-0080	12-5-03	Repeal	1-1-04	213-001-0005	1-1-04	Amend	2-1-04
165-014-0085	12-5-03	Repeal	1-1-04	213-003-0001	1-1-04	Amend	2-1-04
165-014-0110	4-15-04	Amend	5-1-04	213-005-0001	1-1-04	Amend	2-1-04
165-020-0005	12-5-03	Amend	1-1-04	213-005-0004	1-1-04	Amend	2-1-04
165-020-0050	4-15-04	Amend	5-1-04	213-005-0007	1-1-04	Amend	2-1-04
165-020-0060	4-15-04	Amend	5-1-04	213-011-0003	1-1-04	Amend	2-1-04
166-001-0000	11-24-03	Amend	1-1-04	213-017-0001	1-1-04	Amend	2-1-04
166-020-0011	3-3-04	Adopt	4-1-04	213-017-0002	1-1-04	Amend	2-1-04
166-101-0010	11-24-03	Amend	1-1-04	213-017-0003	1-1-04	Amend	2-1-04
166-200-0130	11-24-03	Amend	1-1-04	213-017-0004	1-1-04	Amend	2-1-04
166-475-0060	3-31-04	Amend	5-1-04	213-017-0005	1-1-04	Amend	2-1-04
166-500-0000	11-20-03	Amend	1-1-04	213-017-0006	1-1-04	Amend	2-1-04
166-500-0015	11-20-03	Amend	1-1-04	213-017-0007	1-1-04	Amend	2-1-04
166-500-0040	11-20-03	Amend	1-1-04	213-017-0008	1-1-04	Amend	2-1-04
166-500-0045	11-20-03	Amend	1-1-04	213-017-0009	1-1-04	Amend	2-1-04
166-500-0050	11-20-03	Amend	1-1-04	213-017-0010	1-1-04	Amend	2-1-04
166-500-0055	11-20-03	Amend	1-1-04	213-017-0011	1-1-04	Amend	2-1-04
167-001-0080	5-5-04	Adopt(T)	6-1-04	213-018-0038	1-1-04	Amend	2-1-04
170-060-1000	1-15-04	Adopt(T)	2-1-04	213-018-0047	1-1-04	Adopt	2-1-04
177-010-0003	4-6-04	Amend(T)	5-1-04	213-018-0048	1-1-04	Adopt	2-1-04
177-040-0000	4-6-04	Amend(T)	5-1-04	213-018-0050	1-1-04	Amend	2-1-04
177-040-0003	4-6-04	Amend(T)	5-1-04	213-018-0090	1-1-04	Amend	2-1-04
177-040-0025	4-6-04	Amend(T)	5-1-04	213-019-0007	1-1-04	Amend	2-1-04
177-040-0026	6-27-04	Adopt(T)	5-1-04	213-019-0008	1-1-04	Amend	2-1-04
177-040-0050	4-6-04	Amend(T)	5-1-04	213-019-0010	1-1-04	Amend	2-1-04
177-040-0052	4-6-04	Amend(T)	5-1-04	213-019-0011	1-1-04	Amend	2-1-04
177-045-0000	1-5-04	Amend(T)	2-1-04	250-010-0053	5-11-04	Adopt	6-1-04
177-045-0010	1-5-04	Amend(T)	2-1-04	255-030-0025	5-14-04	Amend(T)	6-1-04
177-045-0020	1-5-04	Suspend	2-1-04	255-032-0015	4-15-04	Amend(T)	5-1-04
177-045-0030	1-5-04	Amend(T)	2-1-04	255-060-0011	1-14-04	Amend(T)	2-1-04
177-045-0040	1-5-04	Amend(T)	2-1-04	255-070-0001	1-14-04	Amend	2-1-04
177-045-0050	1-5-04	Adopt(T)	2-1-04	259-008-0005	4-23-04	Amend	6-1-04
177-045-0050(T)	4-6-04	Suspend	5-1-04	259-008-0010	12-22-03	Amend	2-1-04
177-045-0060	1-5-04	Adopt(T)	2-1-04	259-008-0011	1-20-04	Amend	3-1-04
177-045-0060	4-6-04	Adopt(T)	5-1-04	259-008-0011	4-23-04	Amend	6-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
259-008-0020	4-23-04	Amend	6-1-04	291-062-0130	1-14-04	Adopt(T)	2-1-04
259-008-0025	12-22-03	Amend	2-1-04	291-062-0140	1-14-04	Adopt(T)	2-1-04
259-008-0025	4-23-04	Amend	6-1-04	291-062-0150	1-14-04	Adopt(T)	2-1-04
259-008-0030	4-23-04	Amend	6-1-04	291-062-0160	1-14-04	Adopt(T)	2-1-04
259-008-0060	1-20-04	Amend	3-1-04	291-064-0060	12-2-03	Amend	1-1-04
259-008-0060	4-23-04	Amend	6-1-04	291-117-0020	1-20-04	Amend(T)	3-1-04
259-008-0066	4-23-04	Amend	6-1-04	291-153-0005	5-14-04	Amend(T)	6-1-04
259-008-0067	4-23-04	Amend	6-1-04	291-153-0010	5-14-04	Suspend	6-1-04
259-008-0068	1-16-04	Adopt	3-1-04	291-153-0020	5-14-04	Adopt(T)	6-1-04
259-008-0070	4-23-04	Amend	6-1-04	309-018-0100	3-1-04	Repeal	4-1-04
259-009-0005	4-23-04	Amend	6-1-04	309-018-0110	3-1-04	Repeal	4-1-04
259-009-0010	4-23-04	Amend	6-1-04	309-018-0120	3-1-04	Repeal	4-1-04
259-009-0062	4-9-04	Amend(T)	5-1-04	309-018-0130	3-1-04	Repeal	4-1-04
259-009-0062	4-23-04	Amend	6-1-04	309-018-0140	3-1-04	Repeal	4-1-04
259-009-0065	4-23-04	Adopt	6-1-04	309-018-0150	3-1-04	Repeal	4-1-04
259-009-0067	4-23-04	Amend	6-1-04	309-018-0160	3-1-04	Repeal	4-1-04
259-009-0087	4-23-04	Amend	6-1-04	309-018-0170	3-1-04	Repeal	4-1-04
259-012-0035	4-23-04	Amend	6-1-04	309-018-0180	3-1-04	Repeal	4-1-04
259-045-0010	4-23-04	Repeal	6-1-04	309-018-0190	3-1-04	Repeal	4-1-04
259-060-0020	4-23-04	Amend	6-1-04	309-041-0300	1-1-04	Repeal	2-1-04
259-060-0300	4-23-04	Amend	6-1-04	309-041-0305	1-1-04	Repeal	2-1-04
274-001-0000	4-16-04	Amend	6-1-04	309-041-0310	1-1-04	Repeal	2-1-04
274-001-0005	4-16-04	Amend	6-1-04	309-041-0315	1-1-04	Repeal	2-1-04
274-020-0341	1-22-04	Amend(T)	3-1-04	309-041-0320	1-1-04	Repeal	2-1-04
274-020-0341	3-26-04	Amend	5-1-04	309-041-0375	1-1-04	Repeal	2-1-04
274-020-0341	4-8-04	Amend(T)	5-1-04	309-041-0400	1-1-04	Repeal	2-1-04
274-020-0341	4-29-04	Amend(T)	6-1-04	309-041-0405	1-1-04	Repeal	2-1-04
274-020-0341	5-11-04	Amend(T)	6-1-04	309-041-0410	1-1-04	Repeal	2-1-04
274-020-0341(T)	1-22-04	Suspend	3-1-04	309-041-0415	1-1-04	Repeal	2-1-04
274-020-0341(T)	3-26-04	Repeal	5-1-04	309-041-0435	1-1-04	Repeal	2-1-04
274-020-0341(T)	4-29-04	Suspend	6-1-04	309-041-0445	1-1-04	Repeal	2-1-04
274-020-0341(T)	5-11-04	Suspend	6-1-04	309-041-0450	1-1-04	Repeal	2-1-04
274-020-0388	1-15-04	Amend(T)	2-1-04	309-041-0455	1-1-04	Repeal	2-1-04
274-020-0388	2-24-04	Amend	4-1-04	309-041-0460	1-1-04	Repeal	2-1-04
274-020-0388(T)	2-24-04	Repeal	4-1-04	309-041-0465	1-1-04	Repeal	2-1-04
274-040-0015	12-31-03	Amend	2-1-04	309-041-0470	1-1-04	Repeal	2-1-04
274-040-0015(T)	12-31-03	Repeal	2-1-04	309-041-0475	1-1-04	Repeal	2-1-04
274-040-0030	12-31-03	Amend	2-1-04	309-041-0480	1-1-04	Repeal	2-1-04
274-040-0030(T)	12-31-03	Repeal	2-1-04	309-041-1750	12-28-03	Am. & Ren.	2-1-04
291-001-0020	12-12-03	Amend	1-1-04	309-041-1760	12-28-03	Am. & Ren.	2-1-04
291-001-0025	12-12-03	Amend	1-1-04	309-041-1770	12-28-03	Am. & Ren.	2-1-04
291-001-0070	12-12-03	Repeal	1-1-04	309-041-1780	12-28-03	Am. & Ren.	2-1-04
291-013-0010	1-27-04	Amend(T)	3-1-04	309-041-1790	12-28-03	Am. & Ren.	2-1-04
291-013-0100	1-27-04	Amend(T)	3-1-04	309-041-1800	12-28-03	Am. & Ren.	2-1-04
291-013-0215	1-27-04	Amend(T)	3-1-04	309-041-1810	12-28-03	Am. & Ren.	2-1-04
291-062-0010	1-14-04	Suspend	2-1-04	309-041-1820	12-28-03	Am. & Ren.	2-1-04
291-062-0020	1-14-04	Suspend	2-1-04	309-041-1830	12-28-03	Am. & Ren.	2-1-04
291-062-0030	1-14-04	Suspend	2-1-04	309-041-1840	12-28-03	Am. & Ren.	2-1-04
291-062-0040	1-14-04	Suspend	2-1-04	309-041-1850	12-28-03	Am. & Ren.	2-1-04
291-062-0050	1-14-04	Suspend	2-1-04	309-041-1860	12-28-03	Am. & Ren.	2-1-04
291-062-0060	1-14-04	Suspend	2-1-04	309-041-1870	12-28-03	Am. & Ren.	2-1-04
291-062-0070	1-14-04	Suspend	2-1-04	309-041-1880	12-28-03	Am. & Ren.	2-1-04
291-062-0080	1-14-04	Suspend	2-1-04	309-041-1890	12-28-03	Am. & Ren.	2-1-04
291-062-0100	1-14-04	Adopt(T)	2-1-04	309-041-1900	12-28-03	Am. & Ren.	2-1-04
291-062-0110	1-14-04	Adopt(T)	2-1-04	309-041-1910	12-28-03	Am. & Ren.	2-1-04
291-062-0120	1-14-04	Adopt(T)	2-1-04	309-041-1920	12-28-03	Am. & Ren.	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-041-2000	12-28-03	Am. & Ren.	2-1-04	309-047-0130	12-28-03	Am. & Ren.	2-1-04
309-041-2010	12-28-03	Am. & Ren.	2-1-04	309-047-0133	12-28-03	Am. & Ren.	2-1-04
309-041-2020	12-28-03	Am. & Ren.	2-1-04	309-047-0135	12-28-03	Am. & Ren.	2-1-04
309-041-2030	12-28-03	Am. & Ren.	2-1-04	309-047-0140	12-28-03	Am. & Ren.	2-1-04
309-041-2040	12-28-03	Am. & Ren.	2-1-04	309-048-0000	1-1-04	Repeal	2-1-04
309-041-2050	12-28-03	Am. & Ren.	2-1-04	309-048-0005	1-1-04	Repeal	2-1-04
309-041-2060	12-28-03	Am. & Ren.	2-1-04	309-048-0010	1-1-04	Repeal	2-1-04
309-041-2070	12-28-03	Am. & Ren.	2-1-04	309-048-0015	1-1-04	Repeal	2-1-04
309-041-2080	12-28-03	Am. & Ren.	2-1-04	309-048-0020	1-1-04	Repeal	2-1-04
309-041-2090	12-28-03	Am. & Ren.	2-1-04	309-048-0025	1-1-04	Repeal	2-1-04
309-041-2110	12-28-03	Am. & Ren.	2-1-04	309-048-0030	1-1-04	Repeal	2-1-04
309-041-2120	12-28-03	Am. & Ren.	2-1-04	309-048-0035	1-1-04	Repeal	2-1-04
309-041-2130	12-28-03	Am. & Ren.	2-1-04	309-049-0030	1-1-04	Repeal	2-1-04
309-041-2140	12-28-03	Am. & Ren.	2-1-04	309-049-0035	1-1-04	Repeal	2-1-04
309-041-2150	12-28-03	Am. & Ren.	2-1-04	309-049-0040	1-1-04	Repeal	2-1-04
309-041-2160	12-28-03	Am. & Ren.	2-1-04	309-049-0045	1-1-04	Repeal	2-1-04
309-041-2170	12-28-03	Am. & Ren.	2-1-04	309-049-0050	1-1-04	Repeal	2-1-04
309-041-2180	12-28-03	Am. & Ren.	2-1-04	309-049-0055	1-1-04	Repeal	2-1-04
309-044-0100	12-11-03	Amend(T)	1-1-04	309-049-0060	1-1-04	Repeal	2-1-04
309-044-0110	12-11-03	Amend(T)	1-1-04	309-049-0065	1-1-04	Repeal	2-1-04
309-044-0120	12-11-03	Amend(T)	1-1-04	309-049-0070	1-1-04	Repeal	2-1-04
309-044-0130	12-11-03	Amend(T)	1-1-04	309-049-0075	1-1-04	Repeal	2-1-04
309-044-0140	12-11-03	Amend(T)	1-1-04	309-049-0080	1-1-04	Repeal	2-1-04
309-044-0150	12-11-03	Amend(T)	1-1-04	309-049-0085	1-1-04	Repeal	2-1-04
309-044-0160	12-11-03	Amend(T)	1-1-04	309-049-0090	1-1-04	Repeal	2-1-04
309-044-0170	12-11-03	Amend(T)	1-1-04	309-049-0095	1-1-04	Repeal	2-1-04
309-044-0180	12-11-03	Amend(T)	1-1-04	309-049-0100	1-1-04	Repeal	2-1-04
309-044-0190	12-11-03	Amend(T)	1-1-04	309-049-0105	1-1-04	Repeal	2-1-04
309-044-0200	12-11-03	Amend(T)	1-1-04	309-049-0110	1-1-04	Repeal	2-1-04
309-044-0210	12-11-03	Amend(T)	1-1-04	309-049-0115	1-1-04	Repeal	2-1-04
309-047-0000	12-28-03	Am. & Ren.	2-1-04	309-049-0120	1-1-04	Repeal	2-1-04
309-047-0005	12-28-03	Am. & Ren.	2-1-04	309-049-0130	1-1-04	Repeal	2-1-04
309-047-0010	12-28-03	Am. & Ren.	2-1-04	309-049-0135	1-1-04	Repeal	2-1-04
309-047-0015	12-28-03	Am. & Ren.	2-1-04	309-049-0140	1-1-04	Repeal	2-1-04
309-047-0018	12-28-03	Am. & Ren.	2-1-04	309-049-0145	1-1-04	Repeal	2-1-04
309-047-0025	12-28-03	Am. & Ren.	2-1-04	309-049-0150	1-1-04	Repeal	2-1-04
309-047-0030	12-28-03	Am. & Ren.	2-1-04	309-049-0155	1-1-04	Repeal	2-1-04
309-047-0035	12-28-03	Am. & Ren.	2-1-04	309-049-0160	1-1-04	Repeal	2-1-04
309-047-0040	12-28-03	Am. & Ren.	2-1-04	309-049-0165	1-1-04	Repeal	2-1-04
309-047-0045	12-28-03	Am. & Ren.	2-1-04	309-049-0170	1-1-04	Repeal	2-1-04
309-047-0050	12-28-03	Am. & Ren.	2-1-04	309-049-0175	1-1-04	Repeal	2-1-04
309-047-0055	12-28-03	Am. & Ren.	2-1-04	309-049-0180	1-1-04	Repeal	2-1-04
309-047-0060	12-28-03	Am. & Ren.	2-1-04	309-049-0185	1-1-04	Repeal	2-1-04
309-047-0065	12-28-03	Am. & Ren.	2-1-04	309-049-0190	1-1-04	Repeal	2-1-04
309-047-0070	12-28-03	Am. & Ren.	2-1-04	309-049-0193	1-1-04	Repeal	2-1-04
309-047-0075	12-28-03	Am. & Ren.	2-1-04	309-049-0195	1-1-04	Repeal	2-1-04
309-047-0080	12-28-03	Am. & Ren.	2-1-04	309-049-0200	1-1-04	Repeal	2-1-04
309-047-0085	12-28-03	Am. & Ren.	2-1-04	309-049-0205	1-1-04	Repeal	2-1-04
309-047-0090	12-28-03	Am. & Ren.	2-1-04	309-049-0207	1-1-04	Repeal	2-1-04
309-047-0095	12-28-03	Am. & Ren.	2-1-04	309-049-0210	1-1-04	Repeal	2-1-04
309-047-0100	12-28-03	Am. & Ren.	2-1-04	309-049-0215	1-1-04	Repeal	2-1-04
309-047-0105	12-28-03	Am. & Ren.	2-1-04	309-049-0220	1-1-04	Repeal	2-1-04
309-047-0110	12-28-03	Am. & Ren.	2-1-04	309-049-0225	1-1-04	Repeal	2-1-04
309-047-0115	12-28-03	Am. & Ren.	2-1-04	330-070-0010	1-21-04	Amend	3-1-04
309-047-0120	12-28-03	Am. & Ren.	2-1-04	330-070-0013	1-21-04	Amend	3-1-04
309-047-0125	12-28-03	Am. & Ren.	2-1-04	330-070-0014	1-21-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
330-070-0020	1-21-04	Amend	3-1-04	333-008-0030	4-1-04	Amend(T)	5-1-04
330-070-0021	1-21-04	Amend	3-1-04	333-012-0050	4-9-04	Amend	5-1-04
330-070-0022	1-21-04	Amend	3-1-04	333-012-0053	4-9-04	Adopt	5-1-04
330-070-0024	1-21-04	Amend	3-1-04	333-012-0055	4-9-04	Amend	5-1-04
330-070-0025	1-21-04	Amend	3-1-04	333-012-0057	4-9-04	Amend	5-1-04
330-070-0026	1-21-04	Amend	3-1-04	333-012-0060	4-9-04	Amend	5-1-04
330-070-0027	1-21-04	Amend	3-1-04	333-012-0061	4-9-04	Adopt	5-1-04
330-070-0040	1-21-04	Amend	3-1-04	333-012-0063	4-9-04	Adopt	5-1-04
330-070-0045	1-21-04	Amend	3-1-04	333-012-0065	4-9-04	Amend	5-1-04
330-070-0048	1-21-04	Amend	3-1-04	333-012-0067	4-9-04	Adopt	5-1-04
330-070-0055	1-21-04	Amend	3-1-04	333-012-0070	4-9-04	Amend	5-1-04
330-070-0059	1-21-04	Adopt	3-1-04	333-013-0006	1-2-04	Repeal	2-1-04
330-070-0060	1-21-04	Amend	3-1-04	333-013-0026	1-2-04	Repeal	2-1-04
330-070-0062	1-21-04	Amend	3-1-04	333-015-0025	5-7-04	Amend(T)	6-1-04
330-070-0063	1-21-04	Amend	3-1-04	333-015-0030	5-7-04	Amend(T)	6-1-04
330-070-0064	1-21-04	Adopt	3-1-04	333-015-0034	5-7-04	Amend(T)	6-1-04
330-070-0070	1-21-04	Amend	3-1-04	333-015-0035	5-7-04	Amend(T)	6-1-04
330-070-0073	1-21-04	Amend	3-1-04	333-015-0040	5-7-04	Amend(T)	6-1-04
330-070-0085	1-21-04	Amend	3-1-04	333-015-0045	5-7-04	Amend(T)	6-1-04
330-070-0089	1-21-04	Amend	3-1-04	333-015-0050	5-7-04	Amend(T)	6-1-04
330-070-0091	1-21-04	Amend	3-1-04	333-015-0055	5-7-04	Suspend	6-1-04
330-070-0097	1-21-04	Amend	3-1-04	333-015-0060	5-7-04	Amend(T)	6-1-04
330-090-0105	1-21-04	Amend	3-1-04	333-015-0065	5-7-04	Adopt(T)	6-1-04
330-090-0110	1-21-04	Amend	3-1-04	333-015-0070	5-7-04	Adopt(T)	6-1-04
330-090-0120	1-21-04	Amend	3-1-04	333-015-0075	5-7-04	Adopt(T)	6-1-04
330-090-0130	1-21-04	Amend	3-1-04	333-015-0080	5-7-04	Adopt(T)	6-1-04
330-090-0135	1-21-04	Amend	3-1-04	333-015-0085	5-7-04	Adopt(T)	6-1-04
330-090-0140	1-21-04	Amend	3-1-04	333-015-0090	5-7-04	Adopt(T)	6-1-04
330-090-0150	1-21-04	Amend	3-1-04	333-020-0125	12-16-03	Amend	2-1-04
331-001-0000	2-13-04	Adopt	3-1-04	333-020-0127	12-16-03	Adopt	2-1-04
331-001-0010	2-13-04	Adopt	3-1-04	333-020-0130	12-16-03	Amend	2-1-04
331-001-0020	2-13-04	Adopt	3-1-04	333-020-0135	12-16-03	Amend	2-1-04
331-010-0000	2-13-04	Adopt	3-1-04	333-020-0140	12-16-03	Amend	2-1-04
331-010-0010	2-13-04	Adopt	3-1-04	333-020-0145	12-16-03	Amend	2-1-04
331-010-0020	2-13-04	Adopt	3-1-04	333-020-0147	12-16-03	Adopt	2-1-04
331-010-0030	2-13-04	Adopt	3-1-04	333-020-0149	12-16-03	Adopt	2-1-04
331-010-0040	2-13-04	Adopt	3-1-04	333-020-0150	12-16-03	Amend	2-1-04
331-020-0000	2-13-04	Adopt	3-1-04	333-020-0151	12-16-03	Adopt	2-1-04
331-020-0010	2-13-04	Adopt	3-1-04	333-020-0153	12-16-03	Adopt	2-1-04
331-020-0020	2-13-04	Adopt	3-1-04	333-020-0155	12-16-03	Amend	2-1-04
331-020-0030	2-13-04	Adopt	3-1-04	333-020-0160	12-16-03	Amend	2-1-04
331-020-0040	2-13-04	Adopt	3-1-04	333-020-0165	12-16-03	Amend	2-1-04
331-020-0050	2-13-04	Adopt	3-1-04	333-024-0500	3-23-04	Am. & Ren.	5-1-04
331-020-0060	2-13-04	Adopt	3-1-04	333-024-0510	3-23-04	Am. & Ren.	5-1-04
331-020-0070	2-13-04	Adopt	3-1-04	333-024-0520	3-23-04	Renumber	5-1-04
331-030-0000	2-13-04	Adopt	3-1-04	333-024-0530	3-23-04	Renumber	5-1-04
331-030-0010	2-13-04	Adopt	3-1-04	333-024-0540	3-23-04	Am. & Ren.	5-1-04
331-030-0020	2-13-04	Adopt	3-1-04	333-024-0550	3-23-04	Am. & Ren.	5-1-04
331-030-0030	2-13-04	Adopt	3-1-04	333-024-0560	3-23-04	Repeal	5-1-04
333-005-0000	3-29-04	Adopt	5-1-04	333-025-0100	3-23-04	Adopt	5-1-04
333-005-0010	3-29-04	Adopt	5-1-04	333-025-0100(T)	3-23-04	Repeal	5-1-04
333-005-0020	3-29-04	Adopt	5-1-04	333-025-0105	3-23-04	Adopt	5-1-04
333-005-0030	3-29-04	Adopt	5-1-04	333-025-0105(T)	3-23-04	Repeal	5-1-04
333-005-0040	3-29-04	Adopt	5-1-04	333-025-0110	3-23-04	Adopt	5-1-04
333-005-0050	3-29-04	Adopt	5-1-04	333-025-0110(T)	3-23-04	Repeal	5-1-04
333-005-0060	3-29-04	Adopt	5-1-04	333-025-0115	3-23-04	Adopt	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-025-0115(T)	3-23-04	Repeal	5-1-04	333-061-0087	4-9-04	Amend(T)	5-1-04
333-025-0120	3-23-04	Adopt	5-1-04	333-061-0090	4-9-04	Amend(T)	5-1-04
333-025-0120(T)	3-23-04	Repeal	5-1-04	333-061-0205	4-9-04	Amend(T)	5-1-04
333-025-0125	3-23-04	Adopt	5-1-04	333-061-0210	4-9-04	Amend(T)	5-1-04
333-025-0125(T)	3-23-04	Repeal	5-1-04	333-061-0215	4-9-04	Amend(T)	5-1-04
333-025-0130	3-23-04	Adopt	5-1-04	333-061-0220	4-9-04	Amend(T)	5-1-04
333-025-0130(T)	3-23-04	Repeal	5-1-04	333-061-0225	4-9-04	Amend(T)	5-1-04
333-025-0135(T)	3-23-04	Repeal	5-1-04	333-061-0228	4-9-04	Adopt(T)	5-1-04
333-025-0140(T)	3-23-04	Repeal	5-1-04	333-061-0230	4-9-04	Amend(T)	5-1-04
333-025-0145(T)	3-23-04	Repeal	5-1-04	333-061-0235	4-9-04	Amend(T)	5-1-04
333-025-0150(T)	3-23-04	Repeal	5-1-04	333-061-0240	4-9-04	Suspend	5-1-04
333-025-0155(T)	3-23-04	Repeal	5-1-04	333-061-0245	4-9-04	Amend(T)	5-1-04
333-025-0160(T)	3-23-04	Repeal	5-1-04	333-061-0250	4-9-04	Amend(T)	5-1-04
333-029-0105	2-13-04	Amend(T)	3-1-04	333-061-0255	4-9-04	Suspend	5-1-04
333-029-0105	4-9-04	Amend	5-1-04	333-061-0260	4-9-04	Amend(T)	5-1-04
333-029-0105(T)	4-9-04	Repeal	5-1-04	333-061-0265	4-9-04	Amend(T)	5-1-04
333-029-0110	2-13-04	Amend(T)	3-1-04	333-061-0270	4-9-04	Amend(T)	5-1-04
333-029-0110	4-9-04	Amend	5-1-04	333-061-0272	4-9-04	Adopt(T)	5-1-04
333-029-0110(T)	4-9-04	Repeal	5-1-04	333-061-0290	4-9-04	Amend(T)	5-1-04
333-030-0095	2-13-04	Amend(T)	3-1-04	333-063-0005	7-1-04	Repeal	6-1-04
333-030-0095	4-9-04	Amend	5-1-04	333-063-0010	7-1-04	Repeal	6-1-04
333-030-0095(T)	4-9-04	Repeal	5-1-04	333-063-0015	7-1-04	Repeal	6-1-04
333-040-0135	4-9-04	Amend	5-1-04	333-063-0020	7-1-04	Repeal	6-1-04
333-040-0135(T)	4-9-04	Repeal	5-1-04	333-063-0025	7-1-04	Repeal	6-1-04
333-054-0000	1-5-04	Amend	2-1-04	333-063-0030	7-1-04	Repeal	6-1-04
333-054-0000(T)	1-5-04	Repeal	2-1-04	333-063-0035	7-1-04	Repeal	6-1-04
333-054-0010	1-5-04	Amend	2-1-04	333-063-0040	7-1-04	Repeal	6-1-04
333-054-0010(T)	1-5-04	Repeal	2-1-04	333-063-0045	7-1-04	Repeal	6-1-04
333-054-0020	1-5-04	Amend	2-1-04	333-063-0050	7-1-04	Repeal	6-1-04
333-054-0020(T)	1-5-04	Repeal	2-1-04	333-063-0055	7-1-04	Repeal	6-1-04
333-054-0030	1-5-04	Amend	2-1-04	333-063-0060	7-1-04	Repeal	6-1-04
333-054-0030(T)	1-5-04	Repeal	2-1-04	333-063-0065	7-1-04	Repeal	6-1-04
333-054-0040	1-5-04	Amend	2-1-04	333-063-0070	7-1-04	Repeal	6-1-04
333-054-0040(T)	1-5-04	Repeal	2-1-04	333-063-0075	7-1-04	Repeal	6-1-04
333-054-0050	1-5-04	Amend	2-1-04	333-063-0085	7-1-04	Repeal	6-1-04
333-054-0050(T)	1-5-04	Repeal	2-1-04	333-063-0090	7-1-04	Repeal	6-1-04
333-054-0060	1-5-04	Amend	2-1-04	333-063-0095	7-1-04	Repeal	6-1-04
333-054-0060(T)	1-5-04	Repeal	2-1-04	333-063-0100	7-1-04	Repeal	6-1-04
333-054-0070	1-5-04	Amend	2-1-04	333-063-0105	7-1-04	Repeal	6-1-04
333-054-0070(T)	1-5-04	Repeal	2-1-04	333-063-0110	7-1-04	Repeal	6-1-04
333-054-0090	1-5-04	Repeal	2-1-04	333-063-0115	7-1-04	Repeal	6-1-04
333-054-0100	1-5-04	Adopt	2-1-04	333-063-0120	7-1-04	Repeal	6-1-04
333-054-0100(T)	1-5-04	Repeal	2-1-04	333-063-0125	7-1-04	Repeal	6-1-04
333-055-0015	3-23-04	Amend	5-1-04	333-063-0130	7-1-04	Repeal	6-1-04
333-055-0030	3-23-04	Amend	5-1-04	333-063-0135	7-1-04	Repeal	6-1-04
333-055-0035	3-23-04	Amend	5-1-04	333-063-0140	7-1-04	Repeal	6-1-04
333-061-0020	4-9-04	Amend(T)	5-1-04	333-064-0005	12-8-03	Amend	1-1-04
333-061-0025	4-9-04	Amend(T)	5-1-04	333-064-0005(T)	12-8-03	Repeal	1-1-04
333-061-0034	4-9-04	Amend(T)	5-1-04	333-064-0010	12-8-03	Amend	1-1-04
333-061-0057	4-9-04	Amend(T)	5-1-04	333-064-0010(T)	12-8-03	Repeal	1-1-04
333-061-0058	4-9-04	Adopt(T)	5-1-04	333-064-0015	12-8-03	Amend	1-1-04
333-061-0060	4-9-04	Amend(T)	5-1-04	333-064-0015(T)	12-8-03	Repeal	1-1-04
333-061-0061	4-9-04	Amend(T)	5-1-04	333-064-0025	12-8-03	Amend	1-1-04
333-061-0064	4-9-04	Adopt(T)	5-1-04	333-064-0025(T)	12-8-03	Repeal	1-1-04
333-061-0065	4-9-04	Amend(T)	5-1-04	333-064-0030	12-8-03	Amend	1-1-04
333-061-0085	4-9-04	Amend(T)	5-1-04	333-064-0030(T)	12-8-03	Repeal	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-064-0035	12-8-03	Amend	1-1-04	333-170-0090	4-9-04	Amend	5-1-04
333-064-0035(T)	12-8-03	Repeal	1-1-04	333-170-0090(T)	4-9-04	Repeal	5-1-04
333-064-0040	12-8-03	Amend	1-1-04	333-170-0100	2-13-04	Amend(T)	3-1-04
333-064-0040(T)	12-8-03	Repeal	1-1-04	333-170-0100	4-9-04	Amend	5-1-04
333-064-0060	12-8-03	Amend	1-1-04	333-170-0100(T)	4-9-04	Repeal	5-1-04
333-064-0060(T)	12-8-03	Repeal	1-1-04	333-170-0120	2-13-04	Amend(T)	3-1-04
333-064-0065	12-8-03	Amend	1-1-04	333-170-0120	4-9-04	Amend	5-1-04
333-064-0065(T)	12-8-03	Repeal	1-1-04	333-170-0120(T)	4-9-04	Repeal	5-1-04
333-064-0070	12-8-03	Adopt	1-1-04	333-170-0130	2-13-04	Amend(T)	3-1-04
333-064-0070(T)	12-8-03	Repeal	1-1-04	333-170-0130	4-9-04	Amend	5-1-04
333-150-0000	2-13-04	Amend(T)	3-1-04	333-170-0130(T)	4-9-04	Repeal	5-1-04
333-150-0000	4-9-04	Amend	5-1-04	333-505-0007	2-6-04	Amend	3-1-04
333-150-0000(T)	4-9-04	Repeal	5-1-04	333-535-0040	3-17-04	Suspend	5-1-04
333-157-0045	2-13-04	Amend(T)	3-1-04	333-535-0041	3-17-04	Adopt(T)	5-1-04
333-157-0045	4-9-04	Amend	5-1-04	333-535-0060	3-17-04	Repeal	5-1-04
333-157-0045(T)	4-9-04	Repeal	5-1-04	333-535-0061	3-17-04	Adopt	5-1-04
333-157-0050	2-13-04	Suspend	3-1-04	333-536-0000	2-6-04	Adopt(T)	3-1-04
333-157-0050	4-9-04	Repeal	5-1-04	333-536-0005	2-6-04	Adopt(T)	3-1-04
333-157-0060	2-13-04	Suspend	3-1-04	333-536-0010	2-6-04	Adopt(T)	3-1-04
333-157-0060	4-9-04	Repeal	5-1-04	333-536-0015	2-6-04	Adopt(T)	3-1-04
333-157-0090	2-13-04	Suspend	3-1-04	333-536-0020	2-6-04	Adopt(T)	3-1-04
333-157-0090	4-9-04	Repeal	5-1-04	333-536-0025	2-6-04	Adopt(T)	3-1-04
333-162-0300	2-13-04	Amend(T)	3-1-04	333-536-0030	2-6-04	Adopt(T)	3-1-04
333-162-0300	4-9-04	Amend	5-1-04	333-536-0035	2-6-04	Adopt(T)	3-1-04
333-162-0300(T)	4-9-04	Repeal	5-1-04	333-536-0040	2-6-04	Adopt(T)	3-1-04
333-162-0930	2-13-04	Amend(T)	3-1-04	333-536-0045	2-6-04	Adopt(T)	3-1-04
333-162-0930	4-9-04	Amend	5-1-04	333-536-0050	2-6-04	Adopt(T)	3-1-04
333-162-0930(T)	4-9-04	Repeal	5-1-04	333-536-0055	2-6-04	Adopt(T)	3-1-04
333-162-1005	2-13-04	Adopt(T)	3-1-04	333-536-0060	2-6-04	Adopt(T)	3-1-04
333-162-1005	4-9-04	Adopt	5-1-04	333-536-0065	2-6-04	Adopt(T)	3-1-04
333-162-1005(T)	4-9-04	Repeal	5-1-04	333-536-0070	2-6-04	Adopt(T)	3-1-04
333-170-0010	2-13-04	Amend(T)	3-1-04	333-536-0075	2-6-04	Adopt(T)	3-1-04
333-170-0010	4-9-04	Amend	5-1-04	333-536-0080	2-6-04	Adopt(T)	3-1-04
333-170-0010(T)	4-9-04	Repeal	5-1-04	333-536-0085	2-6-04	Adopt(T)	3-1-04
333-170-0020	2-13-04	Amend(T)	3-1-04	333-536-0090	2-6-04	Adopt(T)	3-1-04
333-170-0020	4-9-04	Amend	5-1-04	333-536-0095	2-6-04	Adopt(T)	3-1-04
333-170-0020(T)	4-9-04	Repeal	5-1-04	333-536-0100	2-6-04	Adopt(T)	3-1-04
333-170-0030	2-13-04	Amend(T)	3-1-04	333-560-0010	1-16-04	Amend	3-1-04
333-170-0030	4-9-04	Amend	5-1-04	333-635-0000	1-16-04	Repeal	3-1-04
333-170-0030(T)	4-9-04	Repeal	5-1-04	333-635-0010	1-16-04	Repeal	3-1-04
333-170-0040	2-13-04	Amend(T)	3-1-04	333-635-0020	1-16-04	Repeal	3-1-04
333-170-0040	4-9-04	Amend	5-1-04	333-635-0030	1-16-04	Repeal	3-1-04
333-170-0040(T)	4-9-04	Repeal	5-1-04	333-675-0000	3-11-04	Amend	4-1-04
333-170-0050	2-13-04	Amend(T)	3-1-04	333-675-0010	3-11-04	Am. & Ren.	4-1-04
333-170-0050	4-9-04	Amend	5-1-04	333-675-0020	3-11-04	Amend	4-1-04
333-170-0050(T)	4-9-04	Repeal	5-1-04	333-675-0030	3-11-04	Amend	4-1-04
333-170-0060	2-13-04	Amend(T)	3-1-04	333-675-0040	3-11-04	Amend	4-1-04
333-170-0060	4-9-04	Amend	5-1-04	334-010-0005	2-23-04	Amend	4-1-04
333-170-0060(T)	4-9-04	Repeal	5-1-04	334-010-0010	2-23-04	Amend	4-1-04
333-170-0070	2-13-04	Amend(T)	3-1-04	334-010-0015	2-23-04	Amend	4-1-04
333-170-0070	4-9-04	Amend	5-1-04	334-010-0017	2-23-04	Amend	4-1-04
333-170-0070(T)	4-9-04	Repeal	5-1-04	334-010-0025	2-23-04	Amend	4-1-04
333-170-0080	2-13-04	Amend(T)	3-1-04	334-010-0050	2-23-04	Amend	4-1-04
333-170-0080	4-9-04	Amend	5-1-04	334-010-0050	3-16-04	Amend(T)	5-1-04
333-170-0080(T)	4-9-04	Repeal	5-1-04	335-005-0025	2-6-04	Amend	3-1-04
333-170-0090	2-13-04	Amend(T)	3-1-04	335-070-0030	2-6-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
335-070-0060	2-6-04	Amend	3-1-04	340-041-0130	12-9-03	Adopt	1-1-04
335-095-0020	2-6-04	Amend	3-1-04	340-041-0133	12-9-03	Adopt	1-1-04
335-095-0030	2-6-04	Amend	3-1-04	340-041-0135	12-9-03	Adopt	1-1-04
337-020-0010	4-15-04	Adopt	5-1-04	340-041-0140	12-9-03	Adopt	1-1-04
337-021-0050	4-15-04	Repeal	5-1-04	340-041-0143	12-9-03	Adopt	1-1-04
338-010-0015	3-1-04	Amend(T)	4-1-04	340-041-0145	12-9-03	Adopt	1-1-04
338-010-0025	3-1-04	Amend(T)	4-1-04	340-041-0150	12-9-03	Am. & Ren.	1-1-04
338-010-0030	3-1-04	Amend(T)	4-1-04	340-041-0151	12-9-03	Adopt	1-1-04
338-010-0035	3-1-04	Amend(T)	4-1-04	340-041-0154	12-9-03	Adopt	1-1-04
338-010-0050	3-1-04	Amend(T)	4-1-04	340-041-0156	12-9-03	Adopt	1-1-04
340-011-0005	12-12-03	Amend	1-1-04	340-041-0160	12-9-03	Adopt	1-1-04
340-011-0035	12-12-03	Am. & Ren.	1-1-04	340-041-0164	12-9-03	Adopt	1-1-04
340-011-0097	12-12-03	Am. & Ren.	1-1-04	340-041-0165	12-9-03	Adopt	1-1-04
340-011-0098	12-12-03	Am. & Ren.	1-1-04	340-041-0170	12-9-03	Adopt	1-1-04
340-011-0103	12-12-03	Am. & Ren.	1-1-04	340-041-0174	12-9-03	Adopt	1-1-04
340-011-0106	12-12-03	Renumber	1-1-04	340-041-0175	12-9-03	Adopt	1-1-04
340-011-0107	12-12-03	Am. & Ren.	1-1-04	340-041-0180	12-9-03	Adopt	1-1-04
340-011-0122	12-12-03	Renumber	1-1-04	340-041-0184	12-9-03	Adopt	1-1-04
340-011-0124	12-12-03	Am. & Ren.	1-1-04	340-041-0185	12-9-03	Adopt	1-1-04
340-011-0131	12-12-03	Am. & Ren.	1-1-04	340-041-0190	12-9-03	Adopt	1-1-04
340-011-0132	12-12-03	Am. & Ren.	1-1-04	340-041-0194	12-9-03	Adopt	1-1-04
340-011-0136	12-12-03	Am. & Ren.	1-1-04	340-041-0195	12-9-03	Adopt	1-1-04
340-011-0520	12-12-03	Adopt	1-1-04	340-041-0201	12-9-03	Adopt	1-1-04
340-011-0535	12-12-03	Adopt	1-1-04	340-041-0202	12-9-03	Repeal	1-1-04
340-011-0545	12-12-03	Adopt	1-1-04	340-041-0204	12-9-03	Adopt	1-1-04
340-011-0550	12-12-03	Adopt	1-1-04	340-041-0205	12-9-03	Repeal	1-1-04
340-011-0555	12-12-03	Adopt	1-1-04	340-041-0207	12-9-03	Adopt	1-1-04
340-011-0580	12-12-03	Adopt	1-1-04	340-041-0215	12-9-03	Repeal	1-1-04
340-011-0585	12-12-03	Adopt	1-1-04	340-041-0220	12-9-03	Adopt	1-1-04
340-041-0001	12-9-03	Amend	1-1-04	340-041-0224	12-9-03	Adopt	1-1-04
340-041-0002	12-9-03	Adopt	1-1-04	340-041-0225	12-9-03	Adopt	1-1-04
340-041-0004	12-9-03	Adopt	1-1-04	340-041-0230	12-9-03	Adopt	1-1-04
340-041-0006	12-9-03	Repeal	1-1-04	340-041-0234	12-9-03	Adopt	1-1-04
340-041-0007	12-9-03	Adopt	1-1-04	340-041-0235	12-9-03	Adopt	1-1-04
340-041-0009	12-9-03	Adopt	1-1-04	340-041-0242	12-9-03	Repeal	1-1-04
340-041-0016	12-9-03	Adopt	1-1-04	340-041-0245	12-9-03	Repeal	1-1-04
340-041-0021	12-9-03	Adopt	1-1-04	340-041-0250	12-9-03	Adopt	1-1-04
340-041-0026	12-9-03	Repeal	1-1-04	340-041-0254	12-9-03	Adopt	1-1-04
340-041-0027	12-9-03	Am. & Ren.	1-1-04	340-041-0255	12-9-03	Repeal	1-1-04
340-041-0028	12-9-03	Adopt	1-1-04	340-041-0256	12-9-03	Adopt	1-1-04
340-041-0031	12-9-03	Adopt	1-1-04	340-041-0260	12-9-03	Adopt	1-1-04
340-041-0032	12-9-03	Adopt	1-1-04	340-041-0264	12-9-03	Adopt	1-1-04
340-041-0033	12-9-03	Adopt	1-1-04	340-041-0265	12-9-03	Adopt	1-1-04
340-041-0034	12-9-03	Repeal	1-1-04	340-041-0270	12-9-03	Repeal	1-1-04
340-041-0036	12-9-03	Adopt	1-1-04	340-041-0271	12-9-03	Adopt	1-1-04
340-041-0046	12-9-03	Adopt	1-1-04	340-041-0274	12-9-03	Adopt	1-1-04
340-041-0053	12-9-03	Adopt	1-1-04	340-041-0275	12-9-03	Adopt	1-1-04
340-041-0057	12-9-03	Adopt	1-1-04	340-041-0282	12-9-03	Repeal	1-1-04
340-041-0061	12-9-03	Adopt	1-1-04	340-041-0285	12-9-03	Repeal	1-1-04
340-041-0101	12-9-03	Adopt	1-1-04	340-041-0286	12-9-03	Adopt	1-1-04
340-041-0103	12-9-03	Adopt	1-1-04	340-041-0289	12-9-03	Adopt	1-1-04
340-041-0104	12-9-03	Adopt	1-1-04	340-041-0290	12-9-03	Adopt	1-1-04
340-041-0120	12-9-03	Repeal	1-1-04	340-041-0295	12-9-03	Repeal	1-1-04
340-041-0121	12-9-03	Adopt	1-1-04	340-041-0300	12-9-03	Adopt	1-1-04
340-041-0122	12-9-03	Adopt	1-1-04	340-041-0304	12-9-03	Adopt	1-1-04
340-041-0124	12-9-03	Adopt	1-1-04	340-041-0305	12-9-03	Adopt	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-041-0310	12-9-03	Adopt	1-1-04	340-041-0965	12-9-03	Repeal	1-1-04
340-041-0314	12-9-03	Adopt	1-1-04	340-041-0975	12-9-03	Repeal	1-1-04
340-041-0315	12-9-03	Adopt	1-1-04	340-048-0005	4-15-04	Amend	5-1-04
340-041-0320	12-9-03	Adopt	1-1-04	340-048-0010	4-15-04	Amend	5-1-04
340-041-0322	12-9-03	Repeal	1-1-04	340-048-0015	4-15-04	Amend	5-1-04
340-041-0324	12-9-03	Adopt	1-1-04	340-048-0020	4-15-04	Amend	5-1-04
340-041-0325	12-9-03	Repeal	1-1-04	340-048-0024	4-15-04	Am. & Ren.	5-1-04
340-041-0326	12-9-03	Adopt	1-1-04	340-048-0025	4-15-04	Am. & Ren.	5-1-04
340-041-0330	12-9-03	Adopt	1-1-04	340-048-0025	4-15-04	Am. & Ren.	5-1-04
340-041-0334	12-9-03	Adopt	1-1-04	340-048-0027	4-15-04	Adopt	5-1-04
340-041-0335	12-9-03	Repeal	1-1-04	340-048-0030	4-15-04	Am. & Ren.	5-1-04
340-041-0336	12-9-03	Adopt	1-1-04	340-048-0035	4-15-04	Repeal	5-1-04
340-041-0340	12-9-03	Adopt	1-1-04	340-048-0037	4-15-04	Adopt	5-1-04
340-041-0344	12-9-03	Adopt	1-1-04	340-048-0040	4-15-04	Am. & Ren.	5-1-04
340-041-0345	12-9-03	Adopt	1-1-04	340-048-0200	4-15-04	Am. & Ren.	5-1-04
340-041-0350	12-9-03	Adopt	1-1-04	340-200-0040	12-12-03	Amend	1-1-04
340-041-0362	12-9-03	Repeal	1-1-04	340-200-0040	4-14-04	Amend	5-1-04
340-041-0365	12-9-03	Repeal	1-1-04	340-214-0400	12-12-03	Adopt	1-1-04
340-041-0375	12-9-03	Repeal	1-1-04	340-214-0410	12-12-03	Adopt	1-1-04
340-041-0385	12-9-03	Repeal	1-1-04	340-214-0420	12-12-03	Adopt	1-1-04
340-041-0442	12-9-03	Repeal	1-1-04	340-214-0430	12-12-03	Adopt	1-1-04
340-041-0445	12-9-03	Repeal	1-1-04	340-224-0010	4-14-04	Amend	5-1-04
340-041-0455	12-9-03	Repeal	1-1-04	340-224-0030	4-14-04	Amend	5-1-04
340-041-0470	12-9-03	Repeal	1-1-04	340-224-0050	4-14-04	Amend	5-1-04
340-041-0482	12-9-03	Repeal	1-1-04	340-224-0070	4-14-04	Amend	5-1-04
340-041-0485	12-9-03	Repeal	1-1-04	340-224-0080	4-14-04	Amend	5-1-04
340-041-0495	12-9-03	Repeal	1-1-04	340-225-0020	4-14-04	Amend	5-1-04
340-041-0522	12-9-03	Repeal	1-1-04	340-225-0050	4-14-04	Amend	5-1-04
340-041-0525	12-9-03	Repeal	1-1-04	340-225-0090	4-14-04	Amend	5-1-04
340-041-0535	12-9-03	Repeal	1-1-04	340-228-0400	12-12-03	Adopt	1-1-04
340-041-0562	12-9-03	Repeal	1-1-04	340-228-0410	12-12-03	Adopt	1-1-04
340-041-0565	12-9-03	Repeal	1-1-04	340-228-0420	12-12-03	Adopt	1-1-04
340-041-0575	12-9-03	Repeal	1-1-04	340-228-0430	12-12-03	Adopt	1-1-04
340-041-0580	12-9-03	Repeal	1-1-04	340-228-0440	12-12-03	Adopt	1-1-04
340-041-0602	12-9-03	Repeal	1-1-04	340-228-0450	12-12-03	Adopt	1-1-04
340-041-0605	12-9-03	Repeal	1-1-04	340-228-0460	12-12-03	Adopt	1-1-04
340-041-0615	12-9-03	Repeal	1-1-04	340-228-0470	12-12-03	Adopt	1-1-04
340-041-0642	12-9-03	Repeal	1-1-04	340-228-0480	12-12-03	Adopt	1-1-04
340-041-0645	12-9-03	Repeal	1-1-04	340-228-0490	12-12-03	Adopt	1-1-04
340-041-0655	12-9-03	Repeal	1-1-04	340-228-0500	12-12-03	Adopt	1-1-04
340-041-0682	12-9-03	Repeal	1-1-04	340-228-0510	12-12-03	Adopt	1-1-04
340-041-0765	12-9-03	Repeal	1-1-04	340-228-0520	12-12-03	Adopt	1-1-04
340-041-0775	12-9-03	Repeal	1-1-04	340-228-0530	12-12-03	Adopt	1-1-04
340-041-0802	12-9-03	Repeal	1-1-04	350-011-0006	6-1-04	Amend	6-1-04
340-041-0805	12-9-03	Repeal	1-1-04	350-012-0006	6-1-04	Amend	6-1-04
340-041-0815	12-9-03	Repeal	1-1-04	350-120-0010	4-1-04	Amend	4-1-04
340-041-0842	12-9-03	Repeal	1-1-04	350-120-0015	4-1-04	Adopt	4-1-04
340-041-0845	12-9-03	Repeal	1-1-04	350-120-0020	4-1-04	Amend	4-1-04
340-041-0855	12-9-03	Repeal	1-1-04	350-120-0025	4-1-04	Adopt	4-1-04
340-041-0882	12-9-03	Repeal	1-1-04	350-120-0030	4-1-04	Amend	4-1-04
340-041-0885	12-9-03	Repeal	1-1-04	350-120-0040	4-1-04	Amend	4-1-04
340-041-0895	12-9-03	Repeal	1-1-04	350-120-0050	4-1-04	Adopt	4-1-04
340-041-0922	12-9-03	Repeal	1-1-04	410-007-0000	3-1-04	Repeal	4-1-04
340-041-0925	12-9-03	Repeal	1-1-04	410-007-0010	3-1-04	Repeal	4-1-04
340-041-0935	12-9-03	Repeal	1-1-04	410-007-0020	3-1-04	Repeal	4-1-04
340-041-0962	12-9-03	Repeal	1-1-04	410-007-0030	3-1-04	Repeal	4-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-007-0040	3-1-04	Repeal	4-1-04	410-121-0040	12-1-03	Amend	1-1-04
410-007-0050	3-1-04	Repeal	4-1-04	410-121-0040	12-15-03	Amend(T)	1-1-04
410-007-0060	3-1-04	Repeal	4-1-04	410-121-0040	3-1-04	Amend	4-1-04
410-007-0070	3-1-04	Repeal	4-1-04	410-121-0040(T)	3-1-04	Repeal	4-1-04
410-007-0080	3-1-04	Repeal	4-1-04	410-121-0060	4-1-04	Amend	4-1-04
410-007-0200	3-1-04	Adopt	4-1-04	410-121-0061	4-1-04	Amend	4-1-04
410-007-0210	3-1-04	Adopt	4-1-04	410-121-0100	4-1-04	Amend	4-1-04
410-007-0220	3-1-04	Adopt	4-1-04	410-121-0135	4-1-04	Amend	4-1-04
410-007-0230	3-1-04	Adopt	4-1-04	410-121-0140	12-1-03	Amend	1-1-04
410-007-0240	3-1-04	Adopt	4-1-04	410-121-0140	4-1-04	Amend	4-1-04
410-007-0250	3-1-04	Adopt	4-1-04	410-121-0143	4-1-04	Amend	4-1-04
410-007-0260	3-1-04	Adopt	4-1-04	410-121-0144	4-1-04	Amend	4-1-04
410-007-0270	3-1-04	Adopt	4-1-04	410-121-0145	4-1-04	Amend	4-1-04
410-007-0280	3-1-04	Adopt	4-1-04	410-121-0146	3-15-04	Amend	3-1-04
410-007-0290	3-1-04	Adopt	4-1-04	410-121-0146	3-15-04	Amend(T)	4-1-04
410-007-0300	3-1-04	Adopt	4-1-04	410-121-0147	4-1-04	Amend	4-1-04
410-007-0310	3-1-04	Adopt	4-1-04	410-121-0148	4-1-04	Amend	4-1-04
410-007-0320	3-1-04	Adopt	4-1-04	410-121-0150	4-1-04	Amend	4-1-04
410-007-0330	3-1-04	Adopt	4-1-04	410-121-0154	4-1-04	Repeal	4-1-04
410-007-0340	3-1-04	Adopt	4-1-04	410-121-0155	4-1-04	Amend	4-1-04
410-007-0350	3-1-04	Adopt	4-1-04	410-121-0157	3-30-04	Amend	5-1-04
410-007-0360	3-1-04	Adopt	4-1-04	410-121-0157	4-4-04	Amend(T)	3-1-04
410-007-0370	3-1-04	Adopt	4-1-04	410-121-0157	5-14-04	Amend(T)	6-1-04
410-007-0380	3-1-04	Adopt	4-1-04	410-121-0160	3-15-04	Amend	3-1-04
410-050-0100	5-1-04	Adopt(T)	6-1-04	410-121-0160	3-15-04	Amend(T)	4-1-04
410-050-0110	5-1-04	Adopt(T)	6-1-04	410-121-0160	4-15-04	Amend	4-1-04
410-050-0120	5-1-04	Adopt(T)	6-1-04	410-121-0180	4-1-04	Repeal	4-1-04
410-050-0130	5-1-04	Adopt(T)	6-1-04	410-121-0185	4-1-04	Amend	4-1-04
410-050-0140	5-1-04	Adopt(T)	6-1-04	410-121-0190	4-1-04	Amend	4-1-04
410-050-0150	5-1-04	Adopt(T)	6-1-04	410-121-0200	4-1-04	Amend	4-1-04
410-050-0160	5-1-04	Adopt(T)	6-1-04	410-121-0300	12-1-03	Amend(T)	1-1-04
410-050-0170	5-1-04	Adopt(T)	6-1-04	410-121-0300	2-1-04	Amend	3-1-04
410-050-0180	5-1-04	Adopt(T)	6-1-04	410-121-0300	5-14-04	Amend(T)	6-1-04
410-050-0190	5-1-04	Adopt(T)	6-1-04	410-121-0320	2-1-04	Amend	3-1-04
410-050-0200	5-1-04	Adopt(T)	6-1-04	410-121-0420	4-1-04	Amend	4-1-04
410-050-0210	5-1-04	Adopt(T)	6-1-04	410-121-0580	4-1-04	Amend	4-1-04
410-050-0220	5-1-04	Adopt(T)	6-1-04	410-121-0625	4-1-04	Amend	4-1-04
410-050-0230	5-1-04	Adopt(T)	6-1-04	410-122-0030	4-1-04	Amend	5-1-04
410-050-0240	5-1-04	Adopt(T)	6-1-04	410-122-0040	3-15-04	Amend	3-1-04
410-050-0250	5-1-04	Adopt(T)	6-1-04	410-122-0040	3-15-04	Amend(T)	4-1-04
410-120-1160	4-1-04	Amend	4-1-04	410-122-0040	4-1-04	Amend	5-1-04
410-120-1195	1-1-04	Amend	2-1-04	410-122-0040	5-1-04	Amend	5-1-04
410-120-1200	4-1-04	Amend	4-1-04	410-122-0060	4-1-04	Amend	5-1-04
410-120-1280	4-1-04	Amend	4-1-04	410-122-0080	4-1-04	Amend	5-1-04
410-120-1295	3-22-04	Amend	5-1-04	410-122-0105	4-1-04	Repeal	5-1-04
410-120-1295	3-23-04	Amend(T)	5-1-04	410-122-0120	4-1-04	Repeal	5-1-04
410-120-1340	4-1-04	Amend	4-1-04	410-122-0140	4-1-04	Repeal	5-1-04
410-120-1360	4-1-04	Amend	4-1-04	410-122-0180	4-1-04	Amend	5-1-04
410-120-1520	4-1-04	Amend	4-1-04	410-122-0190	4-1-04	Amend	5-1-04
410-120-1540	4-1-04	Amend	4-1-04	410-122-0200	4-1-04	Amend	5-1-04
410-120-1570	4-1-04	Amend	4-1-04	410-122-0202	4-1-04	Amend	5-1-04
410-121-0000	4-1-04	Amend	4-1-04	410-122-0203	4-1-04	Amend	5-1-04
410-121-0021	12-1-03	Adopt	1-1-04	410-122-0205	4-1-04	Amend	5-1-04
410-121-0030	3-1-04	Amend	4-1-04	410-122-0209	4-1-04	Amend	5-1-04
410-121-0030	5-1-04	Amend	6-1-04	410-122-0210	4-1-04	Amend	5-1-04
410-121-0033	2-1-04	Adopt	3-1-04	410-122-0340	4-1-04	Amend	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-122-0365	4-1-04	Amend	5-1-04	410-148-0080	4-1-04	Amend	4-1-04
410-122-0375	4-1-04	Amend	5-1-04	410-148-0120	4-1-04	Amend	4-1-04
410-122-0380	4-1-04	Amend	5-1-04	410-148-0260	4-1-04	Amend	4-1-04
410-122-0525	4-1-04	Amend	5-1-04	410-148-0280	4-1-04	Amend	4-1-04
410-122-0540	4-1-04	Amend	5-1-04	410-148-0300	4-1-04	Amend	4-1-04
410-122-0560	4-1-04	Amend	5-1-04	411-009-0000	3-1-04	Repeal	4-1-04
410-122-0580	4-1-04	Amend	5-1-04	411-009-0005	3-1-04	Repeal	4-1-04
410-122-0620	4-1-04	Amend	5-1-04	411-009-0015	3-1-04	Repeal	4-1-04
410-122-0625	4-1-04	Amend	5-1-04	411-009-0021	3-1-04	Repeal	4-1-04
410-122-0660	4-1-04	Amend	5-1-04	411-009-0040	3-1-04	Repeal	4-1-04
410-122-0700	4-1-04	Amend	5-1-04	411-009-0050	3-1-04	Repeal	4-1-04
410-125-0080	4-1-04	Amend	4-1-04	411-009-0060	3-1-04	Repeal	4-1-04
410-125-0115	3-15-04	Amend(T)	4-1-04	411-009-0070	3-1-04	Repeal	4-1-04
410-125-0115	5-1-04	Amend	6-1-04	411-009-0080	3-1-04	Repeal	4-1-04
410-125-0115(T)	5-1-04	Repeal	6-1-04	411-009-0090	3-1-04	Repeal	4-1-04
410-125-0121	3-15-04	Amend(T)	4-1-04	411-009-0100	3-1-04	Repeal	4-1-04
410-125-0121	5-1-04	Amend	6-1-04	411-009-0110	3-1-04	Repeal	4-1-04
410-125-0121(T)	5-1-04	Repeal	6-1-04	411-015-0005	4-27-04	Amend	6-1-04
410-125-0141	1-1-04	Amend	2-1-04	411-015-0010	4-27-04	Amend	6-1-04
410-125-0181	1-1-04	Amend	2-1-04	411-015-0015	3-23-04	Amend(T)	5-1-04
410-125-0181	3-15-04	Amend(T)	4-1-04	411-015-0015	4-27-04	Amend	6-1-04
410-125-0181	5-1-04	Amend	6-1-04	411-015-0015(T)	4-27-04	Repeal	6-1-04
410-125-0181(T)	5-1-04	Repeal	6-1-04	411-015-0100	4-27-04	Amend	6-1-04
410-125-0195	1-1-04	Amend	2-1-04	411-030-0020	12-11-03	Amend(T)	1-1-04
410-125-0225	4-1-04	Repeal	4-1-04	411-030-0033	12-11-03	Amend(T)	1-1-04
410-125-0410	4-1-04	Amend	4-1-04	411-030-0040	12-11-03	Amend(T)	1-1-04
410-125-2000	4-1-04	Amend	4-1-04	411-030-0060	12-11-03	Amend(T)	1-1-04
410-127-0080	1-1-04	Amend	2-1-04	411-030-0065	12-11-03	Amend(T)	1-1-04
410-129-0080	12-1-03	Amend	1-1-04	411-055-0000	2-4-04	Amend	3-1-04
410-129-0100	4-1-04	Amend	4-1-04	411-055-0000	4-1-04	Amend	5-1-04
410-129-0200	4-1-04	Amend	4-1-04	411-055-0003	2-4-04	Amend	3-1-04
410-129-0260	4-1-04	Amend	4-1-04	411-055-0003	4-1-04	Amend	5-1-04
410-130-0000	4-1-04	Amend	4-1-04	411-055-0005	4-1-04	Amend	5-1-04
410-130-0180	4-1-04	Amend	4-1-04	411-055-0010	4-1-04	Amend	5-1-04
410-130-0200	4-1-04	Amend	4-1-04	411-055-0015	4-1-04	Amend	5-1-04
410-130-0220	4-1-04	Amend	4-1-04	411-055-0019	4-1-04	Amend	5-1-04
410-130-0240	4-1-04	Amend	4-1-04	411-055-0024	4-1-04	Amend	5-1-04
410-130-0255	4-1-04	Amend	4-1-04	411-055-0029	4-1-04	Amend	5-1-04
410-130-0585	4-1-04	Amend	4-1-04	411-055-0034	4-1-04	Amend	5-1-04
410-130-0587	4-1-04	Amend	4-1-04	411-055-0039	4-1-04	Amend	5-1-04
410-130-0680	4-1-04	Amend	4-1-04	411-055-0045	4-1-04	Amend	5-1-04
410-130-0700	4-1-04	Amend	4-1-04	411-055-0051	4-1-04	Amend	5-1-04
410-131-0160	1-1-04	Amend	2-1-04	411-055-0061	4-1-04	Amend	5-1-04
410-131-0280	4-1-04	Amend	4-1-04	411-055-0081	4-1-04	Amend	5-1-04
410-132-0100	1-1-04	Amend	2-1-04	411-055-0085	4-1-04	Amend	5-1-04
410-133-0090	12-15-03	Amend(T)	1-1-04	411-055-0091	4-1-04	Amend	5-1-04
410-133-0090	2-1-04	Amend	3-1-04	411-055-0101	4-1-04	Amend	5-1-04
410-141-0420	3-23-04	Amend(T)	5-1-04	411-055-0111	4-1-04	Amend	5-1-04
410-141-0480	1-1-04	Amend	2-1-04	411-055-0115	4-1-04	Amend	5-1-04
410-141-0500	1-1-04	Amend	2-1-04	411-055-0121	4-1-04	Amend	5-1-04
410-141-0520	1-1-04	Amend	2-1-04	411-055-0131	4-1-04	Amend	5-1-04
410-141-0520	4-1-04	Amend(T)	4-1-04	411-055-0141	4-1-04	Amend	5-1-04
410-141-0520	5-1-04	Amend	6-1-04	411-055-0151	4-1-04	Amend	5-1-04
410-142-0300	12-1-03	Amend	1-1-04	411-055-0161	4-1-04	Amend	5-1-04
410-148-0000	4-1-04	Amend	4-1-04	411-055-0170	4-1-04	Amend	5-1-04
410-148-0020	4-1-04	Amend	4-1-04	411-055-0180	4-1-04	Amend	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-055-0190	4-1-04	Amend	5-1-04	411-325-0200	1-1-04	Adopt	2-1-04
411-055-0200	4-1-04	Amend	5-1-04	411-325-0210	1-1-04	Adopt	2-1-04
411-055-0210	4-1-04	Amend	5-1-04	411-325-0220	1-1-04	Adopt	2-1-04
411-055-0220	4-1-04	Amend	5-1-04	411-325-0230	1-1-04	Adopt	2-1-04
411-055-0230	4-1-04	Amend	5-1-04	411-325-0240	1-1-04	Adopt	2-1-04
411-055-0240	4-1-04	Amend	5-1-04	411-325-0250	1-1-04	Adopt	2-1-04
411-055-0250	4-1-04	Amend	5-1-04	411-325-0260	1-1-04	Adopt	2-1-04
411-055-0260	4-1-04	Amend	5-1-04	411-325-0270	1-1-04	Adopt	2-1-04
411-055-0270	4-1-04	Amend	5-1-04	411-325-0280	1-1-04	Adopt	2-1-04
411-055-0280	4-1-04	Amend	5-1-04	411-325-0290	1-1-04	Adopt	2-1-04
411-056-0005	2-4-04	Amend	3-1-04	411-325-0300	1-1-04	Adopt	2-1-04
411-056-0007	2-4-04	Amend	3-1-04	411-325-0310	1-1-04	Adopt	2-1-04
411-056-0010	3-23-04	Amend(T)	5-1-04	411-325-0320	1-1-04	Adopt	2-1-04
411-056-0018	3-23-04	Amend(T)	5-1-04	411-325-0330	1-1-04	Adopt	2-1-04
411-056-0030	3-23-04	Amend(T)	5-1-04	411-325-0340	1-1-04	Adopt	2-1-04
411-200-0010	3-24-04	Amend	5-1-04	411-325-0350	1-1-04	Adopt	2-1-04
411-300-0110	12-11-03	Amend(T)	1-1-04	411-325-0360	1-1-04	Adopt	2-1-04
411-320-0010	1-1-04	Adopt	2-1-04	411-325-0370	1-1-04	Adopt	2-1-04
411-320-0020	1-1-04	Adopt	2-1-04	411-325-0380	1-1-04	Adopt	2-1-04
411-320-0030	1-1-04	Adopt	2-1-04	411-325-0390	1-1-04	Adopt	2-1-04
411-320-0040	1-1-04	Adopt	2-1-04	411-325-0400	1-1-04	Adopt	2-1-04
411-320-0050	1-1-04	Adopt	2-1-04	411-325-0410	1-1-04	Adopt	2-1-04
411-320-0060	1-1-04	Adopt	2-1-04	411-325-0420	1-1-04	Adopt	2-1-04
411-320-0070	1-1-04	Adopt	2-1-04	411-325-0430	1-1-04	Adopt	2-1-04
411-320-0080	1-1-04	Adopt	2-1-04	411-325-0440	1-1-04	Adopt	2-1-04
411-320-0090	1-1-04	Adopt	2-1-04	411-325-0450	1-1-04	Adopt	2-1-04
411-320-0100	1-1-04	Adopt	2-1-04	411-325-0460	1-1-04	Adopt	2-1-04
411-320-0110	1-1-04	Adopt	2-1-04	411-325-0470	1-1-04	Adopt	2-1-04
411-320-0120	1-1-04	Adopt	2-1-04	411-325-0480	1-1-04	Adopt	2-1-04
411-320-0130	1-1-04	Adopt	2-1-04	411-330-0010	12-28-03	Adopt	2-1-04
411-320-0140	1-1-04	Adopt	2-1-04	411-330-0020	12-28-03	Adopt	2-1-04
411-320-0150	1-1-04	Adopt	2-1-04	411-330-0030	12-28-03	Adopt	2-1-04
411-320-0160	1-1-04	Adopt	2-1-04	411-330-0040	12-28-03	Adopt	2-1-04
411-320-0170	1-1-04	Adopt	2-1-04	411-330-0050	12-28-03	Adopt	2-1-04
411-320-0180	1-1-04	Adopt	2-1-04	411-330-0060	12-28-03	Adopt	2-1-04
411-320-0190	1-1-04	Adopt	2-1-04	411-330-0070	12-28-03	Adopt	2-1-04
411-320-0200	1-1-04	Adopt	2-1-04	411-330-0080	12-28-03	Adopt	2-1-04
411-325-0010	1-1-04	Adopt	2-1-04	411-330-0090	12-28-03	Adopt	2-1-04
411-325-0020	1-1-04	Adopt	2-1-04	411-330-0100	12-28-03	Adopt	2-1-04
411-325-0030	1-1-04	Adopt	2-1-04	411-330-0110	12-28-03	Adopt	2-1-04
411-325-0040	1-1-04	Adopt	2-1-04	411-330-0120	12-28-03	Adopt	2-1-04
411-325-0050	1-1-04	Adopt	2-1-04	411-330-0130	12-28-03	Adopt	2-1-04
411-325-0060	1-1-04	Adopt	2-1-04	411-330-0140	12-28-03	Adopt	2-1-04
411-325-0070	1-1-04	Adopt	2-1-04	411-330-0150	12-28-03	Adopt	2-1-04
411-325-0080	1-1-04	Adopt	2-1-04	411-330-0160	12-28-03	Adopt	2-1-04
411-325-0090	1-1-04	Adopt	2-1-04	411-330-0170	12-28-03	Adopt	2-1-04
411-325-0100	1-1-04	Adopt	2-1-04	411-340-0130	4-30-04	Amend(T)	6-1-04
411-325-0110	1-1-04	Adopt	2-1-04	411-999-0030	6-1-04	Adopt(T)	6-1-04
411-325-0120	1-1-04	Adopt	2-1-04	413-010-0700	1-1-04	Amend	2-1-04
411-325-0130	1-1-04	Adopt	2-1-04	413-010-0705	1-1-04	Amend	2-1-04
411-325-0140	1-1-04	Adopt	2-1-04	413-010-0712	1-1-04	Amend	2-1-04
411-325-0150	1-1-04	Adopt	2-1-04	413-010-0714	1-1-04	Amend	2-1-04
411-325-0160	1-1-04	Adopt	2-1-04	413-010-0715	1-1-04	Amend	2-1-04
411-325-0170	1-1-04	Adopt	2-1-04	413-010-0716	1-1-04	Amend	2-1-04
411-325-0180	1-1-04	Adopt	2-1-04	413-010-0717	1-1-04	Amend	2-1-04
411-325-0190	1-1-04	Adopt	2-1-04	413-010-0718	1-1-04	Amend	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-010-0719	1-1-04	Repeal	2-1-04	413-070-0935	1-1-04	Amend(T)	2-1-04
413-010-0720	1-1-04	Amend	2-1-04	413-070-0935	4-1-04	Amend	5-1-04
413-010-0721	1-1-04	Amend	2-1-04	413-070-0935(T)	4-1-04	Repeal	5-1-04
413-010-0722	1-1-04	Amend	2-1-04	413-070-0937	1-1-04	Amend(T)	2-1-04
413-010-0723	1-1-04	Amend	2-1-04	413-070-0937	4-1-04	Amend	5-1-04
413-010-0732	1-1-04	Amend	2-1-04	413-070-0937(T)	4-1-04	Repeal	5-1-04
413-010-0735	1-1-04	Amend	2-1-04	413-070-0940	4-1-04	Amend	5-1-04
413-010-0738	1-1-04	Amend	2-1-04	413-070-0945	4-1-04	Amend	5-1-04
413-010-0740	1-1-04	Amend	2-1-04	413-070-0950	4-1-04	Amend	5-1-04
413-010-0743	1-1-04	Amend	2-1-04	413-070-0955	4-1-04	Amend	5-1-04
413-010-0745	1-1-04	Amend	2-1-04	413-070-0960	4-1-04	Amend	5-1-04
413-010-0746	1-1-04	Amend	2-1-04	413-070-0965	4-1-04	Amend	5-1-04
413-010-0748	1-1-04	Adopt	2-1-04	413-070-0970	4-1-04	Amend	5-1-04
413-010-0750	1-1-04	Amend	2-1-04	413-070-0980	1-1-04	Amend(T)	2-1-04
413-040-0200	1-1-04	Amend	2-1-04	413-070-0980	4-1-04	Amend	5-1-04
413-040-0205	1-1-04	Adopt	2-1-04	413-070-0980(T)	4-1-04	Repeal	5-1-04
413-040-0210	1-1-04	Amend	2-1-04	413-070-0981	1-1-04	Amend(T)	2-1-04
413-040-0215	1-1-04	Adopt	2-1-04	413-070-0981	4-1-04	Amend	5-1-04
413-040-0220	1-1-04	Repeal	2-1-04	413-070-0981(T)	1-1-04	Suspend	2-1-04
413-040-0230	1-1-04	Amend	2-1-04	413-070-0981(T)	4-1-04	Repeal	5-1-04
413-040-0240	1-1-04	Amend	2-1-04	413-070-0982	1-1-04	Adopt(T)	2-1-04
413-040-0250	1-1-04	Am. & Ren.	2-1-04	413-070-0982	4-1-04	Adopt	5-1-04
413-040-0260	1-1-04	Amend	2-1-04	413-070-0982(T)	4-1-04	Repeal	5-1-04
413-040-0265	1-1-04	Adopt	2-1-04	413-080-0040	3-1-04	Adopt(T)	4-1-04
413-040-0270	1-1-04	Amend	2-1-04	413-080-0045	3-1-04	Adopt(T)	4-1-04
413-040-0280	1-1-04	Amend	2-1-04	413-080-0050	3-1-04	Adopt(T)	4-1-04
413-040-0290	1-1-04	Amend	2-1-04	413-080-0055	3-1-04	Adopt(T)	4-1-04
413-040-0300	1-1-04	Amend	2-1-04	413-080-0060	3-1-04	Adopt(T)	4-1-04
413-040-0310	1-1-04	Amend	2-1-04	413-090-0010	4-1-04	Amend	5-1-04
413-040-0320	1-1-04	Amend	2-1-04	413-090-0010(T)	4-1-04	Repeal	5-1-04
413-040-0330	1-1-04	Amend	2-1-04	413-090-0160	4-1-04	Amend	5-1-04
413-050-0200	12-12-03	Amend	1-1-04	413-090-0160(T)	4-1-04	Repeal	5-1-04
413-050-0210	12-12-03	Amend	1-1-04	413-100-0020	2-10-04	Amend	3-1-04
413-050-0220	12-12-03	Amend	1-1-04	413-100-0030	2-10-04	Amend	3-1-04
413-050-0230	12-12-03	Amend	1-1-04	413-100-0030(T)	2-10-04	Repeal	3-1-04
413-050-0240	12-12-03	Amend	1-1-04	413-100-0040	2-10-04	Amend	3-1-04
413-050-0250	12-12-03	Amend	1-1-04	413-100-0040(T)	2-10-04	Repeal	3-1-04
413-050-0260	12-12-03	Amend	1-1-04	413-100-0050	2-10-04	Amend	3-1-04
413-050-0270	12-12-03	Amend	1-1-04	413-100-0050(T)	2-10-04	Repeal	3-1-04
413-050-0280	12-12-03	Amend	1-1-04	413-100-0070	2-10-04	Amend	3-1-04
413-050-0290	12-12-03	Amend	1-1-04	413-100-0070(T)	2-10-04	Repeal	3-1-04
413-050-0300	12-12-03	Amend	1-1-04	413-100-0080	2-10-04	Amend	3-1-04
413-070-0500	1-1-04	Amend	2-1-04	413-100-0080(T)	2-10-04	Repeal	3-1-04
413-070-0505	1-1-04	Amend	2-1-04	413-100-0110	2-10-04	Amend	3-1-04
413-070-0510	1-1-04	Amend	2-1-04	413-100-0110(T)	2-10-04	Repeal	3-1-04
413-070-0515	1-1-04	Amend	2-1-04	413-100-0130	2-10-04	Amend	3-1-04
413-070-0517	1-1-04	Amend	2-1-04	413-100-0130(T)	2-10-04	Repeal	3-1-04
413-070-0900	4-1-04	Amend	5-1-04	413-100-0135	2-10-04	Amend	3-1-04
413-070-0905	4-1-04	Amend	5-1-04	413-100-0135(T)	2-10-04	Repeal	3-1-04
413-070-0915	1-1-04	Amend(T)	2-1-04	413-100-0150	2-10-04	Amend	3-1-04
413-070-0915	4-1-04	Amend	5-1-04	413-100-0150(T)	2-10-04	Repeal	3-1-04
413-070-0915(T)	4-1-04	Repeal	5-1-04	413-100-0160	2-10-04	Amend	3-1-04
413-070-0917	4-1-04	Amend	5-1-04	413-100-0160(T)	2-10-04	Repeal	3-1-04
413-070-0920	4-1-04	Amend	5-1-04	413-100-0240	2-10-04	Amend	3-1-04
413-070-0925	4-1-04	Amend	5-1-04	413-100-0240(T)	2-10-04	Repeal	3-1-04
413-070-0930	4-1-04	Amend	5-1-04	413-100-0276	2-10-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-100-0276(T)	2-10-04	Repeal	3-1-04	413-330-0950	1-1-04	Amend(T)	2-1-04
413-100-0290	2-10-04	Amend	3-1-04	413-330-0960	1-1-04	Suspend	2-1-04
413-100-0290(T)	2-10-04	Repeal	3-1-04	413-330-0970	1-1-04	Amend(T)	2-1-04
413-110-0000	1-1-04	Amend	2-1-04	413-330-0980	1-1-04	Amend(T)	2-1-04
413-110-0010	1-1-04	Amend	2-1-04	413-330-0990	1-1-04	Amend(T)	2-1-04
413-110-0020	1-1-04	Amend	2-1-04	413-330-1000	1-1-04	Amend(T)	2-1-04
413-110-0030	1-1-04	Amend	2-1-04	413-330-1010	1-1-04	Amend(T)	2-1-04
413-110-0040	1-1-04	Amend	2-1-04	414-050-0010	12-28-03	Adopt(T)	2-1-04
413-110-0100	1-1-04	Amend	2-1-04	414-050-0010	3-28-04	Adopt	5-1-04
413-110-0110	1-1-04	Amend	2-1-04	414-050-0010(T)	3-28-04	Repeal	5-1-04
413-110-0120	1-1-04	Amend	2-1-04	414-061-0000	12-7-03	Amend	1-1-04
413-110-0130	1-1-04	Amend	2-1-04	414-061-0010	12-7-03	Amend	1-1-04
413-110-0140	1-1-04	Amend	2-1-04	414-061-0020	12-7-03	Amend	1-1-04
413-110-0300	1-1-04	Amend	2-1-04	414-061-0030	12-7-03	Amend	1-1-04
413-110-0310	1-1-04	Amend	2-1-04	414-061-0040	12-7-03	Amend	1-1-04
413-110-0320	1-1-04	Amend	2-1-04	414-061-0050	12-7-03	Amend	1-1-04
413-110-0330	1-1-04	Amend	2-1-04	414-061-0060	12-7-03	Amend	1-1-04
413-110-0340	1-1-04	Amend	2-1-04	414-061-0070	12-7-03	Amend	1-1-04
413-110-0350	1-1-04	Amend	2-1-04	414-061-0080	12-7-03	Amend	1-1-04
413-110-0360	1-1-04	Amend	2-1-04	414-061-0090	12-7-03	Amend	1-1-04
413-120-0100	4-1-04	Amend	5-1-04	414-061-0100	12-7-03	Amend	1-1-04
413-120-0105	4-1-04	Amend	5-1-04	414-061-0110	12-7-03	Amend	1-1-04
413-120-0115	11-25-03	Amend(T)	1-1-04	414-061-0120	12-7-03	Amend	1-1-04
413-120-0115	4-1-04	Amend	5-1-04	414-150-0055	12-28-03	Amend	2-1-04
413-120-0115(T)	4-1-04	Repeal	5-1-04	414-150-0080	12-28-03	Amend	2-1-04
413-120-0150	4-1-04	Amend	5-1-04	414-150-0120	12-28-03	Amend	2-1-04
413-120-0155	4-1-04	Amend	5-1-04	414-205-0000	12-28-03	Amend	2-1-04
413-120-0165	4-1-04	Amend	5-1-04	414-300-0000	12-28-03	Amend	2-1-04
413-120-0175	11-25-03	Amend(T)	1-1-04	414-300-0005	12-28-03	Amend	2-1-04
413-120-0175	4-1-04	Amend	5-1-04	414-300-0010	12-28-03	Amend	2-1-04
413-120-0175(T)	4-1-04	Repeal	5-1-04	414-300-0180	12-28-03	Amend	2-1-04
413-120-0500	1-1-04	Amend	2-1-04	414-300-0190	12-28-03	Amend	2-1-04
413-120-0510	1-1-04	Amend	2-1-04	414-300-0200	12-28-03	Amend	2-1-04
413-120-0520	1-1-04	Amend	2-1-04	414-300-0210	12-28-03	Amend	2-1-04
413-120-0530	1-1-04	Amend	2-1-04	414-300-0280	12-28-03	Amend	2-1-04
413-120-0540	1-1-04	Amend	2-1-04	414-300-0360	12-28-03	Amend	2-1-04
413-120-0550	1-1-04	Adopt	2-1-04	414-350-0010	12-28-03	Amend	2-1-04
413-130-0125	11-19-03	Amend(T)	1-1-04	414-350-0010	12-28-03	Amend	2-1-04
413-130-0125	4-1-04	Amend	5-1-04	414-350-0020	12-28-03	Amend	2-1-04
413-130-0125(T)	4-1-04	Repeal	5-1-04	414-350-0210	12-28-03	Amend	2-1-04
413-130-0127	4-1-04	Adopt	5-1-04	414-350-0235	12-28-03	Amend	2-1-04
413-130-0127(T)	4-1-04	Repeal	5-1-04	414-500-0030	12-28-03	Amend	2-1-04
413-210-0800	1-9-04	Amend	2-1-04	414-600-0000	12-7-03	Suspend	1-1-04
413-210-0806	1-9-04	Amend	2-1-04	414-600-0000	3-28-04	Repeal	5-1-04
413-210-0821	1-9-04	Amend	2-1-04	414-600-0010	12-7-03	Suspend	1-1-04
413-330-0085	12-17-03	Amend(T)	2-1-04	414-600-0010	3-28-04	Repeal	5-1-04
413-330-0087	12-17-03	Amend(T)	2-1-04	414-600-0020	12-7-03	Suspend	1-1-04
413-330-0090	12-17-03	Amend(T)	2-1-04	414-600-0020	3-28-04	Repeal	5-1-04
413-330-0095	12-17-03	Amend(T)	2-1-04	414-600-0030	12-7-03	Suspend	1-1-04
413-330-0097	12-17-03	Adopt(T)	2-1-04	414-600-0030	3-28-04	Repeal	5-1-04
413-330-0098	12-17-03	Adopt(T)	2-1-04	414-600-0040	12-7-03	Suspend	1-1-04
413-330-0900	1-1-04	Amend(T)	2-1-04	414-600-0040	3-28-04	Repeal	5-1-04
413-330-0910	1-1-04	Amend(T)	2-1-04	414-600-0050	12-7-03	Suspend	1-1-04
413-330-0920	1-1-04	Amend(T)	2-1-04	414-600-0050	3-28-04	Repeal	5-1-04
413-330-0930	1-1-04	Amend(T)	2-1-04	414-600-0060	12-7-03	Suspend	1-1-04
413-330-0940	1-1-04	Amend(T)	2-1-04	414-600-0060	3-28-04	Repeal	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
414-600-0070	12-7-03	Suspend	1-1-04	436-001-0004	4-1-04	Amend	4-1-04
414-600-0070	3-28-04	Repeal	5-1-04	436-001-0005	4-1-04	Amend	4-1-04
414-600-0080	12-7-03	Suspend	1-1-04	436-001-0007	4-1-04	Amend	4-1-04
414-600-0080	3-28-04	Repeal	5-1-04	436-001-0008	4-1-04	Amend	4-1-04
414-600-0090	12-7-03	Suspend	1-1-04	436-001-0025	4-1-04	Repeal	4-1-04
414-600-0090	3-28-04	Repeal	5-1-04	436-001-0030	4-1-04	Amend	4-1-04
414-600-0100	12-7-03	Suspend	1-1-04	436-001-0045	4-1-04	Repeal	4-1-04
414-600-0100	3-28-04	Repeal	5-1-04	436-001-0055	4-1-04	Repeal	4-1-04
414-700-0000	12-7-03	Adopt	1-1-04	436-001-0065	4-1-04	Repeal	4-1-04
414-700-0010	12-7-03	Adopt	1-1-04	436-001-0090	4-1-04	Repeal	4-1-04
414-700-0020	12-7-03	Adopt	1-1-04	436-001-0105	4-1-04	Repeal	4-1-04
414-700-0030	12-7-03	Adopt	1-1-04	436-001-0110	4-1-04	Amend	4-1-04
414-700-0040	12-7-03	Adopt	1-1-04	436-001-0120	4-1-04	Repeal	4-1-04
414-700-0050	12-7-03	Adopt	1-1-04	436-001-0135	4-1-04	Repeal	4-1-04
414-700-0060	12-7-03	Adopt	1-1-04	436-001-0140	4-1-04	Repeal	4-1-04
414-700-0070	12-7-03	Adopt	1-1-04	436-001-0150	4-1-04	Amend	4-1-04
414-700-0080	12-7-03	Adopt	1-1-04	436-001-0155	4-1-04	Amend	4-1-04
414-700-0090	12-7-03	Adopt	1-1-04	436-001-0160	4-1-04	Amend	4-1-04
416-030-0000	5-14-04	Repeal	6-1-04	436-001-0170	4-1-04	Amend	4-1-04
416-030-0010	5-14-04	Repeal	6-1-04	436-001-0171	4-1-04	Repeal	4-1-04
416-030-0020	5-14-04	Repeal	6-1-04	436-001-0175	4-1-04	Repeal	4-1-04
416-030-0030	5-14-04	Repeal	6-1-04	436-001-0185	4-1-04	Amend	4-1-04
416-030-0040	5-14-04	Repeal	6-1-04	436-001-0191	4-1-04	Repeal	4-1-04
416-030-0050	5-14-04	Repeal	6-1-04	436-001-0195	4-1-04	Repeal	4-1-04
416-030-0060	5-14-04	Repeal	6-1-04	436-001-0201	4-1-04	Amend	4-1-04
416-030-0070	5-14-04	Repeal	6-1-04	436-001-0205	4-1-04	Repeal	4-1-04
416-030-0080	5-14-04	Repeal	6-1-04	436-001-0210	4-1-04	Amend	4-1-04
416-030-0090	5-14-04	Repeal	6-1-04	436-001-0225	4-1-04	Amend	4-1-04
416-030-0100	5-14-04	Repeal	6-1-04	436-001-0226	4-1-04	Amend	4-1-04
416-030-0110	5-14-04	Repeal	6-1-04	436-001-0231	4-1-04	Repeal	4-1-04
416-105-0000	5-14-04	Adopt	6-1-04	436-001-0240	4-1-04	Amend	4-1-04
416-105-0010	5-14-04	Adopt	6-1-04	436-001-0255	4-1-04	Repeal	4-1-04
416-105-0020	5-14-04	Adopt	6-1-04	436-001-0260	4-1-04	Amend	4-1-04
416-105-0030	5-14-04	Adopt	6-1-04	436-001-0265	1-1-04	Amend(T)	1-1-04
416-105-0040	5-14-04	Adopt	6-1-04	436-001-0265	4-1-04	Amend	4-1-04
416-110-0000	5-14-04	Repeal	6-1-04	436-001-0275	4-1-04	Amend	4-1-04
416-110-0010	5-14-04	Repeal	6-1-04	436-001-0285	4-1-04	Repeal	4-1-04
416-110-0020	5-14-04	Repeal	6-1-04	436-001-0295	4-1-04	Repeal	4-1-04
416-110-0030	5-14-04	Repeal	6-1-04	436-001-0300	4-1-04	Adopt	4-1-04
416-150-0000	5-14-04	Amend	6-1-04	436-009-0003	4-1-04	Amend	4-1-04
416-150-0010	5-14-04	Amend	6-1-04	436-009-0004	4-1-04	Amend	4-1-04
416-150-0020	5-14-04	Amend	6-1-04	436-009-0005	4-1-04	Amend	4-1-04
416-150-0030	5-14-04	Amend	6-1-04	436-009-0008	1-1-04	Amend(T)	1-1-04
416-150-0040	5-14-04	Adopt	6-1-04	436-009-0008	4-1-04	Amend	4-1-04
416-150-0050	5-14-04	Adopt	6-1-04	436-009-0010	4-1-04	Amend	4-1-04
416-180-0000	5-14-04	Amend	6-1-04	436-009-0015	1-1-04	Amend(T)	1-1-04
416-180-0010	5-14-04	Amend	6-1-04	436-009-0015	4-1-04	Amend	4-1-04
416-180-0020	5-14-04	Amend	6-1-04	436-009-0020	4-1-04	Amend	4-1-04
416-180-0030	5-14-04	Amend	6-1-04	436-009-0022	4-1-04	Amend	4-1-04
416-180-0040	5-14-04	Amend	6-1-04	436-009-0025	4-1-04	Amend	4-1-04
416-180-0050	5-14-04	Amend	6-1-04	436-009-0030	4-1-04	Amend	4-1-04
416-440-0010	5-14-04	Repeal	6-1-04	436-009-0040	4-1-04	Amend	4-1-04
416-440-0030	5-14-04	Repeal	6-1-04	436-009-0050	4-1-04	Amend	4-1-04
436-001-0000	4-1-04	Amend	4-1-04	436-009-0060	1-1-04	Amend(T)	1-1-04
436-001-0001	4-1-04	Amend	4-1-04	436-009-0060	4-1-04	Amend	4-1-04
436-001-0003	4-1-04	Amend	4-1-04	436-009-0070	1-1-04	Amend(T)	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-009-0070	4-1-04	Amend	4-1-04	436-030-0034	1-1-04	Amend(T)	1-1-04
436-009-0080	1-1-04	Amend(T)	1-1-04	436-030-0034	2-29-04	Amend	4-1-04
436-009-0080	4-1-04	Amend	4-1-04	436-030-0034(T)	2-29-04	Repeal	4-1-04
436-009-0090	4-1-04	Amend	4-1-04	436-030-0035	1-1-04	Amend(T)	1-1-04
436-010-0003	4-1-04	Amend	4-1-04	436-030-0035	2-29-04	Amend	4-1-04
436-010-0005	1-1-04	Amend(T)	1-1-04	436-030-0035(T)	2-29-04	Repeal	4-1-04
436-010-0005	4-1-04	Amend	4-1-04	436-030-0036	2-29-04	Amend	4-1-04
436-010-0008	1-1-04	Amend(T)	1-1-04	436-030-0038	2-29-04	Amend	4-1-04
436-010-0008	4-1-04	Amend	4-1-04	436-030-0045	2-29-04	Am. & Ren.	4-1-04
436-010-0210	1-1-04	Amend(T)	1-1-04	436-030-0055	2-29-04	Amend	4-1-04
436-010-0210	4-1-04	Amend	4-1-04	436-030-0065	2-29-04	Amend	4-1-04
436-010-0220	1-1-04	Amend(T)	1-1-04	436-030-0066	2-29-04	Amend	4-1-04
436-010-0220	4-1-04	Amend	4-1-04	436-030-0115	1-1-04	Amend(T)	1-1-04
436-010-0230	1-1-04	Amend(T)	1-1-04	436-030-0115	2-29-04	Amend	4-1-04
436-010-0230	4-1-04	Amend	4-1-04	436-030-0115(T)	2-29-04	Repeal	4-1-04
436-010-0240	1-1-04	Amend(T)	1-1-04	436-030-0125	1-1-04	Amend(T)	1-1-04
436-010-0240	4-1-04	Amend	4-1-04	436-030-0125	2-29-04	Amend	4-1-04
436-010-0250	1-1-04	Amend(T)	1-1-04	436-030-0125(T)	2-29-04	Repeal	4-1-04
436-010-0250	4-1-04	Amend	4-1-04	436-030-0135	1-1-04	Amend(T)	1-1-04
436-010-0265	1-1-04	Amend(T)	1-1-04	436-030-0135	2-29-04	Amend	4-1-04
436-010-0265	4-1-04	Amend	4-1-04	436-030-0135(T)	2-29-04	Repeal	4-1-04
436-010-0270	1-1-04	Amend(T)	1-1-04	436-030-0145	1-1-04	Amend(T)	1-1-04
436-010-0270	4-1-04	Amend	4-1-04	436-030-0145	2-29-04	Amend	4-1-04
436-010-0275	1-1-04	Amend(T)	1-1-04	436-030-0145(T)	2-29-04	Repeal	4-1-04
436-010-0275	4-1-04	Amend	4-1-04	436-030-0155	2-29-04	Amend	4-1-04
436-010-0280	1-1-04	Amend(T)	1-1-04	436-030-0165	1-1-04	Amend(T)	1-1-04
436-010-0280	4-1-04	Amend	4-1-04	436-030-0165	2-29-04	Amend	4-1-04
436-010-0340	1-1-04	Amend(T)	1-1-04	436-030-0165(T)	2-29-04	Repeal	4-1-04
436-010-0340	4-1-04	Amend	4-1-04	436-030-0175	2-29-04	Amend	4-1-04
436-010-0350	4-1-04	Repeal	4-1-04	436-030-0185	1-1-04	Amend(T)	1-1-04
436-015-0008	1-1-04	Amend(T)	1-1-04	436-030-0185	2-29-04	Amend	4-1-04
436-015-0030	1-1-04	Amend(T)	1-1-04	436-030-0185(T)	2-29-04	Repeal	4-1-04
436-015-0050	1-1-04	Amend(T)	1-1-04	436-030-0575	2-29-04	Amend	4-1-04
436-015-0060	1-1-04	Amend(T)	1-1-04	436-030-0580	2-29-04	Amend	4-1-04
436-015-0070	1-1-04	Amend(T)	1-1-04	436-030-0581	2-29-04	Repeal	4-1-04
436-015-0090	1-1-04	Amend(T)	1-1-04	436-035-0500	1-21-04	Amend(T)	3-1-04
436-030-0002	2-29-04	Amend	4-1-04	436-035-0500	4-19-04	Amend(T)	6-1-04
436-030-0003	1-1-04	Amend(T)	1-1-04	436-045-0008	1-1-04	Amend	1-1-04
436-030-0003	2-29-04	Amend	4-1-04	436-050-0003	1-1-04	Amend	1-1-04
436-030-0003(T)	2-29-04	Repeal	4-1-04	436-050-0005	1-1-04	Amend	1-1-04
436-030-0005	1-1-04	Amend(T)	1-1-04	436-050-0006	1-1-04	Amend	1-1-04
436-030-0005	2-29-04	Amend	4-1-04	436-050-0008	1-1-04	Amend	1-1-04
436-030-0005(T)	2-29-04	Repeal	4-1-04	436-050-0020	1-1-04	Repeal	1-1-04
436-030-0007	1-1-04	Amend(T)	1-1-04	436-050-0040	1-1-04	Amend	1-1-04
436-030-0007	2-29-04	Amend	4-1-04	436-050-0050	1-1-04	Amend	1-1-04
436-030-0007(T)	2-29-04	Repeal	4-1-04	436-050-0055	1-1-04	Amend	1-1-04
436-030-0009	1-1-04	Amend(T)	1-1-04	436-050-0060	1-1-04	Amend	1-1-04
436-030-0009	2-29-04	Amend	4-1-04	436-050-0080	1-1-04	Amend	1-1-04
436-030-0009(T)	2-29-04	Repeal	4-1-04	436-050-0090	1-1-04	Amend	1-1-04
436-030-0010	1-1-04	Amend(T)	1-1-04	436-050-0100	1-1-04	Amend	1-1-04
436-030-0010	2-29-04	Amend	4-1-04	436-050-0110	1-1-04	Amend	1-1-04
436-030-0010(T)	2-29-04	Repeal	4-1-04	436-050-0120	1-1-04	Amend	1-1-04
436-030-0015	2-29-04	Amend	4-1-04	436-050-0150	1-1-04	Amend	1-1-04
436-030-0017	2-29-04	Amend	4-1-04	436-050-0150(T)	1-1-04	Repeal	1-1-04
436-030-0020	2-29-04	Amend	4-1-04	436-050-0160	1-1-04	Amend	1-1-04
436-030-0023	2-29-04	Adopt	4-1-04	436-050-0160(T)	1-1-04	Repeal	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-050-0165	1-1-04	Adopt	1-1-04	436-060-0210	2-29-04	Repeal	4-1-04
436-050-0165(T)	1-1-04	Repeal	1-1-04	436-060-0500	2-29-04	Amend	4-1-04
436-050-0170	1-1-04	Amend	1-1-04	436-070-0008	1-1-04	Amend	1-1-04
436-050-0175	1-1-04	Amend	1-1-04	436-075-0008	1-1-04	Amend	1-1-04
436-050-0180	1-1-04	Amend	1-1-04	436-080-0001	1-1-04	Amend	1-1-04
436-050-0185	1-1-04	Amend	1-1-04	436-080-0002	1-1-04	Amend	1-1-04
436-050-0190	1-1-04	Amend	1-1-04	436-080-0003	1-1-04	Amend	1-1-04
436-050-0195	1-1-04	Amend	1-1-04	436-080-0005	1-1-04	Amend	1-1-04
436-050-0200	1-1-04	Amend	1-1-04	436-080-0006	1-1-04	Amend	1-1-04
436-050-0210	1-1-04	Amend	1-1-04	436-080-0010	1-1-04	Amend	1-1-04
436-050-0220	1-1-04	Amend	1-1-04	436-080-0020	1-1-04	Amend	1-1-04
436-050-0260	1-1-04	Amend	1-1-04	436-080-0030	1-1-04	Amend	1-1-04
436-050-0270	1-1-04	Amend	1-1-04	436-080-0040	1-1-04	Amend	1-1-04
436-050-0280	1-1-04	Amend	1-1-04	436-080-0050	1-1-04	Repeal	1-1-04
436-050-0290	1-1-04	Amend	1-1-04	436-080-0060	1-1-04	Amend	1-1-04
436-050-0400	1-1-04	Amend	1-1-04	436-080-0065	1-1-04	Amend	1-1-04
436-050-0440	1-1-04	Amend	1-1-04	436-080-0070	1-1-04	Amend	1-1-04
436-050-0480	1-1-04	Adopt	1-1-04	436-080-0080	1-1-04	Amend	1-1-04
436-055-0008	1-1-04	Amend	1-1-04	436-085-0008	1-1-04	Amend	1-1-04
436-060-0005	1-1-04	Amend(T)	1-1-04	436-105-0003	4-1-04	Amend(T)	5-1-04
436-060-0005	2-29-04	Amend	4-1-04	436-105-0500	4-1-04	Amend(T)	5-1-04
436-060-0008	1-1-04	Amend	1-1-04	436-105-0540	4-1-04	Amend(T)	5-1-04
436-060-0008	2-29-04	Amend	4-1-04	436-120-0003	4-1-04	Amend	4-1-04
436-060-0009	2-29-04	Amend	4-1-04	436-120-0004	4-1-04	Amend	4-1-04
436-060-0010	1-1-04	Amend(T)	1-1-04	436-120-0008	1-1-04	Amend(T)	1-1-04
436-060-0010	2-29-04	Amend	4-1-04	436-120-0008	4-1-04	Amend	4-1-04
436-060-0010(T)	1-1-04	Suspend	1-1-04	436-120-0320	4-1-04	Amend	4-1-04
436-060-0015	2-29-04	Amend	4-1-04	436-120-0340	4-1-04	Amend	4-1-04
436-060-0017	2-29-04	Amend	4-1-04	436-120-0350	4-1-04	Amend	4-1-04
436-060-0019	1-1-04	Amend(T)	1-1-04	436-120-0360	4-1-04	Amend	4-1-04
436-060-0019	2-29-04	Amend	4-1-04	436-120-0410	4-1-04	Amend	4-1-04
436-060-0019(T)	1-1-04	Suspend	1-1-04	436-120-0500	4-1-04	Amend	4-1-04
436-060-0020	1-1-04	Amend(T)	1-1-04	436-120-0710	4-1-04	Amend	4-1-04
436-060-0020	2-29-04	Amend	4-1-04	436-120-0720	4-1-04	Amend	4-1-04
436-060-0025	2-29-04	Amend	4-1-04	436-120-0830	4-1-04	Amend	4-1-04
436-060-0030	1-1-04	Amend(T)	1-1-04	436-120-0840	4-1-04	Amend	4-1-04
436-060-0030	2-29-04	Amend	4-1-04	436-120-0920	4-1-04	Repeal	4-1-04
436-060-0035	1-1-04	Amend(T)	1-1-04	436-150-0008	1-1-04	Amend	1-1-04
436-060-0035	2-29-04	Amend	4-1-04	436-160-0003	1-1-04	Amend	1-1-04
436-060-0035(T)	1-1-04	Suspend	1-1-04	436-160-0310	1-1-04	Amend	1-1-04
436-060-0040	2-29-04	Amend	4-1-04	436-160-0320	1-1-04	Amend	1-1-04
436-060-0060	2-29-04	Amend	4-1-04	436-160-0340	1-1-04	Amend	1-1-04
436-060-0095	1-1-04	Amend(T)	1-1-04	436-160-0350	1-1-04	Amend	1-1-04
436-060-0095	2-29-04	Amend	4-1-04	436-160-0360	1-1-04	Amend	1-1-04
436-060-0105	1-1-04	Amend(T)	1-1-04	437-001-0015	11-26-03	Amend	1-1-04
436-060-0105	2-29-04	Amend	4-1-04	437-001-0096	11-26-03	Amend	1-1-04
436-060-0135	2-29-04	Amend	4-1-04	437-001-0171	11-26-03	Amend	1-1-04
436-060-0140	1-1-04	Amend(T)	1-1-04	437-001-0203	11-26-03	Amend	1-1-04
436-060-0140	2-29-04	Amend	4-1-04	437-001-0265	11-26-03	Amend	1-1-04
436-060-0147	2-29-04	Amend	4-1-04	437-001-0270	11-26-03	Amend	1-1-04
436-060-0150	1-1-04	Amend(T)	1-1-04	437-001-0430	11-26-03	Amend	1-1-04
436-060-0150	2-29-04	Amend	4-1-04	437-001-0700	11-26-03	Amend	1-1-04
436-060-0180	2-29-04	Amend	4-1-04	437-001-0765	11-26-03	Amend	1-1-04
436-060-0190	2-29-04	Amend	4-1-04	437-002-0120	7-1-04	Amend	5-1-04
436-060-0195	2-29-04	Amend	4-1-04	437-002-0133	7-1-04	Repeal	5-1-04
436-060-0200	2-29-04	Amend	4-1-04	437-002-0220	12-5-03	Amend	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
437-003-0001	12-5-03	Amend	1-1-04	441-740-0030	1-1-04	Adopt	2-1-04
437-003-0001	1-1-04	Amend	2-1-04	441-810-0200	1-1-04	Adopt	2-1-04
437-003-0754	1-1-04	Repeal	2-1-04	441-810-0210	1-1-04	Adopt	2-1-04
437-003-1754	1-1-04	Adopt	2-1-04	441-810-0220	1-1-04	Adopt	2-1-04
437-003-1760	1-1-04	Repeal	2-1-04	441-810-0230	1-1-04	Adopt	2-1-04
438-006-0064	1-1-04	Adopt	1-1-04	441-810-0240	1-1-04	Adopt	2-1-04
438-015-0110	1-1-04	Adopt	1-1-04	441-810-0250	1-1-04	Adopt	2-1-04
440-020-0010	1-1-04	Adopt	2-1-04	441-810-0260	1-1-04	Adopt	2-1-04
440-020-0015	1-1-04	Adopt	2-1-04	441-860-0020	1-1-04	Amend	2-1-04
440-055-0000	1-1-04	Repeal	2-1-04	441-860-0050	1-1-04	Amend	2-1-04
440-055-0005	1-1-04	Repeal	2-1-04	441-880-0050	1-1-04	Adopt	2-1-04
440-055-0008	1-1-04	Adopt	2-1-04	443-015-0010	5-1-04	Amend	6-1-04
440-100-0010	1-1-04	Adopt	2-1-04	445-050-0005	2-15-04	Amend	2-1-04
441-001-0005	1-1-04	Adopt	2-1-04	445-050-0020	2-15-04	Amend	2-1-04
441-001-0010	1-1-04	Adopt	2-1-04	445-050-0030	2-15-04	Amend	2-1-04
441-001-0020	1-1-04	Adopt	2-1-04	445-050-0040	2-15-04	Amend	2-1-04
441-001-0030	1-1-04	Adopt	2-1-04	445-050-0050	2-15-04	Amend	2-1-04
441-001-0040	1-1-04	Adopt	2-1-04	445-050-0060	2-15-04	Amend	2-1-04
441-001-0050	1-1-04	Adopt	2-1-04	445-050-0080	2-15-04	Amend	2-1-04
441-002-0005	1-1-04	Adopt	2-1-04	445-050-0090	2-15-04	Amend	2-1-04
441-002-0010	1-1-04	Adopt	2-1-04	445-050-0155	2-15-04	Amend	2-1-04
441-002-0020	1-1-04	Adopt	2-1-04	459-005-0001	11-20-03	Amend	1-1-04
441-002-0030	1-1-04	Adopt	2-1-04	459-005-0001	12-15-03	Amend	1-1-04
441-002-0040	1-1-04	Adopt	2-1-04	459-005-0001	5-21-04	Amend(T)	5-1-04
441-035-0045	11-26-03	Amend(T)	1-1-04	459-005-0001(T)	11-20-03	Repeal	1-1-04
441-049-1001	11-26-03	Adopt(T)	1-1-04	459-005-0055	2-18-04	Amend	4-1-04
441-049-1021	11-26-03	Amend(T)	1-1-04	459-005-0250	1-1-04	Adopt	1-1-04
441-049-1031	11-26-03	Amend(T)	1-1-04	459-005-0320	1-22-04	Repeal	3-1-04
441-049-1041	11-26-03	Amend(T)	1-1-04	459-007-0001	12-15-03	Amend	1-1-04
441-049-1051	11-26-03	Amend(T)	1-1-04	459-007-0001(T)	12-15-03	Repeal	1-1-04
441-065-0001	11-26-03	Adopt(T)	1-1-04	459-007-0003	12-15-03	Adopt	1-1-04
441-065-0015	11-26-03	Amend(T)	1-1-04	459-007-0005	4-15-04	Adopt	5-1-04
441-065-0020	11-26-03	Amend(T)	1-1-04	459-007-0030	4-15-04	Repeal	5-1-04
441-065-0035	11-26-03	Amend(T)	1-1-04	459-007-0040	12-15-03	Amend	1-1-04
441-065-0170	11-26-03	Amend(T)	1-1-04	459-007-0040(T)	12-15-03	Repeal	1-1-04
441-065-0180	11-26-03	Amend(T)	1-1-04	459-007-0050	12-15-03	Amend	1-1-04
441-065-0270	11-26-03	Amend(T)	1-1-04	459-007-0050(T)	12-15-03	Repeal	1-1-04
441-075-0020	11-26-03	Amend(T)	1-1-04	459-007-0060	12-15-03	Amend	1-1-04
441-095-0030	11-26-03	Amend(T)	1-1-04	459-007-0060(T)	12-15-03	Repeal	1-1-04
441-175-0002	11-26-03	Adopt(T)	1-1-04	459-007-0070	4-1-04	Amend	1-1-04
441-175-0010	1-1-04	Amend	2-1-04	459-007-0080	4-1-04	Amend	1-1-04
441-175-0015	11-26-03	Amend(T)	1-1-04	459-007-0090	4-1-04	Amend	1-1-04
441-175-0035	1-1-04	Repeal	2-1-04	459-007-0095	12-15-03	Adopt	1-1-04
441-175-0055	1-1-04	Amend	2-1-04	459-007-0100	12-15-03	Repeal	1-1-04
441-175-0060	11-26-03	Amend(T)	1-1-04	459-007-0210	4-15-04	Repeal	5-1-04
441-175-0080	11-26-03	Amend(T)	1-1-04	459-007-0300	4-15-04	Amend	5-1-04
441-175-0085	11-26-03	Amend(T)	1-1-04	459-007-0510	4-15-04	Amend	5-1-04
441-175-0100	11-26-03	Amend(T)	1-1-04	459-007-0520	4-15-04	Repeal	5-1-04
441-175-0120	11-26-03	Amend(T)	1-1-04	459-009-0100	1-1-04	Amend	2-1-04
441-175-0130	11-26-03	Amend(T)	1-1-04	459-009-0110	1-1-04	Repeal	2-1-04
441-175-0130	1-1-04	Amend	2-1-04	459-011-0100	1-22-04	Amend	3-1-04
441-175-0160	11-26-03	Amend(T)	1-1-04	459-011-0110	1-22-04	Amend	3-1-04
441-175-0165	11-26-03	Amend(T)	1-1-04	459-013-0280	7-1-04	Adopt(T)	5-1-04
441-175-0171	11-26-03	Amend(T)	1-1-04	459-013-0300	12-15-03	Adopt	1-1-04
441-195-0035	1-1-04	Repeal	2-1-04	459-017-0060	12-15-03	Amend(T)	1-1-04
441-730-0030	1-1-04	Amend	2-1-04	459-035-0050	1-1-04	Amend	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
459-045-0001	11-20-03	Amend	1-1-04	461-135-0400	4-1-04	Amend	5-1-04
459-045-0001(T)	11-20-03	Repeal	1-1-04	461-135-0401	1-1-04	Amend	2-1-04
459-060-0001	12-15-03	Amend	1-1-04	461-135-0401	4-1-04	Amend	5-1-04
459-060-0010	12-15-03	Amend	1-1-04	461-135-0700	1-1-04	Amend(T)	2-1-04
459-060-0020	12-15-03	Amend	1-1-04	461-135-0700	4-1-04	Amend	5-1-04
459-070-0001	2-18-04	Adopt	4-1-04	461-135-0700	4-15-04	Amend(T)	5-1-04
459-070-0100	1-1-04	Adopt	2-1-04	461-135-0700(T)	1-1-04	Suspend	2-1-04
459-070-0110	1-1-04	Adopt	2-1-04	461-135-0701	4-1-04	Amend	5-1-04
459-070-0900	2-18-04	Adopt(T)	4-1-04	461-135-0705	4-1-04	Amend	5-1-04
459-075-0010	2-18-04	Adopt	4-1-04	461-135-0730	1-1-04	Amend	2-1-04
459-075-0030	1-1-04	Adopt	2-1-04	461-135-0730	4-1-04	Amend(T)	5-1-04
459-075-0100	1-22-04	Adopt	3-1-04	461-135-0780	1-1-04	Amend	2-1-04
459-075-0150	2-18-04	Adopt	4-1-04	461-135-0830	1-1-04	Amend	2-1-04
459-080-0010	1-1-04	Adopt	1-1-04	461-135-0832	1-1-04	Amend	2-1-04
459-080-0100	1-22-04	Adopt	3-1-04	461-135-0845	2-5-04	Amend(T)	3-1-04
459-080-0200	1-1-04	Adopt(T)	1-1-04	461-135-0847	1-1-04	Adopt	2-1-04
459-080-0500	1-1-04	Adopt	1-1-04	461-135-1120	1-1-04	Amend	2-1-04
461-025-0311	1-1-04	Amend	2-1-04	461-135-1120	2-19-04	Amend(T)	4-1-04
461-101-0010	4-1-04	Amend	5-1-04	461-135-1130	12-1-03	Amend(T)	1-1-04
461-110-0330	1-1-04	Amend	2-1-04	461-135-1130	1-1-04	Amend	2-1-04
461-110-0350	12-17-03	Amend(T)	2-1-04	461-135-1130	1-1-04	Amend	2-1-04
461-110-0350	4-1-04	Amend	5-1-04	461-135-1130	2-19-04	Amend(T)	4-1-04
461-110-0390	4-1-04	Amend	5-1-04	461-135-1130	4-1-04	Amend	5-1-04
461-110-0630	4-1-04	Amend	5-1-04	461-135-1130	4-1-04	Amend(T)	5-1-04
461-110-0750	4-1-04	Amend	5-1-04	461-135-1130(T)	12-1-03	Suspend	1-1-04
461-115-0015	1-1-04	Amend	2-1-04	461-135-1130(T)	4-1-04	Repeal	5-1-04
461-115-0015	4-1-04	Amend	5-1-04	461-135-1220	4-1-04	Amend	5-1-04
461-115-0705	1-1-04	Amend	2-1-04	461-135-1230	4-1-04	Amend	5-1-04
461-120-0120	1-1-04	Amend	2-1-04	461-135-1235	4-1-04	Amend	5-1-04
461-120-0125	1-1-04	Amend(T)	2-1-04	461-140-0120	4-1-04	Amend	5-1-04
461-120-0125	4-1-04	Amend	5-1-04	461-140-0130	4-1-04	Amend	5-1-04
461-120-0125	4-9-04	Amend(T)	5-1-04	461-145-0040	4-1-04	Amend	5-1-04
461-120-0125	5-11-04	Amend(T)	6-1-04	461-145-0050	4-1-04	Amend	5-1-04
461-120-0125(T)	1-1-04	Suspend	2-1-04	461-145-0150	4-1-04	Amend	5-1-04
461-120-0125(T)	5-11-04	Suspend	6-1-04	461-145-0190	4-1-04	Amend	5-1-04
461-120-0340	1-1-04	Amend	2-1-04	461-145-0320	4-1-04	Amend	5-1-04
461-120-0345	1-1-04	Amend	2-1-04	461-145-0360	4-1-04	Amend	5-1-04
461-120-0345	1-1-04	Amend	2-1-04	461-145-0530	4-1-04	Amend	5-1-04
461-120-0345	4-1-04	Amend	5-1-04	461-150-0020	4-1-04	Amend(T)	5-1-04
461-120-0510	4-1-04	Amend	5-1-04	461-155-0010	4-1-04	Amend	5-1-04
461-125-0510	4-1-04	Amend	5-1-04	461-155-0020	1-1-04	Amend	2-1-04
461-125-0600	4-1-04	Repeal	5-1-04	461-155-0030	1-1-04	Amend	2-1-04
461-125-0610	4-1-04	Repeal	5-1-04	461-155-0035	1-1-04	Amend	2-1-04
461-125-0650	4-1-04	Repeal	5-1-04	461-155-0150	1-1-04	Amend	2-1-04
461-125-0660	4-1-04	Repeal	5-1-04	461-155-0150	1-1-04	Amend	2-1-04
461-125-0690	4-1-04	Repeal	5-1-04	461-155-0150	4-1-04	Amend	5-1-04
461-125-0890	4-1-04	Repeal	5-1-04	461-155-0210	4-1-04	Amend	5-1-04
461-125-0910	4-1-04	Repeal	5-1-04	461-155-0225	2-13-04	Amend(T)	3-1-04
461-125-0930	4-1-04	Repeal	5-1-04	461-155-0225	4-1-04	Amend	5-1-04
461-135-0010	1-1-04	Amend	2-1-04	461-155-0235	3-1-04	Amend(T)	4-1-04
461-135-0180	1-1-04	Repeal	2-1-04	461-155-0235	4-1-04	Amend	5-1-04
461-135-0301	12-1-03	Amend(T)	1-1-04	461-155-0250	1-1-04	Amend	2-1-04
461-135-0301	4-1-04	Amend	5-1-04	461-155-0250	4-1-04	Amend	5-1-04
461-135-0301	5-1-04	Amend(T)	6-1-04	461-155-0270	1-1-04	Amend	2-1-04
461-135-0301(T)	4-1-04	Repeal	5-1-04	461-155-0290	4-1-04	Amend	5-1-04
461-135-0400	1-1-04	Amend	2-1-04	461-155-0291	4-1-04	Amend	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-155-0295	4-1-04	Amend	5-1-04	471-015-0010	12-14-03	Amend	1-1-04
461-155-0300	1-1-04	Amend	2-1-04	471-015-0015	12-14-03	Amend	1-1-04
461-155-0526	1-1-04	Amend	2-1-04	471-015-0020	12-14-03	Amend	1-1-04
461-155-0526	1-1-04	Amend	2-1-04	471-030-0040	12-14-03	Amend	1-1-04
461-155-0526	4-1-04	Amend	5-1-04	471-030-0045	12-14-03	Amend	1-1-04
461-155-0551	4-1-04	Amend	5-1-04	471-030-0125	1-4-04	Adopt	2-1-04
461-155-0680	1-1-04	Amend	2-1-04	471-030-0126	4-11-04	Adopt(T)	5-1-04
461-160-0015	4-1-04	Amend	5-1-04	471-030-0130	1-4-04	Repeal	2-1-04
461-160-0060	4-1-04	Amend	5-1-04	471-030-0135	1-4-04	Repeal	2-1-04
461-160-0500	4-1-04	Amend	5-1-04	471-030-0140	1-4-04	Repeal	2-1-04
461-160-0510	4-1-04	Repeal	5-1-04	471-030-0145	1-4-04	Repeal	2-1-04
461-160-0520	4-1-04	Repeal	5-1-04	471-031-0076	12-14-03	Amend	1-1-04
461-160-0550	4-1-04	Amend	5-1-04	471-031-0077	12-14-03	Adopt	1-1-04
461-160-0560	4-1-04	Amend	5-1-04	471-031-0140	12-14-03	Amend	1-1-04
461-160-0580	1-1-04	Amend	2-1-04	471-031-0141	12-14-03	Amend	1-1-04
461-160-0620	1-1-04	Amend	2-1-04	471-031-0142	12-14-03	Adopt	1-1-04
461-165-0030	1-1-04	Amend	2-1-04	471-040-0040	5-4-04	Amend(T)	6-1-04
461-165-0180	5-1-04	Amend	6-1-04	471-041-0060	5-4-04	Amend(T)	6-1-04
461-165-0400	3-1-04	Repeal	4-1-04	471-060-0005	1-4-04	Amend	2-1-04
461-170-0010	1-1-04	Amend	2-1-04	543-050-0000	1-1-04	Repeal	1-1-04
461-175-0200	1-1-04	Amend	2-1-04	543-050-0020	1-1-04	Repeal	1-1-04
461-180-0070	1-1-04	Amend	2-1-04	543-050-0030	1-1-04	Repeal	1-1-04
461-180-0105	12-1-03	Amend(T)	1-1-04	543-050-0040	1-1-04	Repeal	1-1-04
461-180-0105	1-1-04	Amend	2-1-04	543-050-0050	1-1-04	Repeal	1-1-04
461-190-0110	1-1-04	Amend	2-1-04	543-060-0000	1-1-04	Adopt	1-1-04
461-190-0161	1-1-04	Amend	2-1-04	543-060-0010	1-1-04	Adopt	1-1-04
461-190-0191	1-1-04	Repeal	2-1-04	543-060-0020	1-1-04	Adopt	1-1-04
461-190-0211	1-1-04	Amend	2-1-04	543-060-0030	1-1-04	Adopt	1-1-04
461-190-0360	1-1-04	Amend	2-1-04	543-060-0040	1-1-04	Adopt	1-1-04
461-193-0560	1-1-04	Amend	2-1-04	543-060-0060	1-1-04	Adopt	1-1-04
461-195-0501	1-1-04	Amend	2-1-04	571-020-0120	5-17-04	Amend	6-1-04
461-195-0531	4-1-04	Amend	5-1-04	571-020-0180	5-17-04	Amend	6-1-04
461-195-0551	4-1-04	Amend	5-1-04	571-060-0005	7-1-04	Amend	6-1-04
461-195-0561	1-1-04	Amend	2-1-04	573-001-0000	4-5-04	Amend	5-1-04
461-195-0601	4-1-04	Amend	5-1-04	573-001-0015	4-5-04	Amend	5-1-04
461-195-0621	4-1-04	Amend	5-1-04	573-020-0000	4-5-04	Repeal	5-1-04
462-110-0030	4-8-04	Amend	5-1-04	573-020-0005	4-5-04	Repeal	5-1-04
462-120-0020	3-3-04	Amend	4-1-04	573-020-0010	4-5-04	Repeal	5-1-04
462-120-0040	4-8-04	Amend	5-1-04	573-020-0015	4-5-04	Repeal	5-1-04
462-140-0070	4-8-04	Amend	5-1-04	573-020-0021	4-5-04	Repeal	5-1-04
462-140-0410	4-8-04	Amend	5-1-04	573-020-0024	4-5-04	Repeal	5-1-04
462-140-0420	4-8-04	Amend	5-1-04	573-020-0025	4-5-04	Repeal	5-1-04
462-140-0480	4-8-04	Amend	5-1-04	573-020-0030	4-5-04	Repeal	5-1-04
462-170-0010	4-8-04	Amend	5-1-04	573-020-0035	4-5-04	Repeal	5-1-04
462-170-0030	4-8-04	Amend	5-1-04	573-020-0037	4-5-04	Repeal	5-1-04
462-170-0050	4-8-04	Amend	5-1-04	573-020-0049	4-5-04	Repeal	5-1-04
462-180-0010	4-8-04	Amend	5-1-04	573-020-0052	4-5-04	Repeal	5-1-04
462-180-0060	4-8-04	Amend	5-1-04	573-020-0060	4-5-04	Repeal	5-1-04
471-010-0050	1-4-04	Amend	2-1-04	573-020-0065	4-5-04	Repeal	5-1-04
471-010-0051	1-4-04	Amend	2-1-04	573-020-0070	4-5-04	Repeal	5-1-04
471-010-0054	1-4-04	Amend	2-1-04	573-020-0075	4-5-04	Repeal	5-1-04
471-010-0057	1-4-04	Adopt	2-1-04	573-020-0080	4-5-04	Repeal	5-1-04
471-012-0010	12-14-03	Amend	1-1-04	573-020-0085	4-5-04	Repeal	5-1-04
471-012-0015	12-14-03	Amend	1-1-04	573-020-0090	4-5-04	Repeal	5-1-04
471-012-0020	12-14-03	Amend	1-1-04	573-020-0095	4-5-04	Repeal	5-1-04
471-015-0005	12-14-03	Amend	1-1-04	573-020-0100	4-5-04	Repeal	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
573-020-0105	4-5-04	Repeal	5-1-04	575-030-0005	2-12-04	Amend	3-1-04
573-020-0110	4-5-04	Repeal	5-1-04	575-031-0015	2-12-04	Amend	3-1-04
573-020-0115	4-5-04	Repeal	5-1-04	577-060-0020	11-18-03	Amend(T)	1-1-04
573-020-0120	4-5-04	Repeal	5-1-04	580-010-0029	12-3-03	Amend	1-1-04
573-020-0125	4-5-04	Repeal	5-1-04	580-010-0030	12-3-03	Amend	1-1-04
573-020-0130	4-5-04	Repeal	5-1-04	580-010-0031	12-3-03	Amend	1-1-04
573-040-0005	4-5-04	Amend	5-1-04	580-010-0033	12-3-03	Amend	1-1-04
573-042-0005	4-5-04	Amend	5-1-04	580-010-0035	12-3-03	Amend	1-1-04
573-050-0005	4-5-04	Amend	5-1-04	580-010-0037	12-3-03	Amend	1-1-04
573-050-0010	4-5-04	Amend	5-1-04	580-010-0040	12-3-03	Amend	1-1-04
573-050-0020	4-5-04	Amend	5-1-04	580-010-0041	12-3-03	Amend	1-1-04
573-050-0025	4-5-04	Amend	5-1-04	580-010-0045	12-3-03	Amend	1-1-04
573-050-0030	4-5-04	Amend	5-1-04	580-020-0006	12-1-03	Adopt(T)	1-1-04
573-050-0035	4-5-04	Amend	5-1-04	580-020-0006	4-8-04	Adopt	5-1-04
573-050-0040	4-5-04	Amend	5-1-04	580-021-0041	4-6-04	Adopt(T)	5-1-04
573-050-0045	4-5-04	Amend	5-1-04	580-021-0044	12-1-03	Adopt(T)	1-1-04
573-070-0001	4-5-04	Amend	5-1-04	580-021-0044	4-8-04	Adopt	5-1-04
573-070-0004	4-5-04	Amend	5-1-04	580-040-0035	12-24-03	Amend	2-1-04
573-070-0011	4-5-04	Amend	5-1-04	581-001-0120	3-5-04	Adopt(T)	4-1-04
573-070-0067	4-5-04	Amend	5-1-04	581-015-0062	5-11-04	Amend(T)	6-1-04
573-070-0068	4-5-04	Amend	5-1-04	581-015-0075	1-15-04	Amend	2-1-04
573-075-0000	4-5-04	Adopt	5-1-04	581-015-0126	1-15-04	Amend	2-1-04
573-075-0010	4-5-04	Adopt	5-1-04	581-015-0900	1-15-04	Amend	2-1-04
573-075-0020	4-5-04	Adopt	5-1-04	581-015-0935	1-15-04	Amend	2-1-04
573-075-0030	4-5-04	Adopt	5-1-04	581-015-0938	1-15-04	Amend	2-1-04
573-075-0040	4-5-04	Adopt	5-1-04	581-015-0940	1-15-04	Amend	2-1-04
573-075-0050	4-5-04	Adopt	5-1-04	581-015-0960	1-15-04	Amend	2-1-04
573-075-0060	4-5-04	Adopt	5-1-04	581-015-0964	1-15-04	Amend	2-1-04
573-075-0070	4-5-04	Adopt	5-1-04	581-015-0968	1-15-04	Amend	2-1-04
573-075-0080	4-5-04	Adopt	5-1-04	581-015-0970	1-15-04	Amend	2-1-04
573-075-0090	4-5-04	Adopt	5-1-04	581-015-0972	1-15-04	Amend	2-1-04
573-075-0100	4-5-04	Adopt	5-1-04	581-015-0980	1-15-04	Amend	2-1-04
573-075-0110	4-5-04	Adopt	5-1-04	581-015-0990	1-15-04	Amend	2-1-04
573-075-0120	4-5-04	Adopt	5-1-04	581-020-0331	3-15-04	Amend(T)	4-1-04
573-075-0130	4-5-04	Adopt	5-1-04	581-021-0023	1-15-04	Adopt	2-1-04
573-075-0140	4-5-04	Adopt	5-1-04	581-022-1730	1-15-04	Amend	2-1-04
573-075-0150	4-5-04	Adopt	5-1-04	581-023-0103	4-15-04	Repeal	5-1-04
573-075-0160	4-5-04	Adopt	5-1-04	581-023-0104	3-15-04	Adopt	4-1-04
573-075-0170	4-5-04	Adopt	5-1-04	581-045-0001	1-1-04	Amend	2-1-04
573-075-0180	4-5-04	Adopt	5-1-04	581-045-0012	1-1-04	Amend	2-1-04
573-075-0190	4-5-04	Adopt	5-1-04	581-045-0018	1-1-04	Amend	2-1-04
573-075-0200	4-5-04	Adopt	5-1-04	581-045-0019	1-1-04	Amend	2-1-04
573-075-0210	4-5-04	Adopt	5-1-04	581-045-0023	1-1-04	Amend	2-1-04
573-075-0220	4-5-04	Adopt	5-1-04	581-045-0026	1-1-04	Amend	2-1-04
573-075-0230	4-5-04	Adopt	5-1-04	581-045-0032	1-1-04	Amend	2-1-04
573-075-0240	4-5-04	Adopt	5-1-04	581-045-0065	1-1-04	Amend	2-1-04
573-075-0250	4-5-04	Adopt	5-1-04	581-045-0068	1-1-04	Amend	2-1-04
573-075-0260	4-5-04	Adopt	5-1-04	581-045-0200	1-1-04	Amend	2-1-04
573-075-0270	4-5-04	Adopt	5-1-04	582-010-0005	12-31-03	Amend	2-1-04
573-080-0005	4-5-04	Amend	5-1-04	582-010-0010	12-31-03	Amend	2-1-04
573-080-0025	4-5-04	Amend	5-1-04	582-010-0015	12-31-03	Amend	2-1-04
573-090-0000	4-5-04	Repeal	5-1-04	582-010-0020	12-31-03	Amend	2-1-04
573-090-0005	4-5-04	Repeal	5-1-04	582-010-0025	12-31-03	Amend	2-1-04
573-090-0010	4-5-04	Repeal	5-1-04	582-010-0030	12-31-03	Adopt	2-1-04
574-020-0020	3-24-04	Amend	5-1-04	582-020-0005	1-30-04	Adopt	3-1-04
574-050-0005	3-24-04	Amend	5-1-04	582-020-0010	1-30-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
582-020-0015	1-30-04	Adopt	3-1-04	584-100-0036	3-17-04	Adopt	5-1-04
582-020-0020	1-30-04	Amend	3-1-04	584-100-0036	5-14-04	Amend(T)	6-1-04
582-020-0030	1-30-04	Amend	3-1-04	584-100-0037	5-14-04	Adopt(T)	6-1-04
582-020-0040	1-30-04	Amend	3-1-04	584-100-0041	3-17-04	Adopt	5-1-04
582-020-0050	1-30-04	Amend	3-1-04	584-100-0046	3-17-04	Adopt	5-1-04
582-020-0060	1-30-04	Amend	3-1-04	584-100-0051	3-17-04	Adopt	5-1-04
582-020-0070	1-30-04	Amend	3-1-04	584-100-0056	3-17-04	Adopt	5-1-04
582-020-0080	1-30-04	Amend	3-1-04	584-100-0061	3-17-04	Adopt	5-1-04
582-020-0090	1-30-04	Amend	3-1-04	584-100-0066	3-17-04	Adopt	5-1-04
582-020-0100	1-30-04	Amend	3-1-04	584-100-0071	3-17-04	Adopt	5-1-04
582-020-0110	1-30-04	Amend	3-1-04	584-100-0091	3-17-04	Adopt	5-1-04
582-020-0120	1-30-04	Amend	3-1-04	584-100-0096	3-17-04	Adopt	5-1-04
582-020-0125	1-30-04	Adopt	3-1-04	584-100-0101	3-17-04	Adopt	5-1-04
582-030-0000	3-12-04	Amend	4-1-04	584-100-0106	3-17-04	Adopt	5-1-04
582-030-0005	3-12-04	Amend	4-1-04	584-100-0111	3-17-04	Adopt	5-1-04
582-030-0008	3-12-04	Amend	4-1-04	589-020-0220	11-20-03	Adopt(T)	1-1-04
582-030-0010	3-12-04	Amend	4-1-04	603-001-0001	2-10-04	Amend	3-1-04
582-030-0020	3-12-04	Amend	4-1-04	603-013-0600	2-13-04	Amend	3-1-04
582-030-0025	3-12-04	Adopt	4-1-04	603-013-0602	2-13-04	Amend	3-1-04
582-030-0030	3-12-04	Amend	4-1-04	603-013-0604	2-13-04	Amend	3-1-04
582-030-0040	3-12-04	Amend	4-1-04	603-013-0616	2-13-04	Amend	3-1-04
582-070-0010	3-9-04	Amend	4-1-04	603-014-0016	1-23-04	Amend	3-1-04
582-070-0020	12-31-03	Amend	2-1-04	603-016-0471	2-13-04	Repeal	3-1-04
582-070-0030	3-9-04	Amend	4-1-04	603-016-0476	2-13-04	Repeal	3-1-04
582-080-0020	12-31-03	Amend	2-1-04	603-016-0481	2-13-04	Repeal	3-1-04
582-085-0020	12-31-03	Amend	2-1-04	603-016-0486	2-13-04	Repeal	3-1-04
582-090-0010	4-2-04	Amend	5-1-04	603-016-0491	2-13-04	Repeal	3-1-04
582-090-0020	4-2-04	Amend	5-1-04	603-016-0496	2-13-04	Repeal	3-1-04
582-090-0030	4-2-04	Amend	5-1-04	603-016-0500	2-13-04	Repeal	3-1-04
582-090-0050	4-2-04	Repeal	5-1-04	603-016-0505	2-13-04	Repeal	3-1-04
583-030-0010	2-11-04	Amend(T)	3-1-04	603-016-0510	2-13-04	Repeal	3-1-04
583-030-0020	2-11-04	Amend(T)	3-1-04	603-027-0395	3-26-04	Amend	5-1-04
583-030-0021	1-14-04	Amend	2-1-04	603-027-0405	3-26-04	Repeal	5-1-04
583-030-0030	1-14-04	Amend	2-1-04	603-027-0640	3-26-04	Amend	5-1-04
583-030-0035	2-11-04	Amend(T)	3-1-04	603-051-0801	2-13-04	Repeal	3-1-04
583-030-0041	2-11-04	Amend(T)	3-1-04	603-051-0802	2-13-04	Repeal	3-1-04
583-030-0042	2-11-04	Amend(T)	3-1-04	603-051-0810	2-13-04	Repeal	3-1-04
583-030-0045	1-14-04	Amend	2-1-04	603-051-0812	2-13-04	Repeal	3-1-04
583-030-0046	2-11-04	Amend(T)	3-1-04	603-051-0814	2-13-04	Repeal	3-1-04
583-040-0025	2-13-04	Amend	3-1-04	603-051-0816	2-13-04	Repeal	3-1-04
583-050-0031	5-14-04	Amend	6-1-04	603-051-0818	2-13-04	Repeal	3-1-04
584-017-0042	3-17-04	Adopt(T)	5-1-04	603-051-0819	2-13-04	Repeal	3-1-04
584-036-0017	3-17-04	Amend	5-1-04	603-051-0821	2-13-04	Repeal	3-1-04
584-036-0062	5-14-04	Amend	6-1-04	603-051-0823	2-13-04	Repeal	3-1-04
584-036-0067	3-17-04	Adopt(T)	5-1-04	603-051-0825	2-13-04	Repeal	3-1-04
584-040-0005	3-17-04	Amend(T)	5-1-04	603-051-0827	2-13-04	Repeal	3-1-04
584-060-0171	5-14-04	Amend	6-1-04	603-051-0829	2-13-04	Repeal	3-1-04
584-100-0002	3-17-04	Adopt	5-1-04	603-051-0950	2-13-04	Repeal	3-1-04
584-100-0006	3-17-04	Adopt	5-1-04	603-052-0325	2-13-04	Repeal	3-1-04
584-100-0011	3-17-04	Adopt	5-1-04	603-052-0326	2-13-04	Repeal	3-1-04
584-100-0016	3-17-04	Adopt	5-1-04	603-052-0327	2-13-04	Repeal	3-1-04
584-100-0021	3-17-04	Adopt	5-1-04	603-052-0331	2-13-04	Repeal	3-1-04
584-100-0023	3-17-04	Adopt	5-1-04	603-052-0332	2-13-04	Repeal	3-1-04
584-100-0026	3-17-04	Adopt	5-1-04	603-052-0333	2-13-04	Repeal	3-1-04
584-100-0026	5-14-04	Amend(T)	6-1-04	603-052-0335	2-13-04	Repeal	3-1-04
584-100-0031	3-17-04	Adopt	5-1-04	603-052-0340	2-13-04	Repeal	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-052-0345	2-13-04	Repeal	3-1-04	617-030-0040	1-16-04	Adopt	2-1-04
603-052-0400	2-13-04	Repeal	3-1-04	620-010-0050	1-14-04	Adopt	2-1-04
603-052-0425	2-13-04	Repeal	3-1-04	620-030-0010	1-14-04	Adopt	2-1-04
603-052-0810	2-13-04	Repeal	3-1-04	620-030-0020	1-14-04	Adopt	2-1-04
603-052-1000	2-13-04	Repeal	3-1-04	620-030-0030	1-14-04	Adopt	2-1-04
603-052-1010	2-13-04	Repeal	3-1-04	620-030-0040	1-14-04	Adopt	2-1-04
603-054-0010	2-13-04	Repeal	3-1-04	623-030-0010	12-8-03	Adopt	1-1-04
603-054-0027	3-12-04	Adopt	4-1-04	623-030-0020	12-8-03	Adopt	1-1-04
603-057-0006	12-23-03	Amend	2-1-04	623-030-0030	12-8-03	Adopt	1-1-04
603-057-0006(T)	12-23-03	Repeal	2-1-04	624-010-0000	1-16-04	Amend	2-1-04
603-059-0020	7-1-04	Amend	5-1-04	624-010-0020	1-16-04	Amend	2-1-04
603-076-0051	5-5-04	Adopt	6-1-04	624-010-0030	1-16-04	Amend	2-1-04
603-076-0052	5-5-04	Adopt	6-1-04	624-010-0050	1-16-04	Adopt	2-1-04
603-095-0140	1-23-03	Amend	3-1-04	624-010-0060	1-16-04	Adopt	2-1-04
603-095-3600	1-12-04	Adopt	2-1-04	624-030-0010	1-16-04	Adopt	2-1-04
603-095-3620	1-12-04	Adopt	2-1-04	624-030-0020	1-16-04	Adopt	2-1-04
603-095-3640	1-12-04	Adopt	2-1-04	624-030-0030	1-16-04	Adopt	2-1-04
603-095-3660	1-12-04	Adopt	2-1-04	624-030-0040	1-16-04	Adopt	2-1-04
603-095-3700	1-23-04	Adopt	3-1-04	629-001-0015	2-10-04	Amend	3-1-04
603-095-3720	1-23-04	Adopt	3-1-04	629-001-0025	2-10-04	Amend	3-1-04
603-095-3740	1-23-04	Adopt	3-1-04	629-001-0040	2-10-04	Amend	3-1-04
603-095-3760	1-23-04	Adopt	3-1-04	629-001-0045	2-10-04	Amend	3-1-04
603-095-3800	3-22-04	Adopt	5-1-04	629-001-0055	2-10-04	Adopt	3-1-04
603-095-3820	3-22-04	Adopt	5-1-04	629-001-0055(T)	2-10-04	Repeal	3-1-04
603-095-3840	3-22-04	Adopt	5-1-04	629-023-0110	5-6-04	Repeal	6-1-04
603-095-3860	3-22-04	Adopt	5-1-04	629-023-0120	5-6-04	Repeal	6-1-04
604-030-0010	1-1-04	Adopt	1-1-04	629-023-0130	5-6-04	Repeal	6-1-04
604-030-0020	1-1-04	Adopt	1-1-04	629-023-0140	5-6-04	Repeal	6-1-04
604-030-0030	1-1-04	Adopt	1-1-04	629-023-0145	5-6-04	Repeal	6-1-04
604-030-0040	1-1-04	Adopt	1-1-04	629-023-0150	5-6-04	Repeal	6-1-04
605-030-0010	1-15-04	Adopt	2-1-04	629-023-0160	5-6-04	Repeal	6-1-04
605-030-0020	1-15-04	Adopt	2-1-04	629-023-0165	5-6-04	Repeal	6-1-04
605-030-0030	1-15-04	Adopt	2-1-04	629-023-0170	5-6-04	Repeal	6-1-04
605-030-0040	1-15-04	Adopt	2-1-04	629-023-0180	5-6-04	Repeal	6-1-04
606-010-0025	1-15-04	Amend	2-1-04	629-043-0041	1-30-04	Amend	3-1-04
606-030-0010	1-15-04	Adopt	2-1-04	629-065-0005	5-4-04	Amend	6-1-04
606-030-0020	1-15-04	Adopt	2-1-04	629-065-0100	5-4-04	Repeal	6-1-04
606-030-0040	1-15-04	Adopt	2-1-04	629-065-0200	5-4-04	Amend	6-1-04
607-030-0010	1-1-04	Adopt	1-1-04	629-065-0210	5-4-04	Adopt	6-1-04
607-030-0020	1-1-04	Adopt	1-1-04	629-065-0220	5-4-04	Adopt	6-1-04
607-030-0030	1-1-04	Adopt	1-1-04	629-065-0400	5-4-04	Amend	6-1-04
607-030-0040	1-1-04	Adopt	1-1-04	629-065-0410	5-4-04	Adopt	6-1-04
608-010-0015	1-2-04	Amend	2-1-04	629-065-0500	5-4-04	Repeal	6-1-04
608-010-0020	1-2-04	Amend	2-1-04	629-670-0300	2-10-04	Amend	3-1-04
608-030-0010	1-2-04	Adopt	2-1-04	629-670-0310	2-10-04	Amend	3-1-04
608-030-0020	1-2-04	Adopt	2-1-04	629-670-0315	2-10-04	Amend	3-1-04
608-030-0030	1-2-04	Adopt	2-1-04	629-672-0210	2-10-04	Amend	3-1-04
608-030-0040	1-2-04	Adopt	2-1-04	629-672-0220	2-10-04	Amend	3-1-04
611-030-0010	1-15-04	Adopt	2-1-04	629-672-0310	2-10-04	Amend	3-1-04
611-030-0020	1-15-04	Adopt	2-1-04	635-001-0105	1-1-04	Amend	1-1-04
611-030-0030	1-15-04	Adopt	2-1-04	635-001-0301	5-1-04	Amend	6-1-04
611-030-0040	1-15-04	Adopt	2-1-04	635-003-0003	5-1-04	Amend	6-1-04
617-010-0090	1-16-04	Adopt	2-1-04	635-003-0003	5-1-04	Amend	6-1-04
617-030-0010	1-16-04	Adopt	2-1-04	635-003-0076	5-1-04	Amend	6-1-04
617-030-0020	1-16-04	Adopt	2-1-04	635-003-0076	5-5-04	Amend(T)	6-1-04
617-030-0030	1-16-04	Adopt	2-1-04	635-003-0076	5-15-04	Amend(T)	6-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-004-0005	1-1-04	Amend	1-1-04	635-023-0090	2-1-04	Amend(T)	3-1-04
635-004-0018	1-1-04	Amend	1-1-04	635-023-0090	5-1-04	Amend(T)	6-1-04
635-004-0027	1-1-04	Amend(T)	1-1-04	635-023-0100	2-13-04	Repeal	3-1-04
635-004-0036	1-1-04	Amend	1-1-04	635-023-0125	2-13-04	Adopt	3-1-04
635-005-0045	12-1-03	Amend(T)	1-1-04	635-023-0125	3-10-04	Amend(T)	4-1-04
635-005-0048	12-1-03	Adopt(T)	1-1-04	635-023-0125	4-22-04	Amend(T)	5-1-04
635-005-0048	2-13-04	Adopt	3-1-04	635-023-0125	4-22-04	Amend(T)	6-1-04
635-005-0048(T)	2-13-04	Repeal	3-1-04	635-023-0125	5-1-04	Amend(T)	6-1-04
635-005-0205	11-21-03	Amend(T)	1-1-04	635-023-0125	5-6-04	Amend(T)	6-1-04
635-006-0132	5-1-04	Amend	6-1-04	635-023-0130	5-1-04	Adopt	6-1-04
635-006-0133	5-1-04	Amend	6-1-04	635-023-0135	4-24-04	Adopt(T)	6-1-04
635-006-0140	1-1-04	Amend	1-1-04	635-039-0080	1-1-04	Amend	1-1-04
635-006-0150	1-1-04	Amend	1-1-04	635-039-0090	11-21-03	Amend(T)	1-1-04
635-006-0200	5-1-04	Amend	6-1-04	635-039-0090	1-1-04	Amend	1-1-04
635-006-0210	12-1-03	Amend(T)	1-1-04	635-039-0090	1-1-04	Amend	1-1-04
635-006-0210	2-13-04	Amend	3-1-04	635-04-0033	1-1-04	Amend	1-1-04
635-006-0210(T)	2-13-04	Repeal	3-1-04	635-041-0060	12-1-03	Amend(T)	1-1-04
635-006-0212	5-1-04	Amend	6-1-04	635-041-0065	1-1-04	Amend(T)	2-1-04
635-006-0213	5-1-04	Amend	6-1-04	635-041-0065	2-2-04	Amend(T)	3-1-04
635-006-0215	5-1-04	Amend	6-1-04	635-041-0065	3-10-04	Amend(T)	4-1-04
635-006-0232	2-1-04	Amend	2-1-04	635-041-0090	5-4-04	Adopt(T)	6-1-04
635-006-0850	1-1-04	Amend	1-1-04	635-041-0090	5-11-04	Amend(T)	6-1-04
635-006-0850	3-23-04	Amend	5-1-04	635-042-0022	2-13-04	Adopt	3-1-04
635-006-0910	1-31-04	Amend(T)	3-1-04	635-042-0022	3-1-04	Amend(T)	4-1-04
635-006-0910	3-23-04	Amend	5-1-04	635-042-0022	3-3-04	Amend(T)	4-1-04
635-006-0910(T)	3-23-04	Repeal	5-1-04	635-042-0022	3-8-04	Amend(T)	4-1-04
635-007-0605	5-1-04	Amend	6-1-04	635-042-0022	3-10-04	Amend(T)	4-1-04
635-007-0655	5-1-04	Amend	6-1-04	635-042-0022	3-15-04	Amend(T)	4-1-04
635-007-0910	5-1-04	Amend	6-1-04	635-042-0022	3-18-04	Amend(T)	5-1-04
635-010-0015	5-1-04	Amend	6-1-04	635-042-0022	3-23-04	Amend(T)	5-1-04
635-011-0100	1-1-04	Amend	1-1-04	635-042-0022	3-25-04	Amend(T)	5-1-04
635-011-0101	1-1-04	Amend	1-1-04	635-042-0022	3-29-04	Amend(T)	5-1-04
635-013-0003	1-1-04	Amend	1-1-04	635-042-0110	2-13-04	Amend	3-1-04
635-013-0003	5-1-04	Amend	6-1-04	635-042-0130	1-1-04	Amend(T)	2-1-04
635-013-0004	1-1-04	Amend	1-1-04	635-042-0130	3-18-04	Amend(T)	5-1-04
635-014-0080	1-1-04	Amend	1-1-04	635-042-0135	1-1-04	Amend(T)	2-1-04
635-014-0090	12-11-03	Amend(T)	1-1-04	635-042-0135	2-2-04	Amend(T)	3-1-04
635-014-0090	1-1-04	Amend	1-1-04	635-042-0145	2-13-04	Amend	3-1-04
635-014-0090	1-1-04	Amend(T)	1-1-04	635-042-0145	3-12-04	Amend(T)	4-1-04
635-014-0090(T)	12-11-03	Suspend	1-1-04	635-042-0145	3-18-04	Amend(T)	5-1-04
635-014-0090(T)	1-1-04	Repeal	1-1-04	635-042-0145	4-12-04	Amend(T)	5-1-04
635-016-0080	1-1-04	Amend	1-1-04	635-042-0145	5-6-04	Amend(T)	6-1-04
635-016-0090	1-1-04	Amend	1-1-04	635-042-0160	2-13-04	Amend	3-1-04
635-017-0080	1-1-04	Amend	1-1-04	635-042-0160	3-12-04	Amend(T)	4-1-04
635-017-0090	1-1-04	Amend	1-1-04	635-042-0160	3-18-04	Amend(T)	5-1-04
635-017-0090	5-1-04	Amend	6-1-04	635-042-0160	4-12-04	Amend(T)	5-1-04
635-018-0080	1-1-04	Amend	1-1-04	635-042-0160	5-6-04	Amend(T)	6-1-04
635-018-0090	1-1-04	Amend	1-1-04	635-042-0180	2-13-04	Amend	3-1-04
635-018-0090	4-1-04	Amend(T)	5-1-04	635-042-0180	5-6-04	Amend(T)	6-1-04
635-019-0080	1-1-04	Amend	1-1-04	635-043-0030	5-1-04	Amend	6-1-04
635-019-0090	1-1-04	Amend	1-1-04	635-043-0035	5-1-04	Amend	6-1-04
635-019-0090	5-13-04	Amend(T)	6-1-04	635-044-0005	5-1-04	Amend	6-1-04
635-021-0080	1-1-04	Amend	1-1-04	635-044-0060	5-1-04	Amend	6-1-04
635-021-0090	1-1-04	Amend	1-1-04	635-044-0200	5-1-04	Amend	6-1-04
635-023-0080	1-1-04	Amend	1-1-04	635-045-0000	1-1-04	Amend	1-1-04
635-023-0090	1-1-04	Amend	1-1-04	635-045-0002	1-1-04	Amend	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-046-0030	5-1-04	Amend	6-1-04	635-075-0029	1-1-04	Amend	1-1-04
635-048-0030	5-1-04	Amend	6-1-04	635-078-0001	1-1-04	Amend	1-1-04
635-050-0045	2-11-04	Amend	3-1-04	635-078-0005	1-1-04	Amend	1-1-04
635-050-0045	5-1-04	Amend	6-1-04	635-078-0008	1-1-04	Amend	1-1-04
635-050-0180	5-1-04	Amend	6-1-04	635-080-0030	1-1-04	Amend	1-1-04
635-053-0000	1-16-04	Amend(T)	2-1-04	635-080-0031	1-1-04	Amend	1-1-04
635-053-0015	1-16-04	Amend(T)	2-1-04	635-100-0136	5-1-04	Amend	6-1-04
635-053-0025	1-16-04	Amend(T)	2-1-04	635-120-0001	3-5-04	Amend	4-1-04
635-055-0010	5-1-04	Amend	6-1-04	635-120-0005	3-5-04	Amend	4-1-04
635-056-0090	5-1-04	Amend	6-1-04	635-120-0010	3-5-04	Amend	4-1-04
635-060-0000	1-1-04	Amend	1-1-04	635-120-0015	3-5-04	Amend	4-1-04
635-060-0005	1-1-04	Amend	1-1-04	635-120-0020	3-5-04	Amend	4-1-04
635-060-0008	1-1-04	Amend	1-1-04	635-200-0050	5-1-04	Amend	6-1-04
635-060-0030	1-1-04	Amend	1-1-04	635-300-0001	5-1-04	Amend	6-1-04
635-060-0046	1-1-04	Amend	1-1-04	635-425-0020	5-1-04	Amend	6-1-04
635-060-0055	4-1-04	Amend	1-1-04	635-500-1820	12-15-03	Amend	1-1-04
635-065-0001	1-1-04	Amend	1-1-04	635-500-1830	12-15-03	Amend	1-1-04
635-065-0015	1-1-04	Amend	1-1-04	635-500-1850	12-15-03	Amend	1-1-04
635-065-0401	1-1-04	Amend	1-1-04	635-500-1920	12-15-03	Amend	1-1-04
635-065-0501	1-1-04	Amend	1-1-04	635-500-1930	12-15-03	Amend	1-1-04
635-065-0625	1-1-04	Amend	1-1-04	635-500-3120	12-15-03	Amend	1-1-04
635-065-0705	1-1-04	Amend	1-1-04	635-500-6000	12-15-03	Adopt	1-1-04
635-065-0720	1-1-04	Amend	1-1-04	635-500-6010	12-15-03	Adopt	1-1-04
635-065-0740	1-1-04	Amend	1-1-04	635-500-6020	12-15-03	Adopt	1-1-04
635-065-0760	11-25-03	Amend(T)	1-1-04	635-500-6030	12-15-03	Adopt	1-1-04
635-065-0760	6-16-04	Amend	1-1-04	635-500-6040	12-15-03	Adopt	1-1-04
635-065-0765	1-1-04	Amend	1-1-04	635-500-6050	12-15-03	Adopt	1-1-04
635-066-0000	1-1-04	Amend	1-1-04	635-500-6060	12-15-03	Adopt	1-1-04
635-066-0010	1-1-04	Amend	1-1-04	641-030-0010	1-15-04	Adopt	1-1-04
635-067-0000	1-1-04	Amend	1-1-04	641-030-0020	1-15-04	Adopt	1-1-04
635-067-0015	1-1-04	Amend	1-1-04	641-030-0030	1-15-04	Adopt	1-1-04
635-067-0024	1-1-04	Amend	1-1-04	642-010-0020	1-15-04	Amend	1-1-04
635-067-0028	1-1-04	Adopt	1-1-04	642-030-0010	1-15-04	Adopt	1-1-04
635-067-0029	1-1-04	Adopt	1-1-04	642-030-0020	1-15-04	Adopt	1-1-04
635-067-0032	1-1-04	Amend	1-1-04	642-030-0030	1-15-04	Adopt	1-1-04
635-067-0034	1-1-04	Amend	1-1-04	643-010-0030	1-16-04	Adopt	3-1-04
635-067-0041	1-1-04	Adopt	1-1-04	643-030-0010	1-16-04	Adopt	3-1-04
635-068-0000	1-19-04	Amend	1-1-04	643-030-0020	1-16-04	Adopt	3-1-04
635-069-0000	2-2-04	Amend	1-1-04	643-030-0030	1-16-04	Adopt	3-1-04
635-070-0000	12-24-03	Amend(T)	2-1-04	643-030-0040	1-16-04	Adopt	3-1-04
635-070-0000	2-2-04	Amend(T)	3-1-04	644-010-0005	1-8-04	Amend	2-1-04
635-070-0000	4-1-04	Amend	1-1-04	644-010-0010	1-8-04	Amend	2-1-04
635-070-0005	2-2-04	Amend(T)	3-1-04	644-010-0015	1-8-04	Amend	2-1-04
635-070-0010	12-24-03	Amend(T)	2-1-04	644-010-0020	1-8-04	Amend	2-1-04
635-071-0000	1-1-04	Amend	1-1-04	644-010-0025	1-8-04	Amend	2-1-04
635-071-0000	1-13-04	Amend(T)	2-1-04	644-030-0010	1-8-04	Adopt	2-1-04
635-071-0005	1-13-04	Amend(T)	2-1-04	644-030-0020	1-8-04	Adopt	2-1-04
635-072-0000	1-1-04	Amend	1-1-04	644-030-0030	1-8-04	Adopt	2-1-04
635-073-0000	12-24-03	Amend(T)	2-1-04	644-030-0040	1-8-04	Adopt	2-1-04
635-073-0000	2-2-04	Amend	1-1-04	645-010-0020	1-16-04	Amend	2-1-04
635-073-0060	12-24-03	Amend(T)	2-1-04	645-030-0010	1-16-04	Adopt	2-1-04
635-073-0070	1-1-04	Amend	1-1-04	645-030-0020	1-16-04	Adopt	2-1-04
635-073-0090	1-1-04	Amend	1-1-04	645-030-0030	1-16-04	Adopt	2-1-04
635-075-0005	1-1-04	Amend	1-1-04	645-030-0040	1-16-04	Adopt	2-1-04
635-075-0015	1-1-04	Amend	1-1-04	646-010-0030	1-16-04	Adopt	2-1-04
635-075-0020	1-1-04	Amend	1-1-04	646-030-0010	1-16-04	Adopt	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
646-030-0020	1-16-04	Adopt	2-1-04	660-025-0010	5-7-04	Amend	6-1-04
646-030-0020	4-8-04	Amend	5-1-04	660-025-0040	5-7-04	Amend	6-1-04
646-030-0030	1-16-04	Adopt	2-1-04	660-025-0120	5-7-04	Amend	6-1-04
646-030-0040	1-16-04	Adopt	2-1-04	660-025-0130	5-7-04	Amend	6-1-04
647-010-0010	6-1-04	Amend	6-1-04	660-025-0140	5-7-04	Amend	6-1-04
647-010-0020	1-16-04	Amend	2-1-04	660-025-0150	5-7-04	Amend	6-1-04
647-015-0010	1-16-04	Adopt	2-1-04	660-025-0160	5-7-04	Amend	6-1-04
647-015-0020	1-16-04	Adopt	2-1-04	660-025-0175	5-7-04	Amend	6-1-04
647-015-0030	1-16-04	Adopt	2-1-04	660-030-0005	5-7-04	Amend	6-1-04
655-015-0010	1-16-04	Adopt	2-1-04	660-033-0020	4-30-04	Amend	6-1-04
655-015-0020	1-16-04	Adopt	2-1-04	660-033-0090	4-30-04	Amend	6-1-04
655-015-0030	1-16-04	Adopt	2-1-04	660-033-0120	4-30-04	Amend	6-1-04
656-030-0010	1-1-04	Adopt	1-1-04	660-033-0130	4-30-04	Amend	6-1-04
656-030-0020	1-1-04	Adopt	1-1-04	660-033-0135	4-30-04	Amend	6-1-04
656-030-0030	1-1-04	Adopt	1-1-04	660-034-0000	5-7-04	Amend	6-1-04
656-030-0040	1-1-04	Adopt	1-1-04	660-034-0040	5-7-04	Amend	6-1-04
657-030-0010	1-15-04	Adopt	1-1-04	660-037-0030	5-7-04	Amend	6-1-04
657-030-0020	1-15-04	Adopt	1-1-04	664-010-0020	1-15-04	Amend	1-1-04
657-030-0030	1-15-04	Adopt	1-1-04	664-015-0010	1-15-04	Adopt	1-1-04
658-010-0005	12-4-03	Amend	1-1-04	664-015-0020	1-15-04	Adopt	1-1-04
658-010-0006	12-4-03	Amend	1-1-04	664-015-0030	1-15-04	Adopt	1-1-04
658-010-0007	12-4-03	Adopt	1-1-04	668-010-0010	1-15-04	Amend	2-1-04
658-030-0010	12-4-03	Adopt	1-1-04	668-030-0010	1-15-04	Adopt	2-1-04
658-030-0020	12-4-03	Adopt	1-1-04	668-030-0020	1-15-04	Adopt	2-1-04
658-030-0030	12-4-03	Adopt	1-1-04	668-030-0030	1-15-04	Adopt	2-1-04
660-001-0000	5-7-04	Amend	6-1-04	668-030-0040	1-15-04	Adopt	2-1-04
660-002-0010	5-7-04	Amend	6-1-04	669-010-0015	1-13-04	Amend	2-1-04
660-003-0025	5-7-04	Amend	6-1-04	669-010-0020	1-13-04	Amend	2-1-04
660-004-0005	5-7-04	Amend	6-1-04	669-010-0025	1-13-04	Amend	2-1-04
660-004-0010	5-7-04	Amend	6-1-04	669-010-0030	1-13-04	Amend	2-1-04
660-004-0018	5-7-04	Amend	6-1-04	669-010-0040	1-13-04	Amend	2-1-04
660-004-0020	5-7-04	Amend	6-1-04	669-010-0050	1-13-04	Adopt	2-1-04
660-004-0022	5-7-04	Amend	6-1-04	669-030-0010	1-13-04	Adopt	2-1-04
660-004-0035	5-7-04	Amend	6-1-04	669-030-0020	1-13-04	Adopt	2-1-04
660-004-0040	5-7-04	Amend	6-1-04	669-030-0030	1-13-04	Adopt	2-1-04
660-006-0015	5-7-04	Amend	6-1-04	669-030-0040	1-13-04	Adopt	2-1-04
660-006-0025	5-7-04	Amend	6-1-04	670-010-0020	1-15-04	Amend	2-1-04
660-008-0000	5-7-04	Amend	6-1-04	670-030-0010	1-15-04	Adopt	2-1-04
660-008-0005	5-7-04	Amend	6-1-04	670-030-0020	1-15-04	Adopt	2-1-04
660-012-0045	5-7-04	Amend	6-1-04	670-030-0030	1-15-04	Adopt	2-1-04
660-012-0055	5-7-04	Amend	6-1-04	679-010-0000	1-20-04	Amend	3-1-04
660-012-0070	5-7-04	Amend	6-1-04	679-010-0010	1-20-04	Amend	3-1-04
660-013-0030	5-7-04	Amend	6-1-04	679-010-0030	1-20-04	Amend	3-1-04
660-013-0070	5-7-04	Amend	6-1-04	679-010-0050	1-20-04	Adopt	3-1-04
660-013-0080	5-7-04	Amend	6-1-04	679-010-0060	1-20-04	Adopt	3-1-04
660-013-0160	5-7-04	Amend	6-1-04	679-030-0010	1-20-04	Adopt	3-1-04
660-016-0005	5-7-04	Amend	6-1-04	679-030-0020	1-20-04	Adopt	3-1-04
660-016-0010	5-7-04	Amend	6-1-04	679-030-0030	1-20-04	Adopt	3-1-04
660-017-0000	5-7-04	Amend	6-1-04	679-030-0040	1-20-04	Adopt	3-1-04
660-018-0005	5-7-04	Amend	6-1-04	690-200-0028	4-1-04	Adopt	5-1-04
660-018-0150	5-7-04	Adopt	6-1-04	690-380-2130	3-17-04	Amend	5-1-04
660-020-0060	5-7-04	Amend	6-1-04	690-380-8000	3-17-04	Amend	5-1-04
660-020-0065	5-7-04	Amend	6-1-04	690-380-8002	3-17-04	Adopt	5-1-04
660-023-0090	5-7-04	Amend	6-1-04	690-380-8004	3-17-04	Adopt	5-1-04
660-023-0140	5-7-04	Amend	6-1-04	690-380-8010	3-17-04	Amend	5-1-04
660-023-0190	5-7-04	Amend	6-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0230	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0235	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0240	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0250	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0260	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	734-051-0270	3-1-04	Am. & Ren.	4-1-04
690-502-0160	12-4-03	Amend	1-1-04	734-051-0280	3-1-04	Am. & Ren.	4-1-04
690-502-0210	12-4-03	Adopt	1-1-04	734-051-0290	3-1-04	Am. & Ren.	4-1-04
695-020-0020	1-26-04	Amend	3-1-04	734-051-0300	3-1-04	Am. & Ren.	4-1-04
695-020-0020	4-12-04	Amend	5-1-04	734-051-0310	3-1-04	Am. & Ren.	4-1-04
695-020-0056	4-12-04	Repeal	5-1-04	734-051-0320	3-1-04	Am. & Ren.	4-1-04
695-020-0057	4-12-04	Repeal	5-1-04	734-051-0330	3-1-04	Repeal	4-1-04
695-020-0058	4-12-04	Repeal	5-1-04	734-051-0340	3-1-04	Repeal	4-1-04
695-020-0092	1-26-04	Amend	3-1-04	734-051-0350	3-1-04	Repeal	4-1-04
695-020-0093	1-26-04	Amend	3-1-04	734-051-0360	3-1-04	Am. & Ren.	4-1-04
695-020-0094	1-26-04	Amend	3-1-04	734-051-0370	3-1-04	Am. & Ren.	4-1-04
695-020-0095	1-26-04	Amend	3-1-04	734-051-0380	3-1-04	Am. & Ren.	4-1-04
695-020-0096	1-26-04	Amend	3-1-04	734-051-0390	3-1-04	Am. & Ren.	4-1-04
695-020-0097	1-26-04	Amend	3-1-04	734-051-0400	3-1-04	Am. & Ren.	4-1-04
695-020-0098	1-26-04	Adopt	3-1-04	734-051-0410	3-1-04	Repeal	4-1-04
695-040-0020	4-12-04	Adopt	5-1-04	734-051-0420	3-1-04	Repeal	4-1-04
695-040-0030	4-12-04	Adopt	5-1-04	734-051-0430	3-1-04	Am. & Ren.	4-1-04
695-040-0040	4-12-04	Adopt	5-1-04	734-051-0440	3-1-04	Am. & Ren.	4-1-04
695-040-0050	4-12-04	Adopt	5-1-04	734-051-0450	3-1-04	Am. & Ren.	4-1-04
695-040-0060	4-12-04	Adopt	5-1-04	734-051-0460	3-1-04	Am. & Ren.	4-1-04
695-040-0070	4-12-04	Adopt	5-1-04	734-051-0470	3-1-04	Am. & Ren.	4-1-04
731-001-0000	12-11-03	Amend	1-1-04	734-051-0480	3-1-04	Repeal	4-1-04
731-001-0005	2-23-04	Amend	4-1-04	734-060-0025	1-1-04	Amend	1-1-04
731-007-0050	1-20-04	Amend	3-1-04	734-082-0080	2-25-04	Adopt	4-1-04
731-007-0050(T)	1-20-04	Repeal	3-1-04	735-010-0070	1-1-04	Amend	1-1-04
734-017-0005	1-20-04	Amend	3-1-04	735-018-0020	12-15-03	Amend	1-1-04
734-020-0010	5-6-04	Amend	6-1-04	735-018-0070	12-15-03	Amend	1-1-04
734-051-0010	3-1-04	Amend	4-1-04	735-018-0080	12-15-03	Amend	1-1-04
734-051-0020	3-1-04	Amend	4-1-04	735-018-0110	12-15-03	Amend	1-1-04
734-051-0030	3-1-04	Am. & Ren.	4-1-04	735-018-0120	1-1-04	Adopt(T)	1-1-04
734-051-0040	3-1-04	Amend	4-1-04	735-020-0070	1-1-04	Adopt(T)	1-1-04
734-051-0050	3-1-04	Am. & Ren.	4-1-04	735-020-0080	1-1-04	Adopt(T)	1-1-04
734-051-0060	3-1-04	Am. & Ren.	4-1-04	735-024-0010	1-1-04	Amend(T)	1-1-04
734-051-0070	3-1-04	Amend	4-1-04	735-024-0020	1-1-04	Amend(T)	1-1-04
734-051-0080	3-1-04	Amend	4-1-04	735-024-0045	1-1-04	Adopt(T)	1-1-04
734-051-0085	3-1-04	Adopt	4-1-04	735-032-0010	1-1-04	Amend(T)	1-1-04
734-051-0090	3-1-04	Am. & Ren.	4-1-04	735-034-0010	1-1-04	Amend(T)	1-1-04
734-051-0100	3-1-04	Am. & Ren.	4-1-04	735-040-0050	1-1-04	Amend(T)	1-1-04
734-051-0105	3-1-04	Adopt	4-1-04	735-040-0055	1-1-04	Amend(T)	1-1-04
734-051-0110	3-1-04	Am. & Ren.	4-1-04	735-040-0061	1-1-04	Amend(T)	1-1-04
734-051-0120	3-1-04	Am. & Ren.	4-1-04	735-040-0080	1-1-04	Amend(T)	1-1-04
734-051-0130	3-1-04	Repeal	4-1-04	735-040-0095	1-1-04	Amend(T)	1-1-04
734-051-0140	3-1-04	Repeal	4-1-04	735-040-0097	1-1-04	Amend(T)	1-1-04
734-051-0150	3-1-04	Repeal	4-1-04	735-040-0100	1-1-04	Amend(T)	1-1-04
734-051-0160	3-1-04	Repeal	4-1-04	735-050-0060	1-1-04	Amend	1-1-04
734-051-0170	3-1-04	Repeal	4-1-04	735-050-0062	1-1-04	Amend	1-1-04
734-051-0180	3-1-04	Repeal	4-1-04	735-050-0064	1-1-04	Amend	1-1-04
734-051-0190	3-1-04	Am. & Ren.	4-1-04	735-050-0070	1-1-04	Amend	1-1-04
734-051-0200	3-1-04	Am. & Ren.	4-1-04	735-050-0080	1-1-04	Amend	1-1-04
734-051-0210	3-1-04	Am. & Ren.	4-1-04	735-050-0120	1-1-04	Amend	1-1-04
734-051-0220	3-1-04	Repeal	4-1-04	735-060-0000	11-18-03	Amend	1-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-060-0015	11-18-03	Am. & Ren.	1-1-04	735-064-0220	2-23-04	Amend	4-1-04
735-060-0017	11-18-03	Am. & Ren.	1-1-04	735-064-0220(T)	2-23-04	Repeal	4-1-04
735-060-0030	11-18-03	Amend	1-1-04	735-070-0130	1-1-04	Amend	1-1-04
735-060-0040	11-18-03	Amend	1-1-04	735-080-0010	11-18-03	Amend	1-1-04
735-060-0050	11-18-03	Amend	1-1-04	735-080-0030	11-18-03	Amend	1-1-04
735-060-0050(10),(11)&(12)	11-18-03	Am. & Ren.	1-1-04	735-116-0000	1-15-04	Amend	2-1-04
735-060-0050(9)&(13)	11-18-03	Am. & Ren.	1-1-04	735-150-0040	1-1-04	Amend(T)	1-1-04
735-060-0060	11-18-03	Amend	1-1-04	735-150-0070	1-1-04	Amend(T)	1-1-04
735-060-0065	11-18-03	Adopt	1-1-04	735-150-0250	12-15-03	Adopt(T)	1-1-04
735-060-0070	11-18-03	Repeal	1-1-04	735-150-0260	12-15-03	Adopt(T)	1-1-04
735-060-0080	11-18-03	Repeal	1-1-04	735-154-0005	1-1-04	Adopt(T)	1-1-04
735-060-0090	11-18-03	Amend	1-1-04	735-170-0000	1-1-04	Amend	1-1-04
735-060-0095	11-18-03	Amend	1-1-04	735-170-0010	1-1-04	Amend	1-1-04
735-060-0100	11-18-03	Amend	1-1-04	735-170-0020	1-1-04	Amend	1-1-04
735-060-0100(8),(9)&(10)	11-18-03	Am. & Ren.	1-1-04	735-170-0030	1-1-04	Amend	1-1-04
735-060-0110	11-18-03	Amend	1-1-04	735-170-0050	1-1-04	Amend	1-1-04
735-060-0115	11-18-03	Adopt	1-1-04	735-170-0060	1-1-04	Amend	1-1-04
735-060-0120	11-18-03	Amend	1-1-04	735-170-0070	1-1-04	Amend	1-1-04
735-060-0130	11-18-03	Amend	1-1-04	735-170-0090	1-1-04	Amend	1-1-04
735-060-0140	11-18-03	Am. & Ren.	1-1-04	735-170-0100	1-1-04	Amend	1-1-04
735-060-0150	11-18-03	Am. & Ren.	1-1-04	735-170-0110	1-1-04	Adopt	1-1-04
735-060-0160	11-18-03	Am. & Ren.	1-1-04	735-170-0120	1-1-04	Adopt	1-1-04
735-060-0170	11-18-03	Am. & Ren.	1-1-04	735-170-0140	1-1-04	Adopt	1-1-04
735-061-0010	1-15-04	Repeal	2-1-04	735-174-0000	1-1-04	Amend	1-1-04
735-061-0020	1-15-04	Repeal	2-1-04	735-174-0010	1-1-04	Amend	1-1-04
735-061-0030	1-15-04	Repeal	2-1-04	735-174-0020	1-1-04	Amend	1-1-04
735-061-0040	1-15-04	Repeal	2-1-04	735-174-0030	1-1-04	Amend	1-1-04
735-061-0050	1-15-04	Repeal	2-1-04	735-174-0040	1-1-04	Adopt(T)	1-1-04
735-061-0060	1-15-04	Repeal	2-1-04	735-176-0000	1-15-04	Amend	2-1-04
735-061-0070	1-15-04	Repeal	2-1-04	735-176-0010	1-15-04	Amend	2-1-04
735-061-0080	1-15-04	Repeal	2-1-04	735-176-0015	1-15-04	Adopt	2-1-04
735-061-0090	1-15-04	Repeal	2-1-04	735-176-0018	1-15-04	Adopt	2-1-04
735-061-0100	1-15-04	Repeal	2-1-04	735-176-0020	1-15-04	Amend	2-1-04
735-061-0110	1-15-04	Repeal	2-1-04	735-176-0030	1-15-04	Amend	2-1-04
735-061-0120	1-15-04	Repeal	2-1-04	735-176-0040	1-15-04	Amend	2-1-04
735-061-0130	1-15-04	Repeal	2-1-04	736-001-0000	1-15-04	Amend	2-1-04
735-061-0140	1-15-04	Repeal	2-1-04	736-002-0020	1-15-04	Adopt	2-1-04
735-061-0150	1-15-04	Repeal	2-1-04	736-002-0030	1-15-04	Adopt	2-1-04
735-061-0160	1-15-04	Repeal	2-1-04	736-002-0040	1-15-04	Adopt	2-1-04
735-061-0170	1-15-04	Repeal	2-1-04	736-002-0060	1-15-04	Adopt	2-1-04
735-061-0180	1-15-04	Repeal	2-1-04	736-002-0070	1-15-04	Adopt	2-1-04
735-061-0190	1-15-04	Repeal	2-1-04	736-002-0080	1-15-04	Adopt	2-1-04
735-061-0200	1-15-04	Repeal	2-1-04	736-002-0090	1-15-04	Adopt	2-1-04
735-062-0005	1-1-04	Amend	1-1-04	736-002-0100	1-15-04	Adopt	2-1-04
735-062-0020	1-1-04	Amend	1-1-04	736-006-0100	5-5-04	Amend	6-1-04
735-062-0020	3-25-04	Amend	5-1-04	736-006-0105	5-5-04	Amend	6-1-04
735-062-0020(T)	3-25-04	Repeal	5-1-04	736-006-0110	5-5-04	Amend	6-1-04
735-062-0030	1-1-04	Amend(T)	1-1-04	736-006-0115	5-5-04	Amend	6-1-04
735-062-0030	3-25-04	Amend	5-1-04	736-006-0120	5-5-04	Repeal	6-1-04
735-062-0030(T)	3-25-04	Repeal	5-1-04	736-006-0125	5-5-04	Amend	6-1-04
735-062-0075	1-1-04	Amend	1-1-04	736-006-0130	5-5-04	Am. & Ren.	6-1-04
735-062-0095	1-1-04	Amend	1-1-04	736-006-0135	5-5-04	Am. & Ren.	6-1-04
735-062-0110	1-1-04	Amend	1-1-04	736-006-0140	5-5-04	Adopt	6-1-04
735-064-0020	1-1-04	Amend	1-1-04	736-010-0022	1-15-04	Amend(T)	2-1-04
735-064-0060	1-1-04	Amend	1-1-04	736-010-0022	4-15-04	Amend	4-1-04
735-064-0220	1-1-04	Amend(T)	1-1-04	736-018-0045	5-14-04	Amend	6-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
736-040-0070	4-30-04	Amend	6-1-04	740-130-0080	1-1-04	Repeal	1-1-04
736-040-0071	4-30-04	Amend	6-1-04	740-130-0090	1-1-04	Repeal	1-1-04
738-001-0001	2-17-04	Amend	4-1-04	740-135-0010	1-1-04	Repeal	1-1-04
738-001-0006	2-17-04	Amend	4-1-04	740-135-0020	1-1-04	Repeal	1-1-04
738-001-0025	2-17-04	Amend	4-1-04	740-135-0030	1-1-04	Repeal	1-1-04
738-001-0030	2-17-04	Amend	4-1-04	740-135-0040	1-1-04	Repeal	1-1-04
738-015-0015	2-17-04	Amend	4-1-04	740-140-0010	1-1-04	Repeal	1-1-04
738-025-0001	2-17-04	Amend	4-1-04	740-140-0020	1-1-04	Repeal	1-1-04
738-025-0010	2-17-04	Amend	4-1-04	740-140-0030	1-1-04	Repeal	1-1-04
738-030-0005	2-17-04	Repeal	4-1-04	740-140-0040	1-1-04	Repeal	1-1-04
738-030-0010	2-17-04	Repeal	4-1-04	740-140-0050	1-1-04	Repeal	1-1-04
738-030-0015	2-17-04	Repeal	4-1-04	740-140-0060	1-1-04	Repeal	1-1-04
738-030-0020	2-17-04	Repeal	4-1-04	740-145-0010	1-1-04	Repeal	1-1-04
738-030-0025	2-17-04	Repeal	4-1-04	740-145-0020	1-1-04	Repeal	1-1-04
738-090-0030	2-17-04	Amend	4-1-04	740-145-0030	1-1-04	Repeal	1-1-04
738-090-0040	2-17-04	Amend	4-1-04	740-145-0040	1-1-04	Repeal	1-1-04
738-100-0010	2-17-04	Amend	4-1-04	740-145-0050	1-1-04	Repeal	1-1-04
738-110-0010	2-17-04	Repeal	4-1-04	740-145-0060	1-1-04	Repeal	1-1-04
738-110-0020	2-17-04	Repeal	4-1-04	740-150-0010	1-1-04	Repeal	1-1-04
738-110-0030	2-17-04	Repeal	4-1-04	740-150-0020	1-1-04	Repeal	1-1-04
738-110-0040	2-17-04	Repeal	4-1-04	740-150-0030	1-1-04	Repeal	1-1-04
738-110-0050	2-17-04	Repeal	4-1-04	740-150-0040	1-1-04	Repeal	1-1-04
740-060-0030	1-1-04	Amend(T)	1-1-04	740-150-0050	1-1-04	Repeal	1-1-04
740-060-0050	1-1-04	Amend(T)	1-1-04	740-155-0010	1-1-04	Repeal	1-1-04
740-060-0055	1-1-04	Adopt(T)	1-1-04	740-155-0020	1-1-04	Repeal	1-1-04
740-100-0010	1-1-04	Amend	1-1-04	740-155-0030	1-1-04	Repeal	1-1-04
740-100-0015	1-15-04	Adopt	2-1-04	740-155-0040	1-1-04	Repeal	1-1-04
740-100-0060	1-1-04	Amend	1-1-04	740-155-0050	1-1-04	Repeal	1-1-04
740-100-0070	1-1-04	Amend	1-1-04	740-155-0060	1-1-04	Repeal	1-1-04
740-100-0080	1-1-04	Amend	1-1-04	740-160-0010	1-1-04	Repeal	1-1-04
740-100-0090	1-1-04	Amend	1-1-04	740-160-0020	1-1-04	Repeal	1-1-04
740-110-0010	1-1-04	Amend	1-1-04	740-160-0030	1-1-04	Repeal	1-1-04
740-110-0080	3-26-04	Amend	5-1-04	740-160-0040	1-1-04	Repeal	1-1-04
740-110-0090	3-26-04	Amend	5-1-04	740-160-0050	1-1-04	Repeal	1-1-04
740-115-0010	1-1-04	Repeal	1-1-04	740-160-0060	1-1-04	Repeal	1-1-04
740-115-0020	1-1-04	Repeal	1-1-04	740-160-0070	1-1-04	Repeal	1-1-04
740-115-0030	1-1-04	Repeal	1-1-04	740-165-0010	1-1-04	Repeal	1-1-04
740-115-0040	1-1-04	Repeal	1-1-04	740-165-0020	1-1-04	Repeal	1-1-04
740-115-0050	1-1-04	Repeal	1-1-04	740-165-0030	1-1-04	Repeal	1-1-04
740-115-0060	1-1-04	Repeal	1-1-04	740-165-0040	1-1-04	Repeal	1-1-04
740-115-0070	1-1-04	Repeal	1-1-04	740-200-0010	1-1-04	Amend	1-1-04
740-120-0010	1-1-04	Repeal	1-1-04	740-200-0020	1-1-04	Amend	1-1-04
740-120-0020	1-1-04	Repeal	1-1-04	740-200-0040	1-1-04	Amend	1-1-04
740-120-0030	1-1-04	Repeal	1-1-04	740-300-0035	1-1-04	Adopt(T)	1-1-04
740-120-0040	1-1-04	Repeal	1-1-04	741-050-0010	3-24-04	Repeal	5-1-04
740-125-0010	1-1-04	Repeal	1-1-04	741-050-0020	3-24-04	Repeal	5-1-04
740-125-0020	1-1-04	Repeal	1-1-04	741-050-0030	3-24-04	Repeal	5-1-04
740-125-0030	1-1-04	Repeal	1-1-04	741-050-0040	3-24-04	Repeal	5-1-04
740-125-0040	1-1-04	Repeal	1-1-04	741-050-0050	3-24-04	Repeal	5-1-04
740-130-0010	1-1-04	Repeal	1-1-04	741-050-0060	3-24-04	Repeal	5-1-04
740-130-0020	1-1-04	Repeal	1-1-04	741-050-0070	3-24-04	Repeal	5-1-04
740-130-0030	1-1-04	Repeal	1-1-04	741-050-0080	3-24-04	Repeal	5-1-04
740-130-0040	1-1-04	Repeal	1-1-04	741-050-0090	3-24-04	Repeal	5-1-04
740-130-0050	1-1-04	Repeal	1-1-04	741-050-0100	3-24-04	Repeal	5-1-04
740-130-0060	1-1-04	Repeal	1-1-04	741-050-0110	3-24-04	Repeal	5-1-04
740-130-0070	1-1-04	Repeal	1-1-04	741-050-0120	3-24-04	Repeal	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
741-050-0130	3-24-04	Repeal	5-1-04	808-002-0100	2-1-04	Amend	3-1-04
741-050-0140	3-24-04	Repeal	5-1-04	808-002-0200	2-1-04	Amend	3-1-04
741-050-0150	3-24-04	Repeal	5-1-04	808-002-0210	2-1-04	Adopt	3-1-04
741-050-0160	3-24-04	Repeal	5-1-04	808-002-0220	2-1-04	Amend	3-1-04
741-050-0170	3-24-04	Repeal	5-1-04	808-002-0298	2-1-04	Adopt	3-1-04
741-050-0180	3-24-04	Repeal	5-1-04	808-002-0448	2-1-04	Repeal	3-1-04
741-050-0190	3-24-04	Repeal	5-1-04	808-002-0500	2-1-04	Amend	3-1-04
741-050-0200	3-24-04	Repeal	5-1-04	808-002-0540	1-1-04	Amend(T)	2-1-04
741-050-0210	3-24-04	Repeal	5-1-04	808-002-0620	2-1-04	Amend	3-1-04
741-050-0220	3-24-04	Repeal	5-1-04	808-002-0665	2-1-04	Amend	3-1-04
741-050-0230	3-24-04	Repeal	5-1-04	808-002-0880	2-1-04	Amend	3-1-04
741-050-0240	3-24-04	Repeal	5-1-04	808-002-0890	2-1-04	Adopt	3-1-04
741-050-0250	3-24-04	Repeal	5-1-04	808-002-0920	2-1-04	Amend	3-1-04
741-050-0260	3-24-04	Repeal	5-1-04	808-003-0010	2-1-04	Amend	3-1-04
741-050-0270	3-24-04	Repeal	5-1-04	808-003-0015	2-1-04	Amend	3-1-04
741-055-0010	3-24-04	Repeal	5-1-04	808-003-0018	2-1-04	Amend	3-1-04
741-520-0010	3-24-04	Amend	5-1-04	808-003-0030	2-1-04	Amend	3-1-04
800-025-0025	2-1-04	Amend	3-1-04	808-003-0035	2-1-04	Amend	3-1-04
800-030-0025	2-1-04	Amend	3-1-04	808-003-0040	12-1-03	Amend(T)	1-1-04
801-001-0005	1-1-04	Amend	2-1-04	808-003-0040	2-1-04	Amend	3-1-04
801-001-0010	1-1-04	Amend	2-1-04	808-003-0040(T)	2-1-04	Repeal	3-1-04
801-001-0015	1-1-04	Amend	2-1-04	808-003-0045	2-1-04	Amend	3-1-04
801-001-0020	1-1-04	Amend	2-1-04	808-003-0050	2-1-04	Amend	3-1-04
801-001-0035	1-1-04	Adopt	2-1-04	808-003-0055	2-1-04	Amend	3-1-04
801-001-0050	1-1-04	Adopt	2-1-04	808-003-0060	2-1-04	Amend	3-1-04
801-005-0010	1-1-04	Amend	2-1-04	808-003-0065	2-1-04	Amend	3-1-04
801-010-0010	1-1-04	Amend	2-1-04	808-003-0070	2-1-04	Amend	3-1-04
801-010-0045	1-1-04	Amend	2-1-04	808-003-0080	2-1-04	Amend	3-1-04
801-010-0050	1-1-04	Amend	2-1-04	808-003-0081	2-1-04	Amend	3-1-04
801-010-0050	3-15-04	Amend(T)	4-1-04	808-003-0085	2-1-04	Amend	3-1-04
801-010-0060	1-1-04	Amend	2-1-04	808-003-0112	2-1-04	Adopt	3-1-04
801-010-0075	1-1-04	Amend	2-1-04	808-003-0125	2-1-04	Amend	3-1-04
801-010-0080	1-1-04	Amend	2-1-04	808-003-0130	2-1-04	Amend	3-1-04
801-010-0085	1-1-04	Amend	2-1-04	808-004-0210	1-1-04	Adopt	2-1-04
801-010-0110	1-1-04	Amend	2-1-04	808-004-0320	2-1-04	Amend	3-1-04
801-010-0115	1-1-04	Amend	2-1-04	808-004-0400	2-1-04	Amend	3-1-04
801-010-0125	1-1-04	Amend	2-1-04	808-005-0020	2-1-04	Amend	3-1-04
801-010-0345	1-1-04	Amend	2-1-04	808-008-0020	1-1-04	Amend(T)	2-1-04
801-020-0700	1-1-04	Amend	2-1-04	808-008-0030	1-1-04	Amend(T)	2-1-04
801-030-0005	1-1-04	Amend	2-1-04	808-008-0050	1-1-04	Adopt	2-1-04
801-030-0015	1-1-04	Amend	2-1-04	808-008-0060	1-1-04	Amend(T)	2-1-04
801-030-0020	1-1-04	Amend	2-1-04	808-008-0085	1-1-04	Amend(T)	2-1-04
801-040-0070	1-1-04	Amend	2-1-04	808-008-0140	1-1-04	Amend(T)	2-1-04
801-040-0090	1-1-04	Amend	2-1-04	808-008-0240	1-1-04	Suspend	2-1-04
801-040-0100	1-1-04	Amend	2-1-04	808-008-0280	1-1-04	Amend(T)	2-1-04
801-040-0160	1-1-04	Amend	2-1-04	808-008-0290	1-1-04	Adopt(T)	2-1-04
801-050-0080	1-1-04	Amend	2-1-04	808-008-0400	1-1-04	Amend(T)	2-1-04
806-001-0004	5-5-04	Amend	6-1-04	808-008-0420	1-1-04	Amend(T)	2-1-04
806-001-0005	5-5-04	Amend	6-1-04	808-008-0425	1-1-04	Amend(T)	2-1-04
806-010-0035	3-2-04	Amend	4-1-04	808-008-0430	1-1-04	Amend(T)	2-1-04
806-010-0037	3-2-04	Adopt	4-1-04	808-008-0440	1-1-04	Amend(T)	2-1-04
806-010-0045	5-5-04	Amend	6-1-04	808-008-0460	1-1-04	Amend(T)	2-1-04
806-010-0060	3-2-04	Amend	4-1-04	808-008-0500	1-1-04	Amend(T)	2-1-04
806-010-0080	5-5-04	Amend	6-1-04	808-008-0510	1-1-04	Adopt(T)	2-1-04
806-010-0145	5-5-04	Amend	6-1-04	808-008-0520	1-1-04	Adopt(T)	2-1-04
806-020-0080	1-28-04	Amend	3-1-04	808-009-0020	2-1-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
809-001-0005	4-6-04	Amend	5-1-04	812-008-0050	3-1-04	Amend	4-1-04
809-001-0035	4-6-04	Adopt(T)	5-1-04	812-009-0100	3-1-04	Amend	4-1-04
811-010-0085	12-11-03	Amend	1-1-04	812-009-0120	3-1-04	Amend	4-1-04
811-010-0095	12-11-03	Amend	1-1-04	812-010-0020	12-5-03	Amend	1-1-04
811-015-0010	12-11-03	Amend	1-1-04	812-010-0030	12-5-03	Amend	1-1-04
811-035-0005	12-11-03	Amend	1-1-04	812-010-0050	12-5-03	Adopt	1-1-04
811-035-0015	12-11-03	Amend	1-1-04	812-010-0060	12-5-03	Amend	1-1-04
812-001-0000	3-1-04	Amend	4-1-04	812-010-0085	12-5-03	Amend	1-1-04
812-001-0015	3-1-04	Amend	4-1-04	812-010-0140	12-5-03	Amend	1-1-04
812-001-0020	12-5-03	Amend	1-1-04	812-010-0240	12-5-03	Repeal	1-1-04
812-001-0020	12-9-03	Amend(T)	1-1-04	812-010-0280	12-5-03	Amend	1-1-04
812-001-0020	1-1-04	Amend(T)	2-1-04	812-010-0290	12-5-03	Adopt	1-1-04
812-001-0020	3-1-04	Amend	4-1-04	812-010-0400	12-5-03	Amend	1-1-04
812-001-0020(T)	3-1-04	Repeal	4-1-04	812-010-0420	12-5-03	Amend	1-1-04
812-001-0022	1-1-04	Adopt(T)	2-1-04	812-010-0425	12-5-03	Amend	1-1-04
812-001-0022	3-1-04	Adopt	4-1-04	812-010-0430	12-5-03	Amend	1-1-04
812-001-0022(T)	3-1-04	Repeal	4-1-04	812-010-0440	12-5-03	Amend	1-1-04
812-002-0130	12-5-03	Adopt	1-1-04	812-010-0460	12-5-03	Amend	1-1-04
812-002-0200	12-5-03	Amend	1-1-04	812-010-0500	12-5-03	Amend	1-1-04
812-002-0240	12-5-03	Repeal	1-1-04	812-010-0510	12-5-03	Adopt	1-1-04
812-002-0240(T)	12-5-03	Repeal	1-1-04	812-010-0520	12-5-03	Adopt	1-1-04
812-002-0380	2-2-04	Amend	3-1-04	813-300-0010	12-19-03	Amend	2-1-04
812-002-0420	12-5-03	Amend	1-1-04	813-300-0120	12-19-03	Amend	2-1-04
812-002-0420(T)	12-5-03	Repeal	1-1-04	813-350-0030	4-8-04	Amend	5-1-04
812-002-0440	12-5-03	Amend	1-1-04	813-350-0030(T)	4-8-04	Repeal	5-1-04
812-002-0540	12-5-03	Amend	1-1-04	820-010-0010	1-26-04	Amend	3-1-04
812-002-0540(T)	12-5-03	Repeal	1-1-04	820-010-0200	1-26-04	Amend	3-1-04
812-003-0000	12-5-03	Amend	1-1-04	820-010-0225	1-26-04	Amend	3-1-04
812-003-0000	7-1-04	Amend	4-1-04	820-010-0450	1-26-04	Amend	3-1-04
812-003-0000(T)	12-5-03	Repeal	1-1-04	820-010-0500	1-26-04	Amend	3-1-04
812-003-0015	2-2-04	Amend	3-1-04	820-010-0623	1-26-04	Adopt	3-1-04
812-003-0015	3-1-04	Amend	4-1-04	820-015-0026	1-26-04	Amend	3-1-04
812-003-0020	12-5-03	Amend	1-1-04	836-005-0107	5-7-04	Amend	6-1-04
812-003-0020(T)	12-5-03	Repeal	1-1-04	836-009-0007	12-19-03	Amend	1-1-04
812-003-0025	12-5-03	Amend	1-1-04	836-011-0000	12-3-03	Amend	1-1-04
812-003-0025(T)	12-5-03	Repeal	1-1-04	836-031-0755	1-1-04	Amend	2-1-04
812-004-0110	12-5-03	Adopt	1-1-04	836-031-0760	1-1-04	Amend	2-1-04
812-004-0110	1-1-04	Amend(T)	2-1-04	836-031-0855	11-26-03	Adopt(T)	1-1-04
812-004-0110	3-1-04	Amend	4-1-04	836-031-0855	5-15-04	Adopt	6-1-04
812-004-0110(T)	3-1-04	Repeal	4-1-04	836-042-0045	1-1-04	Amend	1-1-04
812-004-0210	12-5-03	Adopt	1-1-04	836-051-0101	1-1-04	Amend	2-1-04
812-004-0250	1-1-04	Amend(T)	2-1-04	836-051-0106	1-1-04	Adopt	2-1-04
812-004-0250	3-1-04	Amend	4-1-04	836-052-0700	2-3-04	Amend	3-1-04
812-004-0250(T)	3-1-04	Repeal	4-1-04	836-053-0430	2-20-04	Amend	4-1-04
812-004-0320	12-5-03	Amend	1-1-04	836-071-0180	12-19-03	Amend	1-1-04
812-004-0340	12-5-03	Amend	1-1-04	837-012-0645	1-14-04	Amend	2-1-04
812-004-0400	12-5-03	Amend	1-1-04	837-012-0720	1-14-04	Amend	2-1-04
812-004-0440	1-1-04	Amend(T)	2-1-04	837-012-0830	1-14-04	Amend	2-1-04
812-004-0440	3-1-04	Amend	4-1-04	837-012-0850	1-14-04	Amend	2-1-04
812-004-0440(T)	3-1-04	Repeal	4-1-04	837-012-1210	1-14-04	Amend	2-1-04
812-004-0535	12-5-03	Amend	1-1-04	837-012-1220	1-14-04	Amend	2-1-04
812-004-0535	3-1-04	Amend	4-1-04	837-012-1260	1-14-04	Amend	2-1-04
812-004-0540	3-1-04	Amend	4-1-04	837-012-1290	1-14-04	Amend	2-1-04
812-004-0550	3-1-04	Amend	4-1-04	837-012-1300	1-14-04	Amend	2-1-04
812-005-0005	12-5-03	Amend	1-1-04	837-012-1320	1-14-04	Amend	2-1-04
812-006-0020	12-5-03	Amend	1-1-04	837-012-1340	1-14-04	Amend	2-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
837-030-0130	1-14-04	Amend	2-1-04	850-010-0225	12-5-03	Amend	1-1-04
837-030-0220	1-14-04	Amend	2-1-04	850-010-0226	12-5-03	Amend	1-1-04
837-030-0230	1-14-04	Amend	2-1-04	851-001-0005	5-4-04	Amend	6-1-04
837-030-0240	1-14-04	Amend	2-1-04	851-001-0006	5-4-04	Amend	6-1-04
837-030-0250	1-14-04	Amend	2-1-04	851-001-0007	5-4-04	Amend	6-1-04
837-030-0280	1-14-04	Amend	2-1-04	851-001-0015	5-4-04	Amend	6-1-04
837-040-0001	10-1-04	Amend	5-1-04	851-001-0020	5-4-04	Amend	6-1-04
837-040-0010	10-1-04	Amend	5-1-04	851-001-0030	5-4-04	Adopt	6-1-04
837-040-0140	10-1-04	Amend	5-1-04	851-002-0040	2-26-04	Amend	4-1-04
839-001-0200	1-1-04	Adopt	2-1-04	851-021-0010	12-9-03	Amend	1-1-04
839-001-0420	1-1-04	Amend	2-1-04	851-031-0010	12-9-03	Amend	1-1-04
839-001-0470	1-1-04	Amend	2-1-04	851-047-0000	2-26-04	Amend	4-1-04
839-001-0490	1-1-04	Adopt	2-1-04	851-047-0010	2-26-04	Amend	4-1-04
839-016-0700	1-5-04	Amend	2-1-04	851-047-0020	2-26-04	Amend	4-1-04
839-016-0700	4-15-04	Amend	5-1-04	851-047-0030	2-26-04	Amend	4-1-04
839-016-0750	5-1-04	Amend	6-1-04	851-047-0040	2-26-04	Amend	4-1-04
839-017-0004	1-1-04	Amend	2-1-04	851-050-0000	5-12-04	Amend	6-1-04
839-017-0500	1-1-04	Adopt	2-1-04	851-050-0004	5-12-04	Amend	6-1-04
839-017-0505	1-1-04	Adopt	2-1-04	851-050-0006	5-12-04	Amend	6-1-04
839-017-0510	1-1-04	Adopt	2-1-04	851-050-0131	12-9-03	Amend	1-1-04
839-017-0515	1-1-04	Adopt	2-1-04	851-050-0131	2-26-04	Amend	4-1-04
839-017-0520	1-1-04	Adopt	2-1-04	851-050-0131	5-4-04	Amend	6-1-04
839-020-0027	1-1-04	Adopt	2-1-04	851-050-0133	12-23-03	Amend(T)	2-1-04
839-020-0030	1-1-04	Amend	2-1-04	851-050-0133	5-12-04	Repeal	6-1-04
839-020-0115	1-1-04	Amend	2-1-04	851-050-0134	12-23-03	Amend(T)	2-1-04
839-020-0125	1-1-04	Amend	2-1-04	851-050-0134	5-12-04	Repeal	6-1-04
839-020-0150	2-1-04	Amend	2-1-04	851-050-0138	5-12-04	Amend	6-1-04
845-003-0590	2-10-04	Amend	1-1-04	851-050-0140	5-12-04	Amend	6-1-04
845-003-0670	12-1-03	Amend	1-1-04	851-050-0145	12-23-03	Amend(T)	2-1-04
845-005-0304	1-1-04	Amend	2-1-04	851-050-0145	5-12-04	Repeal	6-1-04
845-005-0445	1-1-04	Amend(T)	2-1-04	851-050-0150	12-23-03	Suspend	2-1-04
845-006-0335	4-9-04	Amend	5-1-04	851-050-0155	12-23-03	Amend(T)	2-1-04
845-006-0430	4-1-04	Amend	5-1-04	851-050-0155	5-12-04	Amend	6-1-04
845-006-0441	12-1-03	Amend	1-1-04	851-050-0161	12-23-03	Adopt(T)	2-1-04
845-007-0015	6-1-04	Amend	4-1-04	851-050-0161	5-12-04	Repeal	6-1-04
845-009-0015	12-1-03	Amend	1-1-04	851-050-0162	5-12-04	Adopt	6-1-04
845-015-0140	3-21-04	Amend	3-1-04	851-050-0163	5-12-04	Adopt	6-1-04
845-015-0199	5-1-04	Adopt(T)	6-1-04	851-050-0164	5-12-04	Adopt	6-1-04
847-008-0015	1-27-04	Amend	3-1-04	851-050-0170	12-23-03	Amend(T)	2-1-04
847-008-0050	12-8-03	Amend	1-1-04	851-050-0170	5-12-04	Amend	6-1-04
847-008-0055	1-27-04	Amend	3-1-04	851-061-0010	2-12-04	Amend	3-1-04
847-010-0056	4-22-04	Amend	6-1-04	851-061-0020	2-12-04	Amend	3-1-04
847-010-0063	4-22-04	Amend	6-1-04	851-061-0030	2-12-04	Amend	3-1-04
847-010-0073	4-22-04	Adopt	6-1-04	851-061-0040	2-12-04	Amend	3-1-04
847-012-0000	1-27-04	Amend	3-1-04	851-061-0050	2-12-04	Amend	3-1-04
847-015-0030	3-1-04	Amend	6-1-04	851-061-0070	2-12-04	Amend	3-1-04
847-020-0130	4-22-04	Amend(T)	6-1-04	851-061-0080	2-12-04	Amend	3-1-04
847-020-0170	1-27-04	Amend	3-1-04	851-061-0090	2-12-04	Amend	3-1-04
847-020-0170	4-22-04	Amend	6-1-04	851-061-0100	2-12-04	Amend	3-1-04
847-020-0180	1-27-04	Amend	3-1-04	851-061-0110	2-12-04	Amend	3-1-04
847-035-0030	1-27-04	Amend	3-1-04	851-061-0130	2-12-04	Adopt	3-1-04
847-035-0030	4-22-04	Amend(T)	6-1-04	851-062-0005	2-12-04	Adopt	3-1-04
847-050-0041	4-22-04	Amend	6-1-04	851-062-0010	2-12-04	Amend	3-1-04
847-070-0033	4-22-04	Adopt	6-1-04	851-062-0010	2-20-04	Amend	4-1-04
850-010-0130	2-11-04	Amend	3-1-04	851-062-0015	2-12-04	Adopt	3-1-04
850-010-0215	4-14-04	Amend	5-1-04	851-062-0016	2-12-04	Adopt	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
851-062-0020	2-12-04	Amend	3-1-04	860-035-0090	1-15-04	Repeal	2-1-04
851-062-0040	2-12-04	Repeal	3-1-04	860-035-0100	1-15-04	Repeal	2-1-04
851-062-0050	2-12-04	Amend	3-1-04	860-035-0110	1-15-04	Repeal	2-1-04
851-062-0055	2-12-04	Adopt	3-1-04	860-035-0120	1-15-04	Repeal	2-1-04
851-062-0060	2-12-04	Repeal	3-1-04	860-035-0130	1-15-04	Repeal	2-1-04
851-062-0070	2-12-04	Amend	3-1-04	860-036-0010	12-10-03	Amend(T)	1-1-04
851-062-0070	2-20-04	Amend	4-1-04	860-036-0010	4-9-04	Amend	5-1-04
851-062-0075	2-12-04	Adopt	3-1-04	860-036-0030	4-9-04	Amend	5-1-04
851-062-0080	2-12-04	Amend	3-1-04	860-036-0040	1-9-04	Amend(T)	2-1-04
851-062-0090	2-12-04	Amend	3-1-04	860-036-0080	4-9-04	Amend	5-1-04
851-062-0100	2-12-04	Amend	3-1-04	860-036-0120	4-9-04	Amend	5-1-04
851-062-0110	2-12-04	Amend	3-1-04	860-036-0330	12-10-03	Suspend	1-1-04
851-062-0120	2-12-04	Amend	3-1-04	860-036-0330	4-9-04	Repeal	5-1-04
851-062-0130	2-12-04	Amend	3-1-04	860-036-0370	12-10-03	Adopt(T)	1-1-04
851-063-0010	2-12-04	Amend	3-1-04	860-036-0370	4-9-04	Adopt	5-1-04
851-063-0020	2-12-04	Amend	3-1-04	860-036-0380	12-10-03	Adopt(T)	1-1-04
851-063-0030	2-12-04	Amend	3-1-04	860-036-0380	4-9-04	Adopt	5-1-04
851-063-0040	2-12-04	Amend	3-1-04	860-036-0410	4-9-04	Amend	5-1-04
851-063-0050	2-12-04	Amend	3-1-04	860-036-0412	12-10-03	Adopt(T)	1-1-04
851-063-0060	2-12-04	Amend	3-1-04	860-036-0412	4-9-04	Adopt	5-1-04
851-063-0070	2-12-04	Amend	3-1-04	860-036-0420	12-10-03	Adopt(T)	1-1-04
851-063-0080	2-12-04	Amend	3-1-04	860-036-0420	4-9-04	Adopt	5-1-04
851-063-0100	2-12-04	Amend	3-1-04	860-036-0505	4-9-04	Amend	5-1-04
852-001-0001	3-8-04	Amend	4-1-04	860-036-0739	4-9-04	Adopt	5-1-04
852-001-0002	3-8-04	Amend	4-1-04	860-036-0757	12-10-03	Adopt(T)	1-1-04
852-020-0029	3-8-04	Adopt	4-1-04	860-036-0757	4-9-04	Adopt	5-1-04
852-020-0031	3-8-04	Adopt	4-1-04	860-036-0900	12-10-03	Amend(T)	1-1-04
852-020-0060	3-8-04	Amend	4-1-04	860-036-0900	4-9-04	Amend	5-1-04
853-010-0060	1-30-04	Amend	3-1-04	860-036-0905	12-10-03	Amend(T)	1-1-04
855-031-0015	3-12-04	Amend	4-1-04	860-036-0905	4-9-04	Amend	5-1-04
855-031-0045	3-12-04	Amend	4-1-04	860-036-0910	12-10-03	Amend(T)	1-1-04
855-043-0210	12-31-03	Adopt(T)	2-1-04	860-036-0910	4-9-04	Amend	5-1-04
858-010-0030	3-2-04	Amend(T)	4-1-04	860-036-0915	12-10-03	Amend(T)	1-1-04
858-050-0125	3-2-04	Amend(T)	4-1-04	860-036-0915	4-9-04	Amend	5-1-04
860-011-0001	4-29-04	Amend	6-1-04	860-037-0001	1-29-04	Amend	3-1-04
860-012-0100	1-8-04	Adopt	2-1-04	860-037-0010	1-29-04	Amend	3-1-04
860-012-0190	1-8-04	Adopt	2-1-04	860-037-0015	1-29-04	Amend	3-1-04
860-021-0200	1-9-04	Amend(T)	2-1-04	860-037-0020	1-29-04	Amend	3-1-04
860-024-0020	11-28-03	Amend	1-1-04	860-037-0025	1-29-04	Amend	3-1-04
860-024-0021	11-28-03	Amend	1-1-04	860-037-0030	1-29-04	Amend	3-1-04
860-027-0048	12-11-03	Adopt	1-1-04	860-037-0035	1-9-04	Amend(T)	2-1-04
860-027-0300	3-24-04	Amend(T)	5-1-04	860-037-0035	1-29-04	Amend	3-1-04
860-028-0195	4-21-04	Adopt	6-1-04	860-037-0040	1-29-04	Amend	3-1-04
860-028-0895	11-28-03	Adopt(T)	1-1-04	860-037-0045	1-29-04	Amend	3-1-04
860-032-0510	1-15-04	Adopt	2-1-04	860-037-0050	1-29-04	Amend	3-1-04
860-032-0520	1-15-04	Adopt	2-1-04	860-037-0055	1-29-04	Amend	3-1-04
860-034-0010	1-9-04	Amend(T)	2-1-04	860-037-0060	1-29-04	Amend	3-1-04
860-034-0140	1-9-04	Amend(T)	2-1-04	860-037-0065	1-29-04	Amend	3-1-04
860-035-0010	1-15-04	Repeal	2-1-04	860-037-0067	1-29-04	Adopt	3-1-04
860-035-0020	1-15-04	Repeal	2-1-04	860-037-0070	1-29-04	Amend	3-1-04
860-035-0030	1-15-04	Repeal	2-1-04	860-037-0075	1-29-04	Amend	3-1-04
860-035-0040	1-15-04	Repeal	2-1-04	860-037-0080	1-29-04	Amend	3-1-04
860-035-0050	1-15-04	Repeal	2-1-04	860-037-0101	1-29-04	Adopt	3-1-04
860-035-0060	1-15-04	Repeal	2-1-04	860-037-0105	1-29-04	Amend	3-1-04
860-035-0070	1-15-04	Repeal	2-1-04	860-037-0110	1-29-04	Amend	3-1-04
860-035-0080	1-15-04	Repeal	2-1-04	860-037-0115	1-29-04	Amend	3-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
860-037-0120	1-29-04	Amend	3-1-04	860-038-0580	12-11-03	Amend	1-1-04
860-037-0125	1-29-04	Amend	3-1-04	863-001-0007	5-3-04	Amend	6-1-04
860-037-0205	1-29-04	Amend	3-1-04	863-015-0015	1-1-04	Amend(T)	2-1-04
860-037-0210	1-29-04	Amend	3-1-04	863-015-0015	5-3-04	Amend	6-1-04
860-037-0215	1-29-04	Amend	3-1-04	863-015-0020	5-3-04	Amend	6-1-04
860-037-0220	1-29-04	Amend	3-1-04	863-015-0025	5-3-04	Amend	6-1-04
860-037-0225	1-29-04	Amend	3-1-04	863-015-0050	5-3-04	Amend	6-1-04
860-037-0230	1-29-04	Amend	3-1-04	863-015-0055	1-15-04	Amend(T)	2-1-04
860-037-0235	1-29-04	Amend	3-1-04	863-015-0055	5-3-04	Amend	6-1-04
860-037-0240	1-29-04	Amend	3-1-04	863-015-0065	5-3-04	Amend	6-1-04
860-037-0245	1-29-04	Amend	3-1-04	863-015-0080	1-1-04	Amend(T)	2-1-04
860-037-0305	1-29-04	Repeal	3-1-04	863-015-0080	5-3-04	Amend	6-1-04
860-037-0307	1-29-04	Adopt	3-1-04	863-015-0085	5-3-04	Amend	6-1-04
860-037-0308	12-10-03	Adopt(T)	1-1-04	863-015-0180	5-3-04	Amend	6-1-04
860-037-0308	4-9-04	Adopt	5-1-04	863-015-0200	1-1-04	Amend(T)	2-1-04
860-037-0309	12-10-03	Adopt(T)	1-1-04	863-015-0200	5-3-04	Amend	6-1-04
860-037-0309	4-9-04	Adopt	5-1-04	863-015-0270	5-3-04	Repeal	6-1-04
860-037-0310	1-29-04	Amend	3-1-04	863-050-0000	1-1-04	Adopt	2-1-04
860-037-0315	1-29-04	Repeal	3-1-04	863-050-0015	1-1-04	Amend	2-1-04
860-037-0405	1-29-04	Amend	3-1-04	863-050-0020	1-1-04	Amend	2-1-04
860-037-0407	12-10-03	Adopt(T)	1-1-04	863-050-0020	5-3-04	Amend	6-1-04
860-037-0407	4-9-04	Adopt	5-1-04	863-050-0025	1-1-04	Amend	2-1-04
860-037-0410	1-29-04	Amend	3-1-04	863-050-0035	1-15-04	Adopt(T)	2-1-04
860-037-0415	1-29-04	Amend	3-1-04	863-050-0035	5-3-04	Adopt	6-1-04
860-037-0425	1-29-04	Amend	3-1-04	863-050-0040	1-1-04	Adopt	2-1-04
860-037-0430	1-29-04	Amend	3-1-04	863-050-0050	1-1-04	Amend	2-1-04
860-037-0435	1-29-04	Amend	3-1-04	863-050-0055	1-1-04	Amend	2-1-04
860-037-0440	1-29-04	Amend	3-1-04	863-050-0060	1-1-04	Amend	2-1-04
860-037-0445	1-29-04	Amend	3-1-04	863-050-0065	1-1-04	Amend	2-1-04
860-037-0450	1-29-04	Amend	3-1-04	863-050-0100	1-1-04	Amend	2-1-04
860-037-0505	1-29-04	Amend	3-1-04	863-050-0108	1-1-04	Repeal	2-1-04
860-037-0510	1-29-04	Amend	3-1-04	863-050-0110	1-1-04	Repeal	2-1-04
860-037-0515	1-29-04	Amend	3-1-04	863-050-0115	1-1-04	Amend	2-1-04
860-037-0517	1-29-04	Adopt	3-1-04	863-050-0115	5-3-04	Amend	6-1-04
860-037-0520	1-29-04	Amend	3-1-04	863-050-0150	1-1-04	Amend	2-1-04
860-037-0525	1-29-04	Amend	3-1-04	875-010-0030	4-2-04	Amend	5-1-04
860-037-0530	1-29-04	Amend	3-1-04	875-010-0070	4-2-04	Amend	5-1-04
860-037-0535	1-29-04	Amend	3-1-04	877-020-0020	12-1-03	Amend	1-1-04
860-037-0540	1-29-04	Amend	3-1-04	918-008-0030	1-29-04	Amend(T)	3-1-04
860-037-0545	1-29-04	Amend	3-1-04	918-030-0100	4-1-04	Adopt	3-1-04
860-037-0547	12-10-03	Adopt(T)	1-1-04	918-030-0900	4-1-04	Adopt	3-1-04
860-037-0547	4-9-04	Adopt	5-1-04	918-050-0010	1-1-04	Amend	2-1-04
860-037-0550	1-29-04	Amend	3-1-04	918-050-0020	1-1-04	Amend	2-1-04
860-037-0555	1-29-04	Amend	3-1-04	918-225-0691	3-8-04	Amend(T)	4-1-04
860-037-0560	1-29-04	Amend	3-1-04	918-225-0920	3-8-04	Amend(T)	4-1-04
860-037-0565	1-29-04	Amend	3-1-04	918-251-0090	4-1-04	Amend	5-1-04
860-037-0567	1-29-04	Adopt	3-1-04	918-261-0036	4-1-04	Adopt	5-1-04
860-037-0570	12-10-03	Adopt(T)	1-1-04	918-261-0037	4-1-04	Adopt	5-1-04
860-037-0570	4-9-04	Adopt	5-1-04	918-261-0038	4-1-04	Adopt	5-1-04
860-037-0605	1-29-04	Amend	3-1-04	918-261-0039	4-1-04	Adopt	5-1-04
860-037-0610	1-29-04	Amend	3-1-04	918-306-0010	4-1-04	Amend	5-1-04
860-037-0615	1-29-04	Amend	3-1-04	918-306-0340	4-1-04	Amend	5-1-04
860-037-0620	1-29-04	Amend	3-1-04	918-306-0350	4-1-04	Amend	5-1-04
860-037-0625	1-29-04	Amend	3-1-04	918-306-0360	4-1-04	Amend	5-1-04
860-037-0630	1-29-04	Amend	3-1-04	918-306-0370	4-1-04	Repeal	5-1-04
860-038-0540	1-15-04	Amend	2-1-04	918-306-0380	4-1-04	Amend	5-1-04

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-306-0390	4-1-04	Amend	5-1-04	918-674-0025	1-1-04	Amend	1-1-04
918-306-0400	4-1-04	Amend	5-1-04	918-674-0033	1-1-04	Amend	1-1-04
918-306-0410	4-1-04	Amend	5-1-04	918-780-0035	1-1-04	Adopt	2-1-04
918-309-0000	4-1-04	Amend	5-1-04	918-780-0120	1-1-04	Repeal	2-1-04
918-309-0040	4-1-04	Amend	5-1-04	951-001-0000	3-15-04	Adopt(T)	4-1-04
918-309-0210	4-1-04	Amend	5-1-04	951-001-0005	4-15-04	Adopt	4-1-04
918-309-0220	4-1-04	Amend	5-1-04	972-010-0030	1-16-04	Adopt	2-1-04
918-440-0015	1-1-04	Amend	1-1-04	972-030-0010	1-16-04	Adopt	2-1-04
918-440-0040	1-1-04	Amend	1-1-04	972-030-0020	1-16-04	Adopt	2-1-04
918-440-0050	1-1-04	Amend	1-1-04	972-030-0030	1-16-04	Adopt	2-1-04
918-460-0015	4-1-04	Amend	5-1-04	972-030-0040	1-16-04	Adopt	2-1-04