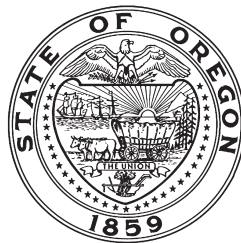


OREGON BULLETIN

Supplements the 2004 *Oregon Administrative Rules Compilation*

Volume 43, No. 11
November 1, 2004

For September 16, 2004–October 15, 2004



Published by
BILL BRADBURY
Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

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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OTHER NOTICES

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION DECISION FOR THE PACIFIC CAR CRUSHING SITE

COMMENTS DUE: November 30, 2004

PROJECT LOCATION: The site is located at 9635 North Columbia Boulevard in Portland, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal for a "No Further Action" (NFA) determination proposed for the Pacific Car Crushing Site, removal of the site from the Confirmed Release and Inventory Lists, and issuance of a Certificate of Completion for the existing Consent Order.

HIGHLIGHTS: The site has been used as an auto recycling facility since the 1970's and has been owned by North West Recycling Incorporated since 1980. Operations at the site include auto receiving, a "U-Pull-It" salvaging yard, auto dismantling and crushing, and repair and maintenance of heavy equipment and trucks. All auto fluids, batteries and tires are collected and stored on site in separate containers or areas for recycling, resale, or disposal. The site is located near the Columbia Slough, with Union Pacific Railroad right-of-way between the site and the Slough.

Site storm water is managed under the National Pollution Discharge Elimination System and a General Permit 1200-COLS permit. Storm water from the site is directed by a series of culverts and by sheet flow to a storm water retention pond. Storm water from the auto crushing building is directed to an oil and water separator. The retention pond overflows during times of high rainfall and the storm water infiltrates into the ground adjacent to the pond.

An investigation has been conducted of soil, retention pond sediment and overflow water, surface water, and groundwater at the site. The purpose of the investigation was to determine whether a release of hazardous chemicals had occurred, and whether a completed pathway exists for site-related chemicals to reach the adjacent Columbia Slough. Groundwater in a perched zone leaks downward to the shallow groundwater, and may also discharge to the Slough in the easternmost portion of the site immediately adjacent to the Slough. Shallow groundwater beneath the site flows to the southeast, and eventually discharges to the Slough at a distance from the site. Site investigation results indicate low levels of contaminants present in soil, pond sediment and water, and groundwater that include petroleum hydrocarbons, polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), volatile organic chemicals (VOCs) and metals. Petroleum hydrocarbons were detected in highest concentrations in soil in the car crushing area. PAHs were detected at low concentrations in soil across the site, in pond sediment and water, and at very low concentrations in groundwater. PCBs at low concentrations were detected in pond sediment. Low concentrations of VOCs were detected in soil and groundwater. Metals, mainly arsenic, lead, barium and selenium, were detected in shallow perched and water table groundwater at levels that exceed SLVs but did not exceed expected background concentrations, were infrequently detected, or likely from off site sources.

The property owner has conducted soil and sediment removal actions. Between 1995 and 2001 some 810 tons of petroleum contaminated soil has been removed from the car crushing area and replaced with clean gravel fill. The owner has instituted improved management practices and also paved the car crushing building area to reduce or eliminate releases of auto fluids during crushing operations. The on site storm water retention pond was reconstructed 2001 and about 262 tons of PAH and PCB contaminated pond sediment was excavated and disposed. In June 2003, about 950 tons of PAH contaminated soil near the office building was excavated to a site-specific risk-based cleanup concentration and the soil disposed.

A risk assessment was performed to evaluate risks to potential human and ecological receptors due to exposure to surface and sub-surface soil, groundwater, and sediments, and included completion

of a Level I scoping assessment. The site is an active industrial property and does not support ecological habitat and no further ecological risk assessment was conducted for soil. Soil exposure scenarios included incidental ingestion, dermal contact, and inhalation of volatiles or dust by workers, trench workers, and trespassers. Risk assessment results indicate that risk to humans for exposure to contaminants in soil at the site is below acceptable risk levels established by DEQ. Perched groundwater was evaluated for exposure of workers to indoor/outdoor air, groundwater during trenching, and exposure of Slough recreational users to site chemicals discharged to the Slough via groundwater, and to aquatic receptors in the Slough. The results of the risk assessment indicate that the risk to humans and ecological receptors for exposure to groundwater and surface water are below acceptable levels established by DEQ.

DEQ has concluded that no further actions are warranted for this site because risk-based criteria for human and ecological receptors have not been exceeded. Since no further actions would be required for the site DEQ proposes to remove the site from the Confirmed Release and Inventory Lists. All work required under the existing Consent Order has been completed and, with no further action required for the site, a Certificate of Completion would be issued and the Consent Order terminated.

HOW TO COMMENT: You can review the administrative record for the proposed No Further Action and Delisting at DEQ's Northwest Region office located at 2020 SW 4th Avenue, Suite 400, in Portland. For an appointment to review the files call (503)229-6729; toll free at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Mavis D. Kent, Project Manager, at the address listed above or via email at: kent.mavis.d@deq.state.or.us. DEQ must receive written comments by 5:00 p.m. on November 30, 2004. This notice will also be published in the local newspaper The Oregonian.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503)229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the November 30, 2004 deadline. In the absence of comments, DEQ will issue the No Further Action, remove the site from the Confirmed Release and Inventory Lists, and issue a Certificate of Completion for the Consent Order.

CHANCE TO COMMENT... RECOMMENDED REMEDIAL ACTIONS FOR MERLIN LANDFILL

COMMENTS DUE: November 30, 2004

PROJECT LOCATION: Merlin Landfill, 1749 Merlin Road, Josephine County, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) requests public comment on its recommended remedial actions to address groundwater contamination from the Merlin Landfill site in Josephine County, Oregon. The recommended remedial actions address the onsite area (the landfill itself), a northern groundwater contamination plume area, and an eastern groundwater contamination plume area. Recommended actions for these areas are presented below.

HIGHLIGHTS: The City of Grants Pass owns and has operated the landfill since 1967. Landfill operations ceased in 2000 and a final

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cover was constructed over the landfill in 2001. The landfill is regulated by DEQ under a Solid Waste Closure Permit (#159) and a 1996 Consent Order between the City and DEQ. The Consent Order focused on groundwater contamination emanating from the landfill.

Remedial investigations (RI) completed by the City showed two plumes of groundwater contamination emanating from the landfill; one plume migrating to the north towards Louse Creek, and the other plume migrating to the east-northeast that may eventually reach Louse Creek. Contaminants present in the groundwater are volatile organic compounds including tetrachloroethene (PCE), trichloroethene (TCE), and vinyl chloride. Risk assessment studies have found that the groundwater contamination does not pose a threat to the environment. However, there is the potential for an unacceptable level of risk to human health if the contaminated water is used for drinking or bathing; although no drinking water wells are contaminated at this time.

Remedial action alternatives were evaluated in a Feasibility Study (FS) completed by the City in September 2004. For the onsite landfill area, the recommended remedial actions consists of a landfill cap, landfill gas control, surface water drainage control, fencing, deed restrictions, and groundwater monitoring. For both groundwater contamination plume areas, the recommended actions include purchase of select properties, providing City water via a municipal water supply line, the potential use of deed restrictions to limit groundwater use to irrigation only, discontinue active groundwater treatment to allow natural processes (physical and biological) to clean up groundwater, and continued groundwater monitoring. Several of these actions have already been implemented to prevent human exposure to contaminated groundwater.

Detailed descriptions of the recommended remedial actions can be found in the FS Report and the DEQ Staff Report that presents DEQ's recommendation. These reports, as well as, other project documents (e.g., RI report, etc.) are available for review at the City of Grants Pass Administrative Offices located at 101 Northwest "A" Street, Grants Pass. Project documents are also available for review at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene.

HOW TO COMMENT: Written comments should be submitted to Gene Wong at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene 97401, by November 30, 2004. Questions may also be directed to Mr. Wong at that address, via e-mail at wong.gene@deq.state.or.us, or by calling him at 1-800-844-8467. The TTY number for the hearing impaired is (541) 687-5603. The DEQ and the City will hold a public hearing on the recommended remedial actions at the City of Grants Pass Council Chamber (101 Northwest "A" Street, Grants Pass) on November 18, 2004 at 7:00 PM. The hearing will begin with an information session on the proposed remedial action alternatives, followed by the DEQ accepting public comments on the recommended remedial actions.

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

PROPOSED GENERIC REMEDY TO ADDRESS SOIL CONTAMINATED WITH POLYCHLORINATED BIPHENYLS (PCBS) AT THE PECO MANUFACTURING FACILITY 4704 SE 17TH AVENUE, PORTLAND, OREGON

COMMENT PERIOD: November 1 to November 30, 2004

COMMENTS DUE: November 30, 2004

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed implementation of the generic remedy for PCB-contaminated soils at the Peco Manufacturing (PECO) facility located at 4707 SE 17th Avenue in Portland, Oregon.

HIGHLIGHTS: The PECO facility manufactures specialty items for the aerospace industry through injection molding of plastics, casting of aluminum, and component assembly. PCBs were identified in

site soils on the embankment behind the West Plant and on the adjacent un-paved parking area. The source of the PCBs appears to be used hydraulic oil which had been applied historically to the gravelled area to suppress dust. PECO proposes to remove soils that pose a risk to human health and dispose at approved landfills per the Department of Environmental Quality's (DEQ) guidance — *Generic Remedies for Soils Contaminated with Polychlorinated Biphenyls*. The remedy may also incorporate institutional and/or engineering controls in accordance with the generic remedy. File information is available for public review at DEQ's Northwest Region office. DEQ has also requested U.S. Environmental Protection Agency (EPA) review and comment on the proposed remedy.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Don Pettit, (503) 229-5492. Send written comments to Don Pettit, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by November 30, 2004. DEQ will hold a public meeting to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

PROPOSED NO FURTHER ACTION DETERMINATION FOR BLOCK 30 AT US BANK SITE PORTLAND, OREGON

COMMENTS DUE: December 1, 2004

PROJECT LOCATION: 3500 SW Bond Avenue

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed no further action determination for Block 30 of the US Bank site (Within the South Waterfront Development District) in Portland, Oregon.

HIGHLIGHTS: The site was used between 1943 and 1945 for ship building, and has been occupied by other commercial/industrial facilities since 1945. The site is currently being developed for urban residential and commercial uses. Site investigations identified limited areas of petroleum hydrocarbons and polychlorinated biphenyl contaminated soil at the site. These areas were removed during both isolated removal actions and excavation activities for property development. Recent groundwater monitoring events showed contaminant concentrations in groundwater are below risk-based concentrations and thus do not pose a risk to human health or the environment. A DEQ Staff Report and Block 30 Proposal for NFA Memorandum detailing site conditions and the basis for no further action at Block 30 are available for public review.

HOW TO COMMENT: For an appointment to review the files call (503)229-6729. The DEQ project manager is Heidi Blischke (229-5556). Written comments should be sent to the project manager at DEQ, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by December 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with membership of 10 or more.

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

PROPOSED NO FURTHER ACTION DETERMINATION FOR THE NORTH FENCE AST SPILL AND THE ROLLING MILL UST RELEASE AT OREGON STEEL MILL SITE, PORTLAND, OREGON

COMMENTS DUE: December 1, 2004

PROJECT LOCATION: 14400 North Rivergate Blvd., Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the pro-

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posed no further action determination for the North Fence Above Ground Storage Tank (AST) Spill and the Rolling Mill Underground Storage Tank (UST) Release at the Oregon Steel Mill Site in Portland, Oregon.

HIGHLIGHTS: Oregon Steel Mills, Inc. (OSM) is currently performing a site-wide remedial investigation. DEQ proposes a no further action determination for 2 areas, the North Fence AST site and the Rolling Mill UST site, within the OSM site where isolated releases and clean-ups have occurred. The remainder of the site will continue in the remedial investigation process.

In 1997, approximately 500 gallons of unleaded gasoline spilled from an above ground storage tank in the North Fence area of the site. Impacted soil was removed and groundwater surrounding the spill was monitored. Residual concentrations of petroleum hydrocarbons in groundwater are below risk-based concentrations for groundwater and for surface water which are considered by DEQ to be protective of human health and the environment.

A 5,000-gallon gasoline UST and fuel dispenser were formerly located at the Rolling Mill facility building on the OSM site. In Novem-

ber, 1995, gasoline range hydrocarbons were detected in soil beneath the fuel dispenser. In 1996, the UST and fuel dispenser were decommissioned. One hundred and fifty tons of contaminated soil were removed from beneath the tank area and fuel dispenser. Groundwater was monitored around and downgradient of the UST. Residual concentrations related to the UST release are below risk-based concentrations for the potential exposure pathways, and thus, are considered by DEQ to be protective of human health and the environment.

HOW TO COMMENT: For an appointment to review the files call (503)229-6729. The DEQ project manager is Heidi Blischke (229-5556). Written comments should be sent to the project manager at DEQ, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by December 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with membership of 10 or more.

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

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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Appraiser Certification and Licensure Board Chapter 161

Date:	Time:	Location:
1-10-05	9 a.m.	West Coast Bank 2nd Flr. Community Conf. Rm. 301 Church St. NE Salem, OR

Hearing Officer: Craig Zell

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

Stats. Implemented: ORS 674.305(8), 674.130

Proposed Amendments: 161-002-0000, 161-005-0060

Last Date for Comment: 1-10-05, close of hearing

Summary: Proposed changes to Oregon Administrative Rules 161, Division 2 regarding definitions; and Division 25 regarding appraisal standards and USPAP.

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

Rules Coordinator: Karen Turnbow

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

Telephone: (503) 485-2555

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Board of Accountancy Chapter 801

Date:	Time:	Location:
11-17-04	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: Stuart Morris, Board Chair

Stat. Auth.: ORS 297.670, 297.680, 297.740

Stats. Implemented: ORS 297.680, 297.710, 297.720

Proposed Amendments: 801-020-0620, 801-020-0690, 801-020-0700, 801-020-0710, 801-020-0720

Last Date for Comment: 11-17-04

Summary: Rules are being modified to clarify requirements for a municipal license.

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 a.m. on November 17, 2004 in the Small Conference Room at the Board office.

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

Rules Coordinator: Kimberly Bennett

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

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

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Date:	Time:	Location:
11-17-04	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: Stuart Morris, Board Chair

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 673.445, 673.160, 673.410, 673.445

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

Last Date for Comment: 11-17-04

Summary: Rules modify the retention of attest and audit working papers from 5 years to 7 years; clarify requirements if licensee and client have differing interests. New section (13) in OAR 801-030-0020 describes a "continuing violation" violation and the potential civil penalty for such violations.

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 a.m. on November 17, 2004 in the Small Conference Room at the Board office.

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

Rules Coordinator: Kimberly Bennett

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

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

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Date:	Time:	Location:
11-17-04	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: Stuart Morris, Board Chair

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.335

Proposed Amendments: 801-001-0000

Last Date for Comment: 11-17-04

Summary: This rule is being modified to comply with administrative rule filing requirements.

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 a.m. on November 17, 2004 in the Small Conference Room at the Board office.

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

Rules Coordinator: Kimberly Bennett

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

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

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Date:	Time:	Location:
11-17-04	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: Stuart Morris, Board Chair

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.335

Proposed Amendments: 801-010-0010, 801-010-0050, 801-010-0060, 801-010-0065, 801-010-0085

Last Date for Comment: 11-17-04

Summary: These rules are being modified to remove the proctor fee for the CPA examination; clarify testing window definition and remove deadline for submitting transcripts, number a section per administrative rule guidelines, correctly state sections required for certain Public Accountant Candidates; clarify certification rules, including Chartered Accountant supervisor licensee requirements; and to clarify supervisor licensee requirements.

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

NOTICES OF PROPOSED RULEMAKING

a.m. on November 17, 2004 in the Small Conference Room at the Board office.

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

Rules Coordinator: Kimberly Bennett

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

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

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Date:	Time:	Location:
11-17-04	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: Stuart Morris, Brd. Chair

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410

Stats. Implemented: ORS 673.165

Proposed Amendments: 801-040-0010, 801-040-0020, 801-040-0030, 801-040-0040, 801-040-0050, 801-040-0070, 801-040-0090, 801-040-0100, 801-040-0150, 801-040-0160

Proposed Repeals: 801-040-0060

Last Date for Comment: 11-17-04

Summary: Rules are being modified to clarify rules regarding Continuing Professional Education and license reinstatement requirements.

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 a.m. on November 17, 2004 in the Small Conference Room at the Board office.

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

Rules Coordinator: Kimberly Bennett

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

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

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Board of Chiropractic Examiners Chapter 811

Date:	Time:	Location:
11-18-04	11 a.m.	66 East 6th Ave. Hilton Hotel Eugene OR

Hearing Officer: Dave McTeague, Exec. Director

Stat. Auth.: ORS 684; Other Auth.: ORS 684.155 & 453

Stats. Implemented: ORS 684.155

Proposed Amendments: 811-015-0010, 811-030-0030

Last Date for Comment: 11-18-04

Summary: 811-015-0010 Proposed amendments to the Clinical Justification Rule update treatment parameters to address over-treatment and under-treatment by chiropractic physicians.

811-030-0030 Proposed amendments to X-ray rules update requirements based on best current evidence.

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

Rules Coordinator: Dave McTeague

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

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

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Board of Medical Examiners Chapter 847

Date:	Time:	Location:
12-1-04	9-11 a.m.	1500 SW 1st Ave. Suite 620 Portland, OR 97201

Hearing Officer: Kathleen Haley, John C. Stiger, DO

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.415

Proposed Amendments: 847-010-0073

Last Date for Comment: 12-1-04

Summary: The proposed administrative rules change sets forth what shall be included in a report from a healthcare facility or licensee required to report to the Board 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, within ten working days of their occurrence.

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

Rules Coordinator: Diana M. Dolstra

Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201

Telephone: (503) 229-5873, ext. 223

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Bureau of Labor and Industries Chapter 839

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.820, 659A.830 & 659A.835

Proposed Amendments: 839-003-0040

Last Date for Comment: 11-30-04

Summary: The proposed amendments clarify that respondents may only be added during the course of investigation, and that amended complaints need not be verified or signed by the complainant or the complainant's attorney. These clarifications are "housekeeping" in nature and conform to the statutes implemented.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (503) 731-4212

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Stat. Auth.: ORS 659A.805; Other Auth.: ORS 441.178

Stats. Implemented: ORS 441.172, 441.174 & 441.178

Proposed Adoptions: 839-010-0200, 839-010-0205, 839-010-0210

Last Date for Comment: 12-1-04

Summary: The proposed rules implement Oregon Statutes providing protection against retaliatory action taken against nursing staff who report activities, policies or practices by hospitals that violate laws or rules or pose a threat to health or safety, or that the nursing staff reasonably believe violate laws or rules. The statutes provide that complaints of retaliation may be filed with the bureau; therefore rules are necessary to carry out enforcement of the statutes.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (503) 731-4212

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Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.142

Proposed Adoptions: 839-006-0270, 839-006-0275, 839-006-0280, 839-006-0285, 839-006-0290

Last Date for Comment: 12-2-04

Summary: The proposed rules implement Oregon Statutes prohibiting discrimination against disabled persons by state government. The statutes provide that complaints of discrimination may be filed with the Bureau; therefore rules are necessary to carry out enforcement of the statutes.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (503) 731-4212

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Construction Contractors Board Chapter 812

Date:	Time:	Location:
12-7-04	11 a.m.	West Salem Roth's IGA Salem, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Jim Fairchild

Stat. Auth.: ORS 25.990, 36.224, 87.057, 87.058, 183.310 to 183.500, 293.445, 670.310, 701.035, 701.075, 701.085, 701.130, 701.145, 701.150, 701.235, 701.280, 701.350, 701.355, & 701.992
Stats. Implemented: ORS 25.270, 25.785, 25.990, 36.224, 36.228, 36.230, 36.232, 36.600-36.740, 87.058, 183.310, 183.415, 183.460, 183.470, 183.480, 183.500, 192.430, 279.348 to 279.323, 279.365, 293.445, 670.605, 701, 701.005, 701.035, 701.055, 701.058, 701.065, 701.075, 701.080, 701.085, 701.100, 701.102, 701.105, 701.115, 701.125, 701.130, 701.135, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147, 701.148, 701.150, 701.175, 701.225, 701.227, 701.235, 701.250, 701.252, 701.26-, 701.280, 701.350, 701.355, & 701.992

Proposed Adoptions: 812-003-0100, 812-003-0110, 812-003-0120, 812-003-0130, 812-003-0140, 812-003-0150, 812-003-0160, 812-003-0170, 812-003-0180, 812-003-0190, 812-003-0200, 812-003-0210, 812-003-0220, 812-003-0230, 812-003-0240, 812-003-0260, 812-003-0270, 812-003-0280, 812-003-0290, 812-003-0300, 812-003-0310, 812-003-0330, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, 812-003-0380, 812-003-0410, 812-003-0420, 812-003-0430

Proposed Amendments: 812-001-0015, 812-001-0040, 812-002-0260, 812-002-0555, 812-002-0800, 812-004-0001, 812-004-0240, 812-004-0260, 812-004-0320, 812-004-0470, 812-004-0530, 812-004-0540, 812-004-0560, 812-004-0590, 812-004-0600, 812-005-0005, 812-006-0020, 812-008-0020, 812-008-0070, 812-008-0110, 812-009-0400, 812-010-0040, 812-010-0050, 812-010-0200, 812-010-0220, 812-010-0260, 812-010-0300, 812-010-0320, 812-010-0340, 812-010-0360, 812-010-0380, 812-010-0420, 812-010-0480

Proposed Repeals: 812-003-0000, 812-003-0012, 812-003-0015, 812-003-0020, 812-003-0025, 812-003-0050

Proposed Ren. & Amends: 812-003-0002 to 812-003-0250, OAR 812-003-0005 to 812-003-0320, 812-003-0030 to 812-003-0390, 812-003-0040 to 812-003-0400

Last Date for Comment: 12-7-04, 11 a.m.

Summary: OAR 812-001-0015 is amended to delete the refund of license fee language from this rule. The language is amended and adopted into 812-003-0140.

OAR 812-001-0040, 812-002-0260, 812-002-0555, 812-002-0800, 812-004-0001, 812-004-0240, 812-004-0260, 812-004-0470, 812-004-0530, 812-004-0540, 812-004-0560, 812-004-0590, 812-004-0600, 812-005-0005, 812-006-0020, 812-008-0020, 812-008-0070, 812-008-0110, 812-009-0400, 812-010-0040, 812-010-0200, 812-010-0220, 812-010-0260, 812-010-0300, 812-010-0320, 812-010-0340, 812-010-0360, 812-010-0380, and 812-010-0480 are amended to correct cite references.

OAR 812-004-0320 is amended to correct cite references and adjusts jurisdictional requirements for employee claims to restrict jurisdiction for claims for unpaid labor to period when contractor was licensed.

OAR 812-008-0070 is amended to correct numbering error.

OAR 812-010-0050 and 812-0010-0420 are amended to correct the wording.

The following rules are amended and renumbered:

- OAR 812-003-0002 to 812-003-0250, which sets out the exempt and non-exempt class of independent contractor.

- OAR 812-003-0005 to 812-003-0320, which explains record changes and what is required when changes are made to a license record.

- OAR 812-003-0030 to 812-003-0390, which discusses revocations or suspensions of a license.

- OAR 812-003-0040 to 812-003-0400, which sets out criteria for restoration of a bond after payment on a claim has been made.

Repeal 812-003-0000, 812-003-0012, 812-003-0015, 812-003-0020, 812-003-0025, and 812-003-0050; and the text contained in those rules has been amended and moved into new proposed rules numbers to make the rules user friendly and to better organize the rules.

The following rules are adopted to amend and reorganize Division 3:

- 812-003-0100 sets out the various entity types for a license and explains that a license and its identifying number will be issued to one entity only.

- 812-003-0110 sets out the standards of behavior for a licensee.

- 812-003-0120 explains that a license is required to advertise.

- 812-003-0130 lists the licensing categories.

- 812-003-0140 sets out the license, renewal and reissue fees for a license.

- 812-003-0150 sets out rules for bonds generally.

- 812-003-0160 requires entity name on bond and explains what names must be included on the bond.

- 812-003-0170 sets out the bond amounts required for each license category.

- 812-003-0180 sets out the effective dates of a bond, cancellations, and when an emergency suspension will be used.

- 812-003-0190 explains that a new bond is required for an entity change.

- 812-003-0200 sets out the rules for insurance generally.

- 812-003-0210 explains that the entity name is required on insurance certificates.

- 812-003-0220 sets out the insurance amounts required for each category of licensure.

- 812-003-0230 sets out the effective dates of insurance and explains if insurance is canceled, then the license will be emergency suspended.

- 812-003-0240 sets out the independent contractor requirements for licensure.

- 812-003-0260 sets out the requirements for an application for a new license.

- 812-003-0270 explains the effective dates of a new license.

- 812-003-0280 explains renewal and reissue of a license.

- 812-003-0290 explains the effective dates of a renewal or reissue of a license.

- 812-003-0300 describes a lapse in license.

- 812-003-0310 describes the license cards.

- 812-003-0330 sets out rules for inactive status generally.

- 812-003-0340 sets out criteria for inactive status requests at renewal time.

- 812-003-0350 sets out criteria for inactive status requests at interim renewal periods.

- 812-003-0360 sets out criteria for inactive status requests after a lapse in license.

- 812-003-0370 describes renewal of inactive status.

- 812-003-0380 sets out criteria to convert from inactive back to active status.

- 812-003-0410 sets out agency actions regarding social security numbers.

- 812-003-0420 sets out Davis Bacon Act requirements.

- 812-003-0430 sets out time period for perfecting a lien or claim.

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

Rules Coordinator: Catherine Dixon

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

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

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Department of Agriculture
Chapter 603

Date:
11-23-04

Time:
2-3 p.m.

Location:
Agriculture Bldg.
Conference Rm. D
635 Capitol St. NE
Salem, OR

Hearing Officer: Ron McKay

Stat. Auth.: ORS 646.957

Stats. Implemented: ORS 646.957

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 603-027-0410, 603-027-0420, 603-027-0430

Last Date for Comment: 11-23-04

Summary: Proposed Administrative Rule amendments to bring Oregon's premium diesel fuel regulations current with other jurisdictions in the United States, to promote uniformity, to accommodate the needs of consumers and industry, and to take cognizance of the uniform model regulations adopted by the National Conference on Weights and Measures (NCWM) and published by the National Institute of Standards and Technology (NIST) in NIST Handbook 130.

**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 97310

Telephone: (503) 986-4583

Date:	Time:	Location:
11-19-04	10 a.m.	Dept. of Agriculture 635 Capitol St. NE Salem, OR

Hearing Officer: Mike Govro

Stat. Auth.: ORS 561.510, 570.305

Stats. Implemented: ORS 561.190

Proposed Amendments: 603-052-1200

Last Date for Comment: 12-3-04

Summary: The proposed amendment updates the state noxious weed quarantine to match recent changes made by the Oregon State Weed Board to the state noxious weed list. Paterson's curse, myrtle spurge and butterfly bush (except named horticultural varieties) are being added. Cordgrasses, goatgrasses, hawkweeds, sparges, starthistles, thistles, brooms, knapweeds, knotweeds and whitetops are being combined into groups.

**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 97310

Telephone: (503) 986-4583

Date:	Time:	Location:
11-19-04	11 a.m.	Dept. of Agriculture 635 Capitol St. NE Salem, OR

Hearing Officer: Mike Grovo

Stat. Auth.: ORS 561-190, 570.305, 571.015, 571.145

Stats. Implemented: ORS 571.015

Proposed Adoptions: 603-052-1235

Last Date for Comment: 12-3-04

Summary: The proposed rule would replace a temporary rule that created a Phytophthora ramorum certification program for nursery stock. The rule has been modified to make it comply with proposed USDA regulations. Nurseries growing susceptible plants must be inspected and tested annually for P. ramorum. Qualifying nurseries will be able to enter into compliance agreements with the Department and will receive P. ramorum-free certificates. Nursery plants that are not host or associated plants must be inspected annually for symptoms that could be P. ramorum. Symptomatic plants must be tested.

**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 97310

Telephone: (503) 986-4538

Department of Agriculture, Oregon Raspberry and Blackberry Commission Chapter 611

Stat. Auth.: ORS 576.304(14); Other Auth.: OAR 611-001-0000

Stats. Implemented: ORS 576.355

Proposed Amendments: 611-010-0020

Last Date for Comment: 12-1-04

Summary: The proposed rule changes penalties for late assessments to comply with ORS 576.355.

Rules Coordinator: Rachel Denué

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

Telephone: (541) 758-4043

Department of Agriculture, Oregon Strawberry Commission Chapter 668

Stat. Auth.: ORS 576.304(14); Other Auth.: OAR 668-001-0000

Stats. Implemented: ORS 576.355

Proposed Amendments: 668-010-0020

Last Date for Comment: 12-1-04

Summary: The proposed rule changes penalties for late assessments to comply with ORS 576.355.

Rules Coordinator: Rachel Denué

Address: Department of Agriculture, Oregon Strawberry Commission, 4845 B SW Dresden Ave., Corvallis, OR 97333

Telephone: (541) 758-4043

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

Date:	Time:	Location:
11-17-04	10 a.m.	1535 NE Edgewater St. Salem, OR 97309

Hearing Officer: Ravi Mahajan

Stat. Auth.: ORS 455.020, 455.030, 455.110, 455.525, 455.380 & 455.610

Stats. Implemented: ORS 455.610

Proposed Amendments: 918-480-0005, 918-480-0010

Last Date for Comment: 12-17-04, 5 p.m.

Summary: ORS 455.020 and ORS 455.110 requires the division to promulgate a uniform state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The law further requires the building code to establish performance standards for health, safety, welfare, comfort and security of residents of the State of Oregon, who are occupants and users of buildings and to provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

ORS 455.610 requires the division to adopt, and amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade.

The current Oregon One and Two Family Dwelling Code adopted is the 2000 edition of the International Residential Code (IRC) with Oregon amendments, and is known as the 2003 Oregon One and Two-Family Specialty code. This proposed rule adopts the 2003 edition of the International Residential Code (IRC) with Oregon amendments, and will be known as the 2005 Oregon Residential Specialty Code. This will expand the scope of the residential code to include regulation over certain apartment buildings and rowhouse structures that contain more than two dwelling units per structure.

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

Rules Coordinator: Heather L. Gravelle

NOTICES OF PROPOSED RULEMAKING

Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310
Telephone: (503) 373-7438

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Date:	Time:	Location:
11-16-04	11 a.m.	1535 NW Edgewater St. Salem, OR 97309

Hearing Officer: John W. Powell
Stat. Auth.: ORS 455.030 & 479.730
Stats. Implemented: ORS 455.030 & 479.730
Proposed Adoptions: 918-305-0105, 918-305-0280, 918-305-0290, 918-305-0300, 918-305-0310, 918-305-0320
Proposed Amendments: 918-305-0005, 918-305-0010, 918-305-0030, 918-305-0100, 918-305-0110, 918-305-0120, 918-305-0130, 918-305-0150, 918-305-0160, 918-305-0165, 918-305-0180, 918-305-0250, 918-305-0270, 918-306-0005
Last Date for Comment: 11-19-04, 5 p.m.

Summary: ORS 479.730(1) allows the division, with the approval of the Electrical and Elevator Board, to adopt rules establishing, altering or revoking minimum safety standards for workmanship and materials in various classifications of electrical installations. OAR Division 918, Chapter 305, adopts and amends the Oregon Electrical Specialty Code (OESC). The current codes adopted are the 2002 editions of the NFPA 70 National Electrical Code (NEC) and the Institute of Electrical and Electronics Engineers National Electrical Safety Code (NESC).

This rulemaking will adopt and amend the 2005 NEC and adopt the 2005 NESC. These rules correct references to other codes and publications, and updates and clarifies amendments to meet current statutory requirements.

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

Rules Coordinator: Heather L. Gravelle
Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310
Telephone: (503) 373-7438

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Date:	Time:	Location:
11-16-04	9 a.m.	1535 NW Edgewater St. Salem, OR 97310

Hearing Officer: Richard Blackwell
Stat. Auth.: ORS 479.815
Stats. Implemented: ORS 95.200, 244.020 & 479.815
Proposed Adoptions: 918-030-0040
Last Date for Comment: 11-19-04, 5 p.m.

Summary: This rule implements 2003 Senate Bill 906, Section 64, which created ORS 479.815. This statute allows the division, with the approval of the board, to adopt rules regulating or prohibiting conflicts of interest for electrical inspectors. This rule impacts local jurisdictions and third party providers by prohibiting employees or contracted persons from acting as an electrical inspector and receiving any financial gain from sources other than the employer. Additionally, these rules will not allow an electrical inspector to act as a supervising electrician for any entity while employed or contracted as an electrical inspector.

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

Rules Coordinator: Heather L. Gravelle
Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310
Telephone: (503) 373-7438

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Date:	Time:	Location:
11-16-04	10 a.m.	1535 NW Edgewater St. Salem, OR 97309

Hearing Officer: Terry Swisher
Stat. Auth.: ORS 447.020, 455.030 & 455.110
Stats. Implemented: ORS 447.020, 455.030 & 455.110

Proposed Amendments: 918-690-0420, 918-750-0110
Last Date for Comment: 11-19-04, 5 p.m.
Summary: ORS 455.020 and ORS 455.110 require the department to promulgate a uniform state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installations of mechanical devices and equipment and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The law further requires the building code to establish uniform performance standards for health, safety, welfare, comfort and security of residents of the State of Oregon, who are occupants and users of buildings and to provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

The Director of the Department of Consumer and Business Services, with the approval of the Oregon State Plumbing Board, may amend such codes and regulations provided it conforms to in so far it is practicable to model building code generally acceptable throughout the United States.

The current Oregon Plumbing Specialty Code adopted is the 1997 Edition of the Uniform Plumbing Code, (UPC) with Oregon amendments.

This proposed rule adopts the 2003 Edition of the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials, with Oregon Amendments.

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

Rules Coordinator: Heather L. Gravelle
Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97310
Telephone: (503) 373-7438

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Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Date:	Time:	Location:
11-29-04	2 p.m.	350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.933, 97.935
Proposed Repeals: 441-930-0030, 441-930-0210, 441-930-0270
Last Date for Comment: 11-29-04

Summary: These amendments increase the initial and annual fees for certified providers and master trustees from \$275 to \$335.

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

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

Telephone: (503) 947-7478

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Date:	Time:	Location:
12-9-04	2 p.m.	350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 59.850
Stats. Implemented: ORS 59.850
Proposed Repeals: 441-860-0020, 441-860-0050
Last Date for Comment: 12-9-04

Summary: These amendments increase the initial and renewal licensee fees.

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

Rules Coordinator: Berri Leslie

NOTICES OF PROPOSED RULEMAKING

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE - Rm. 410, Salem, OR 973011

Telephone: (503) 947-7478

Department of Consumer and Business Services, Insurance Division Chapter 836

Date:	Time:	Location:
12-2-04	1:30 p.m.	350 Winter St. NE Conference Rm. E Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244 & 746.608

Stats. Implemented: ORS 746.600 & 746.607

Proposed Adoptions: 836-080-0600 - 836-080-0700

Last Date for Comment: 12-10-04

Summary: The rules proposed in this rulemaking govern the use and disclosure by health insurers of personal information relating to individuals, and also govern authorization for use of that information, notice of use of personal information and the right of individuals to request access to and correction of information maintained by a health insurer.

**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

Date:	Time:	Location:
11-30-04	1:30 p.m.	350 Winter St. NE Conf. Rm. B (basement) Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244 & 735.210

Stats. Implemented: ORS 735.210

Proposed Adoptions: 836-014-0400

Proposed Repeals: 836-014-0400(T)

Last Date for Comment: 12-7-04

Summary: This rulemaking proposes to replace a temporary rule that establishes a market assistance plan for commercial general liability insurance, a class of commercial liability insurance, with a permanent rule that serves the same purpose.

**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

Date:	Time:	Location:
12-9-04	1:30 p.m.	350 Winter St. NE Conf. Rm. B (basement) Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244, 742.023, 743.655, 743.656 & 746.240

Stats. Implemented: ORS 742.003, 742.005, 743.650, 743.655 & 743.656

Proposed Adoptions: 836-052-0516, 836-052-0526, 836-052-0536, 836-052-0546, 836-052-0556, 836-052-0566, 836-052-0616, 836-052-0636, 836-052-0676, 836-052-0726, 836-052-0746, 836-052-0756, 836-052-0766

Proposed Amendments: 836-052-0500

Proposed Repeals: 836-052-0510, 836-052-0515, 836-052-0520, 836-052-0525, 836-052-0540, 836-052-0565, 836-052-0570, 836-052-0607

Proposed Ren. & Amends: 836-052-0645 to 836-052-0576, 836-052-0535 to 836-052-0586, 836-052-0583 to 836-052-0596, 836-052-0580 to 836-052-0606, 836-052-0615 to 836-052-0626, 836-052-0588 to 836-052-0646, 836-052-0545 to 836-052-0656, 836-052-0530 to 836-052-0666, 836-052-0550 to 836-052-0686, 836-052-0620 to 836-052-0696, 836-052-0640 to 836-052-0706, 836-052-0605 to 836-052-0716, 836-052-0575 to 836-052-0736, 836-052-0600 to 836-052-0776, 836-052-0610 to 836-052-0786

Last Date for Comment: 12-17-04

Summary: Oregon's rules governing long term care insurance are proposed to be substantially revised to incorporate changes in the model regulations of the National Association of Insurance Commissioners, in order to make the rules more relevant to and consistent with the current national insurance market. Topics include but are not limited to policy definitions; protections against unintentional policy lapse; required policy provisions; requirements for disclosure; reporting and filing; trade practices; minimum standards; inflation protection; reserve standards; premium rate increase procedures; suitability standards; nonforfeiture benefits; and other matters.

NOTE: Consumers at the meeting of the advisory committee for this rulemaking raised the timely and important issue of the extent to which Activities of Daily Living and coverage triggers used in long-term care insurance compare with those used in public benefit programs. The Director requests testimony on this matter as well as on the proposed rulemaking.

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

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

Date:	Time:	Location:
12-7-04	1:30 p.m.	350 Winter St. NE Labor and Industries Bldg. Conference Rm. B Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244, 731.804, 737.310, 744.001, 744.003, 744.058, ORS 744.064, 744.066, 744.067, 744.069, 744.072, 744.075, 744.119, 744.303, 744.535, 744.619, 744.621, 744.635, 744.704, 744.706, 744.712, 744.726 & 744.819

Stats. Implemented: ORS 433.045(7), 735.350, 742.005, 742.023, 742.502, 742.450, 743.010, 743.683, 743.685, 743.736(7), 743.737, 743.801, 743.804, 744.058, 744.063, 744.072, 744.084, 744.119, 744.225, 744.726, 744.818, 746.015, 746.045, 746.055, 746.075, 746.085, 746.100, 746.110, 746.160, 746.240 & 746.600.

Proposed Adoptions: 836-071-0260, 836-071-0263, 836-071-0267, 836-071-0270, 836-071-0319, 836-071-0328.

Proposed Amendments: 836-009-0007, 836-020-0210, 836-020-0305, 836-028-0020, 836-030-0050, 836-030-0055, 836-030-0065, 836-042-0310, 836-042-0316, 836-042-0322, 836-043-0009, 836-043-0017, 836-043-0086, 836-050-0010, 836-050-0230, 836-050-0240, 836-051-0010, 836-051-0020, 836-051-0540, 836-051-0550, 836-051-0570, 836-051-0590, 836-052-0156, 836-052-0165, 836-052-0175, 836-052-0180, 836-053-0030, 836-053-0050, 836-053-1060, 836-054-0000, 836-062-0005, 836-071-0112, 836-071-0127, 836-071-0148, 836-071-0150, 836-071-0160, 836-071-0180, 836-071-0190, 836-071-0195, 836-071-0210, 836-071-0215, 836-071-0220, 836-071-0225, 836-071-0230, 836-071-0235, 836-071-0242, 836-071-0250, 836-071-0275, 836-071-0280, 836-071-0285, 836-071-0287, 836-071-0295, 836-071-0297, 836-071-0310, 836-071-0323, 836-071-0326, 836-071-0331, 836-071-0336, 836-071-0346, 836-074-0005, 836-074-0010, 836-074-0017, 836-074-0020, 836-074-0025, 836-074-0030, 836-074-0035, 836-074-0040, 836-074-0045, 836-074-0047, 836-074-0048, 836-074-0050, 836-075-0000, 836-075-0070, 836-080-0001, 836-080-0005, 836-080-0014, 836-080-0022, 836-080-0029, 836-080-0039, 836-080-0043, 836-080-

NOTICES OF PROPOSED RULEMAKING

0430, 836-080-0511, 836-081-0101, 836-085-0001, 836-085-0010, 836-085-0025, 836-085-0035, 836-085-0045

Last Date for Comment: 12-15-04

Summary: This rulemaking deals with a number of licensing issues, primarily concerning insurance producers. First, "agent" needs to be replaced throughout the Insurance Division rules with "insurance producer." Second, minimum terms of compensation agreements between affected insurance producers and their customers need to be established. Third, Division rules governing felony waivers should be extended to apply to persons in the insurance industry who are not required to be licensed. Fourth, a rule is needed to allow insurance producers transacting personal lines to charge fees to their clients for certain services. Fifth, a rule is needed to specify the types of limited lines for which licenses may be issued. Finally, an amendment is proposed to a rule governing replacement of life insurance policies and annuity contracts, to limit the notice requirement to actual replacement transactions.

**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

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Stat. Auth.: ORS 731.244 & 737.225

Stats. Implemented: ORS 737.225, 737.310 & 742.001 - 742.007

Proposed Amendments: 836-042-0045, 836-042-0085

Last Date for Comment: 11-26-04

Summary: This rulemaking proposes to re-adopt, because of procedural error, amendments to a rule that prescribes a uniform statistical plan for workers' compensation insurance as required by statute, in order to adopt the updated January 1, 2004 edition of actuarial pension tables. The re-adoption will retain the January 1, 2004 effective date. This rulemaking also proposes to require workers' compensation insurers that offer large deductible programs to report premium and other matters to the Insurance Division on a quarterly basis and to make the report on a proposed reporting form.

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

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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: 291-086-0046, 291-086-0047, 291-086-0060

Proposed Amendments: 291-086-0010, 291-086-0020, 291-086-0030, 291-086-0040, 291-086-0045, 291-086-0050

Last Date for Comment: 11-15-04

Summary: These rule amendments are necessary to revise the approval process and establish criteria that allow inmates to access and use computer equipment. Implementation of a new automated inmate legal libraries and changes in inmate work and program assignments has created a greater need to allow inmates to access and use computer equipment. These amendments establish new standards to ensure the safety and security of the department's computer equipment and information systems is not jeopardized with the increasing number of inmates who access and use computer equipment.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-105-0081

Proposed Amendments: 291-105-0005 - 291-105-0072, 291-105-0100

Proposed Ren. & Amends: 291-105-0073 to 291-105-0085

Last Date for Comment: 12-6-04

Summary: These rules amendments are necessary to update the standardized process for handling inmate misconduct in Department of Corrections facilities, and to reflect operational and organizational changes that have occurred in the department since the previous amendments.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Department of Fish and Wildlife Chapter 635

Date:	Time:	Location:
12-10-04	8 a.m.	ODFW Commission Rm. 3406 Cherry Ave. NE Salem, OR 97303

1-6-05	8 a.m.	ODFW Commission Rm. 3406 Cherry Ave. NE Salem, OR 97303
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Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 183, 496, 496.012, 496.138, 496.146, 496.162

Stats. Implemented: ORS 183, 496, 496.171-496.192, 497.298, 497.308, 498.002, 498.006, 498.012, 498.026

Proposed Adoptions: Rules in 635-110

Proposed Amendments: Rules in 635-043

Last Date for Comment: 1-6-04

Summary: The Oregon Fish and Wildlife Commission proposes to adopt an Oregon Wolf Conservation and Management Plan and associated administrative rules, and to amend certain existing rules to ensure consistency with the Plan.

**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

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Date:	Time:	Location:
12-10-04	8 a.m.	ODFW Commission Rm. 3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

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

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

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

Last Date for Comment: 12-10-04

Summary: Adopt the 2005 groundfish regulations for nearshore fisheries, adopt 2005 regulations for Pacific Halibut fisheries, adopt additional 2005 recreational groundfish regulations, and adopt rules for groundfish consistent with any actions that may be taken by the Pacific Fishery Management Council at its November 2004 meeting. 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

NOTICES OF PROPOSED RULEMAKING

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

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Date: 12-10-04 **Time:** 8 a.m. **Location:** ODFW Commission Rm.
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 506.109, 506.119, 506.129 & 506.460
Stats. Implemented: ORS 506.109, 506.119, 506.129 & 506.460
Proposed Adoptions: Rules in 635-006
Proposed Amendments: Rules in 635-006
Proposed Repeals: Rules in 635-006
Last Date for Comment: 12-10-04
Summary: Adopt changes in required information at time of application and/or transfer of Developmental Fisheries Permits. House-keeping 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

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Department of Forestry
Chapter 629

Date: 11-23-04 **Time:** 9 a.m. **Location:** Oregon Dept. of Forestry
24533 Alsea Highway
Philomath, OR 97370

Hearing Officer: Richard Gibson
Stat. Auth.: ORS 477.225; Other Auth.: ORS 526.016(4)
Stats. Implemented: ORS 477.225
Proposed Amendments: 629-041-0570
Last Date for Comment: 11-23-04
Summary: OAR 629-041-0570 describes the boundary of the West Oregon Forest Protection District. The current boundary is described by lines drawn on maps. This proposed rule amendment will replace the lines on maps description with a written description. The amendment will result in changes to the existing boundary. Some lands will be added to the forest protection district and some lands will be withdrawn from the district, as a result of this action. Questions specific to the rule amendment process may be directed to Richard Gibson, 503-945-7440. Questions specific to the location of the boundary may be directed to Steve Laam, 541-929-9152.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Gayle Birch
Address: Department of Forestry, 2600 State St., Salem, OR 97310
Telephone: (503) 945-7210

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Department of Human Services,
Child Welfare Programs
Chapter 413

Date: 11-23-04 **Time:** 9 a.m. **Location:** Room 254
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Proposed Amendments: 413-015-0725
Last Date for Comment: 11-30-04
Summary: This Child Protective Services Rule is being changed to provide further clarity in regard to practice around the issue of domestic violence. This change will incorporate language that was

intended to be included in a prior rulemaking but was omitted from the effective rule in error.

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

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

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

Date: 11-17-04 **Time:** 10:30 a.m.–12 p.m. **Location:** 500 Summer St. NE
Rm. 137 B
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0030, 410-121-0040
Last Date for Comment: 11-17-04, 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. OMAP will amend text in 410-121-0030 for clarity and update Table 121-0030-1 to add Kadian to the Long-acting Opioid class. OMAP will revise 410-121-0040 to add Singulair to the prior authorization-required list.
**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: 11-17-04 **Time:** 10:30 a.m.–12 p.m. **Location:** 500 Summer St. NE
Rm. 137B
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-130-0240
Last Date for Comment: 11-17-04, 12 p.m.
Summary: The Medical-Surgical Services program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP will amend Rule 410-130-0240 to allow providers to bill one unit hourly in addition to the basic units plus patient contact time for neuraxial labor analgesia/analgesia.
**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 414.743
Proposed Amendments: 410-142-0300
Last Date for Comment: 12-15-04, 5 p.m.
Summary: The Hospice Services Rules govern Office of Medical Assistance Programs payment for services provided to clients. Medicaid hospice rates are calculated based upon the annual hospice rates established by Centers for Medicare and Medicaid Services (CMS). These rates are authorized by section 1814 of the Social Security Act.

NOTICES OF PROPOSED RULEMAKING

New Hospice rates, effective 10/01/04, have been received by the Office of Medical Assistance Programs. Rule 410-142-0300 is amended to update the Hospice Rates in compliance with federal regulations.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177

Telephone: (503) 945-6927

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

Date:	Time:	Location:
11-29-04	1:30 p.m.	3420 Cherry Ave., NE Dept. of Human Services Conference Rm. Salem, OR 97303

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 475.309, 475.312 & 475.316

Stats. Implemented: ORS 475.300 - 475.346

Proposed Amendments: 333-008-0020

Last Date for Comment: 11-29-04, 5 p.m.

Summary: Proposes a registration fee reduction for Oregon Medical Marijuana Program applications. The registration fee for new applications is reduced from \$150.00 to \$55.00. The registration fee for renewal applications is reduced from \$100.00 to \$55.00. For those persons who can demonstrate current, valid eligibility in the Oregon Health Plan, or receipt of current Supplemental Security Income monthly benefits, the proposed new or renewal application fee is reduced from \$50.00 to \$20.00.

**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 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453-807

Proposed Adoptions: 333-100-0057, 333-100-0080, 333-101-0003, 333-102-0040, 333-102-0190, 333-102-0247, 333-102-0350, 333-102-0355, 333-102-0360, 333-102-0365, 333-105-0003, 333-105-0050, 333-105-0075, 333-105-0420, 333-105-0430, 333-105-0440, 333-105-0450, 333-105-0460, 333-105-0470, 333-105-0480, 333-105-0490, 333-105-0500, 333-105-0510, 333-105-0520, 333-105-0530, 333-105-0540, 333-105-0550, 333-105-0560, 333-105-0570, 333-105-0580, 333-105-0590, 333-105-0600, 333-105-0610, 333-105-0620, 333-105-0630, 333-105-0640, 333-105-0650, 333-105-0660, 333-105-0670, 333-105-0680, 333-105-0690, 333-105-0700, 333-105-0710, 333-105-0720, 333-105-0730, 333-105-0740, 333-105-0750, 333-105-0760, 333-106-0750, 333-116-0025, 333-116-0035, 333-116-0055, 333-116-0057, 333-116-0059, 333-116-0105, 333-116-0107, 333-116-0165, 333-116-0265, 333-116-0495, 333-116-0515, 333-116-0525, 333-116-0573, 333-116-0577, 333-116-0583, 333-116-0585, 333-116-0587, 333-116-0605, 333-116-0905, 333-116-0910, 333-116-0915, 333-118-0800, 333-120-0015, 333-120-0017, 333-120-0215

Proposed Amendments: 333-100-0001, 333-100-0005, 333-100-0060, 333-100-0065, 333-100-0070, 333-101-0001, 333-101-0010, 333-102-0001, 333-102-0005, 333-102-0010, 333-102-0015, 333-102-0020, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0075, 333-102-0101, 333-102-0103, 333-102-0105, 333-102-0110, 333-102-0120, 333-102-0125, 333-102-0130, 333-102-0135, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0245, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0300, 333-102-0305, 333-102-0310, 333-102-0315, 333-102-

0327, 333-102-0330, 333-102-0335, 333-102-0340, 333-103-0015, 333-105-0001, 333-105-0005, 333-106-0005, 333-106-0035, 333-106-0045, 333-106-0055, 333-106-0101, 333-106-0105, 333-106-0210, 333-106-0220, 333-106-0325, 333-106-0575, 333-106-0700, 333-106-0710, 333-106-0720, 333-106-0730, 333-111-0010, 333-116-0010, 333-116-0020, 333-116-0040, 333-116-0050, 333-116-0070, 333-116-0080, 333-116-0090, 333-116-0100, 333-116-0120, 333-116-0125, 333-116-0140, 333-116-0150, 333-116-0160, 333-116-0170, 333-116-0180, 333-116-0190, 333-116-0200, 333-116-0250, 333-116-0260, 333-116-0290, 333-116-0300, 333-116-0310, 333-116-0320, 333-116-0330, 333-116-0340, 333-116-0350, 333-116-0360, 333-116-0370, 333-116-0380, 333-116-0390, 333-116-0410, 333-116-0420, 333-116-0430, 333-116-0440, 333-116-0450, 333-116-0460, 333-116-0470, 333-116-0480, 333-116-0490, 333-116-0530, 333-116-0540, 333-116-0560, 333-116-0570, 333-116-0580, 333-116-0590, 333-116-0600, 333-116-0610, 333-116-0640, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0720, 333-116-0730, 333-116-0830, 333-118-0020, 333-118-0040, 333-118-0050, 333-118-0060, 333-118-0070, 333-118-0080, 333-118-0090, 333-118-0100, 333-118-0110, 333-118-0120, 333-118-0130, 333-118-0140, 333-118-0150, 333-118-0160, 333-118-0170, 333-118-0180, 333-118-0190, 333-118-0200, 333-119-0030, 333-119-0040, 333-119-0080, 333-119-0090, 333-119-0100, 333-119-0120, 333-120-0100, 333-120-0110, 333-120-0130, 333-120-0170, 333-120-0180, 333-120-0190, 333-120-0200, 333-120-0210, 333-120-0220, 333-120-0230, 333-120-0240, 333-120-0250, 333-120-0320, 333-120-0400, 333-120-0420, 333-120-0430, 333-120-0450, 333-120-0460, 333-120-0520, 333-120-0540, 333-120-0550, 333-120-0560, 333-120-0600, 333-120-0610, 333-120-0640, 333-120-0650, 333-120-0660, 333-120-0670, 333-120-0680, 333-120-0700, 333-120-0710, 333-120-0720

Proposed Repeals: 333-102-0225, 333-102-0240, 333-102-0287, 333-102-0295, 333-105-0101, 333-105-0105, 333-105-0110, 333-105-0115, 333-105-0120, 333-105-0125, 333-105-0130, 333-105-0135, 333-105-0140, 333-105-0201, 333-105-0202, 333-105-0205, 333-105-0210, 333-105-0301, 333-105-0305, 333-105-0310, 333-105-0315, 333-105-0320, 333-105-0325, 333-105-0330, 333-105-0335, 333-116-0510 and 333-100-0001(T), 333-100-0005(T), 333-100-0057(T), 333-100-0060(T), 333-100-0065(T), 333-100-0070(T), 333-100-0080(T), 333-101-0001(T), 333-101-0003(T), 333-101-0010(T), 333-102-0001(T), 333-102-0005(T), 333-102-0010(T), 333-102-0015(T), 333-102-0020(T), 333-102-0025(T), 333-102-0030(T), 333-102-0035(T), 333-102-0040(T), 333-102-0075(T), 333-102-0101(T), 333-102-0103(T), 333-102-0105(T), 333-102-0110(T), 333-102-0120(T), 333-102-0125(T), 333-102-0130(T), 333-102-0135(T), 333-102-0190(T), 333-102-0200(T), 333-102-0203(T), 333-102-0235(T), 333-102-0245(T), 333-102-0247(T), 333-102-0250(T), 333-102-0255(T), 333-102-0260(T), 333-102-0265(T), 333-102-0270(T), 333-102-0275(T), 333-102-0285(T), 333-102-0290(T), 333-102-0293(T), 333-102-0300(T), 333-102-0305(T), 333-102-0310(T), 333-102-0315(T), 333-102-0327(T), 333-102-0330(T), 333-102-0335(T), 333-102-0340(T), 333-102-0350(T), 333-102-0355(T), 333-102-0360(T), 333-102-0365(T), 333-103-0015(T), 333-105-0001(T), 333-105-0003(T), 333-105-0005(T), 333-105-0050(T), 333-105-0075(T), 333-105-0420(T), 333-105-0430(T), 333-105-0440(T), 333-105-0450(T), 333-105-0460(T), 333-105-0470(T), 333-105-0480(T), 333-105-0490(T), 333-105-0500(T), 333-105-0510(T), 333-105-0520(T), 333-105-0530(T), 333-105-0540(T), 333-105-0550(T), 333-105-0560(T), 333-105-0570(T), 333-105-0580(T), 333-105-0590(T), 333-105-0600(T), 333-105-0610(T), 333-105-0620(T), 333-105-0630(T), 333-105-0640(T), 333-105-0650(T), 333-105-0660(T), 333-105-0670(T), 333-105-0680(T), 333-105-0690(T), 333-105-0700(T), 333-105-0710(T), 333-105-0720(T), 333-105-0730(T), 333-105-0740(T), 333-105-0750(T), 333-105-0760(T), 333-106-0005(T), 333-106-0035(T), 333-106-0045(T), 333-106-0055(T), 333-106-0101(T), 333-106-0105(T), 333-106-0210(T), 333-106-0220(T), 333-106-0325(T), 333-106-0575(T), 333-106-0700(T), 333-106-

NOTICES OF PROPOSED RULEMAKING

0710(T), 333-106-0720(T), 333-106-0730(T), 333-106-0750(T), 333-111-0010(T), 333-116-0010(T), 333-116-0020(T), 333-116-0025(T), 333-116-0035(T), 333-116-0040(T), 333-116-0050(T), 333-116-0055(T), 333-116-0057(T), 333-116-0059(T), 333-116-0070(T), 333-116-0080(T), 333-116-0090(T), 333-116-0100(T), 333-116-0105(T), 333-116-0107(T), 333-116-0120(T), 333-116-0125(T), 333-116-0140(T), 333-116-0150(T), 333-116-0160(T), 333-116-0165(T), 333-116-0170(T), 333-116-0180(T), 333-116-0190(T), 333-116-0200(T), 333-116-0250(T), 333-116-0260(T), 333-116-0265(T), 333-116-0290(T), 333-116-0300(T), 333-116-0310(T), 333-116-0320(T), 333-116-0330(T), 333-116-0340(T), 333-116-0350(T), 333-116-0360(T), 333-116-0370(T), 333-116-0380(T), 333-116-0390(T), 333-116-0410(T), 333-116-0420(T), 333-116-0430(T), 333-116-0440(T), 333-116-0450(T), 333-116-0460(T), 333-116-0470(T), 333-116-0480(T), 333-116-0490(T), 333-116-0495(T), 333-116-0515(T), 333-116-0525(T), 333-116-0530(T), 333-116-0540(T), 333-116-0560(T), 333-116-0570(T), 333-116-0573(T), 333-116-0577(T), 333-116-0580(T), 333-116-0583(T), 333-116-0585(T), 333-116-0587(T), 333-116-0590(T), 333-116-0600(T), 333-116-0605(T), 333-116-0610(T), 333-116-0640(T), 333-116-0660(T), 333-116-0670(T), 333-116-0680(T), 333-116-0720(T), 333-116-0730(T), 333-116-0830(T), 333-116-0905(T), 333-116-0910(T), 333-116-0915(T), 333-118-0020(T), 333-118-0040(T), 333-118-0050(T), 333-118-0060(T), 333-118-0070(T), 333-118-0080(T), 333-118-0090(T), 333-118-0100(T), 333-118-0110(T), 333-118-0120(T), 333-118-0130(T), 333-118-0140(T), 333-118-0150(T), 333-118-0160(T), 333-118-0170(T), 333-118-0180(T), 333-118-0190(T), 333-118-0200(T), 333-118-0800(T), 333-119-0030(T), 333-119-0040(T), 333-119-0080(T), 333-119-0090(T), 333-119-0100(T), 333-119-0120(T), 333-120-0015(T), 333-120-0017(T), 333-120-0100(T), 333-120-0110(T), 333-120-0130(T), 333-120-0170(T), 333-120-0180(T), 333-120-0190(T), 333-120-0200(T), 333-120-0210(T), 333-120-0215(T), 333-120-0220(T), 333-120-0230(T), 333-120-0240(T), 333-120-0250(T), 333-120-0320(T), 333-120-0400(T), 333-120-0420(T), 333-120-0430(T), 333-120-0450(T), 333-120-0460(T), 333-120-0520(T), 333-120-0540(T), 333-120-0550(T), 333-120-0560(T), 333-120-0600(T), 333-120-0610(T), 333-120-0640(T), 333-120-0650(T), 333-120-0660(T), 333-120-0670(T), 333-120-0680(T), 333-120-0700(T), 333-120-0710(T), 333-120-0720(T)

Last Date for Comment: 11-22-04

Summary: To retroactively update and maintain compatibility with Nuclear Regulatory Commission regulations for radioactive materials, a requirement of our Agreement State status. Additional changes utilize guidance from the Suggested State Regulations for the Control of Radiation published by the Conference of Radiation Control Program Directors. These rule changes were previously submitted to the Secretary of State's office and became effective on March 27, 2003. These rules are identical to the rules previously filed with the Secretary of State's office on March 27, 2003. The following is a general description of the retroactive changes.

333-100 General Provisions: added several new definitions, added maintenance of records and deliberate misconduct, text clarification and/or minor corrections.

333-101 Registration of Radiation Machines, General License Radioactive Materials, Licensing of Radiation Services, and Accreditation of Hospital Radiology Inspectors: added definitions, changing radiation units to Standard International units.

333-102 Licensing of Radioactive Material: added several new definitions, expanded and clarified Scope, clarification of license types, specifically identifies information required by general licensee, additional requirements for certain measuring, gauging or controlling devices, added General License to Install Devices Generally Licensed, added new Application for Specific Licenses, changed General Requirements for the Issuance of Specific Licenses, moved radiography licensing requirements to Division 333-105, added Records and Material Transfer Reports, changed Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive

Drugs Containing Radioactive Material for Medical Use Under Division 116, deleted Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceutical Containing Radioactive Material, deleted Filing Application for Specific Licenses, changes to Specific Terms and Conditions of License, adding Financial Assurance and Recordkeeping for Decommissioning, added Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas, added requirements to section on reciprocity, added Reporting Requirements, added Records, added Right to Cause the Withholding or Recall of Byproduct Material, added Third Party Method, other clarifications and editorial corrections.

333-103: Clarification of applicability in Annual Registration Fee for General Licenses and Devices.

333-105: Major re-write to include certification of industrial radiographers using radioactive sources.

333-106: Added definitions, changes in fluoroscopy training and usage requirements, changes in mammography requirements, correction of formulas and tables.

333-111: Added three year frequency for training.

333-116: Change in scope, new and edited definitions, added Application for License, Amendment, or Renewal, changed notification requirements, exemptions for Broad Scope A licensees, added License Issuance, added Specific Exemptions, additional requirements for Radiation Safety Officer, additional requirements for Statement of Authorities and Responsibilities, changes for Supervision, added Written Directives, added Procedures for Administrations Requiring a Written Directive, clarified requirements for Possession, Use, Calibration and Check of Dose Calibrators, added Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides, changes to Assay of Radiopharmaceutical Doses, added new sources to Authorization for Calibration and Reference Source, added Release of Individuals Containing Radiopharmaceuticals or Implants, added requirements for compounding radiopharmaceuticals, changes to Use of Radiopharmaceuticals for Therapy, expanded Teletherapy to include Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, change in requirements for Installation, Maintenance, Adjustment, and Repair of therapy units, added Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, added Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, added Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Dosimetry Equipment, clarification for Full Calibration Measurement, added Full Calibration Measurements on Remote Afterloader Units, added Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units, added Periodic Spot-checks for Remote Afterloader Units, added Additional Technical Requirements for Mobile Remote Afterloader Units, added Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units, added Therapy-related Computer Systems, added Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, other minor clarifications and editorial corrections.

333-118: Several changed and new definitions, changes to Transportation of Radioactive Material, General License Requirements, Previously Approved Packages, U.S. Department of Transportation Specification Container, updated table of A1 and A2 quantities.

333-119: Added requirement for posting public notice, delete requirement for providing removable plastic sheets, operator training required within 12 months, removed date expired requirements, clarified token use.

333-120: added definitions, changed radiation measurement units to Standard International units, added information dose calculations for fluoroscopy, change in monitoring requirements, added Location

NOTICES OF PROPOSED RULEMAKING

of Individual Monitoring Devices, clarified requirements for Control of Access To certain Radiation Areas, added requirements for storage (securing) radiation sources, clarification of posting requirements, change in radiation survey requirements for package receipt, other minor clarification and editorial corrections.

A public rulemaking hearing was held regarding identical rules.

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:
11-23-04	10 a.m.	Room 254 500 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.660, 411.700, 411.816, 414.042, 418.100; Other Auth.: Food Stamp Act Section 3(g); Food Stamp Act of 1977, Sec.3(i)(5)(A); Code of Federal Regulations, 271.2 Definitions; 7 CFR 273.13(a) and (b)(12); 7 CFR 273.12(c)(3); 7 CFR 273.2(n)(4); Oregon's Health Insurance Flexibility and Accountability (HIFA)/Section 1115 demonstration; Medicare Prescription Drug Improvement and Modernization Act of 2003, Sec. 1860D-31(g)(6); Food and Nutrition Services (FNS) Administrative Notices 04-39, 04-47, 04-50; August 5, 2004 memo from Art Foley; June 3, 2004 letter from FNS; FNS waiver approved May 16, 2003; 42 USC 1396p(b)(2)

Stats. Implemented: ORS 411.060, 411.070, 411.111, 411.630, 411.635, 411.660, 411.700, 411.795, 411.816, 412.600, 413.200, 414.042, 414.105, 418.100

Proposed Adoptions: 461-165-0082, 461-170-0130, 461-180-0085, 461-180-0125

Proposed Amendments: 461-110-0110, 461-110-0750, 461-115-0140, 461-115-0190, 461-115-0530, 461-115-0651, 461-135-0400, 461-135-0405, 461-135-0510, 461-135-0780, 461-135-0832, 461-140-0110, 461-140-0120, 461-145-0130, 461-145-0240, 461-145-0320, 461-145-0330, 461-150-0050, 461-155-0020, 461-155-0250, 461-155-0270, 461-155-0300, 461-160-0030, 461-160-0055, 461-160-0550, 461-160-0580, 461-160-0620, 461-165-0100, 461-170-0010, 461-170-0100, 461-170-0101, 461-175-0210, 461-175-0340, 461-180-0020, 461-180-0040, 461-180-0050, 461-180-0090, 461-195-0531

Last Date for Comment: 11-23-04

Summary: Rule 461-110-0110 is being amended to add another definition of homeless for the FS program.

Rule 461-110-0750 is being amended to add language stating that additional individuals will be excluded from the GA and GAM benefit groups.

Rule 461-115-0140 is being amended to change the term Division to Department and to expand the limitation for who can be an authorized representative to contractors involved with the eligibility and issuance processes for the Food Stamp Program.

Rule 461-115-0190 is being amended to remove language stating that all medical programs based on a disability may extend the application processing time frame to 90 days and beyond. This specific policy only applies to the OSIPM program when the disability determination is made by the Department.

Rule 461-115-0530 is being amended to establish that the initial certification period for all eligible clients under the Oregon Health Plan (OHP) consists of the month containing the effective date for starting medical benefits and the following six months.

Rules 461-115-0651, 461-160-0030 and 461-160-0055 are being amended because the USDA is allowing FS households with the Medicare-Approved Drug Discount Card to use the pre-discount prescription expense as a medical deduction instead of the actual cost.

Rule 461-135-0400 is being amended to clarify that both parents must be full time students or employed and meet the requirements of the program.

Rule 461-135-0405 is being amended to clarify policy on specific exceptions to the presumption of eligibility when an ERDC client's child receives child care under a contract between a Head Start agency and the Department.

Rule 461-135-0510 is being amended because federally subsidized housing for the elderly, disabled or blind is not considered an institution for residents who receive benefits under Title I, II, X, XIV or XVI of the Social Security Act.

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

Rule 461-135-0832 is being amended to make the definition of "permanently and totally disabled" the same as ORS 412.510(3).

Rules 461-140-0110, 461-140-0120 and 461-145-0130 are being amended to differentiate among the TANF (TANF-PLS), Tribal TANF and UI (NCP-PLS) JOBS Plus programs.

Rule 461-145-0240 is being amended to add the term "sales" to the rule which is consistent with the State Medicaid Plan amendment approved by the Health Care Financing Administration in Transmittal 89-7, Attachment 2.6A Page 12. The amendment identifies an income producing sales contract as having no countable equity value for medical assistance, however the rule does not include the term "sales" in the title.

Rule 461-145-0320 is being amended to include information on how to count viatical settlements.

Rule 461-145-0330 is being amended to clarify how home equity and reverse annuity mortgage loans are counted for FS, OSIP, OSIPM and QMB. This rule is also being amended because currently it lends itself to errors of interpretation if the whole rule is not read.

Rule 461-150-0050 is being amended to eliminate contradictory policy related to benefit adjustments for clients that use prospective budgeting. The correct way to treat benefit adjustment is in OAR 461-150-0020.

Rule 461-155-0020 is being amended to clarify that biological or adoptive children are not included in the adjusted number in household for OSIP/OSIPM.

Rule 461-160-0550 is being amended to specify that income deductions are intended for the financial group.

Rule 461-160-0620 is also being amended to add language to define the income deductions allowed for GA and GAM clients in long term care or waived services.

Rule 461-165-0082 is being adopted because Food Stamp households in Clackamas, Columbia, Multnomah and Washington counties are eligible to receive FS as a cash benefit deposited into an EBT account, by direct deposit or by check, if they are 65 years of age or older or are eligible to receive SSI benefits under Title XVI of the Social Security Act.

Rule 461-165-0100 is being amended because the food stamp benefit issuance dates have changed since the advent of Electronic Benefit Transfer (EBT).

Rule 461-170-0010 is being amended to stipulate that anytime a food stamp household reports a change to one program they have reported the change for all programs.

Rule 461-170-0100 is being amended to only allow a food stamp case to use the monthly reporting system when a companion public assistance case is using the monthly reporting system.

Rule 461-170-0101 is being amended to only allow a food stamp case to expand the used of the semi-annual reporting system to more food stamp households including those with zero income, homeless and migrant or seasonal farm workers.

Rule 461-170-0130 is being adopted to establish eligibility time frames for benefit groups during the redetermination process when the Department is required to act on a timely reported change that

NOTICES OF PROPOSED RULEMAKING

could end medical benefits or could result in a reduction of medical benefit package.

Rule 461-175-0210 is being amended to remove obsolete policy on holding food stamp benefits.

Rule 461-175-0340 is being amended to indicate the type of notice required when a client requests to withdraw, close or reduce food stamp benefits

Rule 461-180-0020 is being amended to change the effective date for a reported change that will increase food stamp program benefits.

Rule 461-180-0040 is being amended to replace an obsolete rule reference.

Rule 461-180-0050 is being amended as part of the implementation of HB 2696, which calls for the Department to establish standards for JOBS support service payments. The Department is amending this rule to specify the effective date for closing a JOBS support service payment.

Rule 461-180-0085 is being adopted to establish eligibility time frames for benefit groups when the Department initiates a redetermination of eligibility and needs additional information to determine eligibility.

Rule 461-180-0090 is being amended to change the policy for determining the effective date for starting medical benefits for clients eligible under the OHP-OPU program of the Oregon Health Plan. The OHP-OPU program (also called OHP Standard) provides medical assistance to low-income nonpregnant adults.

Rule 461-180-0125 is being adopted to add new policy on when to reopen food stamp benefits when the case is closed due to mail returned by the post office marked undeliverable, no forwarding address.

Rule 461-195-0531 is being amended to change when an overpayment may be written for an initial month of benefits.

The rules contained in this Notice of Proposed Rulemaking package may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**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

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

Date:	Time:	Location:
12-17-04	4 p.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 409.050, 410.070 & 411

Stats. Implemented: ORS 410.070

Proposed Amendments: Rules in 411-015

Last Date for Comment: 12-17-04

Summary: Chapter 411, Division 015 is being proposed for amendment to permanently adopt two temporary rules filed previously this year. In July 2004 OAR 411-015-0015 was amended to restore services to Service Priority Levels 12 and 13 on a Client Assessment Planning System Assessment following permission from the Oregon Legislative to seek CMS approval. That approval was obtained effective July 1, 2004 and a temporary rule was put into place enabling services for those individuals. Additionally, OAR 411-015-0015 and OAR 411-015-0100 will be permanently amended to include services to those clients who are determined eligible for GA. The 2003 State of Oregon Legislature approved funding to restore services to individuals with severe physical or mental impairments who are waiting for SSI benefits to be approved by the Social Security Administration. This provision was inadvertently dropped during the

April, 2004 permanent rulemaking action and was restored through the temporary rulemaking process in August 2004.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Date:	Time:	Location:
12-17-04	11 a.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Proposed Amendments: 411-027-0000

Last Date for Comment: 12-17-04

Summary: Temporary rule, 0000, in Chapter 411, Division 027, **Payment Limitations in Community Based Care** is proposed for permanent amendment effective January 5, 2005. This would permanently change the comparable nursing facility rate to a maximum community-based care rate. It also adopts a maximum community-based care rate for care plans approved under the Title 1915(c) Waiver, and the rule creates a methodology for establishing the maximum community-based care rate.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Date:	Time:	Location:
12-17-04	3 p.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 410.090

Stats. Implemented: ORS 410.070

Proposed Amendments: Rules in 411-045

Last Date for Comment: 12-17-04

Summary: In order to conform to federal regulations, the rules of Chapter 411, Division 045, the Program of All Inclusive Care for the Elderly (PACE) are proposed for permanent amendment effective January 1, 2005. Most of these changes are due to changes in language in the complaints and appeals sections to accommodate coordinating the state's language and process with federal PACE regulations. Some changes are due to changes in DHS agency names. Criteria were added for determining when an individual cannot live safely in the community and thereby can be denied enrollment in to PACE. The remaining changes are housekeeping.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Date:	Time:	Location:
12-17-04	1 p.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 409.010, 409.050 & 410.070

Stats. Implemented: ORS 443.705 - 443.825

Proposed Adoptions: Rules in 411-360

Last Date for Comment: 12-17-04

NOTICES OF PROPOSED RULEMAKING

Summary: These rules are proposed for adoption removing the rules governing Adult Foster Homes for Persons with Developmental Disabilities from Chapter 309 and placing them in Chapter 411, in order to reflect DHS' current organizational structure and are intended to achieve the following:

- a) Clarify rule requirements for licensure of providers;
- b) Add a new category of 'limited license';
- c) Incorporate changes related to individual support plans; and
- d) Update definitions and requirements of medical, fire safety, behavior support and physical intervention, ensuring their consistency with current standards, practice and application.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Date:	Time:	Location:
12-17-04	9 a.m.	500 Summer St. NE Rm. 137 D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.210 - 410.300

Proposed Amendments: 411-002-0170

Last Date for Comment: 12-17-04

Summary: Changes methodology to determine budget levels for Type B Area Agencies on Aging that have elected to have employment transfer.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Date:	Time:	Location:
11-17-04	8 a.m.	500 Summer St. Rm. 137D Salem, OR 97301

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Proposed Adoptions: 411-034-0035, 411-034-0040, 411-034-0055

Proposed Amendments: 411-034-0010, 411-034-0020, 411-034-0030, 411-034-0050, 411-034-0070, 411-034-0090

Last Date for Comment: 11-23-04

Summary: • Chapter 411, Division 034 Personal Care Service Rules are proposed for permanent amendment effective 12/1/04 allowing for updates to the following:

Name change from Division 034, Personal Care Service Rules to Division 034, State Plan Personal Care Services; Definitions and terminology; criminal history rule reference; terms of provider hours and payment for services; requirements with regard to case manager reassessments and nursing referrals and to RN care planning and assessment; and who, when and how services can be authorized.

• Additionally, this proposal introduces three new rules for permanent adoption in this Division, which a) Specifies where one can apply for these services; b) Designates the client as employer and as such can terminate provider employment; c) Defines when DHS can deny or terminate provider employment.

• Finally, there is General housekeeping to the rule and language updates to comply with current DHS standards and practices.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

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Department of Justice Chapter 137

Stat. Auth.: ORS 25.080, 25.265, 25.396, 180.345, 416.455

Stats. Implemented: ORS 18.400, 25.020, 25.080, 25.287, 25.396, 25.414, 107.135, 183.380, 416.425

Proposed Adoptions: 137-055-2165

Proposed Amendments: 137-055-1320, 137-055-2140, 137-055-3430, 137-055-4130, 137-055-5020, 137-055-6210, 137-055-6220, 137-055-6240

Last Date for Comment: 12-27-04

Summary: The proposed amendment to OAR 137-055-1320 defines "Custodial parent" for the purposes of this rule; 137-055-2140 to authorize ALJ's of OAH to allow or deny objections to withdrawals of contested case notices and to issue final orders; 137-055-2165 provides for a party to request to reschedule hearings and authorizes OAH to allow or deny and issue a final order regarding the request; 137-055-3430 clarifies that a party may request a motion for modification through the court if CSP denies a request for modification; 137-055-4130 clarifies that reduced income withholding may be granted in cases where arrears are owed to the obligee; 137-055-5020 corrects language missed in last filing; 137-055-6210 clarifies what type of dishonored check is an advance payment and what kind of review is allowed; 137-055-6220 clarifies the type of dishonored check which is an overpayment and adds language to who might send a dishonored payment which would then be an overpayment; 137-055-6240 corrects language from DCS to DOJ and adds clarifying language for type of party that might send a dishonored payment.

Copies of the proposed rules can be found on our web page at http://www.dcs.state.or.us/oregon_admin_rules/default.htm

Rules Coordinator: Shawn Irish

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

Telephone: (503) 986-6240

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Department of Revenue Chapter 150

Date:	Time:	Location:
11-30-04	10 a.m.	Fishbowl Conference Rm. 955 Center St. NE Salem, OR

Hearing Officer: David Zerbe

Stat. Auth.: ORS 293.525, 305.100, 314.670

Stats. Implemented: ORS 18.385, 18.902, 293.525, 314.363, 314.415, 314.650, 314.665, 314.670, 314.748, 315.262, 315.304, 316.014, 316.587, 317.715

Proposed Adoptions: 150-293.525(1)(b), 150-314.670-(A)

Proposed Amendments: 150-314.415(6), 150-314.650, 150-314.665(2)-(A), 150-315.262, 150-315.304(2), 150-316.014, 150-316.587(1), 150-316.587(5)(b), 150-316.587(5)(c), 150-317.715 (3)(b)

Proposed Repeals: 150-314.363-(A), 150-314.363-(B), 150-314.363-(C), 150-314.748(2)

Proposed Ren. & Amends: 150-23.186 to 150-18.385, 150-23.186-(A) to 150-18.385(A), 150-29.375(2)(e) to 150-18.902(6)

Last Date for Comment: 11-30-04, 5 p.m.

Summary: The Department of Revenue intends to adopt, amend, renumber, or repeal administrative rules relating to personal income tax, collections, and business income and excise taxes. These proposed rules can be found on the Department of Revenue Web site at <http://www.dor.state.or.us/adminrules.html>.

Persons wishing to provide testimony at the hearing will need to register prior to the hearing. Registration will begin at 9:45 AM on

NOTICES OF PROPOSED RULEMAKING

November 30, 2004 in the Fishbowl conference room. Please contact the rules coordinator in advance to make alternative arrangements for registration if you are not able to do so at 9:45 AM on the day of the hearing.

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

Rules Coordinator: Xann-Marie Culver

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

Telephone: (503) 947-2099

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Date:	Time:	Location:
11-30-04	10 a.m.	Fishbowl Conference Rm. 955 Center St. NE Salem, OR

Hearing Officer: David Zerbe

Stat. Auth.: ORS 305.100, 306.115, 321.307, 321.485

Stats. Implemented: ORS 285B.722, 285B.728, 285C.140, 285C.170, 285C.409, 285C.420, 307.262, 308.010, 308.149, 308.205, 308A.718, 309.024, 309.026, 309.100, 309.110, 311.688, 311.690, 311.723, 311.806, 321.207, 321.307, 321.348, 321.358, 321.485, 321.741, 321.751, 321.754, 321.805, 321.839

Proposed Adoptions: 150-285C.170, 150-307.262(2), 150-309.026(2)-(B), 150-309.100(5), 150-311.688, 150-321.348(2), 150-321.741(2), 150-321.751(3), 150-321.754(3), 150-321.805(4)

Proposed Amendments: 150-308.205-(A), 150-308.205-(D), 150-308A.718, 150-309.024, 150-309.100(2)-(B), 150-309.100(3)-(B), 150-309.110(1), 150-309.110(1)-(A), 150-311.690(4), 150-311.806-(A), 150-321.207(1), 150-321.307(4)

Proposed Repeals: 150-285B.722, 150-285B.728, 150-308.010-(B), 150-308.010-(C), 150-311.723

Proposed Ren. & Amends: 150-285B.719(8) to 150-285C.140(12), 150-Oregon Law 1997, Chapter 835, Section 38 to 150-285C.409, 150-Oregon Law 1997, Chapter 835, Section 39 to 150-285C.420, 150-308.010-(A) to 150-308.010, 150-321.358(2) to 150-321.358(4), 150-321.485(3) to 150-321.485(4), 150-321.805 to 150-321.839(4)

Last Date for Comment: 11-30-04, 5 p.m.

Summary: The Department of Revenue intends to adopt, amend, repeal and renumber administrative rules relating to property and timber taxation, enterprise zones, appraisal, appeals, valuation, tax deferral and refunds. These proposed rules can be found on our Web site at <http://www.dor.state.or.us/adminrules.html>.

Persons wishing to provide testimony at the hearing will need to register prior to the hearing. Registration will begin at 9:45 AM on November 30, 2004 in the Fishbowl conference room. Please contact the rules coordinator in advance to make alternative arrangements for registration if you are not able to do so at 9:45 AM on the day of the hearing.

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

Rules Coordinator: Xann-Marie Culver

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

Telephone: (503) 947-2099

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Department of Transportation Chapter 731

Date:	Time:	Location:
11-24-04	9-10 a.m.	ODOT Bldg., Rm. 122 355 Capitol St. NE Salem, OR

Hearing Officer: Art James

Stat. Auth.: ORS 184.616, 184.619, 367.804 & 367.824

Stats. Implemented: ORS 367.800 - 367.824

Proposed Adoptions: 731-070-0055

Last Date for Comment: 11-24-04

Summary: The Oregon Transportation Commission adopted rules for the implementation of ORS 367.800 to 367.826, which estab-

lishes the Oregon Innovative Partnerships Program (OIPP), on 8/19/04. This action included adoption of a temporary OAR 731-070-0055. The program allows for acceptance of unsolicited proposals for transportation projects from private entities or units of government. ORS 367.804(3) allows the department to charge an administrative fee for evaluation of the proposals received. This rule establishes fees that will be charged for evaluation of unsolicited proposals, provides for assessment of additional fees and provides for a waiver of fees. The fee structure was approved by the Department of Administrative Services in accordance with ORS 291.055 on 8/13/04. The fees set forth in this rule will recoup some of the department's costs. The requirement to pay an evaluation fee will also encourage only legitimate proposals to be submitted. Failure to adopt the permanent fee rule will impact the department's ability to implement the program.

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

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.090, 807.340, 807.350, 807.710 & 809.419

Stats. Implemented: ORS 807.090, 807.340, 807.350, 807.710 & 809.419

Proposed Amendments: 735-074-0140, 735-074-0150, 735-074-0170, 735-074-0180

Proposed Repeals: 735-074-0005, 735-074-0045

Last Date for Comment: 11-22-04

Summary: ORS 807.710 was amended effective January 1, 2003. The statutory change required DMV to establish by administrative rule mandatory reporting requirements for physicians and health care providers of a person with cognitive or functional impairment(s) that may affect the person's ability to safely operate a motor vehicle. Prior to January 1, 2003, ORS 807.710 required physicians and health care providers to report a person they diagnose as having a disorder characterized by momentary or prolonged lapses of consciousness or control that is, or may become, chronic. DMV was not ready to implement the new mandatory reporting requirements as of January 1, 2003. Therefore, DMV continued the reporting requirements established previously in ORS 807.710 by adopting OAR 735-074-0005. On June 1, 2003, DMV adopted the new mandatory reporting requirements by administrative rule and implemented them in four phases based on the regions and dates identified in OAR 735-074-0045. As of June 1, 2004 all physicians and health care providers who are required to report are subject to the new mandatory reporting requirements. As a result, OAR 735-074-0005 and 735-074-0045 became obsolete on June 1, 2004, and should be repealed. Other rules are being amended to remove now incorrect references to OAR 735-074-0005 and a DMV form; OAR 735-074-0150 is being amended to clarify that voluntary reports should address the person's ability to safely operate a motor vehicle; and OAR 735-074-0180(3) is being amended to clarify that the action DMV will take is a cancellation.

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, 802.012, 802.200, 802.540, 807.040, 807.045, 807.050, 807.060, 807.070, 807.072(6),

NOTICES OF PROPOSED RULEMAKING

807.120 & 809.310; Other Auth.: 49 CFR §383.73, 49 CFR §383.117, 49 CFR §391.41 - §391.49, 49 CFR §§381.300 - 381.330, 49 USC 31135 & 49 USC 31136(e)

Stats. Implemented: ORS 802.012, 802.540, 807.031, 807.040 - 807.060, 807.066, 807.070, 807.072, 807.100, 807.120, 807.150, 807.160 & 807.400

Proposed Amendments: 735-062-0000, 735-062-0085, 735-062-0090, 735-062-0110, 735-062-0150, 735-062-0160, 735-062-0200, 735-074-0260

Last Date for Comment: 11-22-04

Summary: The proposed amendments to OAR 735-062-0000 correct a reference to an administrative rule that has been renumbered and adds language requiring DMV to make an inquiry to the Commercial Driver License Information System (CDLIS) to see if the applicant has a commercial driver license in another jurisdiction.

The proposed amendments to OAR 735-062-0085 are to eliminate out of date references – ORS 153.500 has been repealed – and to clarify when DMV may waive the examination requirements for a farm endorsement.

The proposed amendments to OAR 735-062-0090 clarify the requirements for renewal of a driver license or identification card including requiring DMV to make an inquiry to the National Driver Register (NDR)/Problem Driver Pointer System (PDPS) or CDLIS or both prior to renewing a driver license to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction or to determine if a CDL holder has a CDL in another jurisdiction. The proposed amendments also clarify how an applicant can clear a problem in another jurisdiction so that DMV may renew the driver license.

The proposed amendments to OAR 735-062-0110 require DMV to make an inquiry to the NDR/ PDPS or CDLIS or both prior to issuing a duplicate or replacement driver license or driver permit to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction or to determine if an applicant for a duplicate or replacement CDL has a CDL in another jurisdiction. The proposed amendments also clarify how an applicant can clear a problem in another jurisdiction so that DMV may issue the duplicate or replacement license or permit.

The proposed amendments to OAR 735-062-0150 are to comply with federal standards for driving privilege restriction when issuing a CDL with a passenger endorsement.

The purpose of the proposed amendments to OAR 735-062-0160 is to clarify language.

The proposed amendment to OAR 735-062-0200 is to correct a reference to an administrative rule that has been renumbered.

The proposed amendments to OAR 735-074-0260 require DMV to suspend a commercial driver license if notified by the Motor Carrier Transportation Division of the Oregon Department of Transportation or by the Federal Motor Carrier Safety Administration that a commercial driver license holder no longer meets the medical standards necessary for a CDL because of the revocation of a certificate, waiver or exemption. The proposed amendments also adopt the current version of the federal regulations related to medical standards for drivers of commercial motor vehicles.

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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Division of State Lands
Chapter 141

Date: 12-1-04
Time: 1-3 p.m.
Location: State Land Board Rm.
Dept. of State Lands
775 Summer St. NE
Salem, OR 97301-1279

Hearing Officer: Jeff Kroft

Stat. Auth.: ORS 273.045, 273.775 - 273.790; Other Auth.: OR Constitution, Article VIII Sec. 5

Stats. Implemented: ORS 273.785, 273.551, 273.775 - 273.790, 273.787

Proposed Amendments: 141-073-0100 - 141-073-0280

Last Date for Comment: 2-8-05

Summary: The majority of the proposed amendments to these rules are necessary to reflect statutory changes made during the 2003 Legislative Session.

SB 923, enacted during the session, provides that all mineral rights owned by an agency of the State of Oregon shall be retained by the state unless:

- The property on which they exist was “residential real property” as of January 1, 2004, or
- The value, if any, of the right to the mineral or geothermal resources is included in the total sale price of the real property.

Additionally, SB 923 also prescribes a timeframe for such transfers to occur and process for determining the value of such mineral rights.

SB 311 enacted during the session, changed the name of the Division of State Lands to the Department of State Lands (DSL).

Other proposed changes to these rules have been developed to ensure that the processes proposed for use by the Department of State Lands (Department) to determine whether to sell, exchange or reserve mineral rights owned by any agency of the State of Oregon are easily understandable. Changes of a “housekeeping” nature are also included to, for example, clarify terms used or eliminate unnecessary text/provisions.

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

Rules Coordinator: Nicole Kielsmeier

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

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

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Date: 12-1-04
Time: 10 a.m.–12 p.m.
Location: State Land Board Rm.
Dept. of State Lands
775 Summer St. NE
Salem, OR 97301-1279

Hearing Officer: Jeff Kroft

Stat. Auth.: ORS 273.045, 530.050, 530.490; Other Auth.: OR Constitution, Article VIII Sec. 5, OAR 141-065-0010 - 141-065-0600, 141-083-0010 - 141-083-0700

Stats. Implemented: ORS 274.040, 758.010

Proposed Amendments: 141-122-0010 - 141-122-0120

Last Date for Comment: 2-8-05

Summary: The proposed amendments to these rules primarily reflect statutory changes made during the 2003 Legislative Session. SB 82, enacted during the session, provides that an easement is to be granted to water right holders where water is diverted for domestic or agricultural purposes. Other changes being proposed to these rules reflect a change in the name of the Division of State Lands to Department of State Lands; clarify several provisions of the rules based on questions received by the public; and implement a \$750 fee to process the transfer of an easement from the holder to another person.

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

Rules Coordinator: Nicole Kielsmeier

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

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

NOTICES OF PROPOSED RULEMAKING

Employment Department Chapter 471

			11-8-04	7-9 p.m.	Washington Co. Bldg. 155 First Public Services Bldg. Cafeteria Hillsboro, OR
Date:	Time:	Location:			
11-15-04	1 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311	11-9-04	6-8 p.m.	Bandon Library Rm. 6, City Park 1204 11th St. SW Bandon, OR
Hearing Officer: Richard Luthe					
Stat. Auth.: ORS 657, 657.610					
Stats. Implemented: ORS 657.150, 657.155, 657.176, 657.190					
Proposed Adoptions: 471-030-xxxx, 471-030-xxxx					
Proposed Amendments: 471-030-0036, 471-030-0038					
Last Date for Comment: 11-15-04, 5 p.m.					
Summary: The Employment Department is proposing to adopt: OAR 471-030-xxxx and 471-030-xxxx to incorporate Trebesch and Employment Appeals Board decisions into rule, and to establish eligibility for offshore workers.					
The Employment Department is proposing to amend: OAR 471-030-0036 and 471-030-0038 to incorporate Trebesch and Employment Appeals Board decisions into rule, and to address separation of temporary/leasing agency employees.					
<i>*Auxiliary aids for persons with disabilities are available upon advance request.</i>					
Rules Coordinator: Richard L. Luthe					
Address: Employment Department, 875 Union St. NE, Salem, OR 97311					
Telephone: (503) 947-1724					

Employment Department, Child Care Division Chapter 414					
Date:	Time:	Location:			
11-15-04	9 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311	11-9-04	8:30-10:30 a.m.	Douglas Co. Courthouse 1036 SE Douglas Rm. 216 Roseburg, OR
Hearing Officer: Staff					
Stat. Auth.: ORS 197.040					
Stats. Implemented: ORS 195, 197.015(19), 197.175, 197.712, 197.768					
Proposed Amendments: 660-011-0060, 660-015-0000					
Last Date for Comment: 12-9-04					
Summary: The proposed amendments to Statewide Planning Goal 11 (OAR 660-015-0000(11)) and related administrative rules under OAR 660-011-0060 would authorize sewer hookups to existing residential lots outside urban growth boundaries within current sewer district boundaries within 300 feet of an existing sewer line.					
<i>*Auxiliary aids for persons with disabilities are available upon advance request.</i>					
Rules Coordinator: Shelia Preston					
Address: Land Conservation and Development Department, 635 Capitol St. NE - Suite 150, Salem, OR 97301-2540					
Telephone: (503) 373-0050, ext. 222					

Land Conservation and Development Department Chapter 660

			11-5-04	9 a.m.	Port of Portland 121 NW Everett St. Portland, OR
Date:	Time:	Location:			
11-5-04	9 a.m.	Port of Portland 121 NW Everett St. Portland, OR	11-8-04	6-8 p.m.	Deschutes Public Library Brooks Rm. 601 NW Wall St. Bend, OR
11-8-04	6-8 p.m.	Deschutes Public Library Brooks Rm. 601 NW Wall St. Bend, OR	11-8-04	7-9 p.m.	Agriculture Bldg. Basement Hearing Rm. 635 Capitol St. NE Salem, OR
11-8-04	6-8 p.m.	Agriculture Bldg. Basement Hearing Rm. 635 Capitol St. NE Salem, OR	11-9-04	6-8 p.m.	Washington Co. Bldg. 155 First Public Services Bldg. Cafeteria Hillsboro, OR
Hearing Officer: Staff					
Stat. Auth.: ORS 197.040					
Stats. Implemented: ORS 195, 197.015(19), 197.175, 197.712, 197.768					
Proposed Amendments: 660-011-0060, 660-015-0000					
Last Date for Comment: 12-9-04					
Summary: The proposed amendments to Statewide Planning Goal 11 (OAR 660-015-0000(11)) and related administrative rules under OAR 660-011-0060 would authorize sewer hookups to existing residential lots outside urban growth boundaries within current sewer district boundaries within 300 feet of an existing sewer line.					
<i>*Auxiliary aids for persons with disabilities are available upon advance request.</i>					
Rules Coordinator: Shelia Preston					
Address: Land Conservation and Development Department, 635 Capitol St. NE - Suite 150, Salem, OR 97301-2540					
Telephone: (503) 373-0050, ext. 222					

NOTICES OF PROPOSED RULEMAKING

11-9-04	7-9 p.m.	Benton Plaza Hotel Basement Meeting Rm. 406 SW Monroe Corvallis, OR
11-9-04	7-9 p.m.	Daniel Chaplain Bldg. Earle C. Misener Conf. Rm. 1001 Fourth St. LaGrande, OR
11-9-04	10 a.m.-12 p.m.	Warrenton City Hall 225 S. Main Ave. Warrenton, OR
11-9-04	10 a.m.-3 p.m.	Douglas Co. Courthouse 1036 SE Douglas Rm. 216 Roseburg, OR
11-10-04	7-9 p.m.	Gresham City Hall Oregon & Springwater Trail Rms. 1333 NW Eastman Pkwy. Gresham, OR
12-9-04	8:30-10:30 a.m.	DLCD 635 Capitol St. NE Basement Hearing Rm. Salem, OR
2-3-05	10 a.m.	DLCD 635 Capitol St. NE Basement Hearing Rm. Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 197.040 - 197.047
Stats. Implemented: ORS 197.175, 197.225 - 197.250, 197.296 - 197.298, 197.732, 197.752 - 197.754
Proposed Adoptions: Rules in 660-024
Proposed Amendments: 660-015-0000, Rules in 660-004, 660-026
Last Date for Comment: 2-3-05, LCDC Hearing
Summary: The proposed amendments to Statewide Planning Goal 14 (Under OAR 660, Division 015) will modify current requirements for adopting or amending an Urban Growth Boundary (UGB), will eliminate the requirement for the exceptions process in the adoption or amendment of a UGB, will modify some factors regarding land need and boundary location, will modify related definitions and other provisions. The proposed new administrative rules under OAR 660, Division 024, will provide detailed procedures and standards for adopting or amending a UGB and for interpreting Goal 14. Finally, OAR 660, Division 004, and OAR 660, Div. 026, will be amended to remove or modify provisions pertaining to the exceptions process currently required in amending a UGB. That rule may also be modified to allow UGB amendments in certain circumstances not allowed by Goal 14.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Shelia Preston
Address: Land Conservation and Development Department, 635 Capitol St. NE - Suite 150, Salem, OR 97301-2540
Telephone: (503) 373-0050, ext. 222

**Office of Energy
 Chapter 330**

Date:	Time:	Location:
11-16-04	9 a.m.-12 p.m.	625 Marion St. NE Room C/D Salem, OR

Hearing Officer: Larry V. Gray, Assistant Director
Stat. Auth.: ORS 470; Other Auth.: SB 1264 (1999), SB 520 (2001)
Stats. Implemented: ORS 470.170
Proposed Amendments: 330-105-0005, 330-105-0007, 330-105-0008, 330-105-0015, 330-105-0020, 330-105-0025, 330-105-0030, 330-110-0005, 330-110-0010, 330-110-0016, 330-110-0020, 330-110-0025, 330-110-0030, 330-110-0035, 330-110-0036, 330-110-0040, 330-110-0042, 330-110-0045, 330-110-0050, 330-110-0055
Last Date for Comment: 11-16-04, 12 p.m.

Summary: The proposed changes to the rules include the following: extend the officers' term length and increase advisory capacity of the SELP Advisory Committee; reinforce SELP's fuel blind status, implement credit enhancements and other securities as collateral, outline circumstances for refinancing; clarify cogeneration projects, loan eligibility under Energy Facility Siting Counsel rules, substitute fuel and waste heat, use of taxable bonds and funding project costs; implement the SELP Technical Requirement document; reduce first and junior lien security value percentages, simplify fees and charges; and make general housekeeping changes including update of agency name and personnel titles.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Kathy Stuttaford
Address: Office of Energy, 625 Marion St. NE, Salem, OR 97301
Telephone: (503) 378-4128

**Oregon Department of Education
 Chapter 581**

Date:	Time:	Location:
11-16-04	3 p.m.	Public Service Bldg. 255 Capitol St. NE Room 251-A Salem, OR

Hearing Officer: Mike Reed
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 336.479
Proposed Amendments: 581-021-0041
Last Date for Comment: 11-16-04
Summary: Senate Bill 393 was enacted during the 2003 Legislative Session and authorized licensed naturopaths to conduct school sports pre-participation physical examinations. The State Board adopted the form and protocol for sports physicals in 2002 pursuant to ORS 339.479. This amendment updates the reference in the rule to the current June 2004 form and protocol and includes reference to naturopaths.
 If you have a question regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2350 or e-mail debby.ryan@state.or.us.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Debby Ryan
Address: Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203
Telephone: (503) 378-3600, ext. 2348

Date:	Time:	Location:
11-16-04	3 p.m.	Public Service Bldg. 255 Capitol St. NE Rm. 251-A Salem, OR

Hearing Officer: Mike Reed
Stat. Auth.: ORS 326.051, 327.125
Stats. Implemented: ORS 294.356, 327.125
Proposed Amendments: 581-023-0035
Last Date for Comment: 11-16-04
Summary: The Oregon Department of Education has updated its Budgeting and Accounting Manual. The rule needs to be amended to refer to the most recent version of the manual.
 If you have a question regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2350 or e-mail debby.ryan@state.or.us.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Debby Ryan

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Department of Education, Public Service Bldg.,
255 Capitol St. NE, Salem, OR 97310-0203
Telephone: (503) 378-3600, ext. 2348

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Date: 11-16-04 **Time:** 3 p.m. **Location:**
Public Service Bldg.
255 Capitol St. NE
Rm. 251-A
Salem, OR

Hearing Officer: Mike Reed
Stat. Auth.: ORS 334.217
Stats. Implemented: ORS 334.217
Proposed Amendments: 581-024-0215
Last Date for Comment: 11-16-04

Summary: The proposed amendments to the rule will define a process to allow the Superintendent to respond to constituent complaints and other alleged violations of standards by an ESD, other than through the regular, cyclical standardization review. The amendments would allow the Superintendent to respond promptly and appropriately in all cases of alleged noncompliance.

If you have a question regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2350 or e-mail debby.ryan@state.or.us.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Debby Ryan
Address: Oregon Department of Education, Public Service Bldg.,
255 Capitol St. NE, Salem, OR 97310-0203
Telephone: (503) 378-3600, ext. 2348

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Oregon Film and Video Office
Chapter 951

Stat. Auth.: ORS 284.300 - 284.315
Stats. Implemented: ORS 736.75 - 736.82
Proposed Adoptions: 951-002-0000, 951-002-0001, 951-002-0005, 951-002-0010, 951-002-0020, 951-003-0000, 951-003-0001, 951-003-0005
Last Date for Comment: 11-22-04
Summary: Procedure for notice of intended rulemaking.
Rules Coordinator: Susan Kaye Tong
Address: Oregon Film and Video Office, 121 SW Salmon St., Ste. 1205, Portland, OR 97204
Telephone: (503) 229-5832

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Oregon Housing and Community Services
Chapter 813

Date: 11-22-04 **Time:** 10 a.m. **Location:**
725 Summer St. NE
Suite B
Salem, OR

Hearing Officer: David Foster
Stat. Auth.: ORS 183 & 456.555
Stats. Implemented: ORS 291.005 & 456.562
Proposed Adoptions: 813-003-0001, 813-003-0006, 813-003-0011, 813-003-0015, 813-003-0021, 813-003-0025, 813-003-0031, 813-003-0035
Last Date for Comment: 11-22-04
Summary: These rules carry out the provisions of ORS 291.005 and ORS 456.562 which relates to the Department's authority to license, share or otherwise provide for the use by a Person of Intellectual Property acquired or developed by the Department.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Sandy McDonnell
Address: Housing and Community Services, 725 Summer St. NE, Suite B, Salem, OR 97301
Telephone: (503) 986-1012

Oregon Public Employees Retirement System
Chapter 459

Date: 11-23-04 **Time:** 2 p.m. **Location:**
11410 SW 68th Pkwy.
PERS Headquarters
Boardroom
Tigard, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 237.650(3), 237.655(2), 238.005, 238.015, 238A.100, 238A.300, 238.715, 242.800, 243.800 & 353.250
Proposed Amendments: 459-005-0310, 459-005-0350, 459-005-0370, 459-005-0591
Last Date for Comment: 12-20-04

Summary: Legislation that established the Oregon Public Service Retirement Plan (OPSRP) amended ORS 243.800 and 353.250 to incorporate references to OPSRP. ORS 243.800 sets forth the provisions for an Optional Retirement Plan for employees of the Oregon University System. ORS 353.250 sets forth the provisions for an Alternative Retirement Plan for employees of the Oregon Health and Science University. OAR 459-005-0310, -0350 and -0370 deal with coordination between the PERS plans and these other retirement programs, so these rule changes are intended to address issues created by the addition of OPSRP. The proposed rule modifications would clarify that the process for transferring into the Optional or Alternative Retirement plans applies to the OPSRP Pension and Individual Account Programs as well as the PERS program.

OAR 459-005-0591 provides the definitions for the direct rollover provisions contained in OAR 459-005-0590 to 459-005-0599. The proposed amendments would add the Oregon Savings Growth Plan (OSGP) and the Individual Account Program (IAP) as "eligible retirement plans" for the purposes of rollovers out of a PERS chapter 238 legislator member account.

Copies of the proposed rules are available to any person upon request. The rules are also available at www.pers.state.or.us. Public comment may be mailed to the above address or sent via email to David.Martin@state.or.us.

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

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

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Date: 11-23-04 **Time:** 2 p.m. **Location:**
11410 SW 68th Pkwy.
PERS Headquarters
Boardroom
Tigard, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.340
Proposed Adoptions: 459-070-0050, 459-080-0050
Last Date for Comment: 12-20-04

Summary: The Oregon Public Service Retirement Plan (OPSRP) allows new employers to begin participating in the PERS system. OAR 459-070-0050 outlines the process for new employers to begin providing OPSRP credit and contributions and to continue providing coverage for PERS chapter 238 members they may hire.

The OPSRP Individual Account Program (IAP) includes an option for participating employers to contribute an additional one to six percent of salary to an employer account for some or all of its employees. OAR 459-080-0050 outlines the process for employers to begin contributions to those accounts if they so choose.

Copies of the proposed rules are available to any person upon request. The rules are also available at www.pers.state.or.us. Public

NOTICES OF PROPOSED RULEMAKING

comment may be mailed to the above address or sent via email to David.Martin@state.or.us

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

Rules Coordinator: David K. Martin

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

Telephone: (503) 603-7713

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Oregon State Marine Board
Chapter 250

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented:

Proposed Amendments: 250-020-0280

Last Date for Comment: 11-30-04

Summary: The Marine Board received a request from the Division of State Lands to amend boating rules in the Oregon Slough (North Portland Harbor) to protect a sediment cap over contaminated sediments on state owned submerged and submersible land. DSL has requested restricted use of an area during the construction phase and permanent closure of a smaller area after the sediment cap is in place.

Rules Coordinator: Jill E. Andrick

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

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

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Stat. Auth.: ORS 830.110 & 830.810

Stats. Implemented: ORS 830.810

Proposed Amendments: 250-010-0057

Last Date for Comment: 11-30-04

Summary: The periodic review of Marine Board Rules revealed the rules had not been revised to include the current fee schedule adopted by the 2003 Legislature. This is a housekeeping amendment to correct the discrepancy.

Rules Coordinator: Jill E. Andrick

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

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

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Oregon Student Assistance Commission,
Office of Degree Authorization
Chapter 583

Date:	Time:	Location:
11-19-04	10:30 a.m.	University of Phoenix 670 Hawthorne Salem, OR

Hearing Officer: Brian Clem, Commission Chair

Stat. Auth.: ORS 348.594 - 348.615 & 348.992

Stats. Implemented: ORS 348.606

Proposed Amendments: Rules in 583-030

Last Date for Comment: 11-19-04

Summary: Makes substantial changes to state oversight of religious colleges pursuant to advice of Department of Justice. Changes and raises certain fees. Makes technical changes in other college oversight rules.

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

Rules Coordinator: Sandra Rupe

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

Telephone: (541) 687-7409

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Date:	Time:	Location:
11-19-04	11 a.m.	University of Phoenix 670 Hawthorne Salem, OR

Hearing Officer: Brian Clem, Commission Chair

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.609

Proposed Amendments: Rules in 583-050

Last Date for Comment: 11-19-04

Summary: Amends definitions of school types and diploma mills. Sets staff priorities for enforcement actions.

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

Rules Coordinator: Sandi Rupe

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

Telephone: (541) 687-7409

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Oregon Watershed Enhancement Board
Chapter 695

Date:	Time:	Location:
11-23-04	12-1 p.m.	775 Summer St. NE Room 201 Salem, OR

Hearing Officer: Allison Hensey

Stat. Auth.: ORS 541.396

Stats. Implemented: ORS 541.375(9)

Proposed Adoptions: Rules in 695-046

Proposed Amendments: Rules in 695-020

Proposed Repeals: Rules in 695-020

Last Date for Comment: 11-30-04

Summary: The Oregon Watershed Enhancement Board proposes to amend its administrative rules relating to grant applications for the lease or purchase of water rights in two ways: 1) to make grammatical changes to allow OWEB to disengage the rules from the land acquisition grant rules and place them in a separate division, and 2) to revise the rules to be consistent with the recommendations by the Water Resources Department (WRD) staff to ensure that the rules are compatible with current WRD practice and to ensure that the rules allow OWEB to accomplish the goals of its program. A public comment period for the proposed administrative rules will begin on November 9, 2004, and end at 5:00 p.m. on November 30, 2004. A public hearing will be held on the rules on November 23, 2004 in Salem at the time and location described above. The proposed rules will be posted on OWEB's website at www.oweb.state.or.us after November 5, 2004. If interested parties are unable to access the proposed rules on OWEB's website, please request a copy of the proposed rules by calling or emailing Maribeth Mattson at (503) 986-0202 or Maribeth.mattson@state.or.us.

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

Rules Coordinator: Bonnie Ashford

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

Telephone: (503) 986-0181

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Parks and Recreation Department
Chapter 736

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 97.772

Proposed Adoptions: 736-054-0000, 736-054-0005, 736-054-0010, 736-054-0015, 736-054-0020, 736-054-0025, 736-054-0030

Last Date for Comment: 11-15-04

Summary: The purpose of the new rules is to adopt regulations that establish procedures that the Oregon Commission on Historic Cemeteries will use in awarding Historic Cemetery Grants.

Rules Coordinator: Jo Bell

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1271

Telephone: (503) 986-0719

NOTICES OF PROPOSED RULEMAKING

Public Utility Commission Chapter 860

Date: 11-22-04
Time: 1:30 p.m.
Location: Public Utility Commission
Main Hearing Rm. (1st Floor)
550 Capitol St. NE
Salem, OR

Hearing Officer: Michael Grant
Stat. Auth.: ORS 183, 756, 757 & 759
Stats. Implemented: ORS 183.462, 756.040 & 756.500 - 756.575
Proposed Amendments: 860-012-0015
Last Date for Comment: 12-21-04

Summary: This rulemaking clarifies scope and application of rules governing ex parte communications in Commission proceedings.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, P.O. Box 2148, Salem, OR 97308-2551
Telephone: (503) 378-4372

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Date: 11-16-04
Time: 1:30 p.m.
Location: Public Utility Commission
Main Hearing Rms. (1st Floor)
550 Capitol St. NE
Salem, OR

Hearing Officer: Michael Grant
Stat. Auth.: ORS 183, 192, 756, 765, 757, 759 & Ch. 290 OL 1987
Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350, 756.500 - 756.575, 757.005, 757.061, 757.225, 757.255, 757.045, 759.030 & Ch. 290 OL 1987

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

Proposed Amendments: 860-012-0007, 860-021-0009, 860-021-0021, 860-021-0034, 860-021-0036, 860-021-0037, 860-021-0125, 860-021-0130, 860-021-0200, 860-021-0205, 860-021-0206, 860-021-0210, 860-021-0420, 860-032-0095, 860-032-0097, 860-033-0005, 860-033-0010, 860-033-0030, 860-033-0045, 860-033-0050, 860-033-0505, 860-033-0530, 860-033-0535, 860-033-0536, 860-033-0537, 860-033-0540, 860-033-0545, 860-034-0030, 860-034-0090, 860-034-0095, 860-034-0097, 860-034-0110, 860-034-0140, 860-034-0160, 860-036-0035, 860-036-0040, 860-036-0050, 860-

036-0075, 860-036-0095, 860-036-0097, 860-036-0115, 860-036-0125, 860-037-0030, 860-037-0035, 860-037-0045, 860-037-0070, 860-037-0095, 860-037-0097, 860-037-0110

Last Date for Comment: 11-23-04

Summary: This rulemaking readopts rules previously adopted by the Commission in four prior rulemaking dockets (AR 440, AR 448, AR 452, and AR 463) but became void following the Commission's failure to file the rules with Legislative Counsel within 10 days period required by ORS 183.715.

Rules in AR 440 authorize Commission Staff to represent the Commission in cases involving recovery of telecommunications assistive devices, or the value of the devices, and the cost to repair the devices, and cases on the termination of Oregon Telephone Assistance Program (OTAP) and Telecommunications Devices Access Program (TDAP) benefits.

Rules in AR 448 amend rules governing Telephone Assistance Programs to: (1) update Residential Service Protection Fund (RSPF) terminology; (2) clarify the billing and report periods for providers to submit RSPF revenue and reports; (3) adopt new language on penalties for failing to submit billing and reports for the RSPF surcharge remittance; (4) clarify rules governing Oregon Telecommunications Assistance Program (OTAP) and Link Up America services to specify when information can be released to the Department of Human Services and legal guardians; (5) require Link Up America applications to be filed with the Commission; (6) stipulate the length of time Telecommunications Device Assistance Program (TDAP) recipients may receive equipment for trial purposes; (7) clarify when a TDAP recipient may be liable for damages to their equipment; and (8) clarify procedures for determining Oregon residency.

Rules on AR 452 amend and/or reorganize the requirements for establishing credit for residential utility service, interruption of utility service, meter testing, payment arrangements for deposits, and make other housekeeping changes.

Rules in AR 463 clarify that public utilities and telecommunications providers may be penalized for the failure to file completed annual fee statements.

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

Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, P.O. Box 2148, Salem, OR 97308-2551
Telephone: (503) 378-4372

ADMINISTRATIVE RULES

Board of Examiners for Speech Pathology and Audiology Chapter 335

Adm. Order No.: SPA 3-2004(Temp)

Filed with Sec. of State: 10-13-2004

Certified to be Effective: 10-13-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 335-095-0020

Subject: Rule is amended to allow the Board to consider other qualifications of a supervisor who has supervised a speech-language pathology assistant applicant attempting to qualify for certification by grandparenting.

Rule applies to all applications received prior to January 1, 2005.

Rules Coordinator: Brenda Felber—(503) 731-4050

335-095-0020

Grandparenting

An applicant may meet the requirements for a certificate to practice as a speech-language pathology assistant if, prior to January 1, 2005, they submit proof of specific experience, or experience and preparation, as defined below.

(1) Applicants must meet either criterion (1)(a) or (1)(b) and (2) and (3).

(a) The equivalent of three school years of full-time experience (minimum thirty (30) hours per week, or more than 3,276 total hours) working with an Oregon licensed speech-language pathologist or a speech-language pathologist with a certificate of clinical competence (CCC's) from the American Speech and Hearing Association (ASHA) or other qualifications satisfactory to the Board or;

(b) The equivalent of two years of full time experience (minimum thirty (30) hours per week, or more than 2,184 total hours) working with an Oregon licensed speech-language pathologist or a speech-language pathologist with a certificate of clinical competence (CCC's) from the American Speech and Hearing Association (ASHA) or other qualifications satisfactory to the Board and the completion of nine (9) hours of speech-language pathology technical coursework;

(2) Applicants must complete the Competency Checklist (Form SLPA1, Revised 6/02);

(3) Applicants must submit the completed application, all supporting documentation, and the required non-refundable certificate fee prior to January 1, 2005.

(4) The temporary rule adopted October 8, 2004, applies to all applications received prior to January 1, 2005.

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

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360, 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 3-2004(Temp), f. & cert. ef. 10-13-04 thru 12-31-04

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Board of Optometry Chapter 852

Adm. Order No.: OPT 3-2004

Filed with Sec. of State: 9-24-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Amended: 852-080-0040

Subject: This rule clarifies the requirements for maintaining CPR certification for physicians who are certified to use, administer and prescribe the nontopical formulary, including procedures in the event of failure to maintain CPR certification.

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

852-080-0040

Certification to Use Pharmaceutical Agents

(1) DPA Certification - Prior to using diagnostic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon must: Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Diagnostic Pharmaceutical Agents"

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

(a) Pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD) or have passed, within five

years of application to the Board for topical TPA certification, a 100 hour TPA course approved by the Board,

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

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

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

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

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

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

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

(a) Meet all criteria for Topical TPA Certification in OAR 852-80-040 (2),

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

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

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

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

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

(A) The Board, as a courtesy, will send a reminder to licensee's last address of record, 60 days prior to their CPR expiration, indicating that current CPR certification is required to maintain their Nontopical TPA certification. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(B) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

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

(a) Meet all criteria for Topical TPA Certification in OAR 852-80-040 (3),

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

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

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

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

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

(A) The Board, as a courtesy, will send a reminder to licensee's last address of record, 60 days prior to their CPR expiration, indicating that current CPR certification is required to maintain their Nontopical TPA certifi-

ADMINISTRATIVE RULES

ation. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(B) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

Stat. Auth.: ORS 683 & ORS 182
Stats. Implemented: ORS 683.270 & ORS 182.466
Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 3-2003, f. 9-15-03, cert. ef. 10-1-03; OPT 3-2004, f. 9-24-04, cert. ef. 10-1-04

Board of Pharmacy
Chapter 855

Adm. Order No.: BP 5-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 855-001-0005

Subject: This rule amends the effective date of the new Model Rules of Procedure promulgated by the Attorney General.

Rules Coordinator: Karen MacLean—(503) 731-4032, ext. 223

855-001-0005

Model Rules of Procedure

The following Model Rules of Procedure promulgated by the Attorney General of the State of Oregon in effect on January 15, 2004, are adopted by the Board by reference. These rules apply to rule making and to the conduct of contested cases, respectively.

(1) OAR 137-001-0005; 137-001-0007; 137-001-0008; 137-001-0009; 137-001-0011; 137-001-0018; 137-001-0030; 137-001-0040; 137-001-0050; 137-001-0060; 137-001-0070; 137-001-0080 and 137-001-0085.

(2) OAR 137-003-0501 to 137-003-0700.

[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 Pharmacy.]

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.205

Hist.: IPB 25, f. 3-20-72, ef. 4-15-72; IPB 31, f. 11-20-73, ef. 12-11-73; IPB 42, f. & ef. 4-6-76; Renumbered from 855-010-0030; IPB 7-1978(Temp), f. & ef. 7-1-78; IPB 9-1978, f. & ef. 10-23-78; IPB 1-1980, f. & ef. 1-21-80; IPB 3-1981, f. & ef. 12-15-81; PB 2-1987, f. & ef. 3-30-87; PB 5-1988, f. & cert. ef. 10-17-88; PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1996, f. & cert. ef. 4-5-96; BP 1-2001, f. & cert. ef. 3-5-01; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 5-2004, f. & cert. ef. 10-1-04

Adm. Order No.: BP 6-2004(Temp)

Filed with Sec. of State: 10-15-2004

Certified to be Effective: 11-15-04 thru 5-13-05

Notice Publication Date:

Rules Amended: 855-050-0035

Subject: The temporary rule prohibits the retail sale of products which contain pseudoephedrine as the only active ingredient from anywhere other than a pharmacy, from the prescription area. Additionally, the rule requires pseudoephedrine products containing a combination of active ingredients to only be sold from a secured area in a pharmacy or non prescription drug outlet not accessible to customers without the assistance of an employee of the drug outlet. The rule excepts some products from this prohibition, including some liquid-filled capsules and some liquid products. All sales require the purchaser to produce a valid photo identification issued by a government or school before completing the sale.

Rules Coordinator: Karen MacLean—(503) 731-4032, ext. 223

855-050-0035

Over-the-Counter Drug Restrictions

(1) The following items shall be sold only by or under the direct supervision of a licensed pharmacist in registered pharmacies. They need not bear the store name and address, if in original container, need not be registered, but must be properly labeled. They shall not be available by self-service, but stored in or immediately adjacent to the prescription department. Items bearing prescription legend are excepted and may be sold only on prescription:

(a) Ammoniated Mercury ointment, 5 percent;

(b) Sulfa drugs — alone or in combination;

(c) Blue Ointment;

(2) The following items shall be sold only by a licensed pharmacist(s) in registered pharmacies, must bear the store name and address, must be properly labeled with adequate warning, must be registered in Official Poison Register, and the purchaser must provide acceptable identification, providing the preparations do not bear prescription legend, in which case they may be sold only on prescription:

(a) Arsenic and its preparations;

(b) Corrosive sublimate;

(c) Cyanides and preparations, including hydrocyanic acid;

(d) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more;

(e) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HN03) in a concentration of five percent or more;

(f) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H2S04) in a concentration of 10 percent or more.

(g) Solution of ammonia, U.S.P. 28 percent;

(h) Carbolic acid.

(3) Any product containing pseudoephedrine, the salts, isomers or salts of isomers of pseudoephedrine as its only active ingredient shall be sold or otherwise transferred only by a licensed pharmacy, only from the prescription area.

(a) Any pharmacy selling a pseudoephedrine product described in subsection (3) must require the purchaser to produce a valid photo identification issued by a government or a school before completing the sale.

(b) Subsections (3) and (3a) of this rule do not apply to the sale or transfer of a pseudoephedrine product:

(A) To a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these in the regular course of lawful business activities;

(B) That consists of liquid preparations or liquid filled capsules if pseudoephedrine is not the only active ingredient in the product;

(C) That consists of a glycerin matrix that inhibits its conversion into a controlled substance; or

(D) That has been determined by the Board to present no significant risk of use in the clandestine manufacture of methamphetamine.

(4) Any product containing any amount of pseudoephedrine, the salts, isomers or salts of isomers of pseudoephedrine in combination with another active ingredient may be sold in a pharmacy or a non-prescription drug outlet licensed by the Board and shall be kept in a location that is not accessible by drug outlet customers without assistance by an employee of the drug outlet.

(a) Any pharmacy or drug outlet selling a pseudoephedrine product described in subsection (4) must require the purchaser to produce a valid photo identification issued by a government or a school before completing the sale.

(b) Subsections (4) and (4a) of this rule do not apply to the sale or transfer of a pseudoephedrine product:

(A) To a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these in the regular course of lawful business activities;

(B) That consists of liquid preparations or liquid filled capsules if pseudoephedrine is not the only active ingredient in the product;

(C) That consists of a glycerin matrix that inhibits its conversion into a controlled substance; or

(D) That has been determined by the Board to present no significant risk of use in the clandestine manufacture of methamphetamine.

Stat. Auth.: ORS 689

Stats. Implemented:

Hist.: IPB 18, f. & ef. 10-14-64; IPB 2-1979(Temp), f. & ef. 10-3-79; IPB 2-1980, f. & ef. 4-3-80; PB 4-1988, f. & cert. ef. 7-5-88; BP 6-2004(Temp), f. 10-15-04 cert. ef. 11-1-04 thru 5-13-05

Board of Tax Practitioners
Chapter 800

Adm. Order No.: BTP 3-2004

Filed with Sec. of State: 10-11-2004

Certified to be Effective: 11-1-04

Notice Publication Date: 9-1-04

Rules Amended: 800-030-0025, 800-030-0050

Subject: The Oregon Administrative Rule revisions the Board of Tax Practitioners is proposing are for general "housekeeping" as well as

ADMINISTRATIVE RULES

to change language to better reflect the “norm” in industry standards and the practices of other state agencies.

The amendment(s) to OAR 800-030-0025 will provide the Board with greater flexibility when assessing civil penalties while considering the factors listed in subsection two (2) of OAR 800-030-0025.

The amendment(s) to OAR 800-030-0050 provide the Board guidance when processing requests and assessing charges for board materials. These amendments also assist tax practitioners and the general public by clarifying the services available from the Board for purchase as well as the Board’s intentions and practice in processing requests and assessing charges for board materials.

Rules Coordinator: Monica J. Leisten—(503) 378-4034

800-030-0025

Civil Penalties

(1) Civil Penalty Ranges. Pursuant to ORS 673.735, a civil penalty in the following range shall be assessed for each violation of the following statutes and rules: [Table not included. See ED. NOTE.]

(2) Civil Penalty Factors. Pursuant to ORS 673.735, the following factors shall be considered in determining the amount of civil penalty to assess for each violation above the minimum established under paragraph (1) of this rule for violations not specified in paragraph (1):

(a) This previous record of the person in complying, or failing to comply, with ORS 673.605 to 673.740, or any rule or order adopted there under.

(b) The harm to the consumer as a result of the violation.

(c) The person’s knowledge of the statute, rule, or order violated. An intentional, reckless, or willful violation warrants a high civil penalty per violation.

(d) The person’s lack of cooperation with the Board.

(e) The seriousness of the violations committed.

(3) Daily Civil Penalty. Pursuant to ORS 673.735, the Board may impose civil penalties of not more than \$5,000 for each violation of ORS 673.605 to 673.740, or any rule adopted there under. In the case of violation of ORS 673.615, 673.643, or 673.705(5), or OAR 800-010-025(7) or 800-010-0042, the Board may consider each business day a person continues in violation following Board notification to be a separate violation.

(4) Civil Penalty Adjustment. The civil penalty amount to be imposed under this rule shall be lowered to an appropriate amount when the Board determines that the total civil penalties to be assessed against a person are grossly disproportionate to the seriousness of the violations committed.

(5) Payment of Civil Penalties. Unless otherwise ordered by the Board, payment of any civil penalty imposed by the Board must be made within 60 days of the date a final order assessing the penalty is issued. If the civil penalty is not paid with that time, in addition to any other action allowed by law or Board rules, proceedings may be instituted to suspend, revoke or refuse to renew the tax consultant’s or tax preparer’s license of the person against whom the penalty is assessed.

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

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.735

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTSE 1-1998, f. & cert ef 9-3-98; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administrative correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04

800-030-0050

Obtaining Information and Purchasing Board-Provided Materials and Services

Materials and services available to the public and licensees through the Tax Board may be obtained or purchased as follows:

(1) In response to telephone requests, the board office may provide the tax practitioner name, license number, whether the license is active or expired, business location, business telephone number and whether a discipline record exists.

(2) A copy of the ORS 673 and OAR 800 may be provided upon request at no charge for the first request. A charge will be assessed for additional/multiple copies.

(3) All requests for any information other than that listed in subsection (1) and (2) of this rule must be submitted in writing to the board office.

(4) The Board may charge for copies of its records. The types of records that the Board can charge for copies includes, but is not limited to, such material as copies of certificate(s), license(s), registration(s), board meeting materials that are available to the public, general information, duplicating requests requiring multiple records search or the compiling and creation of official documents.

(5) Fees shall not exceed the Board’s actual costs for copying the record(s) requested including, but not limited to, the Board’s cost for locating, compiling, making available for inspection, obtaining legal or other professional advice related to the request, reviewing the records in order to delete exempt material, supervising a person’s inspection of original records, preparing the copy in paper, audio, or electronic format, certifying documents as true copies, and delivery of such record(s).

(6) All fees assessed must be paid before public records are made available. Estimates/fees for processing requests for public records may be given when requested. Person(s) making the public records request is responsible for the actual costs regardless of the estimate.

(7) Persons who want to obtain copies of the following records may learn the charge for them by contacting the board office:

(a) A list of name’s, addresses and places of business for all licensed tax practitioners currently on file with the Agency;

(b) A list of records, regardless of whether status is active, inactive, expired or archived;

(c) One or more photocopies of any Board document or portion thereof;

(d) Copies of board meeting minutes or committee meeting minutes/reports.

(8) Advertising services provided by the Board for a fee which can be obtained by contacting the board office:

(a) Advertising for help-wanted, sale of business and tax related services or products in the Board newsletter;

(b) Advertising of Tax Consultant or Tax Business on the Board Web site. Licensees and businesses must be in good standing with the Board to obtain and maintain this service.

(c) All advertising is subject to the review and approval of the Board.

(9) Charges for records may be waived or substantially reduced if the request is in the public’s interest, pursuant to ORS 192.440(4) & (5).

(10) The following fees apply to requests for the following types of public records, information, and services provided by the Board:

(a) Fee for a list of current licensees, which includes; license number, name, mailing address is \$25.

(b) Fee for a monthly subscription to a list of current licensees is \$120 per year. Lists provided between the 1st–10th of each month.

(c) Fee for duplicates of tape recordings of board meetings, disciplinary hearings, etc. that are available to the public are \$5 each, plus labor at an hourly rate of \$25, mailing costs and any Department of Justice costs that may need to be incurred.

(d) Fee for a one year subscription of board meeting minutes, available to the public, is \$24.

(e) Fees for advertising for help-wanted and tax related services or products in board newsletter:

(A) \$10 per 3 3/8 inch line or part line.

(B) \$350 for a full page ad.

(C) \$180 for a half page ad.

(D) \$100 for a quarter page ad.

(E) \$50 for a business card size ad.

(f) Fee for advertising of tax consultant or tax business on the boards

website:

(A) Name, address (physical & e-mail), and phone is \$5 per year per county.

(B) An additional \$5 per county annual fee may be charged for a link to a licensee’s tax preparation related website.

(g) Fee for multiple records search including duplicating of documents is labor at an hourly rate of \$30, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

(h) Fee for making general photocopies is labor at an hourly rate of \$25, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

Stat. Auth.: ORS 192, ORS 670 & ORS 673

Stats. Implemented: ORS 673.605-740 & 673.990

Hist.: TSE 5-1986, f. & ef. 10-6-86; TSE 6-1990, f. & cert. ef. 5-3-90; BTSE 1-1999, f. & cert. ef. 11-23-99; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04

Bureau of Labor and Industries Chapter 839

Adm. Order No.: BLI 11-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date:

Rules Amended: 839-016-0700

ADMINISTRATIVE RULES

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2004.

Rules Coordinator: Marcia Ohlemiller—(503) 731-4212

839-016-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279.359, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in a publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon dated July 1, 2004* are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2004, and the effective date of the applicable special wage determination:

(a) Marine Rates for Public Works Contracts in Oregon (effective January 18, 2002).

(b) Amendment to Oregon Determination 2004-02 (effective October 1, 2004).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated July 1, 2004, and special wage determination is available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.boli.state.or.us or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #32, Portland, Oregon 97232; (503) 731-4723

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

Stat. Auth.: ORS 279.359

Stat. Implemented: ORS 279.359

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04

Commission for the Blind Chapter 585

Adm. Order No.: CFTB 1-2004

Filed with Sec. of State: 10-8-2004

Certified to be Effective: 10-8-04

Notice Publication Date: 9-1-04

Rules Amended: 585-010-0020, 585-010-0310

Subject: 010-0020: Updates language, specifying congenital and organic causes of blindness

010-0310: Updates language, correcting a grammatical error in the Rule

Rules Coordinator: Linda Mock—(503) 731-3221, ext. 200

585-010-0020

Definition of Blindness for Vocational Rehabilitation

For purposes of vocational rehabilitation, a person shall be considered blind who has been diagnosed by a qualified physician to have a medical condition that is:

(1) Congenital or organic in nature; and

(2) Results in loss of sight to the extent that the person's central visual acuity does not exceed 20/200 in the better eye with best correction; or

(3) The person's central visual acuity exceeds 20/200 but is accompanied by limitation of the visual field to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. A person is not considered blind who has a functional disorder that does not have a known organic or structural cause.

Stat. Auth.: 346.150

Stat. Implemented: 346.150

Hist: 2BC 3, f. 4-27-60; CFTB 1-2004, f. & cert. ef. 10-8-04

585-010-0310

Business Policy

(1) What This Rule Does. This rule establishes the conditions under which financial support for funding business ventures will be provided by the Commission for the Blind.

(2) Statutory Authority. This rule is authorized by ORS 183.341 and ORS 346.150.

(3) Definitions. The following definitions apply to this rule:

(a) "Agency" means the Commission for the Blind;

(b) "IPE" means Individualized Employment Plan;

(c) "SBA" means the U. S. Small Business Administration;

(d) "SSA" means the U. S. Social Security Administration;

(e) "Counselor" means the client's assigned Vocational Rehabilitation Counselor who is a staff member of the Agency.

(4) Effective Date. This rule is effective upon publication for clients requesting assistance in becoming involved in a business venture including the agency-sponsored Business Enterprise Program.

(5) Basic Criteria:

(a) Intent to establish or run a business is to help an individual become financially independent. Agency involvement will be available to establish or run a business that can reasonably be expected to provide income to the client commensurate with the individual's strengths, abilities, capabilities and interests. The agency will not fund "hobby" businesses;

(b) If a client is involved with a business partnership or corporation, s/he must present written evidence of being the controlling partner or controlling shareholder of the corporation. Provision must be made in the Partnership Agreement for the client to settle all debts should the business not succeed. The agency will assume no financial liability for debts;

(c) Speculative or high-risk business ventures will not be considered. These include those which present a risk beyond the control of the business owner or those which are so subject to economic whims as to have an unpredictable future;

(d) The client must present documentary evidence to indicate that a reasonable effort has been made to obtain financial support from traditional sources such as banks to finance the business in part or in whole before requesting agency assistance. If the request was denied because of an insufficient business plan, the client must revise the plan and resubmit it to the funding source;

(e) Where partial support is obtained elsewhere, the client must submit copies of the relevant documentation to identify the extent of that financial assistance;

(f) Where denial of financial support outside this agency is based on the availability of personal or family resources, the client will be expected to utilize those resources before requesting agency funding support;

(g) The client may seek assistance in developing a business plan from outside sources such as the Small Business Administration or the Small Business Development Centers at community colleges.

(6) Comprehensive Assessment:

(a) Financial support will be provided to a client to become involved in a business only after the client has satisfied a comprehensive self-assessment. As a part of this, the agency is prepared to provide or arrange for an assessment by agency staff or competent business persons outside the agency to assess the business skills, background, and potential of the client seeking financial assistance. Portions of the assessment may be conducted by business persons such as a representative of the Oregon Small Business Development Center;

(b) The comprehensive self-assessment will cover the following:

(A) Evaluation of previous work experience, especially in the same or a similar industry to the proposed business or in other self-employment;

(B) Understanding of other career options and availability of jobs in the present and future job market;

(C) Communications skills necessary in the proposed business (written and verbal skills, along with capability to maintain and interpret financial records for the business);

(D) Factors such as willingness to make personal financial investment in the business, ability to make appropriate decisions, dependability, follow-through, organizational ability, adequate travel skills as demonstrated by interaction with agency personnel and former business colleagues;

(E) Alternative skills of blindness adequate to function in the business; Knowledge of technology, adaptive technology and software applications currently being used in the management of similar businesses;

(F) Demonstration of money/resource management skills consistent with running a viable small business.

(G) Background or training in financial management skills required for managing a self-owned business.

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(7) Comprehensive Business Plan:

(a) The client must prepare a well-researched and written comprehensive business plan such as that required by a bank or the Small Business Administration.

(b) The plan must include an itemized list of equipment or business-related expenses, which the client requests the agency to provide. The client must make a formal presentation of the plan to the agency. If the plan is accepted, the decisions made will lead to the development or amendment of the IPE. Any agency support must be a part of an agreed upon IPE.

(c) If the total request for financial assistance and technical assistance is less than \$3,500 the counselor may not require a formal business plan.

(d) Requests for an existing business, which exclusively involve adaptive equipment, may require documentation of the viability of the business rather than a formal business plan.

(8) Training. Where assessment results indicate that a client lacks some of the skills necessary for successful business management, the agency may make available and require training in those specific skill areas, especially the alternative skills dealing with blindness and financial management skills.

(9) Availability of Funds:

(a) Financial support for any service provided under an IPE is contingent upon the availability of funds to the agency;

(b) Financial assistance should not place a burden on agency resources to the extent that the agency would be unable to provide services to other clients.

(10) Financial Support:

(a) Client will provide timely financial statements and other documentation as requested by the Commission showing progress toward becoming self-sufficient.

(b) Agency support is designed to assist in the initial startup of a business; it is not to be considered an on-going resource, and in no case will losses be reimbursed by the agency;

(c) The client and Counselor will jointly determine the limits of agency financial involvement and time limits. Development of a comprehensive business plan is expected to adequately capitalize the business and limit the need for ongoing financial support by the agency.

(11) Equipment:

(a) Any equipment for the business must be purchased in accordance with agency policy; i.e., preauthorized, with appropriate bids, where necessary, obtained by the client;

(b) Under the criteria in ORS 346.210, ownership of equipment may be transferred to the client. The Counselor will determine appropriateness of this action. Regardless of ownership, the client is responsible for adequately maintaining the equipment;

(c) Any equipment whose title is not passed to the client will be returned to the agency when it is no longer required for the purpose for which it was procured.

Stat. Auth.: ORS 183 & ORS 346

Stats. Implemented: ORS 346.150

Hist: 2BC 1-1985, f. & ef. 1-31-85; CFTB 3-1999, f. & cert. ef. 7-8-99; CFTB 1-2004, f. & cert. ef. 10-8-04

Construction Contractors Board Chapter 812

Adm. Order No.: CCB 8-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 812-001-0023, 812-001-0024, 812-002-0250, 812-004-0195

Rules Amended: 812-001-0003, 812-001-0010, 812-002-0140, 812-002-0190, 812-002-0530, 812-004-0250, 812-004-0300, 812-004-0320, 812-004-0440, 812-004-0510, 812-004-0520, 812-004-0600, 812-009-0160, 812-010-0020, 812-010-0060, 812-010-0180, 812-010-0420, 812-010-0425, 812-010-0440, 812-010-0460, 812-010-0500

Subject: • OAR 812-001-0003 is amended to adopt the new revised Attorney General's Uniform and Model Rules of Procedure dated January 15, 2004.

• OAR 812-001-0010 is amended to update the cite reference.

• OAR 812-001-0023 and 812-001-0024 are adopted to implement ORS 87.007(2)(c) that requires CCB to prescribe by rule the amount, terms and conditions of a bond and a letter of credit to protect pur-

chasers of residential property from claims of lien that arise before the purchase but that may be perfected after the date of sale. OAR 812-001-0023 sets out the terms of the bond. OAR 812-001-0024 sets out the terms of the letter of credit. CCB held two public meetings regarding drafting rule language to implement ORS 87.007(2)(c).

• OAR 812-002-0140 is amended to comply with 2003 amendments to ORS 701.065.

• OAR 812-002-0190 is amended to clarify that this definition includes arbitration and adds the concept that a court must be of competent jurisdiction if this definition applies. This extends this concept to all rules using this definition.

• OAR 812-002-0250 is adopted to define direct contractual relationship.

• OAR 812-002-0530 is amended to correct the cite.

• OAR 812-004-0195 is adopted to allow the agency to request that a party submitting exhibits that cannot be easily reproduced on agency copiers to submit copies for the agency file, investigator, other side, and Office of Administrative Hearings.

• OAR 812-004-0250 is amended to conform to a change in the definition of "court, arbitrator or other entity" and to revise the description of the damages excluded under the phrase "administrative damages."

• OAR 812-004-0300 is amended to establish the filing date of a claim when the claimant submits a claim form earlier than 30 days after sending the pre-claim notice.

• OAR 812-004-0320 is amended to allow a claimant to satisfy the requirement of a pre-claim notice by proving respondent actually received the notice. This conforms this rule to Appellate Court cases that hold formal notice requirements will be waived if the purpose of a statute requiring notice to a person is satisfied by actual notice. See *Laro Lumber Co. Inc. v. Patrick*, See 52 Or. App. 1035, 1038-40 (1981) (Notice of suit to foreclose under a lien sent by regular instead of certified mail).

• OAR 812-004-0440 is amended to conform to current agency practice regarding mediation or arbitration in a contract.

• OAR 812-004-0510 is amended to conform to a change in the definition of "court, arbitrator or other entity."

• OAR 812-004-0520 is amended to conform to a change in the definition of "court, arbitrator or other entity" and provide that the claimant must deliver a certified copy of the final judgment to the CCB in order for the CCB to continue processing the claim. The change conforms this procedure to the procedure established in ORS 701.146 for large commercial claims.

• OAR 812-004-0600 is amended to add a new section (5) to provide for pro-rata payment from multiple bonds. Multiple bonds are usually carried by contractors who are required to have up to five times the normal bond amount under ORS 701.085(7) and OAR 812-003-0020(8). Adds a new section (6) to provide that payments on multiple claims shall be prorated based on the value of each claim.

• OAR 812-009-0160 is amended to add section (8) to allow ALJ to add claim-processing fee to order if claimant did not include the fee in his or her request for damages.

• OAR 812-010-0020 is amended to delete unnecessary language and to include applicable sections of the revised Uniform Arbitration Act related to the effective date of the Act. Rearranges order of sections in rule so temporary section can be deleted later without renumbering sections.

• OAR 812-010-0060 is amended to correct a cite.

• OAR 812-010-0180 is amended to clarify which statute controls representation by an attorney. This is necessary because both ORS Chapter 701 and the revised Uniform Arbitration Act cover this subject.

• OAR 812-010-0420 is amended to delete section (8). Payment from a bond is covered in OAR 812-004-0600, to correct internal cites, to add section (10) to allow arbitrator to add claim process fee to award if claimant did not include the fee in his or her request for

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damage, and to amend section (11) to adjust the amendments in law relating to arbitration awards made by 2003 legislature.

- OAR 812-010-0425 is amended to add section (7)(b) to expand what an arbitrator may reconsider on a petition to modify or correct an arbitration award to include reconsideration on the grounds that the arbitrator made an award on a claim not submitted to the arbitrator. Under state arbitration law, only a court may modify or correct an award on these grounds, unless the arbitration agreement provides otherwise.

- OAR 812-010-0440 is amended subsection (1)(c) to clarify agency procedure. This amendment emphasizes the need for respondent to initiate mediation or arbitration if respondent wants to maintain a contractual right to mediation or arbitration and is amended to remove excess language from section (3).

- OAR 812-010-0460 is amended to delete provisions that do not apply anymore under the Revised Uniform Arbitration Act enacted by the 2003 legislature and rewrites the rules to comply with that act.

- OAR 812-010-0500 is amended to correct a cite.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-001-0003

Uniform and Model Rules

The Construction Contractors Board adopts the Attorney General's Uniform and Model Rules of Procedure, OAR 137-001-0005 to 137-005-0070, revised January 15, 2004, with the following exceptions: OAR 137-003-0015, 137-005-0060, and 137-005-0070.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure are not printed in OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 701

Stats. Implemented: ORS 183.341 & ORS 279

Hist.: 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 1-1986, f. & ef. 5-30-86; BB 3-1988, f. 11-23-88, cert. ef. 12-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 3-1992(Temp), f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1995, f. 6-6-95 cert. ef. 6-15-95; CCB 2-1996, f. & cert. ef. 6-18-96; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 8-2004, f. & cert. ef. 10-1-04

812-001-0010

Response Time to Notices

(1) Time for response to a notice delivered pursuant to ORS 701.080 shall run from the date of mailing.

(2) OAR 137-003-0520(10) shall apply to the computation of time to respond to a notice under this rule, whether the notice is related to a contested case, arbitration or any other matter.

Stat. Auth.: ORS 183.415 & 701.080

Stats. Implemented: ORS 183.415 & 701.080

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 1-1978, f. & ef. 5-23-78; 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1983, f. & ef. 3-1-83; 1BB 3-1984, f. & ef. 5-11-84; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 1-1991, f. & cert. ef. 2-4-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2004, f. & cert. ef. 10-1-04

812-001-0023

Surety Bond Issued to Protect Purchasers of Residential Property from Lien Claims

A seller of residential property may provide a surety bond to satisfy the requirements of ORS 87.007(2)(c), provided that the bond complies with the following requirements.

(1) The bond must be issued by an insurer authorized or approved to do business in this state.

(2) The bond must be issued on or after the date of completion of the residential property. For purposes of this rule, the "date of completion" shall be determined in accordance with ORS 87.045.

(3) The bond must be issued in an amount of not less than 25 percent of the sales price of the residential property.

(4) The bond shall remain in effect:

(a) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or

(b) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:

(A) All liens are released and the releases recorded;

(B) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081;

(C) The surety files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or

(D) The surety pays the buyer the amount of the lien or the penal sum of the bond, whichever is less.

(5) The bond shall include the following terms and conditions: "NOW, THEREFORE, the conditions of the foregoing obligation are that if the principal shall not permit any construction lien to be placed upon the subject property; shall obtain the release of all construction liens upon the subject property and have the releases recorded; or shall file a bond or deposit in accordance with ORS 87.076 to 87.081; then this obligation shall be void; otherwise to remain in full force and effect." This bond is for the exclusive purpose of paying construction lien obligations encumbering (legal description or address of property) arising out of the sale by principal to (name(s) of purchaser(s)), in compliance with ORS 87.007(2)(c) and OAR 812-001-0023." The bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the penalty on this bond." The bond shall remain in effect for not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the property; or, if one or more liens are perfected against the property within 75 days from the date of completion, until (1) all liens are released and the releases recorded; (2) the principal files a bond or makes a deposit and the principal files the required affidavit under ORS 87.076 to 87.081; (3) the surety files a bond or makes a deposit and the surety files the required affidavit under ORS 87.076 to 87.081; or (4) the surety pays the liens."

Stat. Auth.: ORS 87.007, 670.310 & 701.235

Stats. Implemented: ORS 87.007

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04

812-001-0024

Letter of Credit Issued to Protect Purchasers of Residential Property from Lien Claims

(1) As used in this rule, "letter of credit" means an irrevocable standby letter of credit.

(2) A seller of residential property may provide a letter of credit to satisfy the requirements of ORS 87.007(2)(c), provided that the letter of credit complies with the following requirements.

(a) The letter of credit must be issued by or confirmed by an Oregon state-chartered bank or a federally chartered bank that has an Oregon branch.

(b) The letter of credit must be issued on or after the date of completion of the residential property. For purposes of this rule, the "date of completion" shall be determined in accordance with ORS 87.045.

(c) The letter of credit must be issued in an amount of not less than 25 percent of the sales price of the residential property.

(d) The beneficiary of the letter of credit must be the purchaser of the property.

(e) The letter of credit shall remain in effect:

(A) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or

(B) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:

(i) All liens are released and the releases recorded;

(ii) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or

(iii) The issuing or confirming bank pays the purchaser of the property the amount of the lien or the amount of the letter of credit, whichever is less in accordance with the terms of the letter of credit.

(f) The letter of credit can be called by the purchaser of the property immediately if:

(A) The seller of the property permits any construction lien to be placed upon the property;

(B) The seller of the property fails to obtain the release of all construction liens upon the property and have the releases recorded; or

(C) The seller of the property fails to file a bond or deposit and record the required affidavit under ORS 87.076 to 87.081.

(g) The credit shall be available by presentation of the purchaser of the residential property at sight on the issuing, or confirming, bank when accompanied by a notice of lien filing together with the claim of lien, as provided by ORS 87.039. The credit shall be available within three business days of presentation.

Stat. Auth.: ORS 87.007, 670.310 & 701.235

Stats. Implemented: ORS 87.007

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04

812-002-0140

Claims

"Claims" as used in ORS chapter 701 are:

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(1) "Construction lien claim" is a claim filed by an owner against a primary contractor to discharge or to recoup funds expended in discharging a construction lien.

(2) "Employee claim" is a claim for unpaid wages or benefits filed by an employee of a licensee or by the State of Oregon Bureau of Labor and Industries to collect unpaid wages from a licensee for work done by the employee relating to the licensee's operation as a contractor under ORS chapter 701.

(3) "Employee trust claim" is a claim for unpaid payments for employee benefits filed by a trustee with authority to manage and control a fund that receives the employee benefit payments.

(4) "Material claim" is a claim filed by a supplier who has not been paid for materials sold to a licensee to be used and installed in a specific structure located within the boundaries of the State of Oregon, or for the rental of equipment to a licensee to be used in the performance of the work of a contractor in connection with such a structure.

(5) "Owner claim" is a claim filed by an owner for breach of contract, or for negligent or improper work subject to ORS chapter 701, or a construction lien claim.

(6) "Primary contractor" claim is a claim by a primary contractor against a licensed subcontractor.

(7) "Subcontractor claim" is a claim filed by a subcontractor arising out of a contract between the subcontractor and a primary contractor for unpaid labor or materials furnished under the contract.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 87.058, 87.093 & 701

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2004, f. & cert. ef. 10-1-04

812-002-0190

Court, Arbitrator or Other Entity

"Court, arbitrator or other entity" means a court of competent jurisdiction or an arbitrator or other entity authorized by law or the parties to a dispute to effect a resolution to the dispute.

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

Stats. Implemented: ORS 183.415, ORS 813.460 & ORS 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 8-2004, f. & cert. ef. 10-1-04

812-002-0250

Direct Contractual Relationship

"Direct Contractual Relationship" as used in OAR 812-004-0320 has the following meanings:

(1) For an owner, construction lien or primary contractor claim, "direct contractual relationship" means a relationship created by a contract between claimant and respondent providing that respondent perform construction work in return for valuable consideration conveyed directly from claimant to respondent.

(2) For a material claim or subcontractor claim, "direct contractual relationship" means a relationship created by a contract between claimant and respondent providing that claimant provide labor, material or rental equipment in return for valuable consideration conveyed directly from respondent to claimant.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.235

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04

812-002-0530

Office of Administrative Hearings

"Office of Administrative Hearings" means the Office of Administrative Hearings established under ORS 183.605.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.145 & 701.147

Hist.: CCB 7-2003, f. & cert. ef. 8-8-03; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0195

Exhibits

(1) If a party to a claim submits a document that is larger than 8-1/2 inches by 14 inches or a photograph as an exhibit, the agency may require that the party submit four copies of the document or photo.

(2) The disposal of large exhibits is subject to OAR 812-001-0007.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 183.450 & 183.460

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0250

Award of Claim-Processing Fee, Attorney Fees, Interest and Other Costs

(1) Except as provided in section (2) of this rule and subject to OAR 812-010-0420, an order or arbitration award of the board awarding mone-

etary damages in a claim that are payable from respondent's bond required under ORS 701.085, including, but not limited to an order of the board arising from a judgment, award or decision by a court, arbitrator or other entity may not include an award for:

(a) Attorney fees;

(b) Court costs;

(c) Interest;

(d) Costs to pursue litigation or the claim;

(e) Service charges or fees; or

(f) Other damages not directly related to negligent or improper work under the contract or breach of the contract that is the basis of the claim.

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

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

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

(c) An order or arbitration award awarding monetary damages may include an award of a claim-processing fee paid by the claimant under OAR 812-004-0110.

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

(A) That was initiated by the respondent; or

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

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

Stat. Auth.: ORS 670.310, 701.145 & 701.235

Stats. Implemented: ORS 813.415, 183.460 & 701.145, 701.146

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 14-2003(Temp), f. 12-24-03, cert. ef. 1-1-04 thru 6-18-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0300

Filing Date of Claims

(1) Except as provided under section (3) of this rule, a claim submitted to the agency for processing under ORS 701.145 shall be deemed to have been filed when a Statement of Claim is received by the agency that:

(a) Meets the requirements of OAR 812-004-0340(1) and (2)(m); and

(b) Contains information sufficient to identify the claimant and respondent.

(2) The agency shall return a Statement of Claim that fails to meet the requirements of section (1) of this rule to the person who submitted the claim.

(3) If the agency returns a Statement of Claim to a person under section (2) of this rule because the person failed to provide evidence of a pre-claim notice under OAR 812-004-0340(2)(m), that person may resubmit the Statement of Claim with the required evidence. If the resubmitted Statement of Claim satisfies the agency that the person mailed the pre-claim notice at least 30 days before the agency received the original Statement of Claim, the claim shall be deemed to have been filed on the date the Statement of Claim was first received by the agency.

(4) A Statement of Claim that does not fully comply with the requirements of OAR 812-004-0340 is subject to 812-004-0350.

(5) The date of filing of a claim submitted to the agency for processing under ORS 701.146 is the date when claimant complies with ORS 701.146(3) and 701.147(9).

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.140 & 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0320

Jurisdictional Requirements

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

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

ADMINISTRATIVE RULES

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

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

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

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

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

(B) Claimant files a claim arising out of a contract to construct the work at issue and the claim is for unpaid labor or materials furnished under the contract.

(b) As used in section (4) of this rule, "properly licensed" means the claimant:

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

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

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

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

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

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

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

(c) A contract between claimant and respondent providing that claimant is a trustee authorized to receive employee benefit payments from respondent for employees of respondent; or

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

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

(7)(a) A claim will be dismissed if the claimant fails to establish that the claimant gave a pre-claim notice to the respondent as required under ORS 701.147.

(b) Except as provided in subsection (7)(c) of this rule, proof of this notice must be in the form required under OAR 812-004-0340.

(c) A claim may not be dismissed under section (7) of this rule if claimant submits written evidence that respondent actually received written notice of claimant's intent to file a claim at least 30 days before claimant filed the claim. Written evidence that respondent received the notice under section (7) of this rule includes a return receipt signed by respondent or a letter admitting receipt signed by respondent. Written evidence under section (7) of this rule does not include a statement signed by claimant.

(d) Nothing in section (7) of this rule prevents closing a claim under OAR 812-004-0350 if the claimant fails to provide documentation required under OAR 812-004-0340(2)(m).

(8)(a) Except as provided in subsection (8)(b) of this rule, the agency may refuse to process a claim or any portion of a claim that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a claim previously filed by the same claimant against the same respondent.

(b) The agency may process a claim that would otherwise be dismissed under subsection (8)(a) of this rule if the previously filed claim was:

(A) Withdrawn prior to the on-site meeting.

(B) Closed or dismissed with an explicit provision allowing the subsequent filing of a claim containing the same allegations as the closed or dismissed claim.

(c) Nothing in section (8) of this rule extends the time limitation for filing a claim under ORS 701.143.

(9) A claim by a person furnishing material, or renting or supplying equipment to a contractor may not include a claim for non-payment for

tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

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

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

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.065, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0440

Contracts with Arbitration Agreements

(1) If a claim is based on a contract that contains an agreement by the parties to mediate or arbitrate disputes arising out of the contract, the specific terms of the mediation or arbitration agreement supersede agency rules except as set forth in ORS 701.180. Unless the contract requires mediation or arbitration by the agency, the agency shall take the following action:

(a) The agency shall inform the claimant by written notice that complies with the requirements of OAR 812-004-0260 that the agency will close the claim unless the agency receives within 30 days of the date of the notice:

(A) A written waiver of mediation or arbitration under the contract signed by the claimant; or

(B) Evidence that the claimant or respondent initiated mediation or arbitration under the contract to resolve the same facts and issues raised in the claim.

(b) If the agency does not receive the written waiver or evidence of initiation of mediation or arbitration required under subsection (1)(a) of this rule from the claimant within 30 days of the date of the written notice described in subsection (1)(a) of this rule, the agency may close the claim under OAR 812-004-0260. The agency may not close the claim under section (1) of this rule if the respondent initiates mediation or arbitration under the contract prior to the expiration of the 30-day period for providing the waiver or evidence of initiation of mediation or arbitration.

(c) The agency shall inform the respondent by written notice that:

(A) Respondent must initiate mediation or arbitration under the contract within the time allowed under ORS 701.180 and that failure to initiate mediation or arbitration within this time period is a waiver of respondent's right to mediation or arbitration under the contract;

(B) The agency will continue to process the claim if respondent fails to initiate mediation or arbitration under the contract within the time allowed under ORS 701.180 or if respondent signs a written waiver of mediation or arbitration; and

(C) The agency will suspend processing of the claim if respondent or claimant initiates mediation or arbitration under the contract.

(d) If respondent fails to submit evidence to the agency that respondent initiated mediation or arbitration under the contract within the time allowed under ORS 701.180 and if claimant waives mediation or arbitration within the time allowed under subsection (1)(a) of this rule, the agency will continue to process the claim.

(e) If mediation or arbitration under the contract is properly commenced under section (1) of this rule, the agency shall suspend processing the claim until the mediation or arbitration is complete.

(2) If a claim is based on a contract that contains an agreement by the parties to mediate and arbitrate disputes arising out of the contract, the claim shall be processed as required under section (1) of this rule, except that the respondent will be deemed to have commenced mediation and arbitration within the time allowed under ORS 701.180 if:

(a) The respondent commences mediation within the time allowed under ORS 701.180; and

(b) If the claim is not resolved in mediation, the respondent submits to arbitration within 30 days of the completion of mediation, unless the parties to the claim mutually agree on a different schedule.

(3) Notwithstanding receipt of a notice of intent to file a claim under ORS 701.147 or any prior communication from the agency referencing a claim, for purposes of ORS 701.180, a respondent receives notice of a claim when the agency sends the respondent the notice described under subsection (1)(c) of this rule.

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(4) Nothing in this rule prevents the parties from mutually agreeing to have the agency arbitrate the dispute, rather than process the claim as a contested case.

Stat. Auth.: ORS 670.310, 701.145 & 701.235
Stats. Implemented: ORS 701.145 & 701.180
Hist.: 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0053; 1BB 3-1984, f. & ef. 5-11-84; 1BB 2-1985(Temp), f. & ef. 3-5-85; 1BB 3-1985, f. & ef. 4-25-85; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, ef. 1-1-88; Renumbered from 812-004-0015; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-004-0042; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 14-2003(Temp), f. 12-24-03, cert. ef. 1-1-04 thru 6-18-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0510

Court Judgments, Arbitration Awards and Other Entity Determinations

(1) As used in this rule, "a court judgment, arbitration award or other entity determination" means a judgment, award or determination by a court, arbitrator or other entity, as that phrase is defined in Division 2.

(2) A court judgment, arbitration award or other entity determination may constitute the basis for a claim if a statement of claim is filed under OAR 812-004-0300 and 812-004-0340 within the time limitation in ORS 701.143 and all or a portion of the judgment is within the jurisdiction of the board.

(3) Facts and issues within the jurisdiction of the Board previously determined by a court, arbitrator or other entity will not be relitigated unless a party shows there was not a full and fair opportunity to be heard in the prior proceeding. A party asserting a prior determination must specify the facts and issues involved and provide a copy of appropriate parts of the record of the prior proceeding.

(4) A claim based on a court judgment, arbitration award or other entity determination shall be processed under OAR 812-004-0520. An award of damages on the claim based on a court judgment, arbitration award or other entity determination may be limited under OAR 812-004-0250.

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

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 183.415, 183.470, 701.143, 701.145, & 701.146
Hist.: 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0054; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 3-1987, f. 12-30-87, ef. 1-1-88; Renumbered from 812-004-0020; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-004-0044; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. & cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; Renumbered from 812-004-0200; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0520

Processing of Claim Submitted to Court, Arbitrator or Other Entity

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

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

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

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

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

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

(a) The notice of suspension of processing shall include notification of the requirements contained in subsections (3)(b) and (d) of this rule and shall comply with the requirements of OAR 812-004-0260.

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

(c) The agency may, at any time, demand from the claimant a written report describing the current status of the action before the court, arbitrator or other entity. The demand shall be in writing and shall comply with the requirements of OAR 812-004-0260. The claimant shall deliver a written

response to the agency within 30 days of the date the demand letter is mailed by the agency.

(d) Within 30 days of the date of final action by the court, arbitrator or other entity, the claimant shall deliver to the agency a certified copy of the final judgment; a copy of the arbitration award or decision by another entity and a copy of the complaint or other pleadings on which the judgment, award or decision is based.

(e) If claimant complies with subsections (3)(b), (c) and (d) of this rule, the agency may resume processing the claim. If the claimant fails to comply with subsections (3)(b), (c) or (d) of this rule, the agency may close the claim under OAR 812-004-0260.

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

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

(b) If the claimant fails to submit the evidence as required under subsection (4)(a) of this rule, the agency may close the claim under OAR 812-004-0260.

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

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

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

(B) Submit evidence, including a copy of the complaint, to the agency that the claimant complied with paragraph (5)(a)(A) of this rule within 21 days of filing the complaint.

(b) If the claimant fails to submit the evidence as required under subsection (5)(a) of this rule, the agency may close the claim under OAR 812-004-0260.

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

(a) The agency shall accept a final judgment, award or decision of the court, arbitrator or other entity as the final determination of the merits of the claim.

(b) Based on the judgment, award or decision, the agency shall issue a proposed default order to pay damages or to dismiss or refer the claim to the Office of Administrative Hearings for arbitration or a contested case hearing. The following apply to proceedings under subsection (6)(a) of this rule:

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

(B) A proposed default order to pay damages issued under section (6) of this rule must include a statement of the portion of the final judgment, award or decision of the court, arbitrator or other entity that the agency finds is within the jurisdiction of the agency.

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

Stat. Auth.: ORS 670.310, 701.145 & 701.235
Stats. Implemented: ORS 183.415, 183.460 & 701.145
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 8-2004, f. & cert. ef. 10-1-04

812-004-0600

Payment from Surety Bonds

(1) The agency may notify the surety company of claims pending.

(2) The agency shall notify the surety company of claims ready for payment. This notice shall constitute notice that payment is due on the claim. Claims are ready for payment when all of the following have occurred:

(a) An arbitration award has been issued and is ready for payment under OAR 812-010-0440 after 30 days have elapsed to allow the respondent time to pay the award or file exceptions with the circuit court or a final order has been issued in a contested case and 30 days have elapsed to allow the respondent time to pay the order;

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(b) The agency has received no evidence that the respondent has complied with the award or final order;

(c) The agency has not granted a stay of enforcement of the final order pending judicial review by the Court of Appeals; and

(d) All other claims filed against the respondent within the same 90-day filing period under ORS 701.150 have either been resolved, been closed or have reached the same state of processing as the subject claim.

(3) Except as provided in section (5) of this rule, claims related to a job that are satisfied from a surety bond shall be paid as follows:

(a) If a surety bond was in effect when the work period began, payment shall be made from that surety bond.

(b) If no surety bond was in effect when the work period began, but a surety bond subsequently became effective during the work period of the contract, payment shall be made from the first surety bond to become effective after the beginning of the work period.

(c) A surety bond that is liable for a claim under subsection (3)(a) or (b) of this rule is liable for all claims related to the job and subsequent surety bonds have no liability for any claim related to the job.

(4) Except as provided in section (5) of this rule, if during a work period the amount of a surety bond is changed and a claim is filed relating to work performed during that work period, the claimant may recover from the surety bond up to the amount in effect at the time the contract was entered into.

(5) If respondent maintains multiple surety bonds, the following apply:

(a) If multiple surety bonds were in effect when the work period began, payment shall be made from all surety bonds in effect.

(b) If no surety bond was in effect when the work period began, but multiple surety bonds subsequently became effective during the work period of the contract and the effective dates of the surety bonds are substantially the same, payment shall be made from multiple surety bonds.

(c) Payment to satisfy a claim made under section (5) of this rule from a surety bond shall be in the same proportion that the penal sum of the surety bond bears to the total of the penal sums of the multiple surety bonds.

(6) If more than one claim must be paid from a surety bond under section (3) of this rule or multiple surety bonds under section (5) of this rule and the total amount due to be paid exceeds the total amount available from those surety bonds, payment on a claim shall be made in the same proportion that the amount due on that claim bears to the total due on all claims that must be paid.

(7) The full penal sum of a bond shall be available to pay claims under this rule, notwithstanding that the penal sum may exceed the bond amount required under OAR 812-003-0000(14).

(8) Unless the order provides otherwise, if an award or a final order provides that two or more respondents are jointly and severally liable for an amount due to a claimant and payment is due from the surety bonds of the respondents, payment shall be made in equal amounts from each bond subject to payment. If one or more of the bonds is or becomes exhausted, payment shall be made from the remaining bond or in equal amounts from the remaining bonds. If one of the respondents liable on the claim makes payment on the claim, that payment shall reduce the payments required from that respondent's bond under this section by an amount equal to the payment made by the respondent.

(9) A surety company may not condition payment of a claim on the execution of a release by claimant.

(10) Inactive status of the license of the respondent does not excuse payment by a surety company required under this rule.

Stat. Auth.: ORS 670.310, 701.150 & 701.235

Stats. Implemented: ORS 701.150

Hist.: 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0075; 1BB 6-1984(Temp), f. & ef. 9-18-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-004-0070; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-009-0160

Order Based on Hearing, Limitation on Order

(1) "Order" as used in sections (2) to (5) of this rule means a proposed and final order an administrative law judge is authorized to issue under section (6) of this rule or a final order an administrative law judge is authorized to issue under OAR 812-009-0200.

(2) Subject to sections (7) and (8) of this rule, if a claim is referred for a hearing to determine the amount, if any, that a respondent owes a

claimant, the administrative law judge may not issue an order in an amount greater than the total amount claimant alleges respondent owes claimant in:

(a) The most recent declaration of damages or amended declaration of damages filed under OAR 812-004-0540, 812-004-0550 or 812-009-0020; or

(b) The Statement of Claim filed under OAR 812-004-0340, if no declaration of damages was filed.

(3) If a claim is referred for a hearing to determine whether any portion of a judgment is within the jurisdiction of the agency, the administrative law judge may not issue an order requiring payment of an amount greater than the amount of the judgment.

(4) An order issued by an administrative law judge may direct specific performance on the part of the respondent, order the respondent to pay monetary damages to the claimant or dismiss the claim.

(5) An administrative law judge shall consider any amounts due to the respondent from the claimant under the terms of the contract and reduce the amount of an order by that amount.

(6) Except as provided in section (8) of this rule and OAR 812-009-0200, an administrative law judge shall issue a proposed and final order under OAR 137-003-0645(4) that shall automatically become a final order 21 days after the date of issue without further notice unless:

(a) A party files timely exceptions under OAR 812-009-0400;

(b) The agency requests that the administrative law judge hold further hearing or revise or amend the proposed order under OAR 137-033-0655(1);

(c) The agency issues an amended proposed order under OAR 137-003-0655(3); or

(d) The agency notifies the parties and the administrative law judge that the agency will issue the final order.

(7) If a limitation on damages under section (2) of this rule is based on a declaration of damages or Statement of Claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

(8) If a limitation of damages under section (2) of this rule is based on a declaration of damages or Statement of Claim that does not include a request for an award of the claim-processing fee allowed as damages under OAR 812-004-0250, the limitation on damages allowed under section (2) of this rule shall be increased by the amount of the claim-processing fee paid by the claimant under OAR 812-004-0110 and 812-004-0400.

(9) If a claim is referred for a hearing solely to determine if the Board has jurisdiction over the claim and the administrative law judge finds that the Board has jurisdiction over the claim, the administrative law judge shall issue an intermediate order that the Board resume processing the claim. The Board may accept the order to resume processing or issue a proposed and final order to dismiss the claim for lack of jurisdiction.

Stat. Auth.: ORS 670.310, 701.145 & 701.235

Stats. Implemented: ORS 183.415, 183.450, 183.460, 183.464, 183.470 & 701.145, 701.147
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2000(Temp), f. 7-21-00, cert. ef. 7-21-00 thru 1-15-01; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0020

Applicability of Rules; Application of ORS 36.600-36.740

(1) The rules in division 10 of this chapter apply when:

(a) A claim is referred to the Office of Administrative Hearings for arbitration under OAR 812-004-0590.

(b) The parties to the arbitration agree that the Construction Contractors Board may arbitrate a construction dispute and the agency accepts the dispute for arbitration under ORS 701.148.

(c) A timely claim is filed relative to work performed under a contract that contains an arbitration clause specifying that the Construction Contractors Board shall arbitrate disputes arising from the contract and the agency accepts the dispute for arbitration under ORS 701.148.

(d) Arbitration by the Construction Contractors Board is ordered by a court under ORS 36.600 or 36.625.

(2) Except as otherwise provided in the rules in division 10 of this chapter, an arbitration conducted under this division shall be governed by ORS 36.600 to 36.740, and sections 3 and 31, chapter 598, Oregon Laws 2003.

(3) The amendments to the rules in division 10 of this chapter that became effective on or after January 1, 2004 apply only to disputes referred to the Office of Administrative Hearings for an arbitration:

(a) On or after January 1, 2004; and

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(b) Before January 1, 2004, if each party to the dispute files a written consent to the application of these amendments to the arbitration.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 183, 701.139, 701.147 & 701.148
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0060

Appointment of Arbitrator

Assignment of arbitrator shall be as provided in ORS 701.147 and shall be subject to a request for a different administrative law judge to act as arbitrator under ORS 183.645 and OAR 471-060-0005.

Stat. Auth.: ORS 670.310, 701.235
Stats. Implemented: ORS 179.331, 183.645, 701.147 & 701.148
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0180

Representation by Counsel

Any party may be represented at an arbitration by an attorney. A corporation, partnership or other business entity may appear or be represented at an arbitration as provided under ORS 701.160.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 701.160
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0420

Time, Form, and Scope of Award; Limitation on Award

(1) An award shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, not later than thirty days from the date of the closing of the arbitration hearing.

(2) The agency may extend the time to issue an award under section (1) of this rule.

(3) The award shall be in writing and shall be signed or otherwise authenticated by the arbitrator.

(4) The award shall fully dispose of all issues presented to the arbitrator that are required to resolve the dispute. The arbitrator may summarily dismiss issues that raise no substantive factual or legal questions. The award shall contain sufficient rulings on issues and explanations of the reasoning of the arbitrator that a party may reasonably understand the basis of the decision and evaluate the award to determine if filing a petition to modify or correct the award would be appropriate.

(5) Subject to sections (10) and (11) of this rule, an arbitrator may not issue an award in an amount greater than the total amount a party alleges another party owes the party in:

(a) The most recent declaration of damages or amended declaration of damages filed by the party under OAR 812-004-0540, 812-004-0550 or 812-010-0110; or

(b) The Statement of Claim filed by the party under OAR 812-004-0340, if no declaration of damages was filed.

(6) When a claimant makes a claim against a respondent's surety bond required under ORS 701.085 and the parties to the claim have not agreed that the arbitration will bind claimant, only the claimant may assert damages. The arbitrator may award damages to claimant, but not to respondent. Respondent may assert amounts owed to it as an offset under section (7) of this rule.

(7) An arbitrator shall consider any amounts owed by a party claiming damages to another party under the terms of the contract at issue in the arbitration and reduce the amount of an award of damages to the party claiming the damages by the amount owed as an offset to the damages, regardless of whether the other party asserting the offset filed a declaration of damages as to the offset. If the party asserting the offset did not file a declaration of damages, the amount of the offset may not exceed the amount of the award.

(8)(a) Except as otherwise provided in this rule, the arbitrator may dismiss a claim or may grant to any party any remedy or relief, including equitable relief, that the arbitrator deems just and equitable, consistent with the parties' contract or their agreement to arbitrate.

(b) If the award contains an award of monetary amounts that are payable from respondent's bond required under ORS 701.085 and other amounts that are not payable from the bond under OAR 812-004-0250 or any other law, the award shall segregate these amounts.

(c) If the parties to the arbitration mutually consent to the arbitration in a written agreement and the contract at issue in the arbitration provides

for an award of attorney fees, court costs, other costs or interest, the arbitrator may include these fees, costs, or interest in the award, subject to subsection (8)(b) of this rule.

(9) If a limitation on damages under section (5) of this rule is based on a declaration of damages or Statement of Claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

(10) If a limitation of damages under section (5) of this rule is based on a declaration of damages or Statement of Claim that does not include a request for an award of the claim-processing fee allowed as damages under OAR 812-004-0250, the limitation on damages allowed under section (5) of this rule shall be increased by the amount of the claim-processing fee paid by the claimant under OAR 812-004-0110 and 812-004-0400.

(11) If the award requires the payment of money, including but not limited to payment of costs or attorney fees, the award must be comply with ORS 36.685(1).

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 701.145 & 701.148
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0425

Petition to Modify or Correct an Award

(1) A party to arbitration or the agency may petition the arbitrator to modify or correct an award. A party may file only one petition of an award under this rule.

(2) The petition to modify or correct an award must be in writing and substantially conform to the requirements of OAR 812-010-0430.

(3) To be considered, a petition to modify or correct an award must be received by the arbitrator no later than 21 days after the proposed award was mailed to the parties.

(4) If the arbitrator receives a timely petition to modify or correct an award, the arbitrator shall mail copies of the petition to the other parties to the arbitration and to the agency.

(5) A party may respond to the petition to modify or correct an award. To be considered, a response to the petition must be received by the arbitrator no later than 14 days after the arbitrator mailed a copy of the petition to the party.

(6) The arbitrator may waive or extend the time limitations in sections (3) and (5) of this rule on a showing of good cause by the person requesting the waiver or extension.

(7) The arbitrator may modify or correct an award:

(a) If there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(b) If the arbitrator made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision on the claims submitted;

(c) If the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted;

(d) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(e) To clarify the award.

(8) The arbitrator shall consider the petition and any response received from a non-petitioning party, except that the arbitrator may not consider evidence that was not introduced at the arbitration.

(9) The arbitrator shall issue an amended award that addresses each substantial issue raised in the petition. The amended award may summarily dismiss issues as appropriate. The arbitrator may:

(a) Affirm the original award and incorporate it in the amended award by reference; or

(b) Issue a new award.

(10) The agency may extend the time to issue an amended award.

(11) If the arbitrator who prepared the award is not available to consider a petition modify or correct the award, the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may assign another arbitrator to review the tapes and exhibits of the arbitration, the award, the petition and any response and render a decision on the petition. If the new arbitrator is unable to render a decision on the petition, the petition shall be deemed denied.

Stat. Auth.: ORS 183.310 - 183.500, 670.310, & 701.235
Stats. Implemented: ORS 183, 701.147 & 701.148
Hist.: CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

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812-010-0440

Payments from Licensee's Bond

If an award or amended award requires payment by a licensee and the licensee fails to pay the award, the award is payable from the surety bond to the extent payment is authorized under ORS 701.150. Payments from the bond shall be subject to the laws in ORS chapter 701 and rules in division 4 of this chapter, including but not limited to OAR 812-004-0600.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 701.143 & 701.150
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 9-2002(Temp), f. & cert. ef. 9-6-02 thru 3-5-03; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0460

Filing with Court, Exceptions

(1) A party may petition the court to confirm an award under ORS 36.700. The petitioning party shall serve the agency with a copy of a petition filed under this section.

(2) A party may petition the court to vacate, modify or correct an award under ORS 36.705 or 36.710. The petitioning party shall serve the agency with a copy of a petition filed under this section.

(3) Failure of a party to serve the agency under sections (2) and (3) of this rule constitutes a waiver of any objection to transmittal of the award to respondents surety company for payment under OAR 812-004-0600.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 701.145 & 701.148
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

812-010-0500

Immunity of Arbitrator

Immunity of arbitrator and the Office of Administrative Hearings are subject to ORS 36.660(1) to (3).

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 701.235
Stats. Implemented: ORS 701.148
Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04

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Department of Administrative Services, Office for Oregon Health Policy and Research Chapter 409

Adm. Order No.: OHP 1-2004

Filed with Sec. of State: 9-24-2004

Certified to be Effective: 9-24-04

Notice Publication Date: 9-1-04

Rules Adopted: 409-030-0000, 409-030-0005, 409-030-0010, 409-030-0020, 409-030-0030, 409-030-0040, 409-030-0050

Subject: These rules establish implementation and administration guidelines for the Oregon Prescription Drug Program.

Rules Coordinator: Kristin Keith—(503) 378-2349, ext. 325

409-030-0000

Definitions

(1) Administrator — The Administrator of the Oregon Prescription Drug Program.

(2) Department — The Department of Administrative Services acting by and through the Administrator of the Oregon Prescription Drug Program, the Office of Health Policy and Research, and any other office of the Department.

(3) Contractor(s) — One or more PBMs or TPAs authorized by the Oregon Prescription Drug Program (OPDP) to perform administrative duties of the program including but not limited to processing and paying claims, issuing I.D. cards and maintaining eligibility files.

(4) Enrollee — Any person who meets the eligibility requirements of the Oregon Prescription Drug Program, pays the applicable enrollment fee and is issued an enrollment card.

(5) OPDP — Oregon Prescription Drug Program

(6) Participating Groups — Agencies or institutions eligible to participate in the OPDP according to ORS 414.312(4)(a), (b), (d) or (e).

(7) PDL — Preferred Drug List

(8) Pharmacy Benefit Manager (PBM) — An entity that, in addition to being a prescription drug claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary

between the Administrator, prescription drug manufacturers and pharmacies.

(9) Pharmacy providers — Retail drug outlets that volunteer to participate in the Oregon Prescription Drug Program and that contract with the Department as a pharmacy provider.

(10) Prescription drugs — Drugs that must legally be prescribed by a practitioner authorized to prescribe drugs (legend drugs).

(11) Prescription drug claims processor — An entity that processes and pays prescription drug claims, transmits prescription drug prices and claims data between pharmacies and the OPDP and processes payments to pharmacies.

(12) Program Price — The reimbursement rates and prescription drug prices established by the Administrator of the Oregon Prescription Drug Program (OPDP), including the dispensing fee and all applicable manufacturers discounts and rebates.

(13) Rebates — Promotional or volume related refunds pre-arranged with manufacturers on certain prescription drugs used to reduce the cost to purchaser.

(14) Small entity participating groups — Agencies or institutions eligible to participate in the OPDP according to ORS 414.312(4)(a), (b), (d) or (e) who do not meet the minimum requirements outlined in ORS 731.036(6).

(15) Third Party Administrator (TPA) — An entity that, in addition to being a prescription drug claim processor, facilitates program management including processing and paying prescription drug claims; transmitting prescription drug prices and claims and enrollment data between pharmacies and the OPDP and its groups; maintaining enrollment and issuing I.D. cards; and processing payments to pharmacies. The TPA could be contracted through the Department or a PBM.

Stat. Auth.: ORS 414.320
Stats. Implemented: ORS 414.312 - 414.320
Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0005

General Administration

(1) The purpose of these rules is to implement the Oregon Prescription Drug Program authorized in ORS 414.312 to 414.318.

(2) The Administrator will administer and implement the OPDP.

(3) The Administrator may enter into contracts with one or more PBMs or TPAs to assist in the administration of the OPDP.

(4) The Administrator, or designee, may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers;

(b) Purchase prescription drugs on behalf of Enrollees and Participating Groups;

(c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine Program Prices and reimburse pharmacies for prescription drugs;

(e) Adopt and implement a Preferred Drug List for the program;

(f) Develop a system for allocating and distributing the operational costs of the program and any Rebates obtained to participants of the program; and

(g) Cooperate with any state or regional consortia in the bulk purchase of prescription drugs.

(3) The Administrator may adopt rules and develop forms to implement the OPDP.

(4) The Administrator is authorized to oversee the implementation of the OPDP, including review of Enrollee eligibility information, Participating Group information, and pharmacy provider compliance with the requirements of the program. The Administrator, or designee, may review such records or other information, including health information, necessary to perform such oversight responsibilities.

Stat. Auth.: ORS 414.320
Stats. Implemented: ORS 414.312 - 414.320
Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0010

Pharmacy Providers

(1) To be a pharmacy provider under the Oregon Prescription Drug Program (OPDP), the pharmacy must contract with the Department of Administrative Services (Department) and the pharmacy provider must be licensed with the State of Oregon Board of Pharmacy as a pharmacy in Oregon.

(2) Signing the pharmacy provider contract constitutes agreement by the pharmacy provider to comply with all applicable state and federal laws and regulations, including these rules, and the terms and conditions of the

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contract. The contract authorizes the pharmacy to serve Enrollees in OPDP and outlines program compliance requirements.

(3) A contract may be issued to a qualified pharmacy provider upon:

(i) Completion and signing of the contract by the pharmacy provider or a person authorized by the pharmacy provider to bind the organization to compliance with these rules;

(j) Verification of pharmacy licensing with the Oregon Board of Pharmacy. Loss of the appropriate licensure will result in immediate termination of the OPDP contract; and

(k) Approval of the contract by the Department of Administrative Services.

(4) To contract for the OPDP, the pharmacy provider must agree to:

(a) Accept the Program Price in effect on the date of the transaction as established by the Administrator including but not limited to dispensing fees which may be charged to the Enrollee;

(b) Keep sufficient documentation of transactions to resolve disagreements with the Enrollee about the amount charged for the prescription drugs;

(c) Reimburse the Enrollee or Participating Group directly for overcharges as determined by Program Price in effect on the date of the transaction.

(d) Cooperate with the Contractor designated by the Administrator for claims processing, reimbursement, and such other tasks as necessary to administer the OPDP, including providing access to records.

(e) Notify the Contractor of the Enrollee's other drug benefit coverage if the pharmacy provider is aware that an Enrollee has other drug benefit coverage. The Contractor then will take any steps necessary to determine if the Enrollee is still eligible for the OPDP.

(f) Agree to not charge Enrollees for costs incurred by the pharmacy provider for the electronic transmittal of the Program Price from the Department to the pharmacy.

(5) Advertising:

(a) A pharmacy provider may advertise that it participates in the OPDP;

(b) Advertising or marketing materials must be accurate and not misleading or confusing to Enrollees or to the public about participation in the OPDP or the savings offered by the pharmacy provider.

(c) The pharmacy provider must stop all advertisements pertaining to participation in the program if the Department suspends or terminates the contract.

(6) The Administrator may, at its discretion, suspend or remove a pharmacy provider from the OPDP if the pharmacy provider fails to comply with any material term or condition of its contract or these rules.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS414.312 – 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0020 Program Price

(1) The price for a prescription drug a pharmacy provider can charge an Enrollee under the Oregon Prescription Drug Program (OPDP), is the lesser of the following on the date of the transaction:

(a) The Program Price, or

(b) The pharmacy provider's usual and customary price, including dispensing fee.

(2) The Contractor will transmit the price of the prescription drugs to the pharmacy providers electronically.

(3) The OPDP is limited to prescription drugs prescribed in the name of and for the use by the Enrollee, except as otherwise provided in section (8) of this Rule.

(4) Prescription drug discount cards are not considered a benefit.

(5) The OPDP does not include prescriptions for over-the-counter drugs.

(6) Enrollees must use their Medicare benefits rather than their OPDP enrollment cards for any prescription drugs covered by Medicare. An example includes, but is not limited to immunosuppressive drug therapy for transplant patients if Medicare paid for the transplant.

(a) Prescription drug discount cards are not considered a benefit.

(b) If Enrollees have more than one discount charge it is their choice which to use.

(7) The Administrator may establish different reimbursement rates or prescription drug prices for pharmacies in rural areas to maintain statewide access to the OPDP.

(8) Certain Participating Groups may receive the Program Price based on other reimbursement arrangements with OPDP, where the prescription

drug is not being dispensed by a pharmacy provider to an individual Enrollee. Such reimbursement arrangements shall be approved and arranged by the PBM or TPA, as appropriate.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS414.312 – 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0030 Preferred Drug List (PDL)

(1) Participating Groups:

(a) The Office of Health Policy and Research shall develop and recommend to the Administrator a preferred drug list (PDL) that identifies preferred choices of prescription drugs within therapeutic classes for particular diseases and conditions, including generic alternatives, for use in the OPDP.

(b) Oregon Prescription Drug Program (OPDP) will develop a PDL that Participating Groups may choose to adopt for beneficiaries of their prescription drug benefit program. The PDL shall include the most effective prescription drugs at the lowest possible prices, taking into account negotiated price discounts and rebates available to the OPDP, while allocating and distributing the operational costs of the OPDP.

(c) If a Participating Group uses the PDL developed by the OPDP it will be used in conjunction with that Group's benefit plan(s) including all pharmacy management programs the Group has or does adopt.

(2) Individual Enrollees: The PDL will be made available to individuals enrolled in the OPDP.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS414.312 – 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0040 Participating Groups and Small Entity Participating Groups

(1) The Administrator may establish processes, terms and conditions describing how the entities identified in ORS 414.312(4) may participate in the OPDP as a Participating Group, including such entities otherwise subject to ORS 731.036(6).

(2) Participating Groups who wish to move their Prescription Drug benefit programs to the pool will self-insure.

(3) Small Entity Participating Groups who wish to move their Prescription Drug benefit programs to the pool may do so by participating in a larger risk sharing pool that is self insured.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS414.312 – 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

409-030-0050 Enrollment

(1) Participating Groups will enroll for participation through the PBM or TPA chosen by the OPDP to administer the Participating Group's enrollment and claims processing.

(a) Eligibility for beneficiaries of a Participating Group will be maintained electronically between the group and PBM or TPA.

(b) I.D. cards will be issued for Enrollees through the Participating Group at initial enrollment and renewals, and to individuals within the group between those times.

(2) Oregon residents beyond their 54th birthday with income that does not exceed applicable Federal Poverty Guidelines for each year of their eligibility may be enrolled by the PBM or TPA after completing and signing an enrollment form.

(a) By signing the enrollment form, individuals will self-attest to all eligibility requirements including the fact that they have not been covered under any private prescription drug benefit program for the previous six months prior to enrollment in the OPDP. I.D. cards will be issued to Enrollees by the PBM or TPA once their enrollment form has been completed and signed.

(b) Individual eligibility may be subject to periodic review and audit.

(3) Enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342 may be enrolled after completing and signing an enrollment form.

(4) The OPDP may charge a nominal fee to participate in the program.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS414.312 – 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04

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

Adm. Order No.: PEBB 3-2004

Filed with Sec. of State: 10-7-2004

Certified to be Effective: 10-7-04

Notice Publication Date: 9-1-04

Rules Adopted: 101-040-0055

Rules Amended: 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, 101-020-0040, 101-020-0045, 101-030-0005, 101-030-0010, 101-030-0015, 101-030-0020, 101-030-0022, 101-030-0025, 101-030-0030, 101-030-0040, 101-040-0005, 101-040-0010, 101-040-0015, 101-040-0020, 101-040-0025, 101-040-0030, 101-040-0035, 101-040-0040, 101-040-0045, 101-040-0050, 101-040-0080, 101-050-0005, 101-050-0010, 101-050-0015, 101-050-0020, 101-050-0025, 101-060-0010

Subject: This rulemaking adopts a new rule governing the procedures for implementation of additional benefit. This rulemaking also amends current rules 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 and addition of a new rule.

Rules Coordinator: Kristin Keith—(503) 378-2349, ext. 325

101-010-0005

Definitions

Unless the context indicates otherwise, as used in OAR Chapter 101, Divisions 1 through 60, the following definitions will apply:

(1) "Actively at Work" means:

(a) For medical and dental insurance coverage, an Eligible Employee at work, in Paid Regular status, scheduled for work during the month for which insurance coverage is requested, or using accrued leave on the effective date of coverage. In accordance with the Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191) enacted on August 21, 1996, an employee may not be denied eligibility for health insurance coverage based on health status or disability.

(b) For life, disability and accidental death and dismemberment insurance coverage, an Eligible Employee who is physically on-the-job and receiving pay for the first scheduled day of work and performing the material duties of the employee's own occupation at the employer's usual place of business. If an Eligible Employee is incapable of active work because of sickness, injury or pregnancy on the day before the scheduled effective date of his or her insurance coverage or increase in insurance coverage, the insurance coverage or increase in insurance coverage will not become effective until the day after the Eligible Employee completes one full day of active work.

(2) "Administrator" means the individual who administers the benefit plans on behalf of the Board.

(3) "Affidavit of Dependency" means a written document in which an Eligible Employee attests that the dependent meets the criteria set forth in OAR 101-010-0005(7) on the date the document is signed by the Eligible Employee.

(4) "Affidavit of Domestic Partnership" means a written document in which an Eligible Employee and another individual attest that they meet the criteria set forth in OAR 101-010-0005(8) on the date the document is signed by the Eligible Employee and the individual.

(5) "Board" means the Public Employees' Benefit Board established under ORS 243.061.

(6) "Decline Benefits" means the Eligible Employee waives his or her right to the employer contribution and enrollment in any of the insurance plans available through PEBB, including flexible spending accounts and all voluntary insurance plans.

(7) "Dependent Child" means any child who meets the criteria in (a) and at least one criterion in (b) of the following:

(a) The Dependent Child:

(A) Is unmarried and without a Domestic Partner; and

(i) Is under the age of 19 at the end of the calendar year; or

(ii) Is at least age 19 and under the age of 24 and continues to qualify as a student or meets the gross income test set forth and provided to taxpayers annually by the Internal Revenue Service; and;

(iii) Meets the criteria for a "Dependent Child" of an Eligible Employee, or the Eligible Employee's spouse or Domestic Partner under Section 152 of the Internal Revenue Code, whether or not the Eligible Employee, or the Eligible Employee's spouse or Domestic Partner actually claims or receives a dependent exemption from federal income tax for the child. Not all individuals listed in Section 152 of the Internal Revenue Code are eligible—Refer 101-010-0005(13).

(b) The Dependent Child:

(A) Is a biological or adopted child or a child placed for adoption with the Eligible Employee or the Eligible Employee's spouse or Domestic Partner;

(B) Is a child living in the home of the Eligible Employee, or the Eligible Employee's spouse or Domestic Partner, who is a legal ward by court decree; a dependent by Affidavit of Dependency; or is under the legal guardianship of the Eligible Employee, or the Eligible Employee's spouse or Domestic Partner;

(C) Is a child aged 24 or older who is incapable of self-sustaining employment by reason of mental retardation or physical handicap. The child must have been covered by the insurance plan at the time of his or her 24th birthday and the physical handicap or mental retardation must have existed prior to the child attaining age 24.

(c) The Dependent Child of a Domestic Partner is entitled to the same benefit plans under these rules as the Dependent Child of an Eligible Employee or his or her spouse.

(8) "Domestic Partner" means an individual who, together with an Eligible Employee, meets all the criteria listed below. The individual and Eligible Employee:

(a) Are both at least 18 years of age;

(b) Share a close personal relationship and are responsible for each other's welfare;

(c) Are each other's sole Domestic Partners;

(d) Are not married to anyone and have not had another Domestic Partner within the prior six months;

(e) Are not related by blood closer than would bar marriage in the State of Oregon;

(f) Have jointly shared the same regular and permanent residence for at least six 6 months; and

(g) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household.

(9) "Eligible Employee" means an employee of a PEBB participating organization, including state officials, in exempt, unclassified, classified and management service positions who are expected to work at least 90 days; and who work at least Half Time or are in a position classified as job share.

(10) "Family Member" means:

(a) A legally married spouse of an Eligible Employee; or

(b) A Dependent Child.

(11) "Group Medical Plan" for purposes of Opting Out of medical coverage means:

(a) Any medical plan offered or contributed to by an employer or a former employer;

(b) Medical coverage provided by a federal government or other governmental entity as an insurance plan sponsor, employer or former employer such as CHAMPUS or TriCare; and other group medical insurance coverage as approved by PEBB. Reference 101-020-0015 regarding Opting Out of medical insurance coverage.

(12) "Half Time" means an employee who works less than full-time but at least:

(a) Eighty (80) Paid Regular hours per month; or

(b) .5 FTE for OUS employees; or

(c) As defined by collective bargaining.

(13) "Ineligible Dependent" means a dependent who does not meet the definition of spouse, "Domestic Partner", or "Dependent Child" as set forth in 101-010-0005. The following individuals are not eligible:

(a) Children under age 19 who are other than biological or adopted children or a child placed for adoption with the Eligible Employee or the Eligible Employee's spouse or Domestic Partner and for whom the Eligible Employee, spouse, or Domestic Partner has no financial or medical responsibility.

(b) Children between the ages of 19 and 24 who are other than biological or adopted children, or a child placed for adoption with the Eligible

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Employee or the Eligible Employee's spouse or Domestic Partner and for whom the Eligible Employee, spouse, or Domestic Partner has no financial or medical responsibility or who do not meet the test for student status or gross income as set forth and provided to taxpayers annually by the Internal Revenue Service.

(c) Members of the Eligible Employee's household who may be eligible dependents under Internal Revenue Service guidelines but are not eligible for enrollment in the PEBB benefit plans such as the Eligible Employee's brother, sister, half-brother, half-sister, stepbrother, stepsister, parent, grandparent, great grandparent or other direct ancestor, stepfather, stepmother, brother or sister of the Eligible Employee's father or mother, a son or daughter of the Eligible Employee's brother or sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, foster parent, or foreign students. The exception is when the Eligible Employee has financial and medical responsibility for a child who is under the age of 19 and who qualifies under 101-010-0005(7).

(14) "Open Enrollment Period" means a period designated by the Board during which Eligible Employees are permitted to make changes to their insurance coverage and other benefit plan choices for the next Plan Year.

(15) "Opt Out" means to elect a form of benefit that may include a cash payment, to be determined by the Board, in lieu of receiving medical insurance coverage through PEBB.

(16) "Paid Regular" means paid work time that includes vacation, sick, personal leave and compensatory time.

(17) "PEBB" means the Public Employees' Benefit Board and the system of benefit plans administered under the PEBB program established under ORS 243.061.

(18) "PEBB Participating Organization" means participating state agency, officer, Board, commission, department or other entity of state government.

(19) "Plan Year" means a period of 12 consecutive months, currently designated by the Board as the calendar year of January through December.

(20) "Pre-existing Condition" means:

(a) For medical and dental insurance coverage, a physical or mental condition which was diagnosed or treated or for which medication was prescribed or taken in the six months before coverage begins. A condition is diagnosed whenever a physician tells a person that he or she has that condition or makes an entry to that effect in the person's medical records. This applies even if the physician is examining or treating the person for a different condition.

(b) For life and disability insurance coverage, a mental or physical condition for which an individual has consulted a physician, received medical treatment or services or taken prescribed drugs or medication six months prior to the effective date of insurance coverage.

(21) "Qualified Status Change" (QSC) means any of the following:

(a) Events that change the legal marital status of an Eligible Employee including marriage, death of spouse, divorce, legal separation, or annulment;

(b) Events that change the status of a Domestic Partner relationship, including a Domestic Partner initially meeting qualifying criteria, death of the Domestic Partner or termination of the Domestic Partnership;

(c) Events that change the number of an Eligible Employee's or Domestic Partner's Dependent Children including birth, adoption, placement for adoption or death of a Dependent Child;

(d) A termination or commencement of employment by the Eligible Employee, spouse, or Domestic Partner;

(e) A reduction or increase in hours of employment by the Eligible Employee, spouse, or Domestic Partner that affects eligibility, including a change between Half Time and full-time, or commencement or return from an unpaid leave of absence, or commencement or return from a federal Family and Medical Leave Act (FMLA) leave whether the FMLA leave is paid or unpaid or as otherwise permitted by the (FMLA) and the Oregon Family Leave Act (OFLA);

(f) An event that causes an Eligible Employee's or Domestic Partner's Dependent Child to satisfy or cease to satisfy the eligibility requirements for benefit plan coverage due to age, student status or any similar circumstance;

(g) An increase in Eligible Employee, spouse or Domestic Partner's out-of-pocket premium amount resulting from decisions of the employer or employee;

(h) An involuntary loss of other group medical or dental insurance coverage, HIPAA Special Enrollment because:

(A) An Eligible Employee's spouse or Domestic Partner exhausts COBRA through previous employer;

(B) An Eligible Employee's spouse, Domestic Partner or Dependent Child ceases to be eligible for other group medical or dental insurance coverage (i.e., coverage discontinued by employer); or

(C) Employer contributions toward other group medical or dental insurance coverage from the employer of an Eligible Employee's spouse or Domestic Partner cease;

(i) In compliance with a final judgment, decree or order resulting from a divorce, legal separation, annulment or change in custody proceedings including issuance of a National Medical Support Notice (NMSN) or Qualified Medical Child Support Order (QMCSO) requiring enrollment of a Dependent Child on the existing medical and dental insurance plan(s);

(j) An Eligible Employee or an Eligible Employee's spouse or Domestic Partner moves out of the insurance plan service area, and thus loses eligibility for that insurance plan;

(k) Gain or loss of Medicare or a Medicaid insurance plan;

(l) In the Dependent Care Flexible Spending Account (FSA), dependent care cost changes only if:

(A) The cost change is imposed by a dependent care provider who is not a relative of the employee as defined by IRC 152(a)(1)-(8); or

(B) A change of dependent care provider, relative or not, results in a change in the cost of day care; or

(C) A Dependent Child attains age 13; or

(D) A court makes a change in the legal custody agreement.

(m) A change or cessation of coverage, such as an overall reduction in coverage, addition or elimination of benefit plan options, or changes in the Dependent Child's, spouses' or Domestic Partner's insurance coverage through the employer.

(22) "Reinstatement" or "Reinstated" means to reactivate all previous medical, dental, life, and disability insurance policies, if available, on a guaranteed basis when returning from a leave or termination of employment.

(23) "State Contribution" means the amount of money paid by the State of Oregon on behalf of Eligible Employees for the purchase of the benefit plans provided through PEBB.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-015-0005

Eligible Individuals

(1) The following individuals may receive insurance coverage under the benefit plans provided through PEBB:

(a) An Eligible Employee.

(b) Family Members of an Eligible Employee, provided the Eligible Employee lists the Family Members on his or her application form(s).

(c) A Domestic Partner of an Eligible Employee and the Domestic Partner's Dependent Child(ren), provided the Eligible Employee lists the Domestic Partner and Dependent Child(ren) on his or her application form(s).

(d) Appointed and elected officials, beginning on the first day of the month following the date the official takes the oath of office. Eligibility for benefit plan coverage terminates on the last day of the month for which the last payroll deduction is taken for the official's office.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659.450-460, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0005

Medical and Dental Insurance Enrollment — New Employees

(1) A newly hired employee may receive medical and dental insurance coverage effective on the first of the month following the Eligible Employee's hire date and receipt of the completed applicable form(s) by the agency if the applicable premium payment is made and the Eligible Employee is Actively at Work on the effective date of insurance coverage.

(2) A newly hired employee hired on a full-time basis, or a newly hired employee hired on at least a Half-Time or job-share basis and who is expected to work at least 90 days, is eligible for benefits. Medical and dental insurance coverage will be effective on the first of the month following the Eligible Employee's hire date and receipt of the completed applicable form(s) by the agency regardless of the number of hours worked in the month in which the Eligible Employee began work.

(3) A newly hired employee must enroll within 60 days following his or her hire date. Coverage will be effective on the first of the month fol-

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lowing receipt of the completed applicable form(s) by the agency. An Eligible Employee who does not enroll within the initial 60 days following his or her hire date may apply for late enrollment by following late enrollment procedures set forth in OAR 101-020-0040.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0010

Medical and Dental Insurance Plan Enrollment — Current Employee

(1) An Eligible Employee must work at least Half Time during the immediately preceding month to be eligible for benefits for the next month.

(2) Except as provided in subsection (3) below, An Eligible Employee may make changes to his or her benefit plans only during the Open Enrollment Period. If an Eligible Employee wishes to change benefit plans or coverage, the Eligible Employee must submit the completed applicable form(s), as instructed, during the Open Enrollment Period.

(3) An Eligible Employee may make changes to his or her benefit plans outside of the Open Enrollment Period as a result of and consistent with a Qualified Status Change event. The change must be requested within 60 days of the Qualified Status Change event date. Insurance coverage will be effective the first of the month following either the date the agency received the completed applicable form(s) or the Qualified Status Change event date, whichever is later.

(4) It is the responsibility of the Eligible Employee to maintain a valid enrollment.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0015

Opting Out of Medical Insurance Coverage

(1) An Eligible Employee covered by another employer sponsored Group Medical Plan may Opt Out of medical insurance coverage within 60 days following the Eligible Employee's hire date, during the Open Enrollment Period or as a result of and consistent with a Qualified Status Change event that gains the Eligible Employee another Group Medical Plan. An Eligible Employee may receive cash in lieu of medical insurance coverage as determined by PEBB annually. Documentation of another Group Medical Plan as defined in OAR 101-010-0005(11) must be provided by the Eligible Employee at the time of the election to Opt Out.

(2) An Eligible Employee who elects to Opt Out of medical insurance coverage may enroll in a medical insurance plan during a subsequent Open Enrollment Period or within 60 days of a Qualified Status Change event.

(3) An Eligible Employee enrolled in Medicare, Veterans' Administration Benefit Programs or Student Health Insurance may not Opt Out in lieu of enrollment in medical insurance plan coverage.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602, & 743.707
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0018

Declining Benefits

(1) An Eligible Employee may Decline Benefits by waiving his or her right to the employer contribution and enrollment in any of the benefit plans available through PEBB including flexible spending accounts and all voluntary insurance plans. Requests to Decline Benefits must be in writing and submitted to the agency within the timelines governing all other benefit elections.

(2) An Eligible Employee enrolled in any of the benefit plans available through PEBB may Decline Benefits midyear when the Eligible Employee becomes enrolled in another Group Medical Plan. An Eligible Employee who experiences an increase in out-of-pocket premium share may Decline Benefits midyear when the increase in cost is the result of a Qualified Status Change event.

(3) An Eligible Employee who previously elected to Decline Benefits may enroll in benefit plans available through PEBB midyear as a result of and consistent with a Qualified Status Change event. An Eligible Employee who experiences a decrease in out-of-pocket premium share may enroll in benefit plans available through PEBB midyear when the decrease in cost is the result of a Qualified Status Change event.

(4) Benefit plan changes must be requested within 60 days of the Qualified Status Change event date. Benefit plan changes will be effective the first of the month following either the date the agency received the completed applicable form(s) or the Qualified Status Change event date, whichever is later.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 183.310-550, 192.660, 243.061 -302 & 292.051
Hist.: PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0020

Adding An Eligible Family Member or Domestic Partner to Medical and Dental Insurance Coverage

(1) Spouse. A new spouse or the new spouse's Dependent Child(ren) may be added to an Eligible Employee's medical or dental insurance coverage or both by submitting the completed applicable form(s) to the agency within 60 days of the marriage date. Medical or dental insurance coverage or both will be effective on the first of the month following either the date the agency receives the completed applicable form(s) or the Qualified Status Change event date, whichever is later.

(2) Domestic Partner. A new Domestic Partner or the new Domestic Partner's Dependent Child(ren) may be added to an Eligible Employee's medical or dental insurance coverage or both by submitting the completed applicable form(s) to the agency within 60 days of meeting the criteria for Domestic Partner enrollment and signing the Affidavit of Domestic Partnership. Medical or dental insurance coverage or both will be effective on the first of the month following the date the agency receives the completed applicable form(s) and Affidavit of Domestic Partnership.

(3) Newborn Dependent Child. An Eligible Employee's medical and dental insurance coverage will be automatically effective for a newborn Dependent Child from the moment of birth and for the first 31 days after date of birth. Medical or dental insurance coverage or both will be continuous beyond this 31 day period only if the newborn Dependent Child is added to the Eligible Employee's medical or dental insurance coverage or both within 60 days of the date of birth. The initial insurance premium payment is adjusted retroactive to the first of the month following the date of birth. Insurance premium adjustments must occur in whole month increments.

(4) Adding Dependent Child by Affidavit.

(a) A Dependent Child that is not adopted may be added to an Eligible Employee's medical or dental insurance coverage or both by submitting the completed applicable form(s) within 60 days of the date of birth or the date the child is placed in the physical custody of the Eligible Employee or his or her spouse or Domestic Partner and the Eligible Employee or his or her spouse or Domestic Partner has assumed the financial or medical responsibility for the support and care of the child. Affidavit of Dependency form(s) must be included with the enrollment.

(b) Medical or dental insurance coverage or both for a new Dependent Child will be effective on the first of the month following either the date the agency received the completed applicable form(s) and Affidavit of Dependency or the first of the month after eligibility is met, whichever is later.

(5) Adopted Child. An Eligible Employee's medical and dental insurance coverage will be automatically effective for a newly adopted child of the Eligible Employee for the first 31 days from the date of the adoption decree or date of placement for adoption pending the completion of adoption proceedings. Medical or dental insurance coverage or both will be continuous beyond this 31 day period only if the newly adopted child is added to the Eligible Employee's medical or dental insurance coverage or both within 60 days of the date of the adoption decree or date of placement for adoption. Documentation of the adoption agreement must be included with the enrollment.

(a) The initial premium payment is adjusted retroactive to the first of the month following the date of the adoption decree or date of placement for adoption. Premium adjustments must occur in whole month increments.

(b) Claims payment will not occur prior to the date of the adoption decree or date of placement for adoption.

(c) Medical or dental insurance coverage or both will not be retroactive to the date of birth for an adoptive newborn.

(6) Under HIPAA regulations a Family Member previously eligible for enrollment can be added to medical or dental insurance coverage or both at the same time a new Family Member is added. Medical or dental insurance coverage or both for an eligible individual, other than for the newborn or adopted child of the eligible individual, that is enrolled within 60 days of birth or adoption, will be effective the first of the month following the date the agency receives the completed applicable form(s).

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Reference: Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) enacted August 21, 1996.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0025

Deleting An Ineligible Individual from Benefit Plans

An Eligible Employee is responsible for deleting ineligible individuals from his or her insurance coverage by submitting the completed applicable form(s) to the agency. Ineligible individuals must be deleted from insurance coverage within 60 days of when the individual becomes ineligible. Insurance coverage terminates the last day of the last month of eligibility.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-243.302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0030

Moving Out of Insurance Plan's Service Area

An eligible individual who moves out of his or her medical or dental insurance plan's service area and who loses the availability of his or her medical or dental insurance coverage or both experiences a Qualified Status Change event and the Eligible Employee may change the enrollment election to another medical or dental insurance plan within 60 days of the date the eligible individual changes residence. The Eligible Employee must re-enroll in medical or dental insurance coverage in the new location within 60 days of the date of change of residence to assure claims are paid. Insurance coverage changes will be effective on the first of the month following receipt of the completed applicable form(s) by the agency.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0040

Late Enrollment

(1) Late enrollment occurs when a newly hired Eligible Employee fails to enroll in benefit plans within 60 days following the date of hire. Late enrollment also occurs when a current Eligible Employee fails to enroll a newly eligible individual within 60 days of gaining the eligibility or fails to enroll a new spouse who was most recently enrolled as a Domestic Partner within 60 days of gaining the spousal status. All late enrollment requests must be reviewed by PEBB.

(2) An Eligible Employee who does not submit the completed applicable form(s) during the enrollment time frame required under OAR 101-020-0005 and who submits late form(s) may obtain only medical, dental and basic life insurance coverage.

(3) PEBB will allow the Eligible Employee to enroll in a PEBB medical and dental insurance plan of choice. The effective date of insurance coverage will be the first of the month following the agency's receipt of the completed applicable form(s).

(4) An Eligible Employee failing to add a newly eligible individual within the time frames required under OAR 101-020-0020 must complete the applicable form(s) and appeal to PEBB for late enrollment. PEBB will ask the Eligible Employee to document, by explanation, with sufficient supporting data that the late enrollment was due to circumstances beyond the member's control or due to a reasonable misunderstanding of the enrollment requirements. If sufficient documentation is received to substantiate the late enrollment, PEBB will allow enrollment of the eligible individual effective the first of the month following the agency's receipt of the completed applicable form(s). If sufficient documentation is not received, PEBB will deny this request to enroll the newly eligible individual.

(5) An Eligible Employee failing to enroll a newborn child within 60 days of birth will be allowed to add the newborn child to his or her existing insurance coverage during the first twelve months of life, retroactive to the date of birth, following receipt of the completed applicable form(s) by the agency.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-020-0045

Eligibility Upon Return to Work for Medical, Dental, Life, and Disability Insurance Plans

(1) Loss of Eligible Employee Status. Leave Without Pay:

(a) An employee returning to work from leave without pay status is required to work at least Half Time in a month to be eligible for medical, dental, life, and disability insurance coverage for the following month. The previous active employment enrollment will be Reinstated in accordance with OAR 101-040-0010 for the Eligible Employee's medical, dental, life, and disability insurance plans unless the Eligible Employee submits the completed applicable form(s) requesting an enrollment change that is due to and consistent with a Qualified Status Change event.

(b) When an employee returns to work from leave without pay status due to an on-the-job injury or illness during the period in which the employer is responsible for premium payment under the Continuation of Benefits for Injured Workers (CBIW), ORS 659A.060-659A.069 provisions, and the employee does not meet eligibility for medical and dental insurance coverage, the employer will continue premium payments for medical and dental insurance coverage under the provisions of CBIW until the employee becomes eligible for the insurance coverage, or until the employer has met its obligations under ORS 659A.060-659A.069.

(c) An employee returning to work from leave without pay at the end of a qualified federal Family Medical Leave, qualified state Family Leave, and CBIW will be Reinstated in the medical, dental, life, and disability insurance plans that were in effect the day before the leave began. If the employee returns to work the first day immediately following the end of the leave, the medical, dental, life, and disability insurance coverage will be effective retroactive to the first day of the month in which the employee returned.

(d) An employee returning to work from leave due to active military duty will be Reinstated in the medical, dental, life, and disability insurance plans that were in effect the day before the leave began. If the employee returns to work the first day immediately following the end of the military leave, the medical, dental, life, and disability insurance coverage will be effective retroactive to the first day of the month in which the employee returned.

(2) Seasonal and Intermittent Employees.

(a) A first time seasonal and intermittent employee is eligible for benefits if he or she is expected to work at least 90 days and they work at least Half Time or are in a position classified as job share. Insurance coverage will be effective on the first of the month following the Eligible Employee's hire date and receipt of the completed applicable form(s) by the agency.

(b) A seasonal or intermittent employee is eligible for benefits when the employee has accumulated a total of 60 calendar days of employment (which need not be consecutive) within the current or immediately previous Plan Year. Insurance coverage is effective the first of the month following eligibility for benefits and receipt of the completed applicable form(s) by the agency.

(c) Once a seasonal employee qualifies for insurance coverage in the current or immediately preceding Plan Year, the Eligible Employee will be Reinstated for benefit plans under OAR 101-040-0010 with insurance coverage effective the first of the month following re-employment.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0005

Continuation of Group Medical and Dental Insurance Coverage under Provisions of Public Law 99-272, Title X, of the Consolidated Omnibus Budget Reconciliation Act (COBRA)

(1) An eligible individual who continues PEBB medical or dental insurance coverage or both under COBRA provisions has the same rights as are afforded active group members. PEBB will provide information to the eligible individual explaining their rights to insurance coverage and obligations under COBRA.

(2) An eligible individual continuing PEBB medical or dental insurance coverage under COBRA may change insurance plans or add an eligible Family Member or a Domestic Partner during a scheduled Open Enrollment Period.

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(3) Qualified beneficiaries experiencing a Qualified Status Change event may change insurance plans at the time of their COBRA election.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061-302, 183.310-550, 192.660, 292.051, 659A.060-069, 659A.150-186, 743.600-602 & 743.707
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0010

Continuation of Group Medical and Dental Insurance Coverage for Injured Workers (CBIW) ORS 659.450 - 659.460.

For an Eligible Employee losing PEBB medical and dental insurance coverage due to a work-related injury or illness, ORS 659.450-659.460 (CBIW) requires the state to continue to pay the state's portion of the premium for PEBB medical and dental insurance coverage in effect at the time of injury or illness for up to 12 months. Payment of the contribution for medical and dental insurance coverage is subject to provisions of the applicable law. A COBRA qualifying event occurs at the end of the CBIW continuation period.

Stat. Auth.: ORS 243.061 - 243.302 & 659.450 - 659.460
Stats. Implemented: ORS 243.061 - 243.302 & 659.450 - 659.460
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04, PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0015

Continuation of Group Medical and Dental Insurance Coverage for Employees Covered under the Federal Family Medical Leave Act (FMLA)

If the employee has not returned to work, a COBRA qualifying event occurs at the end of the month in which the qualified FMLA leave period ends. A COBRA qualifying event could also occur earlier than the end of the FMLA period if the employee informs the employer that they will not be returning to work.

Stat. Auth.: ORS 243.061 - 243.302 & 659.450 - 659.460
Stats. Implemented: ORS 243.061 - 243.302 & 659.450 - 659.460
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0020

Continuation of Group Medical and Dental Insurance Coverage for Employees Covered under the Oregon Family Leave Act (OFLA) — ORS 659.470 - 659.494

For an Eligible Employee who does not qualify for FMLA, but who does qualify for OFLA, and takes a qualified OFLA leave, the qualifying event date for COBRA continuation is the date the insurance coverage ends.

Stat. Auth.: ORS 243.061 - 243.302 & 659.450 - 659.460
Stats. Implemented: ORS 243.061 - 243.302 & 659.450 - 659.460
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0022

Continuation of Insurance Coverage for Employees on Active Military Leave

(1) An Eligible Employee who would otherwise lose PEBB medical and dental insurance coverage due to active military leave will receive paid continuation of the medical and dental insurance coverage. The continued insurance coverage will be the same insurance coverage as was in place the day before active duty began. The paid insurance coverage will continue for an Eligible Employee on active military duty for the length of the leave or up to, but not to exceed, 12 months.

(a) An Eligible Employee on military leave who is eligible for paid medical and dental insurance coverage may change insurance plans and add or delete eligible individuals during an Open Enrollment Period or as a result of and consistent with a Qualified Status Change event.

(b) An Eligible Employee covered under State of Oregon paid medical and dental insurance coverage due to active military leave that exhausts his or her 12 month paid insurance coverage period, and is still in active duty status, and has not returned to work, will experience a COBRA qualifying event and will be allowed all COBRA rights of continuation.

(2) For a period up to but not to exceed 12 months, an Eligible Employee enrolled in PEBB-sponsored Life, Accidental Death and Dismemberment (AD&D) and Long Term Care insurance coverage may elect to continue these benefit plans under active military leave by self-paying the premiums to his or her payroll department.

(3) An Eligible Employee enrolled in PEBB-sponsored Short-Term Disability or Long-Term Disability insurance coverage is not eligible to continue these benefit plans under active military leave.

(4) If an Eligible Employee on active military leave returns to work the first day immediately following the end of the military leave, retroactive Reinstatement will occur in accordance with 101-020-0045(d).

(5) An Eligible Employee on unpaid active military leave is not eligible to contribute to and is not covered by the Dependent Care FSA. Upon return to work and paid status, the Eligible Employee must re-enroll in Dependent Care FSA.

(6) An Eligible Employee contributing to a Healthcare FSA and possessing a positive balance at the time he or she commences unpaid active military leave will be afforded COBRA rights of continuation. Upon return to work and paid status, the Eligible Employee must re-enroll in the Healthcare FSA.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061 - 243.302
Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0025

Continuation of Group Medical and Dental Insurance Coverage for Divorced and Widowed Spouses or Domestic Partners Age 55 and Older (ORS 743.600 to 743.602)

(1) An Eligible Employee's widowed or divorced spouse who no longer qualifies for PEBB medical or dental insurance coverage or both due to death or divorce of the Eligible Employee, or a Domestic Partner who no longer qualifies for PEBB medical or dental insurance coverage or both due to death of the Domestic Partner or termination of the Domestic Partnership, and who is 55 years of age or older, and his or her Dependent Child(ren), may continue PEBB medical or dental insurance coverage or both beyond the COBRA period of 36 months after the date of non-qualification. Such eligible individuals may continue their PEBB medical or dental insurance coverage or both until the eligible individual is entitled to Medicare or is covered under another group medical insurance plan, or otherwise loses eligibility under these rules.

(2) An eligible individual who is entitled to Medicare or covered by another group medical insurance plan at the time PEBB medical or dental insurance coverage or both is lost is not eligible to continue PEBB medical or dental insurance coverage or both as described in the above subsection.

Stat. Auth.: ORS 243.061 - 243.302 & 659.450 - 659.460
Stats. Implemented: ORS 243.061 - 243.302 & 659.450 - 659.460
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0030

Continuation of Group Medical and Dental Insurance Coverage for Survivors of Active Employees

(1) After the death of an Eligible Employee who was actively employed on the date of death, the covered spouse, Domestic Partner, and Dependent Child(ren) may elect survivor medical or dental insurance coverage or both available through the PEBB retiree medical and dental insurance plans on a self-pay basis in lieu of COBRA continuation rights provided in this rule.

(2) A Dependent Child of the Eligible Employee or his or her Domestic Partner may maintain survivor medical or dental insurance coverage or both provided they meet all eligibility requirements and are not adopted by a new parent, applicable premium is paid, and the retiree medical and dental insurance plans continue to be offered by PEBB.

(3) The surviving spouse or Domestic Partner may maintain survivor medical or dental insurance coverage or both as long as they remain unmarried, or remain free of a Domestic Partnership, applicable premium is paid, and the retiree medical and dental insurance plans continue to be offered by PEBB.

(4) Application for survivor medical or dental insurance coverage or both must be submitted to the Retiree Plan Administrator within 60 days of the death of the insured Eligible Employee or at any time during, or immediately following, the COBRA continuation period. Medical and dental insurance coverage under the COBRA and survivor insurance coverage must be continuous. Monthly premium payments must be made to the Retiree or COBRA Plan Administrator.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061 - 243.302
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-030-0040

Life, Accidental Death and Dismemberment (AD&D), and Disability Insurance Coverage

An Eligible Employee covered through PEBB under Life, Accidental Death and Dismemberment (AD&D) and Disability insurance plans may

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continue under the insurance plans after an event that results in a loss of eligibility as described in this rule. Except for the portability and conversion options described in subsections (A) and (B) below, the applicable insurance premium payment must be paid by the Eligible Employee each month to the agency.

(1) Life Insurance Coverage

(a) Medical and Non-Medical Leaves. An Eligible Employee whose employment is interrupted by a leave without pay may continue optional life insurance coverage for up to 12 months from the date active employee life insurance coverage ends by paying the insurance premium payment in full each month to the agency.

(b) Involuntary Temporary Reduction of Hours. An Eligible Employee who, at the agency's request, loses benefit eligible status due to a temporary reduction in hours of not more than 90 days may continue optional life insurance coverage for up to three months from the date of the loss of eligible status by paying the insurance premium payment in full each month to the agency.

(c) Active Military Leave. An Eligible Employee whose employment is interrupted by active military duty may continue optional life insurance coverage for up to 12 months from the date active employee life insurance coverage ends by paying the insurance premium payment in full each month to the agency.

(d) Lay Off or Termination of Employment. An Eligible Employee may not continue any life insurance coverage through self-payment of insurance premium after lay off or termination of employment by a PEBB participating organization. Optional Employee, Spouse and Domestic Partner Life insurance plans may be purchased through the portability provision set forth below in subsection (A).

(e) Retirement or Termination of Employment Due to Disability. Optional Employee, Spouse, Domestic Partner, Basic and Dependent Life insurance coverage may be converted to individual whole life insurance policies through the life insurance carrier upon the retirement or termination of employment due to disability of the covered Eligible Employee.

(f) Retiree Life Insurance Coverage Option. An Eligible Employee whose life insurance coverage ends due to retirement has the option to purchase the Retiree Life Insurance Option without submitting evidence of insurability. Application to the insurance carrier must be submitted within 60 days of the date active employee life insurance coverage ends.

(g) Death of an Eligible Employee. Optional Spouse, Domestic Partner and Dependent Life insurance coverage may be converted to individual whole life insurance policies or continued via the portability option through the insurance carrier upon the death of the Eligible Employee through whom insurance coverage was obtained.

(A) Continuation of Life Insurance Coverage through Portability. An Eligible Employee may continue the amount of optional life insurance coverage in effect on the date employment ends at the group rate, plus billing fees. Portability is not available for Basic Life or Dependent Life insurance coverage. The policy remains a term life insurance policy. Application must be made directly to the insurance carrier within 60 days of the date active employee life insurance coverage ends.

(i) Lay off or Termination of Employment. Optional Employee, Spouse and Domestic Partner Life insurance coverage is eligible for continuation through portability if the Eligible Employee experiences a lay off or is terminated from employment.

(ii) Retirement or Disability. Optional life insurance coverage may not be continued through portability upon retirement, or if terminating employment due to disability.

(B) Continuation of Life Insurance Coverage through Conversion. An Eligible Employee who loses benefit eligible status due to any reason may convert any life insurance coverage to individual whole life insurance policies. Application must be made directly to the insurance carrier within 60 days of the date active employee life insurance coverage ends. An Eligible Employee may continue life insurance coverage under this subsection if the Eligible Employee loses benefit eligible status.

(2) Accidental Death & Dismemberment (AD&D) Insurance Coverage.

(a) Medical and Non-Medical Leaves. An Eligible Employee whose employment is interrupted by a leave without pay may continue AD&D insurance coverage for up to 12 months from the date active employee insurance coverage ends by paying the insurance premium payment in full each month to the agency.

(b) Involuntary Temporary Reduction of Hours. An Eligible Employee who, at the agency's request, loses benefit eligible status due to a temporary reduction in hours of not more than 90 days may continue AD&D insurance coverage for up to three months from the date of the loss

of eligible status by paying the insurance premium payment in full each month to the agency.

(c) Active Military Leave. An Eligible Employee whose employment is interrupted by active military duty may continue AD&D insurance coverage for up to 12 months from the date active employee AD&D insurance coverage ends by paying the insurance premium payment in full each month to the agency. A contract exclusion is applied for loss resulting from war or act of war.

(d) Lay Off, Termination of Employment or Retirement. An Eligible Employee who experiences a lay off, termination of employment, or retirement by a PEBB participating organization cannot continue AD&D insurance coverage through self-payment of insurance premium.

(A) Continuation of AD&D Insurance Coverage through Portability or Conversion. There are no portability or conversion rights for AD&D insurance coverage.

(3) Short-Term or Long-Term Disability Insurance Coverage.

(a) Medical Leave. An Eligible Employee whose employment is interrupted by a paid or unpaid medical leave is required to pay the insurance premium payments in full each month to the agency to maintain continuous Short-Term and Long-Term Disability insurance coverage if no disability claim is pending. When a disability claim is pending, an Eligible Employee is not required to pay the insurance premium payments in full each month to the agency during the Benefit Waiting Period. If a disability claim is denied insurance premium payments in full must be paid retroactively and continually to the agency at time of claim denial to maintain continuous Short-Term and Long-Term Disability insurance coverage.

(b) Non-Medical Leave. An Eligible Employee whose employment is interrupted by a non-medical leave without pay cannot continue Short or Long-Term Disability insurance coverage through self-payment of insurance premiums.

(c) Involuntary Temporary Reduction of Hours. An Eligible Employee who, at the agency's request, loses benefit eligible status due to a temporary reduction in hours of not more than 90 days may continue Short and Long-Term Disability insurance coverage for up to three months from the date of the loss of eligible status by paying the insurance premium payment in full each month to the agency.

(d) Active Military Leave. An Eligible Employee whose employment is interrupted by active military duty cannot continue Short or Long-Term Disability insurance coverage through self-payment of insurance premiums.

(e) Termination of Employment Due to Disability. An Eligible Employee terminating employment due to a disability is not required to self-pay disability insurance premiums during the Benefit Waiting Period defined in the applicable policy in order to receive the disability insurance benefit.

(f) Continuation of Short-Term and Long-Term Disability Insurance Coverage through Portability or Conversion. There are no portability or conversion rights for the Short-Term or Long-Term Disability insurance coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707, 743.752-760 & PL 104-191

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0005

Benefit Election Changes

(1) Benefit election changes may be made during the Open Enrollment Period by completing and submitting the applicable form(s).

(2) A benefit election change request due to a Qualified Status Change event must be submitted within 60 days of the Qualified Status Change event date. The requested benefit election change must be consistent with the type of Qualified Status Change event experienced. The benefit election change will be effective the first of the month following either the date the agency receives the completed applicable form(s) or the Qualified Status Change event date, whichever is later.

(3) An employee who has been rehired and returns to work 31 or more days after the date of termination of employment may make benefit election changes without experiencing a Qualified Status Change event. The requested benefit election change must be submitted within 60 days of the Eligible Employee's rehire date. The benefit election change will be effective the first of the month following receipt of the completed applicable form(s) by the agency.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

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Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0010

Returning to Benefit Eligible Status

An employee is eligible for benefits if he or she is expected to work at least 90 days and works at least Half Time or is in a position classified as job share.

(1) Following Leave Without Pay and Reduction of Hours. An employee who returns to benefit eligible status following a period of ineligibility due to a leave without pay or a reduction of hours must work at least Half Time in the month he or she returns to be eligible for benefits the following month.

(2) Following, Lay Off, Termination of Employment, Family and Medical Leave, Continuation of Benefits for Injured Workers, and Active Military Duty.

(a) An employee who returns to benefit eligible status following a period of ineligibility due to lay off, termination of employment, or immediately following active military duty is not required to work at least Half Time in the month he or she returns to be eligible for benefits the following month.

(b) An employee who returns to benefit eligible status immediately following Family and Medical Leave or Continuation of Benefits for Injured Workers is not required to work at least Half Time in the month he or she returns to be eligible for benefits the following month.

(c) A returning employee who is not enrolled in any insurance program at the time of lay off or termination of employment is treated as a newly hired employee.

(3) Returning Within 12 Months. A previously Eligible Employee who returns to Paid Regular status within 12 months of the insurance coverage end date because of any cause has automatic Reinstatement of the insurance coverage options he or she had in effect prior to losing benefit eligibility. Exceptions to Reinstatement are Dependent Care Flexible Spending Account, Healthcare Flexible Spending Account and Long Term Care Insurance coverage. An Eligible Employee may make benefit election changes when he or she returns to benefit eligible status. Benefit election changes can also be made as a result of and consistent with a separate and distinct Qualified Status Change event. An Eligible Employee returning to benefit eligible status before current insurance coverage ends must experience a separate and distinct Qualified Status Change event to be eligible to make benefit election changes. The requested benefit election change must be consistent with the Qualified Status Change event.

(a) Deductibles. An eligible individual receives credit only for deductibles incurred within the Plan Year when the Eligible Employee left employment or went on leave.

(b) Retroactive Effective Date. If an Eligible Employee returns to Paid Regular status on the day immediately following military leave or leave under FMLA or OFLA, insurance coverage options in effect previously are Reinstated retroactive to the first day of the month in which the Eligible Employee returns.

(c) Open Enrollment Rights. An Eligible Employee returning to Paid Regular status within 12 months of the insurance coverage end date but who was not on Paid Regular status during the Open Enrollment Period for the Plan Year during which he or she returns will also have open enrollment rights.

(d) Life Insurance Coverage. An Eligible Employee whose life insurance coverage ends may have the amount of life insurance coverage previously in effect Reinstated without a medical history statement as long as he or she returns to Paid Regular status within 12 months of the insurance coverage end date and did not convert the policy. If an Eligible Employee converted to an individual insurance policy, the Eligible Employee must provide a medical history statement to become insured again under the group policy.

(e) Disability. An Eligible Employee who returns to Paid Regular status within 12 months of the insurance coverage end date may Reinstatement the amount of disability insurance coverage previously in effect. Credit will be given for Pre-existing Conditions as if there had been no break in disability insurance coverage in the following instances:

(A) If the Eligible Employee becomes insured under the disability insurance plan again within 90 days.

(B) If the Eligible Employee's disability insurance coverage ended due to an occupational disability leave.

(C) If the Eligible Employee's disability insurance coverage ended because the Eligible Employee received Long-Term Disability insurance benefits under the group disability insurance policy.

(D) Returning Beyond 90 Days (Disability Insurance Coverage only). An Eligible Employee enrolled in a disability insurance plan prior to leaving Paid Regular status will not receive credit for time served toward the Pre-existing Condition limitation if the employee returns to benefit eligible status beyond 90 days. This provision applies consistently to an employee who returns to Paid Regular status within the same Plan Year or in a subsequent Plan Year. An exception is made for an employee returning to Paid Regular status from a medical leave of absence and who received insurance benefits under the Short or Long-Term Disability insurance plans during the leave.

(4) Returning Beyond 12 Months. No Reinstatement of previous benefit plan levels exists for an employee returning to active or Paid Regular status after 12 months from the insurance coverage end date. An employee will receive newly hired employee rights. The Eligible Employee may enroll in any benefit plan available by submitting the completed applicable form(s) within 60 days of returning to Paid Regular status. Guarantee issue options are available for the employee returning to Paid Regular status beyond 12 months from the insurance coverage end date, except as restricted in (b) (c) of this section.

(a) Medical and Dental Insurance Coverage. An employee who returns to Paid Regular status after 12 months from the insurance coverage end date due to a leave without pay, layoff or termination of employment will be treated as a newly hired employee and must enroll in medical and dental insurance coverage.

(b) Life Insurance Coverage. An employee who returns to benefit eligible status is not eligible for guarantee issue of life insurance coverage if previous life insurance coverage has been ported.

(c) Long Term Care Insurance. An employee who returns to benefit eligible status is not eligible for guarantee issue of long term care insurance coverage a second time because the Eligible Employee had an initial guarantee enrollment and the opportunity to continue, at the same premium rates, the long term care insurance coverage following the termination of previous employment.

(5) Pre-existing Conditions. An eligible individual will be given credit for continuous insurance coverage under a previous medical benefit plan if the previous medical benefit plan coverage was continuous to a date not more than 63 days prior to the effective date of the new PEBB medical benefit plan. Pre-existing Condition limitations do not apply to pregnancy or to a newborn or adopted child younger than age 18 who was covered within 60 days of becoming an eligible individual.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0015

Benefit Eligibility for An Employee Working in Two or More Positions or for Two or More Agencies

(1) An employee working in two or more positions or for two or more PEBB participating organizations must work at least Half Time in one of the positions to be eligible for any PEBB benefit plans. (exception for job share positions)

(2) An employee working in two or more positions or for two or more PEBB participating organizations will be eligible for the benefit plans equivalent to no more than one full-time equivalent (FTE) position.

(a) The benefit plans for which the employee will be eligible will be those of the position or PEBB participating organization where the employee meets the definition for benefit plan eligibility; provided, however;

(b) If the employee meets the definition for benefit plan eligibility with one or more positions or PEBB participating organizations, the Eligible Employee will elect benefit plans through the organization with the highest percentage of FTE; or

(c) If the employee has equal FTE percentages in one or more positions or PEBB participating organizations, the Eligible Employee will elect benefit plans through the organization with the earlier appointment date; or

(d) If the employee has equal FTE percentages and simultaneous dates of employment in two or more positions or with two or more PEBB participating organizations, the Eligible Employee may elect the organization through which the benefit plans will be provided.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659.450-460, 659.470-494, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

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101-040-0020

PEBB Participating Organization Transfer

(1) When an Eligible Employee transfers to another PEBB participating organization, the organization the Eligible Employee is leaving pays the state contribution for the month following the transfer regardless of hours worked in the month of transfer.

(2) The Eligible Employee must continue to meet eligibility requirements as defined in OAR 101-0010-0005(9) to be eligible for PEBB benefit plans beyond the month following the month of transfer.

(3) All PEBB benefit plan elections must be transferred from the losing PEBB participating organization to the gaining PEBB participating organization with no lapse in insurance coverage.

(4) An Eligible Employee transferring from Oregon University System (OUS) to Oregon State Payroll System (OSPS) or vice versa must complete new applicable benefit plan enrollment forms.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659.450-460, 659.470-494, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0025

Dental Insurance Coverage

(1) A spouse, Domestic Partner, and Dependent Child(ren) of an Eligible Employee or Domestic Partner will be subject to a 12 month waiting period for basic and major services and a 24 month waiting period for orthodontic services, required by the indemnity dental insurance plan policies, if:

(a) The spouse, Domestic Partner, or Dependent Child(ren) of an Eligible Employee or Domestic Partner was not enrolled in a dental insurance plan when first eligible and continuously covered on a PEBB dental insurance plan by the Eligible Employee.

(b) The spouse, Domestic Partner or Dependent Child(ren) of an Eligible Employee or Domestic Partner experienced a break of 12 months or more in PEBB dental insurance plan coverage and was subsequently re-enrolled during an Open Enrollment Period.

(c) During the 12 month waiting period, insurance coverage is limited to preventive services and relief of pain as provided in the dental insurance plan policy.

(2) An Eligible Employee who changes from one dental insurance plan to another during the Open Enrollment Period or due to a move out of the service area is not subject to the waiting period for dental services.

(3) An Eligible Employee whose spouse, Domestic Partner, Dependent Child(ren), or Dependent Child(ren) of the Domestic Partner experiences a Qualified Status Change event may enroll in a dental insurance plan within 60 days of and consistent with the Qualified Status Change event. An eligible individual enrolled due to a Qualified Status Change event is not subject to the waiting periods according to the dental insurance plan provisions.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0030

Life Insurance Coverage

(1) Enrollment.

(a) An Eligible Employee may enroll in optional life insurance plans within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following a Qualified Status Change event provided he or she shows satisfactory evidence of insurability to the insurance carrier, if applicable. Life insurance coverage is effective as follows and is subject to the Actively at Work requirements as defined in OAR 101-010-0005(1)(b):

(A) A Newly Hired Employee. For life insurance coverage not subject to medical underwriting, insurance coverage is effective the first of the month following the date the completed applicable form is received by the agency if submitted within 60 days of new hire date. For life insurance coverage subject to approval of the Medical History Statement, insurance coverage is effective the first of the month following the date of approval.

(B) Open Enrollment. All life insurance coverage amounts are subject to medical underwriting. For life insurance coverage subject to approval of the Medical History Statement, insurance coverage is effective the latter of either the first day of the month following the date of approval, or the first day of the new Plan Year.

(C) Qualified Status Change Event. For life insurance coverage not subject to medical underwriting, insurance coverage is effective the first of the month following the date the completed applicable form is received by the agency if submitted within 60 days following the Qualified Status Change event date. For life insurance coverage subject to approval of the Medical History Statement, insurance coverage is effective the first day of the month following the date of approval. The effective date cannot precede the Qualified Status Change event date.

(2) Termination of Coverage.

(a) Coverage for life insurance plans ends on the last day of the month for which a premium payment was made.

(A) Portability. An Eligible Employee terminating employment (for reasons other than disability or retirement) may continue their Optional Employee, Spouse and Domestic Partner Life insurance coverage at the same age-graded premium rates. Application must be made within 60 days following termination of insurance coverage. A billing fee will be charged by the insurance carrier for administration of this continuation option.

(B) Conversion Rights. An Eligible Employee terminating employment for any reason, or whose hours are reduced below 80 Paid Regular hours in the month, will have the right to apply for individual life insurance plans. Application must be made within 60 days following termination of insurance coverage. The individual non-group plan will be issued without regard to the health of any person for whom application is made.

(C) Rollover of Optional Employee Life Insurance. When two Eligible Employees are married or in a Domestic Partnership and both are state employees, the Eligible Employee or the spouse or Domestic Partner terminating employment for any reason can roll over his or her optional life insurance coverage to the other's life insurance coverage upon termination of employment. The Eligible Employee terminating employment must submit the completed applicable form to his or her agency within 60 days of the termination of employment date.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0035

Accidental Death and Dismemberment Insurance Coverage

(1) Enrollment.

(a) An Eligible Employee may enroll in the Accidental Death and Dismemberment (AD&D) insurance plan within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following a Qualified Status Change event. AD&D insurance coverage is effective as follows and is subject to the Actively at Work requirements as defined in OAR 101-010-0005(1)(b):

(A) A Newly Hired Employee and Qualified Status Change Event. For a newly hired employee, or enrollment changes due to a Qualified Status Change event, the effective date is the first of the month following receipt of the completed applicable form by the agency if submitted within 60 days of the new hire date or within 60 days following the Qualified Status Change event date.

(B) Open Enrollment. For open enrollment changes, the effective date is the first day of the new Plan Year.

(2) Termination of AD&D Insurance Coverage. Coverage for the AD&D insurance plan ends on the last of the month for which a premium payment was made.

(3) Continuation. There are no portability, conversion or rollover continuation options for Accidental Death and Dismemberment insurance coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0040

Long Term Disability Insurance Coverage

(1) Enrollment.

(a) An Eligible Employee may enroll in a Long-Term Disability insurance plan within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following a Qualified Status Change event. Eligible Employee claims will be subject to a Pre-existing Condition limitation and Actively at Work requirements as specified in the insurance plan documents. Long-Term Disability insurance coverage is effective as fol-

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lows and is subject to the Actively at Work requirements as defined in OAR 101-010-0005(1)(b):

(A) A Newly Hired Employee and Qualified Status Change Event. For a newly hired employee, or enrollment changes due to a Qualified Status Change event, the effective date is the first of the month following receipt of the completed applicable form by the agency if submitted within 60 days of the new hire date or within 60 days following the Qualified Status Change event date.

(B) Open Enrollment. For open enrollment changes, the effective date is the first of the new Plan Year. For purposes of disability insurance coverage, an employee is Actively at Work if he or she is on the job and receiving pay for the first scheduled day of work and performing the material duties of his or her own occupation at the employer's usual place of business. If an employee is incapable of active work because of sickness, injury or pregnancy on the day before the scheduled effective date of insurance coverage or increase in insurance coverage, the insurance coverage or increase will not become effective until the day after the employee completes one full day of active work.

(2) Termination of Long Term Disability Insurance Coverage.

Coverage for the Long Term Disability insurance plan ends on the last of the month for which a premium payment was made.

(3) Continuation. There are no portability, conversion or rollover continuation options for Long-Term Disability insurance coverage.

(4) Reinstatement Following a Compensable On-the-Job Injury or Illness. An Eligible Employee may be Reinstated in his or her Long-Term Disability insurance coverage following a compensable on-the-job injury or illness. Insurance coverage is effective the first of the month following the date the employee returns to work, provided the Eligible Employee is Actively at Work as specified in insurance plan documents on that effective day.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBS 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBS 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBS 1-2001, f. & cert. ef. 9-6-01; PEBS 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBS 1-2003, f. & cert. ef. 12-4-03; PEBS 1-2004, f. & cert. ef. 7-2-04; PEBS 3-2004, f. & cert. ef. 10-7-04

101-040-0045

Short Term Disability Insurance Coverage

(1) Enrollment.

(a) An Eligible Employee may enroll in the Short-Term Disability insurance plan within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following a Qualified Status Change event. Eligible Employee claims will be subject to a Pre-existing Condition limitation and Actively at Work requirements as specified in insurance plan documents. Insurance coverage is effective as follows and is subject to the Actively at Work requirements as defined in OAR 101-010-0005(1)(b):

(b) For a newly hired employee enrollment changes due to a Qualified Status Change event, the effective date is the first of the month following receipt of the completed applicable form by the agency if submitted within 60 days of the new hire date or within 60 days following the Qualified Status Change event date.

(c) For open enrollment changes, the effective date is the first day of the new Plan Year. For purposes of disability insurance coverage, an employee is Actively at Work if he or she is on the job and receiving pay for the first scheduled day of work and performing the material duties of his or her own occupation at the employer's usual place of business. If an employee is incapable of active work because of sickness, injury or pregnancy on the day before the scheduled effective date of insurance coverage or increase in insurance coverage, the insurance coverage or increase will not become effective until the day after the employee completes one full day of active work.

(2) Termination of Short Term Disability Insurance Coverage.

Coverage for the Short Term Disability insurance plan ends on the last of the month for which a premium payment was made.

(3) Continuation. There are no portability, conversion or rollover continuation options for Short-Term Disability insurance coverage.

(4) Reinstatement Following a Compensable On-the-Job Injury or Illness. An Eligible Employee may be Reinstated in his or her Short-Term Disability insurance coverage following a compensable on-the-job injury or illness. Insurance coverage is effective the first of the month following the date the Eligible Employee returns to work, provided the employee is Actively at Work as specified in insurance plan documents on that effective day.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBS 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBS 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBS 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBS 1-2003, f. & cert. ef. 12-4-03; PEBS 1-2004, f. & cert. ef. 7-2-04; PEBS 3-2004, f. & cert. ef. 10-7-04

101-040-0050

Dependent Care Flexible Spending Account Program

(1) Enrollment.

(a) An Eligible Employee is one whose expenses qualify for reimbursement under IRS provisions and who is:

(A) Single; or

(B) Married, and the expenses are necessary for both the Eligible Employee and the spouse to work; or,

(C) Married, and the spouse is either disabled, actively seeking employment, or a full-time student at least five months during the year.

(b) An Eligible Employee may enroll in the pretax Dependent Care Flexible Spending Account within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following and consistent with a Qualified Status Change event. Coverage is effective as follows:

(A) For a newly hired employee, enrollment in the pretax Dependent Care Flexible Spending Account will be effective the first of the month following receipt of the completed applicable form(s) by the agency.

(B) Enrollment elections made during the Open Enrollment Period, to be effective the first of the following new Plan Year, will cease at the end of that Plan Year if the Eligible Employee fails to renew the participation annually by completing applicable form(s) during subsequent Open Enrollment Periods.

(C) Change in Family Status. A midyear enrollment election to the pretax Dependent Care Flexible Spending Account must be consistent with the Qualified Status Change event. A midyear enrollment election request must be made within 60 days of the Qualified Status Change event date. A midyear enrollment election following a Qualified Status Change event will be effective the first of the month following receipt of the completed applicable form(s) by the agency.

(c) In no event may the maximum amount allocated by an Eligible Employee to any pretax Dependent Care Flexible Spending Account exceed \$5,000 per Plan Year, or \$2,500 per Plan Year for a married participant who files a separate income tax return.

(2) According to federal tax regulations, once an Eligible Employee commences enrollment in a pretax Dependent Care Flexible Spending Account, he or she cannot change the amount of money deposited in the account, or stop the payroll deductions until the next Open Enrollment Period unless they experience a Qualified Status Change event.

(3) An Eligible Employee terminating employment (including retiring) may request, by submission of the completed applicable form(s), to stop the pretax Dependent Care Flexible Spending Account deduction in coordination with his or her last work day and final paycheck. The request must be made before the payroll deduction is processed.

(4) An Eligible Employee whose employment is terminated and who is rehired within the same or a subsequent Plan Year cannot be automatically Reinstated in the pretax Dependent Care Flexible Spending Account.

(a) A rehired employee may enroll in the pretax Dependent Care Flexible Spending Account within 60 days of the new hire date. The enrollment will become effective the first of the month following receipt of the completed applicable form(s) by the employing agency.

(5) Use It or Lose It Rule. The pretax Dependent Care Flexible Spending Account is subject to the Internal Revenue Service "Use It or Lose It" rule. This means that an Eligible Employee must incur all expenses to be reimbursed by the account during the Plan Year (January 1–December 31). While an Eligible Employee may request expense reimbursement from the account through March 31 of the following year, all expenses must have been incurred during the previous Plan Year. Any funds remaining in the account will be forfeited.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBS 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBS 1-2001, f. & cert. ef. 9-6-01; PEBS 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBS 1-2003, f. & cert. ef. 12-4-03; PEBS 1-2004, f. & cert. ef. 7-2-04; PEBS 3-2004, f. & cert. ef. 10-7-04

101-040-0055

Healthcare Flexible Spending Account Program

(1) An Eligible Employee may enroll in the pretax Healthcare Flexible Spending Account within 60 days of the new hire date, during the Open Enrollment Period, or within 60 days following and consistent with a Qualified Status Change event.

(a) For a newly hired employee enrollment in the pretax Healthcare Flexible Spending Account will be effective the first of the month following receipt of the completed applicable form(s) by the agency.

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(b) Enrollment elections made during the Open Enrollment Period, to be effective the first of the following Plan Year, will cease at the end of that Plan Year if the Eligible Employee fails to renew the participation annually by completing applicable form(s) during subsequent Open Enrollment Periods.

(c) A midyear enrollment election to the pretax Healthcare Flexible Spending Account must be consistent with the Qualified Status Change event. A midyear enrollment election request must be made within 60 days of the Qualifying Status Change event date. A midyear enrollment election following a Qualified Status Change event will be effective the first of the month following receipt of the completed applicable form(s) by the agency or following the Qualified Status Change event date, whichever is later.

(d) Annual maximum contribution amounts and allowable covered expenses will be determined by the Board. Allowable covered expenses are expenses incurred by the Eligible Employee to treat or cure a medical condition.

(2) According to federal tax regulations, once an Eligible Employee commences enrollment in a pretax Healthcare Flexible Spending Account, he or she cannot change the amount of money deposited in the account, or stop the payroll deductions until the next Open Enrollment Period unless they experience a Qualified Status Change event.

(3) An Eligible Employee terminating employment (including retiring) may request, by submission of the completed applicable form(s), to stop the pretax Healthcare Flexible Spending Account deduction in coordination with his or her last work day and final paycheck. The request must be made before the payroll deduction is processed.

(a) Upon termination of employment, the Eligible Employee's right to participate in the Healthcare Flexible Spending Account terminates, except as specifically stated in the benefit plan or pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). An Eligible Employee entitled to COBRA continuation and one who has a positive balance in his or her Healthcare Flexible Spending Account shall be given the opportunity to continue, on a self-pay basis, the same benefit coverage the Eligible Employee had under the benefit plan the day before the Qualified Status Change event for the periods prescribed by COBRA. Contributions for such benefit plan coverage are paid on an after-tax basis for a period of up to but not beyond the current Plan Year.

(4) An Eligible Employee whose employment is terminated and who is rehired within the same or a subsequent Plan Year cannot be automatically Reinstated in the pretax Healthcare Flexible Spending Account.

(a) A rehired employee may enroll in the pretax Healthcare Flexible Spending Account within 60 days of the new hire date. The enrollment will become effective the first of the month following receipt of the completed applicable form(s) by the employing agency.

(5) The pretax Healthcare Flexible Spending Account is subject to the Internal Revenue Service "Use It or Lose It" rule. This means that an Eligible Employee must incur all expenses to be reimbursed by the account during his or her dates of participation in the Plan Year (January 1–December 31). While an Eligible Employee may request expense reimbursement from the account through March 31 of the following year, all expenses must have been incurred during the Eligible Employee's dates of participation in the previous Plan Year. Any funds remaining in the account will be forfeited.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 279

Hist.: PEBB 2-2004(Temp), f. 7-13-04, cert. ef. 8-31-04 thru 2-27-05; PEBB 3-2004, f. & cert. ef. 10-7-04

101-040-0080

Correcting Enrollment Errors

These provisions cover enrollment errors and omissions on forms that may occur when an Eligible Employee elects benefit plan coverage or elects to make benefit plan changes and when agencies process those elections. If an Eligible Employee becomes aware of an enrollment error at the time they receive their first paycheck stub following the election, the plan identification card, the confirmation statement, or denied claim, it is the Eligible Employee's responsibility to bring the error to PEBB's attention through the appeal process.

(1) Eligible Employee Errors in Completing or Submitting the Form(s).

(a) Enrollment errors and omissions on forms may occur when an Eligible Employee submits the PEBB enrollment form(s) as a newly hired employee, submits the update form(s) to make mid-year enrollment changes or fails to act as a result of and following a mid-year Qualified Status Change event.

(b) If an Eligible Employee recognizes they made an enrollment error and it is prior to payroll implementation, the error can be corrected by the agency representative. Implementation means the benefit plan election has been entered into the payroll system and mailed to the carriers.

(c) Within 60 Days of the New Hire Date or the Qualified Status Change Event Date.

(A) If the Eligible Employee recognizes they made an enrollment error after payroll implementation, but within 60 days of the new hire date or Qualified Status Change event date, the requested correction must be reviewed by PEBB through the appeal process.

(B) The Eligible Employee must clearly document that the enrollment does not accurately reflect their intent.

(C) If documentation is received confirming the enrollment error PEBB will correct the error retroactive to the first of the month following the date the enrollment or update form(s) containing the enrollment error was first received by the agency. If documentation confirming the enrollment error is not received within 60 days of the request date for correction, PEBB will deny the request to correct the error.

(d) After 60 Days of the New Hire Date or the Qualified Status Change Event Date.

(A) If the Eligible Employee recognizes they made an enrollment error after 60 days of the new hire date or the Qualified Status Change event date the requested correction must be reviewed by PEBB through the appeal process.

(B) The Eligible Employee must clearly document that the enrollment does not accurately reflect their intent.

(C) If documentation is received confirming the enrollment error PEBB will correct the error effective the first of the month following the receipt of the request to correct the enrollment error. Effective date exception made only for Short or Long-Term Disability insurance plans where a retroactive effective date would circumvent pre-existing condition clause. If documentation confirming the enrollment error is not received within 60 days of the request date for correction, PEBB will deny the request to correct the error.

(e) After 120 Days of the New Hire Date or the Qualified Status Change Event Date. If the Eligible Employee recognizes they made an enrollment error and it is beyond 120 days of the new hire date or the Qualified Status Change event date, the request to correct the error will be denied.

(2) Eligible Employee Errors during Open Enrollment. An Eligible Employee may miss the open enrollment timeline, make enrollment errors or realize omissions on enrollment forms during the annual Open Enrollment Period. PEBB authorizes agency representatives to accept the late completed applicable form(s) and process changes or corrections to enrollment elections without PEBB approval for 30 days following the Open Enrollment Period.

(a) Within 60 Days of the New Plan Year.

(A) If an Eligible Employee recognizes they made an open enrollment error or neglected to submit the applicable open enrollment form(s) within 60 days of the new Plan Year, the requested correction must be reviewed by PEBB through the appeal process.

(B) The Eligible Employee must clearly document that the enrollment does not accurately reflect their intent.

(C) If documentation is received confirming the open enrollment error PEBB will correct the error retroactive to the first of the month of the new Plan Year. If documentation confirming the open enrollment error is not received within 60 days of the request date for correction PEBB will deny the request to correct the error.

(b) After 60 Days of the New Plan Year.

(A) If an Eligible Employee recognizes they made an open enrollment error after 60 days of the new Plan Year, the requested correction must be reviewed by PEBB through the appeal process.

(B) The Eligible Employee must clearly document that the enrollment does not accurately reflect their intent.

(C) If documentation is received confirming the open enrollment error PEBB will correct the error effective the first of the month following the receipt of the request to correct the open enrollment error. If documentation confirming the open enrollment error is not received within 60 days of the request date for correction, PEBB will deny the request to correct the open enrollment error.

(c) After 120 Days of the New Plan Year. If the Eligible Employee recognizes they made an open enrollment error and it is beyond 120 days of the new Plan Year, the request to correct the error will be denied.

(3) Enrollment Errors That Occur When Processing the Applicable Form(s) for Open Enrollment, the New Plan Year, a Newly Hired Employee

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or a Qualified Status Change Event. Data entry errors or omissions may occur when benefit plan elections are processed in the state's payroll system, when an Eligible Employee receives wrong information, or when an Eligible Employee does not receive enrollment information or materials in a timely manner.

(a) Within 60 Days of Open Enrollment, the New Plan Year, a Newly Hired Employee or a Qualified Status Change Event. If it is determined that a data entry error or omission was made, incorrect information has been provided to the employee or transmission of information from the agency to the employee has been delayed and it is identified within the first 60 days of the agency's receipt of the completed applicable form(s), the agency will correct the error in the payroll system retroactive to the first of the month following the date the enrollment or update form(s) was first received by the agency or the first day of the new Plan Year for the open enrollment form(s) and the system will automatically reconcile any overcharges or undercharges. Where information or materials were not received by a newly hired employee within 30 days of the hire date benefit plan elections will be effective retroactive to the first of the month following the Eligible Employee's hire date.

(b) After 60 Days of Open Enrollment, the New Plan Year, a Newly Hired Employee or a Qualified Status Change Event.

(A) If it is determined that a data entry error or omission was made, incorrect information has been provided to the employee or transmission of information from the agency to the employee has been delayed, and it is identified after 60 days, PEBB must review any requested corrections through the appeal process.

(B) During PEBB's review, if the agency confirms and provides documentation of the entry error, or omission, PEBB will approve correction of the enrollment error retroactive to the first of the month following the date the form(s) was first received by the agency but no earlier than the first of the previous Plan Year, or in the case of open enrollment process, first of current Plan Year. Where information or materials were not received by a newly hired employee within 30 days of the hire date benefit plan elections will be effective retroactive to the first of the month following the Eligible Employee's hire date.

(4) Overcharges and Undercharges of Insurance Premium. When enrollment errors or omissions are corrected overcharges and undercharges of insurance premium payments may result. Data entry errors or omissions also create insurance premium discrepancies that need to be rectified. Data entry errors or omissions resulting in insurance premium discrepancies may be corrected as described in (3) Enrollment Errors That Occur When Processing the Applicable Form(s) for Open Enrollment, the New Plan Year, a Newly Hired Employee or a Qualified Status Change Event. Eligible Employee errors that result in insurance premium discrepancies will be reviewed as follows:

(a) Within 60 Days of the First Payroll Deduction Reflecting the Discrepancy. PEBB will review requests to correct the error with an insurance premium refund or charge for an Eligible Employee occurring upon approval. If notified within the 60 days, PEBB will approve the correction and insurance premium reconciliation retroactive to the date the discrepancy first occurred.

(b) More Than 60 Days of the First Payroll Deduction. If the Eligible Employee or the agency representative contacts PEBB more than 60 days from the first payroll deduction, PEBB will correct the error the first of the month following notification of the error. In instances where premiums were paid in error, no premium refund will occur. Exceptions to this rule include:

(A) Eligible Employee voluntary insurance premium deductions.

(B) Self-paid insurance premium amount.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-050-0005

Eligibility for Medical and Dental Insurance Coverage upon Retirement

A retiring Eligible Employee and his or her eligible individuals, not eligible for Medicare coverage, who are enrolled in PEBB medical or dental insurance plans or both for active employees immediately prior to retirement will be eligible to continue participation in any PEBB retiree medical or dental insurance plan when the Eligible Employee retires and enrolls in a PEBB retiree insurance plan within 60 days of loss of active employee insurance coverage and continues to self-pay the insurance premium.

(1) A retired Eligible Employee must be:

(a) Receiving a service or disability retirement allowance under the Public Employees Retirement System or be receiving a service or disability retirement allowance or pension under any other retirement or disability benefit plan or system offered by the State of Oregon for its officers and employees; or

(b) Eligible to receive a service retirement allowance under the Public Employees Retirement System and have reached earliest retirement age under ORS chapter 238; or

(c) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by the State of Oregon and have attained earliest retirement age under the plan or system.

(2) A retired Eligible Employee may elect insurance coverage as the retiree, and elect insurance coverage for a spouse, Domestic Partner, eligible Dependent Child(ren) and the Domestic Partner's eligible Dependent Child(ren) under the PEBB retiree medical or dental insurance plans or both within 60 days of the date active employee insurance coverage ends. A retired Eligible Employee may select medical only, dental only, or medical and dental insurance coverage. Application for enrollment in PEBB retiree medical or dental insurance plans must be made by submitting the completed applicable form(s) within 60 days of loss of PEBB active employee insurance coverage.

(3) Medical or dental insurance coverage under all PEBB sponsored medical and dental insurance plans must be continuous. Enrollment in the PEBB retiree medical or dental insurance plans or both must be continuous from active employee insurance coverage until Medicare eligibility. Insurance premium payments and adjustments must occur in whole month increments.

(4) A retired Eligible Employee electing to continue PEBB medical or dental insurance plans or both under COBRA continuation of active employee insurance coverage will have the right to transfer the insurance coverage in place to the PEBB retiree medical or dental insurance plans or both at any time during or immediately following the COBRA continuation period.

(5) A former Eligible Employee who elects COBRA continuation following separation from state service and subsequently becomes eligible as a retired Eligible Employee while on COBRA continuation will have the right to transfer the medical or dental insurance coverage in place to the PEBB retiree medical or dental insurance plans at any time during or immediately following the COBRA continuation period. Insurance coverage under the PEBB active, COBRA continuation, and retiree medical or dental insurance plans or both must be continuous.

(6) A retired Eligible Employee may continue PEBB medical or dental insurance plans as long as the premium is paid and PEBB continues to offer retiree insurance plan coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-050-0010

Enrollment Changes

(1) Plan Change Period. PEBB may, from time to time, conduct a plan change period for PEBB retiree insurance plan participants. An eligible individual enrolled in the PEBB retiree medical and dental insurance plans does not have the option to change plans during the annual Open Enrollment Period offered to active Eligible Employees.

(2) Adding a Family Member or a Domestic Partner to the Retiree Medical and Dental Insurance Plan.

(a) Spouse. A new spouse or the new spouses' Dependent Child(ren) may be added to a retiree's medical and dental insurance plans by submitting the completed applicable form(s) to the Retiree Plan Administrator within 60 days of the marriage date. Medical and dental insurance coverage will be effective on the first of the month following either the date the Retiree Plan Administrator receives the completed applicable form(s) or the Qualified Status Change event date, whichever is later.

(b) Domestic Partner. A new Domestic Partner or the new Domestic Partner's Dependent Child(ren) may be added to a retiree's medical and dental insurance plans by submitting the completed applicable form(s) to the Retiree Plan Administrator within 60 days of meeting the criteria for Domestic Partner enrollment and signing the Affidavit of Domestic Partnership. Medical and dental insurance coverage will be effective on the first of the month following the date the Retiree Plan Administrator receives the completed applicable form(s) and Affidavit of Domestic Partnership.

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(c) Newborn Dependent Child. A retiree's medical and dental insurance coverage will be automatically effective for a newborn Dependent Child from the moment of birth and for the first 31 days after date of birth. Medical and dental insurance coverage will be continuous beyond this 31 day period only if the newborn Dependent Child is added to the retiree's medical and dental insurance plans within 60 days of the date of birth. The initial insurance premium payment is adjusted retroactive to the first of the month following the date of birth. Insurance premium adjustments must occur in whole month increments.

(d) Adding Dependent Child By Affidavit. A Dependent Child that is not adopted may be added to a retiree's medical and dental insurance plans by submitting the completed applicable form(s) within 60 days of the date of birth or the date the child is placed in the physical custody of the retiree or his or her spouse or Domestic Partner and the retiree or his or her spouse or Domestic Partner has assumed the financial or medical responsibility for the support and care of the child. Affidavit of Dependency form(s) must be included with the enrollment.

(A) Medical and dental insurance coverage for a new Dependent Child will be effective on the first of the month following either the date the Retiree Plan Administrator received the completed applicable form(s) and Affidavit of Dependency or the first of the month after eligibility is met, whichever is later.

(e) Adding Dependent Child by Adoption or Placement for Adoption. A retiree's medical and dental insurance coverage will be automatically effective for a newly adopted child for the first 31 days from the date of the adoption decree or date of placement for adoption pending the completion of adoption proceedings. Medical and dental insurance coverage will be continuous beyond this 31 day period only if the newly adopted child is added to the retiree's medical and dental insurance plans within 60 days of the date of the adoption decree or date of placement for adoption. Documentation of the adoption agreement must be included with the enrollment.

(A) The initial insurance premium payment is adjusted retroactive to the first of the month following the date of the adoption decree or date of placement for adoption. Insurance premium adjustments must occur in whole month increments.

(B) Insurance claims payment will not occur prior to the date of the adoption decree or date of placement for adoption.

(3) Deleting Ineligible Individuals. The retiree is responsible for deleting ineligible individuals from his or her medical and dental insurance plans by submitting the completed applicable form(s) to the Retiree Plan Administrator and maintaining a valid enrollment. Ineligible individuals must be deleted from medical and dental insurance coverage in writing within 60 days of when the individual becomes ineligible. Medical and dental insurance coverage terminates the last day of the last month of eligibility.

(4) Moving Out of an Insurance Plan's Service Area. Eligible individuals who move out of their medical and dental insurance plan's service area and lose the availability of their medical and dental insurance plan experience a Qualified Status Change event and may change to another medical and dental insurance plan within 60 days of the date the eligible individuals change residence. The retiree must re-enroll in medical and dental insurance coverage in the new location within 60 days of the date of change of residence to assure insurance claims are paid. The medical and dental insurance coverage changes will be effective on the first of the month following receipt of the completed applicable form(s) by the Retiree Plan Administrator or date of residence change, whichever is later.

(5) Loss of Other Coverage. A Family Member or Domestic Partner of a retiree who loses other group medical and dental insurance coverage will experience a Qualified Status Change event and may enroll in the PEBB sponsored medical and dental insurance plans within 60 days of the date the other group medical and dental insurance coverage ended. Insurance coverage from a Group Medical Plan to the PEBB program must show continuous group insurance coverage; therefore, the effective date is determined based upon the date the other group insurance coverage ends.

(6) Late Enrollment for New and Current Retirees.

(a) A retiree must enroll in the PEBB sponsored retiree medical and dental insurance plans by submitting the completed applicable form(s) to the Retiree Plan Administrator within 60 days from the loss of active employee insurance coverage. An enrollment request beyond 60 days from the loss of active employee insurance coverage will be considered a late enrollment request. All late enrollment requests must be appealed to PEBB for approval. PEBB will ask the retiree to demonstrate, by explanation, with sufficient supporting data or information that the late enrollment was due to circumstances beyond the retiree's control or due to a reasonable misunderstanding of the enrollment requirements. If the late enrollment is

approved the effective date of medical and dental insurance coverage will be retroactive to termination of active employee insurance coverage. Late enrollment requests received later than 120 days of loss of active employee insurance coverage will be denied.

(b) A retiree failing to add an eligible individual within the time frame required under OAR 101-020-0020 must complete the applicable form(s) and appeal to PEBB for late enrollment. PEBB will ask the retiree to demonstrate, by explanation, with sufficient supporting data or information that the late enrollment was due to circumstances beyond the retiree's control or due to a reasonable misunderstanding of the enrollment requirements. If the late enrollment is approved, the effective date of coverage for the eligible individual will be the first of the month following receipt of the completed applicable form(s). Late enrollment requests received beyond 120 days of initial eligibility of the eligible individual will be denied.

(c) A retiree failing to add a newborn child within 60 days of birth will be allowed to add the newborn child to his or her medical and dental insurance coverage during the first 12 months of life, retroactive to the date of birth, following receipt and approval of the completed applicable form(s) by the Retiree Plan Administrator.

(7) Retiree Enrollment Errors. Retiree insurance plan enrollment errors will be administered in accordance with 101-040-0080, Correcting Enrollment Errors.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-050-0015

Retiree Returning to Work for a State of Oregon Agency and in a Benefit Eligible Status

(1) A retiree returning to work with a PEBB Participating Organization on a full-time basis, or returning to work on at least a Half-Time or job-share basis, may be eligible for PEBB active employee benefit plans. All medical, dental, life and disability insurance coverage previously in effect as an Eligible Employee will be Reinstated effective the first day of the month following the date of hire if returning to work within 12 months of the insurance coverage end date. If the retiree returns to Eligible Employee status beyond 12 months from the insurance coverage end date, the retiree must complete the applicable form(s) for newly hired employees.

(2) A retiree enrolled in a PEBB non-Medicare retiree insurance plan may suspend the retiree insurance coverage when enrolled in PEBB sponsored benefit plans as an Eligible Employee by notifying the Retiree Plan Administrator.

(3) A retiree or the retiree's eligible individual enrolled in Medicare who returns to active employee status with a PEBB Participating Organization must enroll in the active employee benefit plans. A retiree not enrolled in Medicare may Decline Benefits or enroll in active employee benefit plans.

(4) There may be no break in insurance coverage from PEBB non-Medicare retiree to active employee benefit plans or vice versa. Insurance coverage must be continuous.

(5) A retiree returning to Eligible Employee status who continues to be covered under PEBB retiree or COBRA insurance plans, and is receiving a state premium subsidy, is not eligible to receive Opt Out cash.

(6) A retiree returning to Eligible Employee status beyond 12 months, will have all new employee hire rights including guarantee issue options (except as noted in 101-050-0015(7)) for life insurance coverage provided the retiree did not previously convert life insurance plans upon separation from state service.

(7) A retiree returning to Eligible Employee status beyond 12 months, is not eligible for guarantee issue for Long Term Care insurance coverage a second time. The Eligible Employee had an initial guarantee issue enrollment and the opportunity to continue the policy following separation from state service at the same rates.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-050-0020

Retiree Survivor Medical and Dental Insurance Coverage

An eligible individual enrolled in PEBB retiree medical or dental insurance plans as a dependent of the retiree at the time of death of the

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retiree may elect to continue the retiree survivor insurance coverage available through the PEBB retiree insurance plans on a self-pay basis in lieu of continuation provided under federal COBRA provisions.

(1) Application for enrollment in PEBB retiree survivor insurance plans must be submitted to the Retiree Plan Administrator within 60 days of the death of the retiree or at any time during, or immediately following, the COBRA continuation period. Medical or dental insurance coverage under the COBRA and retiree survivor insurance coverage must be continuous.

(2) The surviving Dependent Child(ren) of the retiree or his or her Domestic Partner may continue the medical or dental retiree survivor insurance coverage provided he or she meets all eligibility requirements, is not adopted by a new parent, ensures applicable insurance premium is paid, and the insurance plans continue to be offered by PEBB.

(3) The surviving spouse or Domestic Partner of the retiree may continue the medical or dental retiree survivor insurance coverage as long as he or she remains unmarried, or remains free of a Domestic Partnership, ensures applicable premium is paid, and the insurance plans continue to be offered by PEBB.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 659A.150-186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-050-0025

Retirees Eligible for Medicare Coverage

(1) A PEBB retiree not eligible for Medicare coverage may enroll in PEBB non-Medicare retiree insurance plans according to provisions of 101-050-0005.

(2) The retiree and eligible individuals enrolled in the PEBB retiree insurance plans who become eligible for Medicare coverage are no longer eligible to continue a PEBB retiree insurance plan. The insurance coverage will be terminated the first of the month following 60 days from the date the ineligible insurance coverage is discovered.

(3) When a retiree becomes eligible for Medicare coverage, he or she is no longer eligible for participation in PEBB retiree insurance plans. If a retiree becomes eligible for Medicare coverage but the spouse or Domestic Partner and Dependent Child(ren) are not, these eligible individuals may continue PEBB insurance coverage as long as they are currently enrolled in the retiree's insurance plan when the retiree became eligible for Medicare coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-243.302, 659A.060-069, 659A.150 -186, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

101-060-0010

Eligibility for Medical and Dental Insurance Coverage

Newly Eligible Employee:

(1) A Newly Eligible Employee is defined as an agent who has a signed contract with an effective date of July 1, 1985, or later;

(2) A Newly Eligible Employee must enroll in medical and dental insurance coverage within 60 days following their contract effective date. Insurance coverage will be effective on the first day of the month following:

(a) Signing the standard OLCC contract;

(b) Receipt of the completed applicable form(s) for enrollment in PEBB medical and dental insurance coverage; and

(c) Authorization of a monthly premium payment deduction from the contracted amount.

(3) A Newly Eligible Employee not enrolling in PEBB medical and dental insurance plans during the initial 60 days following their contract effective date may apply during an Open Enrollment Period. An Eligible Employee enrolling a spouse, a Domestic Partner and Dependent Child(ren) during a subsequent Open Enrollment Period may be subject to benefit plan limitations for late enrollment of an eligible individual.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659.450-460, 659.470-494, 743.600-602, 743.707 & 743.752-760

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04

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

Adm. Order No.: BCD 16-2004

Filed with Sec. of State: 9-24-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 4-1-04

Rules Amended: 918-460-0010, 918-460-0015

Subject: ORS 455.020 and 455.110 require the department to promulgate a uniform state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installations of mechanical devices and equipment and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The law further requires the building code to establish uniform performance standards for health, safety, welfare, comfort and security of residents of the State of Oregon who are occupants and users of buildings and to provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

The current model building code adopted is the 1997 edition of the Uniform Building Code (UBC), with Oregon amendments and is known as the 1998 Oregon Structural Specialty Code (OSSC).

The Director of Consumer & Business Services, with the approval of the Building Codes Structures Board, may amend such codes and regulations provided it conforms to in so far as it is practicable to model building code generally acceptable throughout the United States. The proposed rule adopts the 2003 edition of the International Building Code (IBC) with amendments and will be known as the 2004 Oregon Structural Specialty Code.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-460-0010

Rules Establishing Minimum Safety Standards for the Design and Construction of Buildings

Effective October 1, 2004 the **2004 Oregon Structural Specialty Code** is the **2003 Edition of the International Building Code, 5th printing**, as published by the International Code Council, and amended by the Building Codes Division.

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

Stat. Auth.: ORS 455.020, 455.447 & 455.610

Stats. Implemented: ORS 455.110

Hist.: DC 34, f. 6-5-74, ef. 6-25-74; DC 36(Temp), f. & ef. 7-1-74; DC 37, f. 8-30-74, ef. 9-25-74; DC 45, f. 4-7-75, ef. 4-25-75; DC 51(Temp), f. & ef. 7-3-75 - 10-31-75; DC 61, f. 11-20-75, ef. 1-1-76; DC 67, f. & ef. 2-19-76; DC 68, f. 3-3-76, ef. 4-1-76; DC 76, f. 5-21-76, ef. 8-1-76; DC 77, f. 5-26-76, ef. 6-3-76; DC 84, f. 8-19-76, ef. 10-1-76; DC 102, f. & ef. 11-1-77; DC 104, f. 12-1-77, ef. 12-10-77; DC 2-1978, f. 1-20-78, ef. 3-1-78; DC 18-1978, f. 5-4-78, ef. 5-15-78; DC 5-1978(Temp), f. 2-22-78, ef. 3-1-78 thru 4-29-78; DC 29-1978, f. 10-27-78, ef. 1-1-79; DC 31-1978(Temp), f. 12-8-78, ef. 1-1-79; DC 33-1978(Temp), f. 12-27-78, ef. 1-1-79; DC 6-1979 (Temp), f. 3-13-79, ef. 4-1-79; DC 8-1979, f. 4-30-79, ef. 5-1-79/8-1-79/1-1-80; DC 12-1979(Temp), f. 7-2-79, ef. 8-1-79; DC 13-1979, f. 11-1-79, ef. 12-1-79; DC 7-1980, f. 6-5-80, ef. 7-1-80; DC 15-1980(Temp), f. & ef. 10-13-80; DC 11-1981, f. & ef. 7-20-81; DC 13-1981, f. 10-30-81, ef. 11-1-81; DC 15-1981, f. 10-30-81, ef. 1-1-82; DC 9-1982, f. & ef. 3-1-82; DC 14-1983, f. 6-23-83, ef. 8-1-83; DC 26-1984, f. 8-31-84, ef. 9-15-84; DC 35-1984, f. & ef. 11-28-84; DC 14-1985(Temp), f. & ef. 6-21-85; DC 21-1985, f. 12-18-85, ef. 1-1-86; DC 10-1986, f. 6-30-86, ef. 7-1-86; DC 19-1986, f. 10-31-86, ef. 11-1-86; DC 5-1987(Temp), f. & ef. 3-26-87; DC 12-1987(Temp), f. 4-21-87, ef. 4-24-87; BCA 7-1987, f. & ef. 9-3-1987; BCA 11-1987, f. & ef. 10-21-87; BCA 12-1987, f. & ef. 11-5-87; Renumbered from 814-026-0005; BCA 34-1989, f. 12-21-89, cert. ef. 1-1-90; BCA 30-1990, f. 12-21-90, cert. ef. 1-1-92; BCA 43-1991(Temp), f. 12-24-91, cert. ef. 1-1-92; BCA 3-1992(Temp), f. 3-4-92, cert. ef. 3-5-92; BCA 12-1992, f. 6-29-92, cert. ef. 7-1-92; BCA 27-1992, f. 12-29-92, cert. ef. 1-1-93; BCA 3-1993(Temp), f. & cert. ef. 3-3-93; BCA 19-1993(Temp), f. 8-26-93, cert. ef. 9-1-93; BCA 26-1993, f. 10-22-93, cert. ef. 11-1-93; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04

918-460-0015

Amendments to the Structural Specialty Code

The **Structural Specialty Code** is generally readopted every three years coinciding with the national adoption of a nationally recognized Building Code and other referenced supporting nationally recognized codes pursuant to chapter 918, division 8.

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

Stat. Auth.: ORS 447.231, 447.247, 455.030 & 455.110

Stats. Implemented: ORS 447.247 & ORS 455.110

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru

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5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004, f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04

Adm. Order No.: BCD 17-2004(Temp)
Filed with Sec. of State: 9-30-2004
Certified to be Effective: 9-30-04 thru 3-28-05
Notice Publication Date:

Rules Adopted: 918-460-0011

Rules Suspended: 918-008-0030

Subject: OAR 918-460-0011: This proposed rulemaking would allow for a 90-day phase in between the 1998 Oregon Structural Specialty Code (OSSC) and the 2004 OSSC. Effective October 1, 2004, the 1998 OSSC was repealed under OAR 918-460-0010 and replaced with the 2004 OSSC. The provisions of the 1998 OSSC are being adopted in this rule to allow individuals to continue utilizing the 1998 OSSC until the phase in period ends on December 31, 2004.

OAR 918-008-0030: Suspends additional required processes in administrative rule for code adoption.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-008-0030

Check List and Time Line for Code Change Submittals

(1) Amendments to the **Electrical Specialty Code, Structural Specialty Code, Mechanical Specialty Code, Plumbing Specialty Code** and the **One and Two Family Dwelling Specialty Code** shall be considered for adoption following one of the two following timelines:

(a) Notices shall be sent to interested parties and the general public advising of the due date for code change submittals;

(b) February 1 or August 1 — A complete code change proposal, including those filed under ORS 455.030 by “interested persons”, shall be filed with the division for consideration. All filings received or made “complete” after February 1 or August 1 shall be deferred to the next regular submission date;

(c) The division shall submit proposed amendments received under subsection (a) of this section to the appropriate board or its delegated committee for review and recommendations;

(d) If the board refers proposals to one or more committees for review and comments the committee shall submit recommendations to the board;

(e) The board or its delegated committee shall submit its recommendations to the administrator no later than 180 days from the date of formal submittal under subsection (b) of this section. The board or its delegated committee shall attach the cost findings on recommended amendments as required by ORS 455.030 and recommend an implementation schedule;

(f) Following receipt of a board response under subsection (e) of this section, the administrator shall notify the amendment proponent within the time provided in ORS 455.030 and, if relevant, begin rulemaking;

(g) If rulemaking is begun, a notice shall be filed scheduling a public hearing. A division report shall be provided to the appropriate board following the hearing;

(h) Formal action on proposed amendments shall be taken by the appropriate board and administrator in the year of the effective date of the amendments. Amendments adopted in this process shall be available in final printed form 60-90 days prior to the effective date; and

(i) All code amendments shall have an April 1 or October 1 effective date.

(2) Exceptions for Filings under ORS 455.030 and Temporary Rules:

(a) Filings received expressly under ORS 455.030 shall be initially evaluated by the division to determine if a temporary rule is justified under ORS 183.335. If justified, it shall be processed under subsection (b) of this section. If not, it shall be processed under section (1) or (2) of this rule; and

(b) Temporary code amendments shall be processed and adopted regardless of the time lines established in this rule when allowed by ORS 183.335. In all cases, board consultation requirements under ORS 455.030 shall be followed. Nothing shall prevent consideration of a related permanent rule in connection with adoption of a temporary rule.

(3) The submission dates in this rule shall be followed by all persons except when:

- Controversial proposals are involved;
- It is necessary to respond to statutory mandates;
- Additional findings or documentation are required; or
- When legal consultation is necessary.

(4) Nothing in the schedules established in sections (1) and (2) of this rule prevents a board from internally generating proposed adoptions or amendments of codes if it meets the submission date to the administrator for rule adoption.

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

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 1-2004(Temp), f. & cert. ef. 1-29-04 thru 7-26-04; Administrative correction 8-19-04; Suspended by BCD 17-2004(Temp), f. & cert. ef. 9-30-04 thru 3-28-05

918-460-0011

Transitional Period for the 2004 Oregon Structural Specialty Code

(1) Under OAR 918-460-0010 effective October 1, 2004, the **2004 Oregon Structural Specialty Code (2004 OSSC)** replaced the 1998 Oregon Structural Specialty Code (1998 OSSC). For the purposes of implementing a phase-in period the 1998 OSSC is adopted effective October 1, 2004.

(2) The division is requiring that all building departments in the state allow a phase-in period beginning October 1, 2004 and ending December 31, 2004. During this phase-in period, all building departments are required to accept plans designed either to the 1998 OSSC or to the 2004 OSSC. Plans that use a combination of the two codes will not be accepted.

(3) The **1998 Oregon Structural Specialty Code is the 1997 Edition of the Uniform Building Code** (Volumes 1, 2 and 3), Third Printing, as published by the International Conference of Building Officials and amended by the Building Codes Division, with errata through September 30, 2004.

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

Stat. Auth.: ORS 447.231, 447.247, 455.030 & 455.110

Stats. Implemented: ORS 447.247 & 455.110

Hist.: BCD 17-2004(Temp), f. & cert. ef. 9-30-04 thru 3-28-05

Adm. Order No.: BCD 18-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 10-1-04

Notice Publication Date:

Rules Amended: 918-001-0000, 918-001-0010, 918-001-0210

Subject: OAR 918-001-0000(2) and 918-001-0210(1)(b): The intent of this rulemaking activity is to correct statutory references: ORS 183.335(7) changed to (8).

OAR 918-001-0010: ORS 183.431 requires the division to adopt rules of procedure which will provide a reasonable opportunity for interested parties to be notified of the agency’s intention to adopt, amend or repeal a rule. The proposed amendments to this rule, will adopt the December 9, 2003 version of the Attorney General’s Model Rules of Procedure for Rulemaking; OAR 137-001-0005 through 137-001-0080, by reference.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-001-0000

Notice of Proposed Rules

Before the adoption, amendment or repeal of any rule in OAR chapter 918, except temporary rules adopted under ORS 183.335, the Building Codes Division shall give notice of the intended action:

(1) In the Secretary of State’s Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(2) By mailing a copy of the notice to persons and organizations on the division’s mailing lists established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By mailing or furnishing a copy of the notice to:

- The Associated Press; and
- The Capitol Press Room.

Stat. Auth.: ORS 455.110

Stats. Implemented: ORS 183.335

Hist.: BCA 20-1989, f. & cert. ef. 8-1-89; BCD 26-1996, f. & cert. ef. 12-4-96; BCD 18-2004, f. 9-30-04, cert. ef. 10-1-04

918-001-0010

Model Rules of Procedure

The Director adopts by reference the Attorney General’s Model Rules for Rulemaking, OAR 137-001-0005 through 137-001-0080, effective December 9, 2003.

[ED. NOTE: The full text of the Attorney General’s Model Rules of Procedure is available from the office of the Attorney General or Building Codes Division.]

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341

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Hist.: BCA 20-1989, f. & cert. ef. 8-1-89; BCA 32-1993, f. 12-14-93, cert. ef. 1-1-94; BCD 12-1994, f. & cert. ef. 4-29-94; BCD 5-1996, f. & cert. ef. 3-29-96; BCD 8-1998, f. & cert. ef. 6-2-98; BCD 21-2000, f. & cert. ef. 9-19-00; BCD 32-2002, f. 12-20-02 cert. ef. 1-1-03; BCD 18-2004, f. 9-30-04, cert. ef. 10-1-04

918-001-0210

Division Mailing Lists

(1) Scope, Authority and Applicability:

(a) This rule governs procedures for placement on and remaining on the various mailing lists maintained by the division and boards;

(b) The procedures in this rule are created under ORS 183.335(8) and the general rulemaking authority of the administrator in ORS 455.030 and 455.100.

(2) Creation of Interested Persons Mailing Lists for Board Activities.

Mailing lists are created for interested persons who want to receive notices and agendas of board meetings for the following:

(a) Electrical and Elevator Board;

(b) Building Codes Structures Board;

(c) Manufactured Structures and Parks Advisory Board;

(d) Plumbing Board;

(e) Board of Boiler Rules.

(3) Creation of Interested Persons Mailing Lists for Rulemaking.

Mailing lists are created for interested persons wanting notices of rulemaking:

(a) Electrical List. This list covers rulemaking activities of the Electrical and Elevator Board relating to electrical matters:

(A) Persons referenced in OAR chapter 918, division 251, building officials and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of codes.

(b) Structural and Mechanical List. This list covers rulemaking activities of the Building Codes Structures Board relating to the Structural Specialty Code, One and Two Family Dwelling Specialty Code, Mechanical Specialty Code, and prefabricated structures rules:

(A) Persons referenced in OAR chapter 918, divisions 440 and 460, building officials, and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of codes;

(C) All persons entitled to notice on the electrical and plumbing lists are also served when One and Two Family Dwelling Specialty Code rules are involved.

(c) Manufactured Structures and Parks List. This list covers the rule-making activities of the Manufactured Structures and Parks Advisory Board relating to manufactured dwellings, recreational vehicles, manufactured dwelling parks, recreation parks, organizational camps and picnic parks:

(A) Building officials and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of the codes.

(d) Amusement Ride and Device List. This list includes amusement device and amusement ride owners and amusement parks. All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of the code;

(e) Plumbing List. This list covers rulemaking activities of the Plumbing Board relating to plumbing activities:

(A) Persons referenced in OAR chapter 918, division 750, building officials and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of codes.

(f) Elevator List. This list covers rulemaking activities of the Electrical and Elevator Board relating to elevator matters:

(A) Persons referenced in OAR chapter 918, division 400, building officials and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of codes.

(g) Boiler List. This list covers rulemaking activities of the Board of Boiler Rules relating to boiler and pressure vessel activities:

(A) Persons referenced in OAR chapter 918, division 225, building officials and members of the board are automatically on this list;

(B) All municipalities with authority to administer building codes are additionally served notice when the rulemaking involves adoption or amendment of codes.

(h) Illegal Drug Manufacturing Site List. Persons referenced in OAR chapter 918, division 010 are automatically on this list.

(4) Mailing List Subscription. Individuals not automatically served according to these rules may apply on a division form and pay a non-prorated annual fee for each list. Mailing lists will be revised March 1 each year. A person may subscribe at any time.

(5) Mailing List Subscription Renewal. One annual billing will be sent. Those not requesting renewal will be removed at the end of February.

(6) Nonprofit Organizations. Nonprofit organizations may be placed on any mailing list without charge, if the organization agrees to distribute notices it receives to ten or more of its members.

(7) Charges. The annual charge to be placed on the mailing list is \$35, except a person requesting complete board packets shall be charged an additional \$35 per board, all payable in advance of March 1.

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

Stat. Auth.: ORS 455.110

Stats. Implemented: ORS 183.335

Hist.: BCA 23-1992, f. 12-24-92, cert. ef. 1-1-93; BCD 1-1998, f. 1-28-98, cert. ef. 4-1-98;

BCD 18-2004, f. 9-30-04, cert. ef. 10-1-04

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Adm. Order No.: BCD 19-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 918-030-0030

Subject: This rule defines the term "Person," as used in ORS 479.510 to 479.995. In addition, this is a housekeeping rule to clarify and capture existing policies, procedures and practices used by the division.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-030-0030

Definitions

Unless the context requires otherwise, the term "person", as used in ORS 479.510 to 479.995, includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, and public agencies. "Person" also means the owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company if:

(1) The interest allows the owner or holder to participate in the management of the business; and

(2) The owner or holder of the interest has either had a license revoked by the director or the Oregon Electrical and Elevator Board or been the recipient of a notice of proposed civil penalty that was issued by the director or the Oregon Electrical and Elevator Board.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.520 & 479.630

Hist.: BCD 19-2004, f. 9-30-04, cert. ef. 10-1-04

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Adm. Order No.: BCD 20-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 918-460-0016, 918-480-0002

Subject: 918-480-0002: With the new requirements in ORS 455.610, the division is transitioning to a Low-Rise Residential Dwelling Code. This rule clarifies that the low-rise code will be known as the "Oregon Residential Specialty Code" (ORSC). The proposed effective date of the 2005 ORSC is April 1, 2005. In order to eliminate confusion, prior to April 1, 2005, any references to the ORSC shall mean the Oregon One- and Two-Family Dwelling Specialty Code.

918-460-0016: Construction regulation of townhouses and row-houses is split between two codes, The One- and Two-Family Dwelling Specialty Code and the 1998 Oregon Structural Specialty Code. The 2005 ORSC will regulate all construction of townhouses

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es and rowhouses. In anticipation of 2005 ORSC, regulation over this type of construction was removed from the 2004 OSSC.

The 2004 OSSC becomes effective October 1, 2004 and the 2005 ORSC becomes effective until April 1, 2005. This leaves a gap in the codes for regulating this type of construction.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-460-0016

Townhouse and Rowhouse Construction

Effective October 1, 2004 through March 31, 2005, the appropriate standard for construction, alteration and repair of:

(1) A townhouse structure is the **1998 Oregon Structural Specialty Code** and adopted amendments prior to September 30, 2004.

(2) A rowhouse structure is the **1998 Oregon Structural Specialty Code** and adopted amendments prior to September 30, 2004 and Oregon alternate method ruling No. 00-10 Rowhouse Construction.

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

Stat. Auth.: ORS 455.030, 455.110 & 455.144

Stats. Implemented: ORS 455.030, 455.110 & 455.144

Hist.: BCD 20-2004, f. 9-30-04, cert. ef. 10-1-04

918-480-0002

Low-Rise Residential Dwelling Code

Prior to April 1, 2005, any references to the **Oregon Residential Specialty Code** shall mean the **Oregon One-and Two-Family Dwelling Specialty Code**.

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

Stat. Auth.: ORS 455.610

Stats. Implemented: ORS 455.610

Hist.: BCD 20-2004, f. 9-30-04, cert. ef. 10-1-04

Adm. Order No.: BCD 21-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 918-460-0015

Subject: This rule removes a specific code exemption for a particular class of glazing known as “polished wired glass” from compliance standards for safety glass in fire rated assemblies (glass typically found in corridor doors and side windows) installed in all buildings. Oregon’s current structural code exempts wired glass from having to comply with these impact ratings for all but educational occupancies (kindergarten through twelfth grade). The proposed rule will amend the structural code to prohibit the installation of wired glass in areas where there is a high potential for human impact (known as hazardous locations, as defined in the state building code) unless the glass meets the same impact ratings as comparable safety glazing products.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-460-0015

Amendments to the Structural Specialty Code

(1) The **Structural Specialty Code** is generally readopted every three years coinciding with the national adoption of a nationally recognized Building Code and other referenced supporting nationally recognized codes pursuant to chapter 918, division 8.

(2) Effective October 1, 2004, delete Section 2406.1.2 Wired glass.

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

Stat. Auth.: ORS 447.231, 447.247, 455.030 & 455.110

Stats. Implemented: ORS 447.247 & ORS 455.110

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004, f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04

Adm. Order No.: BCD 22-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 918-100-0065

Rules Amended: 918-100-0000, 918-100-0010, 918-100-0020, 918-100-0040, 918-100-0050, 918-100-0060, 918-309-0210, 918-780-0130, 918-780-0140

Rules Repealed: 918-050-0500, 918-050-0510, 918-050-0520

Subject: These rules eliminate local jurisdictions ability to provide minor installation labels for commercial plumbing. The division administers two minor label programs. One program covers the Tri-County region (Multnomah, Clackamas, and Washington counties) and the other covers all jurisdictions except the Tri-County area. Both programs share identical rules covering scope of work, program administration, fees and other program features. Administering two programs creates confusion and additional paperwork for staff, collaborating jurisdictions, and for contractors who have to fill out multiple forms and pay various fees. The Legislature has directed the division to implement structural and mechanical minor label programs; this implementation would be simplified if applied to a pre-existing statewide minor label program.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-100-0000

Applicability of Rules

(1) The rules in OAR 918-100-0000 to 918-100-0120 implement the statewide minor installation label, master permit and special alternative inspection programs.

(2) Nothing in these rules shall prohibit a person from purchasing a regular permit in order to insure individual inspection of any installation.

(3) Tri-County minor installation labels issued prior to October 1, 2004 are considered valid until expired and may be used in jurisdictions outside the Tri-County region.

(4) The division may adopt policies and procedures to ensure a smooth transition from the Tri-County minor label program to the statewide minor label program.

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0010

Definitions

The following definitions are adopted:

(1) “Accessible” means the structural, mechanical and plumbing installations can be easily inspected because the work is in the open or because there is a designed permanent physical access such as an access panel, door or similar entry.

(2) “Applicant” is a person authorized to take out a master inspection permit or minor label.

(3) “Closest Office” means:

(a) In the case of the division, the closest office within the state from which appropriate inspectors are dispatched; or

(b) In the case of a municipality, the closest office from which appropriate inspectors serving the facility are dispatched within the municipal boundaries. If a municipality does not have an office from which inspectors are dispatched, the “closest office” is the municipality’s executive office or the point of actual dispatch, whichever is closest.

(4)(a) A “Covered Facility” under the master permit program is one or more commercial or industrial buildings or structures under common ownership or management located within the boundaries of the same inspection jurisdiction:

(A) Within the same complex on contiguous lots; or

(B) Situated at different locations within the municipality and both the inspecting jurisdiction and the permittee agree to treat the buildings or structures as a “covered facility.”

(b) A “covered facility” under the master permit program, does not include an apartment or combination of apartments having less than a total of six living units.

(5) “Inspecting Jurisdiction” is the municipality or state serving the area with inspection services.

(6) “Inspection Hours” means the time necessary to do the inspections under the special alternative master permit inspection program. This includes travel to and from the closest office of the inspecting jurisdiction as well as inspector documentation.

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(7) "Jurisdictional Inspector" is the inspector for an inspecting jurisdiction.

(8) "Minor Label" is an adhesive sticker with a corresponding log sold by a jurisdiction or the division for use with minor installation inspection programs which has a serial number, space for a date, identification of the person doing the work, license number if applicable and other information.

(9) "New Construction" means:

(a) Creation of a new building shell;

(b) Installation of mechanical and plumbing products as part of the work described in subsection (a) of this section;

(c) Any structural, mechanical or plumbing work performed in connection with changing the use or occupancy classification of the building, except as permitted by OAR 918-100-0080; or

(d) Any addition which increases the square footage of the building or structure.

(10) "Occupancy Classification" means the designation of a building according to its use or the character of its occupancy, into one or more of the occupancy groups as provided in the **Oregon Structural Specialty Code**.

(11) "Repair and Maintenance" means restoring accessible or existing plumbing appliances, appurtenances, fixtures, wastes, vents or distribution pipes in buildings or structures to a safe and sanitary condition.

(12) "Replacement" means exchanging an existing structural component or mechanical or plumbing product for a similar item which:

(a) Does not change the source or location of power;

(b) Does not exceed the design capacity of the existing system or structure; and

(c) Meets current accessibility and earthquake requirements.

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

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 30-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0020

Scope of Minor Installation Label Programs

(1) The statewide minor installation label program is a mandatory statewide program for which labels are sold by the division and used within any jurisdiction.

(a) The division administers the residential, commercial and industrial plumbing and electrical minor installation label program. Local jurisdictions are required to participate in the program by performing inspections on behalf of the division on a percentage of minor installation labels used by contractors.

(b) Work performed under this program shall conform to the **Electrical Specialty Code**, the **Plumbing Specialty Code** and the **One- and Two-Family Dwelling Specialty Code**. The scope of work allowed under this program is defined in OAR 918-309-0220 for electrical installations and OAR 918-780-0140 for plumbing installations.

(2) Jurisdictions may file a request for delegation of optional minor installation programs. Use of a minor installation label by an appropriate person include:

(a) Work performed under the structural commercial and industrial minor label program shall be to the **Structural Specialty Code**. The scope of work allowed under this program includes:

(A) Alteration, replacement or repair of up to 100 linear feet of non-bearing, non-fire-resistive walls and partitions not part of the building shell, an exit or an exit passageway;

(B) Window and door replacements or relocations not part of an exit or exit passageway and fit within existing openings. Replacement windows and doors shall comply with the requirements of current state codes, including but not limited to safety glazing requirements;

(C) Light weight interior awnings under 100 pounds total weight;

(D) Removal and replacement of acoustical ceiling tiles in nonfire-rated ceilings of less than 1,000 square feet. Replacement of supporting grid is not included;

(E) Minor roofing repairs not exceeding ten percent of the roofing area.

(b) Work performed under the mechanical commercial and industrial minor label program shall be to the **Mechanical Specialty Code**. The scope of work allowed under this program includes:

(A) Moving or replacing duct work not involving fire-dampers or penetrations of fire walls, fire assemblies or floors;

(B) Moving grills in duct work;

(C) Replacing existing heating, cooling and ventilation equipment.

(3) Exclusions: The minor label program does not include:

(a) New construction, except as allowed under OAR 918-309-0220(3)(a) and (b);

(b) Accessibility retrofit;

(c) Major roof repairs, constituting more than ten percent of roofing area and reroofing;

(d) Work on fire-extinguishing or smoke evacuation systems;

(e) Chemical or industrial liquid waste and vent piping; or

(f) Combination waste and vent systems.

(4) No more than one minor label for each specialty area shall be used on any single project per job site. For the purpose of this rule, a job site means work at the same address.

(5) A minor label is only required when the work otherwise requires a permit. No new permit requirements are created.

(6) If a jurisdiction chooses not to offer the optional minor label program, permits and individual inspections shall continue to be required in each program.

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

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0040

Issuance of Minor Labels

The following persons are eligible to purchase minor labels:

(1) Structural and mechanical minor labels. Building owners, the owner's agent or the contractor doing the work, who holds a Construction Contractors Board license.

(2) Plumbing minor labels. Plumbing contractors authorized by OAR 918-780-0130.

(3) Electrical minor labels. Electrical contractors authorized by OAR 918-309-0210.

Stat. Auth.: ORS 447.072, 447.076, 455.154, 455.627, 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0050

Requirements for Persons Using Minor Labels

(1) A person making a minor installation under either a statewide or optional minor label program shall:

(a) Fill in the information required on a minor label and attach it to the electrical panel or near the installation if no panel is present before work is started;

(b) Record the installation in the minor label log; and

(c) Return the minor label log to the selling jurisdiction or division office after the ten minor labels are used, or every 12 months from date of sale, whichever occurs first.

(2) A plumbing contractor making a minor concealed installation shall notify the division that the work is ready for inspection within 48 hours of completion. Work may not be covered or concealed until an inspection is made or approval to cover is given by the jurisdiction or the division.

(3) A minor label may be used on a job site with existing structural, mechanical, plumbing or electrical permits provided the work is of the type covered by the minor label rules, and the contractor does not have an existing permit for that job site.

(4) Minor installation labels may not be exchanged or transferred.

Stat. Auth.: ORS 447.072, 447.076, 455.154, 455.627, 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0060

Requirements for Municipalities

At least ten percent of each minor label log shall be inspected.

(1) For optional programs, the authority having jurisdiction shall inspect within 30 days of return of the log. If the work inspected violates the code under which the installation is made, the inspecting jurisdiction may:

(a) Inspect additional installations listed in the log; and

(b) Charge the person purchasing the minor labels for all new inspections and for all reinspections required at the jurisdiction's hourly inspection rate.

(2) Under the statewide program, the authority having jurisdiction shall inspect the minor installation within 30 days of contacting the homeowner, but no more than 35 days from the date of receipt of the division's request to inspect.

(a) The division shall compensate each inspecting jurisdiction \$75 per inspection for the first minor label installation inspected on a log sheet. In

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the event that a jurisdiction is required to perform an inspection on a second or third label, the contractor shall compensate the jurisdiction directly at a uniform flat fee of \$75. If the jurisdiction finds a code violation that requires a second inspection of minor label, the contractor shall compensate the jurisdiction directly at the jurisdiction's hourly rate.

(b) The Division shall, upon notice of three failed inspections in the same lot of labels, notify the contractor and the jurisdictions affected by the remaining labels in the same lot. Each jurisdiction shall then notify the contractor that a permit is necessary for each of the remaining installations within the jurisdiction in the same lot of labels, and work shall follow the normal permit and inspection procedures for that jurisdiction.

(c) If, at any time during a three-year period, the division notifies jurisdictions of two or more lots of minor labels under subsection (b) of this section, the division shall no longer issue minor label sheets to the contractor for a period of one year, upon final determination. Normal permit and inspection procedures for the applicable jurisdiction shall be followed. The contractor shall return any unused minor labels to the division.

(d) Any contractor wishing to appeal a denial of the use of minor labels is entitled to a contested case hearing under the Administrative Procedures Act, ORS Chapter 183.

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 479.540(15) & 479.570(2)
Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04

918-100-0065

Scope of Work for Master Permits

For the purpose of this rule, "commercial and industrial installations" mean any structural, mechanical and plumbing work involving any occupancy in the **Oregon Structural Specialty Code**, except one-and two-family dwellings and associated accessory buildings.

[Publications: Publications referenced are available from the division.]
Stat. Auth.: ORS 455.040, 455.144(7), 455.154, & 455.560
Stats. Implemented: ORS 455.154
Hist.: BCD 22-2004, f. & cert. ef. 10-1-04

918-309-0210

Use of Minor Installation Labels

(1) Persons who may be issued and use minor labels. Minor installation labels may only be issued and used for installations under the minor label programs permitted by OAR 918-100-0000 through 918-100-0060 by:

(a) An electrical contractor employing a properly licensed general supervising electrician only as authorized by OAR 918-309-0220;

(b) A limited maintenance specialty contractor or a limited maintenance specialty contractor-HVAC/R only as authorized by OAR 918-309-0220;

(c) A restricted energy contractor only as authorized by OAR 918-309-0220;

(d) A limited renewable energy contractor only as authorized by OAR 918-309-0220;

(e) A limited pump installation specialty contractor only as authorized by OAR 918-309-0220;

(f) A limited energy contractor only as authorized by OAR 918-309-0220; and

(g) A registered telecommunications service provider only as authorized by OAR 918-309-0220.

(2) Except as allowed under OAR 918-309-0220(3)(a) and (b), minor labels shall not be used for:

(a) Underground electrical installations;

(b) Electrical installations that require a cover inspection;

(c) Installations involving GFCI or AFCI devices other than 15 or 20 amp, 125-volt receptacles and circuit breakers;

(d) Any electrical installations that are covered by **Chapter 5 or Article 680** (Swimming Pools, Fountains, or Similar Installations) of the **National Electrical Code**, as adopted in OAR 918-305-0100, or Chapter 41 of the **One- and Two-Family Dwelling Specialty Code**, as adopted in OAR 918-480-0005;

(e) Protective signaling; and

(f) New construction.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 479.540, ORS 455.154, & ORS 455.155
Stats. Implemented: ORS 479.540, ORS 455.154, & ORS 455.155
Hist.: BCA 10-1988, f. & cert. ef. 7-20-88; BCD 5-1994, f. 2-25-94, cert. ef. 7-1-94; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-310-0030; BCD 4-1999, f. & cert. ef. 4-1-99; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 4-2004, f. 3-31-04, cert. ef. 4-1-04; BCD 22-2004, f. & cert. ef. 10-1-04

918-780-0130

Use of Minor Installation Labels

(1) Plumbing contractors having a valid certificate of registration under ORS 447.030 and a verified Construction Contractors Board license, when using plumbers having a certificate of competency under ORS Chapter 693, may purchase and use minor labels as described by OAR 918-100-0000 through 918-100-0060; and

(2) Only permit requirements are deleted. The **Plumbing Specialty Code and One- and Two-Family Dwelling Specialty Code** plumbing installation provisions and plumbing product certification requirements shall be followed.

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

Stat. Auth.: ORS 447.072, ORS 447.076, 455.154 & 455.155
Stats. Implemented: ORS 447.072, 447.076, 455.154 & 455.155
Hist.: BCD 17-1994, f. 7-21-94, cert. ef. 10-1-94; BCD 9-1997(Temp), f. 6-30-97, cert. ef. 7-1-97; BCD 17-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 22-2000, f. 9-19-00, cert. ef. 10-1-00; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-01; BCD 22-2004, f. & cert. ef. 10-1-04

918-780-0140

Scope of Plumbing Work Allowed with Minor Installation Label

"Minor plumbing" for installations under the minor label programs permitted by OAR 918-100-0000 through 918-100-0060 shall be as follows:

(1) Commercial and industrial minor installation label programs include:

(a) Accessible plumbing repair and maintenance;

(b) Replacement of up to three accessible plumbing appliances, appurtenances or fixtures as defined in the Plumbing Specialty Code; or

(c) Replacement of up to 20 feet of plumbing piping.

(2) One- and two-family dwelling minor installation label programs include:

(a) Repair, replacement, or maintenance of water heaters, including water heater conversions;

(b) Alteration of parts of an existing plumbing system not exceeding three fixtures, or 20 feet of new piping or both provided the work is "accessible" to an inspector; or

(c) Repair or replacement of concealed freeze-damaged or leaking parts of an existing plumbing system not exceeding three fixtures, or 20 feet of new piping or both.

(d) Plumbing fixtures as used in this section include, but are not limited to, bathtubs, bidets, showers, sinks, water closets and water heaters.

(3) Cross-connection control devices are not considered minor plumbing installations and are excluded under these rules.

Stat. Auth.: ORS 447.072, 447.076, 455.154, & 455.155
Stats. Implemented: ORS 447.072, 447.076, 455.154, & 455.155
Hist.: BCD 17-1994, f. 7-21-94, cert. ef. 10-1-94; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-01; BCD 22-2004, f. & cert. ef. 10-1-04

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Adm. Order No.: FCS 3-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 9-30-04

Notice Publication Date: 9-1-04

Rules Renumbered: 440-035-0060 to 441-925-0020, 440-035-0080 to 441-925-0040, 440-300-0040 to 441-930-0040, 440-300-0230 to 441-930-0230, 440-300-0280 to 441-930-0280, 440-300-0300 to 441-930-0300, 440-300-0320 to 441-930-0320, 440-300-0350 to 441-930-0350

Rules Ren. & Amended: 440-035-0050 to 441-925-0010, 440-035-0070 to 441-925-0030, 440-200-0020 to 441-005-0010, 440-300-0010 to 441-930-0010, 440-300-0020 to 441-930-0020, 440-300-0030 to 441-930-0030, 440-300-0050 to 441-930-0050, 440-300-0060 to 441-930-0060, 440-300-0070 to 441-930-0070, 440-300-0200 to 441-930-0200, 440-300-0210 to 441-930-0210, 440-300-0220 to 441-930-0220, 440-300-0240 to 441-930-0240, 440-300-0250 to 441-930-0250, 440-300-0260 to 441-930-0260, 440-300-0270 to 441-930-0270, 440-300-0290 to 441-930-0290, 440-300-0310 to 441-930-0310, 440-300-0330 to 441-930-0330, 440-300-0340 to 441-930-0340, 440-300-0360 to 441-930-0360

Subject: These rules, concerning programs and functions administered by the Division of Finance & Corporate Securities, are moved to OAR Chapter 441, where the rules concerning other programs

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administered by the Division of Finance & Corporate Securities are located. All amendments are non-substantive in nature. The amendments include correcting statutory and rule cross references, grammar or spelling, a web site address, and incorrect numbering, and deleting obsolete provisions.

Rules Coordinator: Berri Leslie—(503) 947-7478

441-005-0010

Application For Certificate Of Compliance

(1) To apply for a certificate from the Director to indicate that use of a requested name or intended activity is in compliance with the Bank Act and ORS Chapters 59, 646, 705, 717, 722, 725 and 726, a company shall submit:

(a) A letter request to the Director describing the company's business,
(b) The names, dates of birth and home addresses of all executive officers, directors and principals of the company, or persons holding similar positions; and
(c) Supporting documentation evidencing the company's organization as a financial institution, including but not limited to:

(A) The company's business plan;

(B) A copy of the charter or comparable documents from the jurisdiction where the company is organized, if applicable; and

(C) The articles of incorporation or proposed articles of incorporation or similar documents of organization.

(2) Within 10 business days from the receipt of the written request, the Director will review the request. Upon review, the Director will either issue a certificate to the Secretary of State and company authorizing the registration of the name for the company, request additional information from the company, or send a written denial of the request to the company.

(3) If the Director requests additional information from the company, the company shall have 30 days to submit additional information. If the company fails to submit the additional information within 30 days, the Director may deny the request for certification.

(4) If the Director denies a request for certification, the company shall have the right to request a hearing, which will be conducted pursuant to ORS Chapter 183.

(5) In lieu of the requirements under 1(b) and (c) of this rule, state or federally chartered financial institutions may comply with (1)(a) and supporting documentation required under 1(c)(B) unless the Director determines after receiving this documentation that full compliance with 1(a) through (c) is required.

Stat. Auth.: ORS 705.635

Stats. Implemented: ORS 705.635

Hist.: DO 5-2001, f. 12-24-01, cert. ef. 1-1-02; Renumbered from 440-200-0020; FCS 3-2004, f. & cert. ef. 9-30-04

441-925-0010

Application for Certification of a Seller of Travel Association

(1) Each person desiring Certification as a State of Oregon Certified Association shall make application to the Director by submitting the following:

(a) A letter, signed by a person authorized to act on behalf of the association, requesting Certification;

(b) A current list of members or if available on the internet, the web page address where the list may be accessed;

(c) A copy of the association's rules and/or bylaws, which shall include provisions covering those items enumerated in ORS 646.189(1)(a) through (e);

(d) A copy of the association's business plan and a copy of the most recent annual financial statement;

(e) A description of the association's procedure or mechanism for:

(A) Disciplining members;

(B) Determining compliance with financial security minimum requirements; and

(C) Determining compliance with association's code of ethics and other prerequisites to membership;

(f) The date and place the association was formed;

(g) Current address, contact name, phone and FAX number, E-mail address, if any; and,

(h) A certificate of existence from the state where the principal office is located.

(2) If the Director determines that the applicant has satisfied the requirements of ORS 646.185 through 646.195 and these rules the Director shall issue a certificate evidencing certification of the association and post notice of the certification on the Division's web page, <http://dfcs.oregon.gov>.

Stat. Auth.: ORS 646.187 & ORS 646.189

Stats. Implemented: ORS 646.187 & ORS 646.189

Hist.: DO 3-1999, f. & cert. ef. 11-8-99; DO 2-2001(Temp), f. & cert. ef. 9-11-01 thru 2-1-02; DO 4-2001, f. & cert. ef. 11-7-01; Renumbered from 440-035-0050; FCS 3-2004, f. & cert. ef. 9-30-04

441-925-0020

Examination of Certified Associations

(1) The Director shall examine the books and records of the Certified Association and may conduct the examination at the Certified Association's office location or at the office of the Director.

(2) The examination shall include a review of the minutes of the association meetings, as well as minutes of membership committees and of the committees responsible for ensuring compliance with the association's bylaws, rules and code of ethics to determine the Association's compliance with the provisions of ORS 646.185 through 646.195, these administrative rules, and the business plan, bylaws and code of the Association.

(3) Certified Associations shall pay an examination charge in the amount of \$60.00 an hour for each person used in performance of the examination. If an employee of the Department is required to travel out of state to perform the work described by section (2), the Certified Association shall be liable for reasonable cost of travel, lodging, food and rental car, if any.

(4) The Director shall conduct routine examinations at least once every 24 months and may conduct for cause examinations at any time.

Stat. Auth.: ORS 646.191

Stats. Implemented: ORS 646.191

Hist.: DO 3-1999, f. & cert. ef. 11-8-99; DO 2-2001(Temp), f. & cert. ef. 9-11-01 thru 2-1-02; DO 4-2001, f. & cert. ef. 11-7-01; Renumbered from 440-035-0060; FCS 3-2004, f. & cert. ef. 9-30-04

441-925-0030

Dispersal of Unspent Licensing Fees

(1) A Certified Association of Sellers of Travel may apply for a grant of funds remaining in the Seller of Travel program fund balance provided:

(a) The association has submitted a complete application for Certification ;

(b) The Director has determined that the association is constituted in a manner to afford significant provisions and mechanisms for consumer protection; and

(c) The Director has certified the Association.

(2) A Certified Association may be granted an initial grant of \$5,000 or in an amount determined by the director. Initial grants shall be made on a first come first served basis.

(3) A Certified Association may apply for subsequent grants in an amount determined by the director provided:

(a) The association satisfies the requirements of an annual examination and is in compliance with the provisions of ORS 646.185 to 646.195, and OAR 441-925-0010 to 441-925-0040; and

(b) The Seller of Travel program fund balance has sufficient funds available.

Stat. Auth.: ORS 646.187

Stats. Implemented: ORS 646.191(3)

Hist.: DO 3-1999, f. & cert. ef. 11-8-99; DO 1-2003, f. & cert. ef. 5-27-03; Renumbered from 440-035-0070; FCS 3-2004, f. & cert. ef. 9-30-04

441-925-0040

Notice of Changes or Amendments

(1) When a Certified Association wishes to amend any of the items enumerated in ORS 646.187, the Certified Association must submit a draft of the proposed change at least 30 days prior to adoption.

(2) If the Director finds that the proposed amendments would no longer satisfy the requirements of ORS 646.185 through 646.195 or these rules, the Director shall notify the Association in writing that adoption will result in a suspension or revocation of their Certificate, and provide the reasons for the Director's findings.

(3) If the Certified Association adopts the proposed amendments the Director shall suspend or revoke the certification pursuant to ORS 646.193.

Stat. Auth.: ORS 646.193

Stats. Implemented: ORS 646.193 & ORS 646.187

Hist.: DO 3-1999, f. & cert. ef. 11-8-99; DO 2-2001(Temp), f. & cert. ef. 9-11-01 thru 2-1-02; DO 4-2001, f. & cert. ef. 11-7-01; Renumbered from 440-035-0080; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0010

Definitions

The following definitions apply to OAR 441-930-0010 to 441-930-0360:

(1) "Applicant" means a person applying to the Director for a Certificate to market prearrangement plans or for an Order of Registration to serve as a master trustee.

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(2) "Department" means the Department of Consumer and Business Services.

(3) "Funeral Plan Trust Account" means an account in a depository as defined by ORS 97.923 established and administered by a certified provider, into which is deposited funds received from the sale of prearrangement plans.

(4) "Market" means to offer, to contract for sale, to sell or advertise, in the state of Oregon, or to an Oregon resident, merchandise or services under a prearrangement plan.

(5) "Master Trustee" means a person who meets the definition of a master trustee defined in ORS 97.923(9).

(6) "Prearrangement Plan" means "Preconstruction Sales" or "Preconstruction Sales Contract" or "Prearrangement Sales" or "Prearrangement Sales Contract" as defined by ORS 97.923.

(7) "Preneed Trust Agreement" means any agreement governing a funeral trust fund established to receive the proceeds of a prearrangement plan and administered by a registered independent master trustee.

(8) "Provider" means a person defined in ORS 97.923(13).

(9) "Registrant" means a master trustee holding a Certificate of Registration, issued by the Director.

(10) "Unconscionable tactics" include, but are not limited to, actions by which a person:

(a) Knowingly takes advantage of a customer's physical infirmity, ignorance, illiteracy or inability to understand the language of the agreement; or

(b) Knowingly permits a customer to enter into a transaction from which the customer will derive no material benefit.

Stat. Auth.: ORS 97.933, 97.935, 97.945

Stats. Implemented: ORS 97.933, 97.935, 97.945

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0010; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0020

Master Trustees

An entity shall not operate as a master trustee as defined in ORS 97.923(9) unless:

(1) That entity has obtained an Order of Registration from the Director; and

(2) Such registration is in force at the time the entity is performing the functions of a master trustee.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0020; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0030

Applications for Registration of Master Trustees

(1) Each person desiring to register as master trustee shall apply by submitting a written application with the Director on forms prescribed by the Director.

(2) The application must contain:

(a) Information concerning the applicant's identity, address, and personal background and business, professional or work history of all executive officers and directors or individuals performing similar duties, and owners of 10% or more on a form approved by the Director;

(b) Proof of registration or good standing of the applicant's business name in the state or country under which it is organized;

(c) The depositories the applicant intends to use for funds received under the appointment from the certified provider and notification of any changes at or before the time of the change;

(d) Financial statements including:

(A) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles;

(B) If the audited financial statement is more than six months old, internally prepared statement for the most recent month end.

(e) Any other pertinent information as the Director may require; and

(f) A registration fee of \$ 275.00.

(3) The Director may conduct a background check of any person applying for registration. The background check may include information solicited from the Oregon State Police.

(4) Initial registration period shall be for a period of 1 year from the date of initial registration.

(5) Unless there are grounds for denying the application pursuant to OAR 441-930-0310, the Director shall issue an Order of Registration.

(6) The Order of Registration is a continuing registration and remains in effect until the registration is surrendered by the registrant or revoked or suspended by the Director as provided for in OAR 441-930-0310.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0030; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0040

Material Changes, Amendments, and Notice of Civil and Criminal Actions

(1) A master trustee must file an amendment to its application with the Director if there is a material change to any information on the original application including:

(a) Bankruptcy;

(b) Civil or criminal actions described on the application;

(c) Disciplinary disclosure answers on the application;

(d) Change in additional affiliated business entity name;

(e) Change in control or ownership;

(f) Change in form of organization;

(g) Change of address; or

(h) Change in scope of business.

(2) The master trustee must file amendments with the Director within 30 days of the occurrence of the material change. If a completed amendment cannot be filed within 30 days, the master trustee shall file with the Director a written notice containing available information, the reasons a complete amendment cannot be timely filed and a specific date on which the completed amendment will be filed.

(3) The registered master trustee shall file amendments to the application on a form provided by or acceptable to the Director.

(4) For purposes of this rule, "civil action" means an action filed in a court of law or an action in a formal process of alternative dispute resolution.

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

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0040; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0050

When Registration Application Deemed Abandoned

(1) For purposes of this rule, the term "application" includes all documents, information and fees prescribed for the registration of master trustees as provided under ORS 97.923 to 97.949 and OAR 441-930-0030.

(2) An application shall be deemed deficient when:

(a) Insufficient fees have been paid and the Director has notified the applicant that fees are insufficient;

(b) Documents required to be submitted to the Director by OAR 441-930-0030 have not been submitted by the applicant; or

(c) Additional information requested by the Director has not been submitted to the Director by the applicant.

(3) An application shall be deemed abandoned if:

(a) The application has been on file for a minimum 180 days;

(b) The application is deficient; and

(c) The applicant has failed to respond to the Director's written notice of warning of abandonment within 30 calendar days of the date of warning.

(4) The Director shall refund registration fees received for abandoned applications.

(5) An applicant whose application has been abandoned may reapply by submitting a new application including new fees.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0050; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0060

Master Trustee Reporting Requirements

No later than April 1, each master trustee shall file with the Director on a prescribed form an aggregate report for the previous calendar year containing the following information related to preneed activity:

(1) Beginning balances of deposited funds and accumulated earnings in the trust account;

(2) The deposits to the trust account(s) during the year;

(3) The amount of earnings on deposits to the trust account during the year;

(4) The amounts of withdrawals of deposits from the trust accounts during the year;

(5) The name and address of all Oregon certified providers for whom the master trustee administers funds;

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(6) A copy of the master trustee's fiscal year's audited financial statements and if not current within six months of the filing date, internally prepared statements through the most recent month end; and

(7) The annual report fee pursuant to OAR 441-930-0270.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0060; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0070

Annual Examination of Master Trustee

(1) Each master trustee that is or should be registered may be subject to an annual examination by the Director. The Director may, at the Director's discretion, conduct an examination at the office of the master trustee or at the office of the Director. The examination will be of the condition and resources of the master trustee, including:

(a) A review of the minutes of the annual meeting of owners and any special meeting;

(b) A review of all board or management meetings;

(c) Operating policies and procedures;

(d) Security of funds;

(e) Investment vehicle;

(f) Receipt and dispersal of funds;

(g) Investment and banking accounts;

(h) Audit reports;

(i) Regulatory audit reports.

(2) A master trustee shall pay to the Director the expenses and costs of examination pursuant to OAR 441-930-0270.

(3) At the discretion of the Director, a master trustee located outside Oregon may make the books and records available for examination in Oregon.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0070; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0200

Certification Requirement

An entity shall not engage in prearrangement sales or preconstruction sales, as defined in ORS 97.923 unless:

(1) That entity has obtained an Order of Certification from the Director; and

(2) Such certification is in force at the time of the sale.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0200; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0210

Application for Original Order of Certification

(1) Each entity desiring to obtain an Order of Certification shall apply by submitting a written application with the Director on forms prescribed by the Director.

(2) An application must contain:

(a) A list of all officers, directors, and 10% or more owners;

(b) Information concerning the applicant's identity, address, and the business, professional or work history of all executive officers and directors or individuals performing similar duties, and 10% or more owners;

(c) Proof of registration or good standing of the applicant's business name in the state or country under which it is organized;

(d) The depositories the applicant intends to use for funds received from the sale of the preneed plans and notification of any changes at or before the time of the change; and

(e) For providers who do not appoint a master trustee, financial statements including:

(A) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles.

(B) If the audited financial statement is more than six months old, internally prepared statement for the most recent month end.

(f) A list of prearrangement plans to which the applicant was a party at the date of application; and

(g) A registration fee of \$275.00.

(3) The Director may conduct a background check of any person applying for registration. The background check may include information solicited from Oregon State Police.

(4) If the applicant is an individual or sole proprietorship, the applicant's social security number. Provision of this number is mandatory and failure to provide the applicant's social security number shall be considered grounds for denying certification to the applicant.

(5) Initial registration period shall be for a period of one year from the date of initial registration.

(6) Unless there are grounds for denying the application pursuant to ORS 97.948, the Director shall issue an Order of Certification.

(7) The certificate issued to certified providers is continuing and remains in effect until surrendered by the Provider or revoked or suspended by the Director.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; DOC 2-2002(Temp) f. & cert. ef. 2-12-02 thru 8-1-02; DO 3-2002, f. & cert. ef. 5-23-02; Renumbered from 440-300-0210; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0220

Renewal Application for Certified Provider

Submission of the annual report pursuant to OAR 441-930-0250 and annual registration fees shall constitute renewal of the application for certification.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0220; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0230

Material Changes, Amendments, and Notice of Civil and Criminal Actions

(1) A certified provider must file an amendment to its application with the Director if there is a material change to any information on the original application including:

(a) Bankruptcy;

(b) Civil or criminal actions described on the application;

(c) Disciplinary disclosure answers on the application;

(d) Change in additional affiliated business entity name;

(e) Change in control or ownership;

(f) Change in form of organization;

(g) Change of address; or

(h) Change in scope of business.

(2) The certified provider must file amendments with the Director within 30 days of the occurrence of the material change. If a completed amendment cannot be filed within 30 days, the certified provider shall file with the Director within the 30 day limit a written notice containing available information, the reasons a complete amendment cannot be timely filed and a specific date on which the completed amendment will be filed.

(3) Amendments to the application shall be made on a form provided by or acceptable to the Director.

(4) For purposes of this rule "civil action" means an action filed in a court of law or actions in a formal process of alternative dispute resolution.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0230; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0240

When Certification Application Deemed Abandoned

(1) For purposes of this rule, the term "application" includes all documents, information and fees prescribed for the certification or renewal of providers as set forth in ORS 97.923 to 97.949 and OAR 441-930-0210.

(2) An application shall be deemed deficient when:

(a) Insufficient fees have been paid and the Director has notified the applicant that fees are insufficient;

(b) Documents required to be submitted to the Director by OAR 441-930-0210 have not been submitted by the applicant; or

(c) Additional information requested by the Director has not been submitted by the applicant.

(3) An application shall be deemed abandoned if:

(a) The application has been on file for a minimum 180 days;

(b) The application is deficient; and

(c) The applicant has failed to respond to the Director's written notice of warning of abandonment within 30 calendar days of the date of warning.

(4) The Director shall refund registration fees received for abandoned applications.

(5) An applicant whose application has been abandoned may reapply by submitting a new application, including new fees.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

ADMINISTRATIVE RULES

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0240; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0250

Annual Report Required of Prearrangement Plan Obligors

(1) Each certified provider is responsible for and shall file annually with the Director by April 1 of each year a report on forms supplied or approved by the Director, and pay an annual report fee. The report shall cover the preceding calendar year and shall include:

(a) A statement of transactions for prearrangement plans financed by funeral plan trust accounts for the preceding reporting period including the beginning balance, deposits made during the reporting period, deposits in transit, interest earnings, and withdrawals made during the reporting period;

(b) A statement of transactions for prearrangement plans financed by other financing sources, that do not include insurance policies, for the preceding reporting period;

(c) For certified providers who do not utilize a master trustee, a copy of the registrant's most recent audited consolidated annual financial statement, including a balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted audit procedures;

(d) For the most recent quarter for which data is available prior to the date of the renewal application, but not more than 120 days prior to the renewal date, a description of the number of preneed sales, and the dollar amount of those sales;

(e) A description of any material changes to any of the information submitted by the registrant on the registrant's original application that have not previously been reported to the Director on any other report required to be filed with the Director; and

(f) Such other information as the Director may require.

(2) Persons who meet the following conditions shall have the option of filing a short form annual report:

(a) The person has ceased marketing prearrangement plans and is no longer certified to market prearrangement plans; and

(b) The prearrangement contracts for which the person is obligated number less than 20 or have a cumulative value of less than \$25,000.

(3) The Director shall require a certified provider that discontinues the sale of prepaid funeral benefits, but has outstanding contracts, to continue to submit a short form annual report until all of the contracts are fully discharged.

(4) The short form annual report shall contain the following information:

(a) An attestation by the person reporting that indicates that the person no longer holds an Order of Certification to market prearrangement plans and that prearrangement plans for which that person is obligated at the annual report date number less than 20 or have accumulative value of less than \$25,000; and

(b) A list of the prearrangement contracts remaining on deposit in trust funds, their balance at annual report date, and the financial institutions or master trusts at which they are deposited.

(5) The Director shall collect an annual report fee from each filing provider as described in OAR 441-930-0270.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; DOC 2-2002(Temp) f. & cert. ef. 2-12-02 thru 8-1-02; DO 3-2002, f. & cert. ef. 5-23-02; Renumbered from 440-300-0250; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0260

Examination of Certified Providers

(1) Each certified provider is subject to an examination by the Director. The Director may conduct an examination of the condition and resources, including a review of the sales contracts used by the certified provider, to determine whether the certified provider is complying with requirements of ORS 97.923 to 97.949, the laws of this state and the rules of the Director.

(2) A certified provider shall pay to the Director all expenses and costs pursuant to the provisions of OAR 441-930-0270.

(3) Upon the motion of the Director or upon receipt of a complaint by a customer of the registrant, the Director may examine the provider with respect to any violation. In lieu of an annual on-site examination, the Director may accept a report prepared by an independent accounting firm. Reports so accepted are considered for all purposes as an official report of the Director.

(4) The Director may examine or audit a record relating to prepaid funeral benefits at any place and in any manner the Director considers necessary to protect the interests of the purchasers or beneficiaries.

(5) Certified providers who maintain books and records outside the state of Oregon may, at the discretion of the Director, produce the records in Oregon for examination.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.947

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0260; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0270

Fees Assessed to Certified Providers and Registered Master Trustees

The Director shall collect the following fees from each registered master trustee and certified provider:

(1) A registration or certification fee — \$275.

(2) Annual Report Fee — \$275 per trustee, provider and/or cemetery or crematorium location. For purposes of the annual report fee, each branch location of a registrant's funeral establishment is a separate establishment and each location of a cemetery or crematorium is a separate location.

(3) Short form Annual Report Fee — \$10.

(4) Exam Fees — \$60 per hour for each examiner, plus costs of an examination.

(5) If the books and records are located outside Oregon, the certified provider or master trustee must pay travel and per diem expenses.

(6) In addition to the charges fixed by this rule, the Director shall collect any additional costs directly attributable to extra services provided under ORS 97.923 to 97.949 or these rules.

Stat. Auth.: ORS 97.933, 97.935

Stats. Implemented: ORS 97.933, 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0270; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0280

Supervision of Associated Persons by Certified Providers and Registered Master Trustees.

The conduct of associated persons employed by the certified provider or master trustee is the direct responsibility of the certified provider or master trustee:

(1) Every associated person of the certified provider or master trustee shall be subject to the supervision of a supervisor designated by such certified provider or master trustee. The supervisor may be the certified provider or master trustee in the case of a sole proprietor, or a partner, officer or office manager or person occupying a similar position of management and control.

(2) Every certified provider and master trustee shall establish, maintain and enforce written procedures, a copy of which shall be kept in the business office, which shall set forth the procedures adopted by the certified provider or master trustee to comply with the duties imposed on the certified provider or master trustee under ORS 97.933(5).

(3) For purposes of this rule, "Associated Person" are individuals, including salespersons defined in ORS 97.923(15) working on behalf of a certified provider or master trustee.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0280; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0290

Unprofessional Conduct

A person who engages in the following conduct is subject to probation, suspension, revocation or denial of a certification or registration and assessment of a civil penalty pursuant to ORS 97.948 and OAR 441-930-0310:

(1) Furnishing false or misleading information to the Director in obtaining, renewing, reinstating, or maintaining certification or in connection with the filing of an annual report or complying with an investigation;

(2) Failing to furnish accurate and understandable price information to consumers;

(3) Employing any unconscionable tactic in connection with the offer or sale of a prearrangement plan;

(4) Failing to make and verify trust deposits in the amounts and within the time periods specified in ORS 97.941.

(5) Withdrawing money from a trust account in excess of what is permitted pursuant to ORS 97.943;

(6) Failing to comply with the annual reporting requirements as required by ORS 97.933 or these rules;

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- (7) Failing to provide the goods and services agreed to in the sales contract;
- (8) Using trust funds for non-trust purposes;
- (9) Failing to release trust funds to the rightful payee within 30 days of the date of request for release; or
- (10) Failing to comply with any other provisions of ORS 97.923 to 97.949, or these rules.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.933, 97.935
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0290; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0300

Notice of Complaint

(1) Each certified provider and each master trustee who has filed a complaint against any of its partners, officers, directors, or associated persons registered in Oregon, with any law enforcement agency, any other regulatory agency having any regulatory jurisdiction over prearrangement plans, or with any bonding company regarding any loss arising from alleged acts of such person, shall send a copy of such complaint to the Director within ten days following its filing with such other agency or bonding company.

(2) The certified provider or master trustee shall notify the Director within 10 days of learning of any action initiated by a law enforcement agency or regulatory agency against any of its partners, officers, directors, or associated persons registered in Oregon on the basis of something other than a complaint from the certified provider or master trustee.

(3) The certified provider or master trustee shall file a copy of any finding, censure, fine, suspension, or expulsion made as a result of any such complaint with the Director within ten days following such action.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.933, 97.935
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0300; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0310

Revocation, Suspension and Denial of Certificate or Registration

The Director may impose a civil penalty or probation, or revoke, suspend or deny an Order of Certification of a certified provider or an Order of Registration of a Master Trustee when one or more of the following conditions exist:

(1) The certified provider's license under ORS 692.160 expires or is suspended or revoked by the State Mortuary and Cemetery Board;

(2) The certified provider or master trustee fails to submit the annual report required by ORS 97.933 and OAR 441-930-0060;

(3) The certified provider or master trustee fails to submit the annual report fee required by OAR 441-930-0270;

(4) The certified provider or master trustee fails to maintain or denies the Director access to the financial records and supporting documents necessary to audit the licensee or registrant's annual report;

(5) The certified provider or master trustee has filed a materially false or misleading report with the Director;

(6) The certified provider is, in the judgment of the Director, unable or unwilling to deposit prearrangement plan receipts within five days as required by ORS 97.941;

(7) The certified provider or master trustee fails to account to interested persons for monies received;

(8) The certified provider or master trustee has willfully or repeatedly violated or failed to comply with any provision of ORS 97.923 to 97.949, or OAR 441-930-0010 through 441-930-0400;

(9) The certified provider or master trustee is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business of a certified provider or master trustee; or

(10) The certified provider or master trustee is the subject of disciplinary action by another state or government agency provided the activity subject to discipline would constitute a violation of Oregon law or administrative rules.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.948
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0310; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0320

Notice Requirements

(1) The Director shall provide written notice to the provider and to the State Mortuary and Cemetery Board of the Director's intent to: impose pro-

bation or a civil penalty; revoke, suspend or deny an Order of Certification or Order of Registration.

(2) The Director shall provide written notice of the Director's Final Order to: impose probation or a civil penalty; revoke, suspend or deny an Order of Certification to each depository or master trustee known by the Director to hold prearrangement plan trust accounts for which the certified provider is named.

(3) The Director shall provide written notice of the Director's Final Order to: impose probation or a civil penalty; revoke, suspend or deny an Order of Registration to each certified provider known by the Director to have deposited trust funds with the master trustee.

(4) The notice required in section 1 through 3 of this rule shall state the reasons for the action, the effective date of the action, and for notice in section (1) a statement of the certified provider or master trustee's right to request a hearing under ORS Chapter 183.

(5) The action shall become final after notice, opportunity to be heard, and a hearing, if requested, is held pursuant to the provisions of ORS 183.310 to 183.550, governing contested cases.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.948
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0320; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0330

Records to be Retained; Retention

(1) Each certified provider and master trustee shall maintain records to document the balances and transactions included in its annual report filed pursuant to OAR 441-930-0060 and 441-930-0250 and shall retain these records for examination by the Director. Each certified provider and master trustee shall make, keep and preserve the following books, accounts and other records for a period of three years. The records required to be maintained must include, but are not limited to:

- (a) Workpapers documenting preparation of the annual report;
- (b) Any and all general ledger or subsidiary ledger account records relating to prearrangement plans;
- (c) Receipts register;
- (d) Sales registers evidencing delivery of merchandise and/or services;

(e) Workpapers documenting distribution of interest income to individual trusts in a common trust account;

(f) Prearrangement contract files, trust agreement files, and other supporting documentation related to prearrangement transactions;

(g) Bank statements; and

(h) Statements from other financial institutions.

(2) Books, accounts, and other records required to be maintained under section (1) may be maintained:

(a) In a photographic, electronic and other similar form; or

(b) At a location outside Oregon, so long as the books, accounts and other records are made accessible to the Director.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.947
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0330; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0340

Examination Report

Upon completion of an examination conducted pursuant to OAR 441-930-0070 or 441-930-0260 the Director shall issue a written report to the certified provider or master trustee indicating the examination procedures applied and the examination findings.

Stat. Auth.: ORS 97.933, 97.935

Stats. Implemented: ORS 97.947

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0340; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0350

Funeral and Cemetery Consumer Protection Trust Fund

The Director shall order restitution from the Funeral and Cemetery Consumer Protection Trust Fund when the following conditions are met:

(1) A claim for restitution is submitted to the Director on forms supplied or approved by the Director accompanied by the documentation specified by the Director;

(2) The loss claimed was incurred on a pre-arrangement plan entered into after September 27, 1987;

(3) The Director has reviewed the claim form and accompanying documentation and determined that a loss was incurred by the claimant on a prearrangement plan and that this loss is non-collectible from the seller of the plan;

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(4) The claim for restitution does not exceed the sales price of the pre-arrangement plan, which is the subject of the claim plus interest at the statutory rate; and

(5) Sufficient funds are available in the Funeral and Cemetery Consumer Protection Trust Fund to pay the claim. The Director shall provide written notice of its intent to order restitution or not to order restitution on a claim to the maker of the claim and to the individual or firm that is the subject of the claim.

(6) The notice shall state the reasons for the action, the effective date of the action, and a statement of the registrant's right to request a hearing under ORS Chapter 183. The action shall become final after notice, opportunity to be heard, and hearing pursuant to the provisions of ORS 183.310 to 183.550.

Stat. Auth.: ORS 97.945
Stats. Implemented: ORS 97.945
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0350; FCS 3-2004, f. & cert. ef. 9-30-04

441-930-0360

Additional Surety Bond Requirements for Endowment Care Cemeteries

(1) An individual or firm electing to file a surety bond or letter of credit to meet one of the requirements of ORS 97.929(1)(c)(C) regarding deposits of funds received from agreements to sell or sales of burial vaults or markers for installation in an endowment care cemetery and for sale of crypts or niches not in existence at the time of the sale, shall submit a bond or letter of credit in the amount of \$10,000.

(2) Upon notification from the surety of notice of intent to cancel the surety bond or from a financial institution of notice of intent to withdraw a letter of credit, the Director shall send written notice to the endowment care cemetery. This notice shall be sent by certified mail within three business days of receipt of notification by the Director from the surety. Failure to send the notice within three business days will not preclude the endowment care cemetery from being subject to the provisions of ORS 97.923 to 97.949 and 692.180.

(3) An endowment care cemetery will become subject to the provisions of ORS 97.923 to 97.949, 97.992, 97.994 and 692.180 if an effective bond or letter of credit is not received by the Director no later than 5:00 pm Pacific Time on the day the bond is canceled or the letter of credit withdrawn.

(4) An effective bond or letter of credit is one that commences no later than the cancellation date of the previous bond or letter of credit.

Stat. Auth.: ORS 97.933, 97.935
Stats. Implemented: ORS 97.929
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0360; FCS 3-2004, f. & cert. ef. 9-30-04

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Adm. Order No.: ID 7-2004

Filed with Sec. of State: 10-5-2004

Certified to be Effective: 10-5-04

Notice Publication Date: 5-1-04

Rules Adopted: 836-080-0436, 836-080-0438

Rules Amended: 836-080-0425, 836-080-0430, 836-080-0435

Rules Repealed: 836-080-0432

Subject: This rulemaking conforms rules relating to credit scoring to 2003 legislation. That legislation incorporated some of the provisions of the existing rules and also extended the scope of statutory regulation of credit scoring and its use in connection with insurance. New rules relate to actuarial data required to support differences between no hits and no scores, notice of right to seek rating and to the definition of adverse underwriting decision.

Rules Coordinator: Sue Munson—(503) 947-7272

836-080-0425

Applicability; Definitions

(1) OAR 836-080-0425 to 836-080-0440 apply to personal insurance as defined in ORS 746.600.

(2) "Application" means an action by a prospective insured that, if accepted by the insurer, would establish a contract of insurance.

(3) "Consumer," "consumer reporting agency," "credit history" and "insurance score" have the meanings given those terms in ORS 746.600.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.015 & 746.240
Hist.: ID 25-2002, f. 12-17-02, cert. ef. 6-1-03; ID 7-2004, f. & cert. ef. 10-5-04

836-080-0430

Disclosure of use of Credit History or Insurance Scores

(1) Before an insurer or its insurance producer may obtain the credit history or insurance score of a consumer in response to a request by the consumer relating to insurance coverage, the insurer or insurance producer shall notify the consumer that the insurer or insurance producer will check the credit history or insurance score of the consumer. The notice may be oral, in writing or in the same medium as the medium in which communication between the consumer and the insurer or insurance producer is conducted.

(2) An insurance producer need provide only one notice under section (1) of this rule to a consumer for the inquiry or inquiries that the insurance producer makes to one or more insurers in response to the request by the consumer.

(3) An insurer who uses credit histories or insurance scores for underwriting or rating coverage shall instruct each of its insurance producers that before an insurance producer may obtain a consumer's credit history or insurance score, the insurance producer must notify the consumer that the consumer's credit history or insurance score of the consumer will be checked.

(4) An insurer that uses the credit history or insurance score of a consumer when considering the consumer's application for insurance must notify the consumer during the application process that the consumer may request a written statement describing its use of credit histories or insurance scores. The notice to the consumer may be either in writing or in the same medium as the medium in which the application is made. The statement must address the following items:

- Why the insurer uses credit history or insurance scores.
- How the insurer uses credit histories or insurance scores.
- What kinds of credit information are used by the insurer.
- Whether a consumer's lack of credit history will affect the insurer's consideration of an application.

(e) Where the consumer may go with questions.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.015 & 746.240
Hist.: ID 25-2002, f. 12-17-02, cert. ef. 6-1-03; ID 7-2004, f. & cert. ef. 10-5-04

836-080-0435

Policies Governing Credit Histories and Insurance Scores

Each insurer that uses credit histories or insurance scores in the rating or underwriting, or both, of prospective applicants, applicants or policyholders for personal insurance shall establish a written policy that includes at least the following:

(1) An explanation of credit histories or insurance scores, or an explanation of both if the insurer uses both, and the insurer's standards governing their use.

(2) Rating and underwriting protocols, rules and instructions relating to credit histories or insurance scores. The protocols, rules and instructions shall include an explanation of the insurer's consideration and treatment, for underwriting purposes and for rating purposes, of:

(a) A consumer for whom the insurer or provider of credit scoring information has found no credit records (a "no hit"), and whether the insurer may make exceptions.

(b) A consumer for whom the insurer or provider of credit history or insurance score information has found a credit record but insufficient credit activity for creating a credit score (a "no score"), and whether the insurer may make exceptions.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.015 & 746.240
Hist.: ID 25-2002, f. 12-17-02, cert. ef. 6-1-03; ID 7-2004, f. & cert. ef. 10-5-04

836-080-0436

Absence of or Inability to Determine Credit History; Relation to Risk to Insurer

An insurer may use the category of absence of a credit history ("no hit") or the category of inability to determine a consumer's credit history ("no score") under ORS 746.661(1)(c) according to the separate risk profiles for the two categories, and any relevant subcategories, demonstrated by actuarial data that the insurer has submitted to the Director of the Department of Consumer and Business Services.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.650
Hist.: ID 7-2004, f. & cert. ef. 10-5-04

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836-080-0438

Definition of Adverse Underwriting Decision; Notice

(1) For the purpose of the notice required by ORS 746.650(5), an adverse underwriting decision as defined in ORS 746.600(1)(a)(E)(iii) occurs when an insurer accepting an application for insurance would have given the consumer a lower rate if the consumer's credit history or the credit factors in the consumer's insurance score were more favorable.

(2) An insurer shall include in a notice of adverse underwriting decision required by ORS 746.650(5) an explanation of the consumer's right to request, no more than once annually, that the insurer rerate the consumer, and of potential negative consequences of rerating, if any.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.600, 746.650
Hist.: ID 7-2004, f. & cert. ef. 10-5-04

Adm. Order No.: ID 8-2004(Temp)

Filed with Sec. of State: 10-12-2004

Certified to be Effective: 10-12-04 thru 3-20-05

Notice Publication Date:

Rules Adopted: 836-014-0400

Subject: This temporary rule requires insurers that are authorized to write commercial general liability insurance relating to construction contractors, and are writing that coverage, to form a market assistance plan to assist businesses and service providers unable to purchase the coverage in adequate amounts from either the admitted or non-admitted market in Oregon.

Rules Coordinator: Sue Munson—(503) 947-7272

836-014-0400

Market Assistance Plan

(1) Insurers that are authorized to write commercial general liability insurance relating to construction contractors and are writing that coverage shall form a market assistance plan to assist businesses and service providers unable to purchase the coverage in adequate amounts from either the admitted or nonadmitted market. For the purpose of this rule, commercial general liability insurance is a class of commercial liability insurance.

(2) Except as provided in section (3) of this rule, the market assistance plan established under this rule shall operate under the plan of operation prepared pursuant to ORS 735.210(2) and approved by the Director on July 26, 2004.

(3) At the request of the Director, for the purpose of implementing the purpose of the market assistance plan under section (1) of this rule, the insurers that formed the market assistance plan may modify the plan and the plan of operation described in section (2) of this rule, subject to approval of the modification by the Director.

Stat. Auth.: ORS 731.244 & 735.210
Stats. Implemented: ORS 735.210
Hist.: ID 8-2004(Temp), f. & cert. ef. 10-12-04 thru 3-20-05

Department of Corrections Chapter 291

Adm. Order No.: DOC 9-2004

Filed with Sec. of State: 9-28-2004

Certified to be Effective: 9-28-04

Notice Publication Date: 7-1-04

Rules Adopted: 291-061-0126

Rules Amended: 291-061-0051, 291-061-0096, 291-061-0100, 291-061-0120, 291-061-0125, 291-061-0145, 291-061-0200

Subject: These rules amendments are necessary to update the department's rules relating to food handling and preparation to changes from the Department of Human Services, Public Health, and to reflect minor operational changes within the department.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-061-0051

Cleanliness of Employees

(1) All staff/inmates shall wear clean outer garments and shall maintain personal cleanliness, grooming, and hygienic practices at all times while engaged in preparing or serving food and drink, or washing and storing utensils and equipment.

(2) No staff/inmate shall resume work after using the toilet room without first washing hands. Except when one handwashing lavatory is allowed under Food Sanitation Rule, OAR 333-150, section 5-203.11(A),

after using the toilet facility, food employees shall wash their hands twice, first at a handwashing lavatory in the toilet facility and again at handwashing lavatory in the food preparation area. Hand washing must be thoroughly done before beginning work and must be repeated upon any change of tasks; handling of unwashed or raw foods; after cleaning jobs; or after coughing, sneezing, scratching or other activity that could contaminate the hands.

(3) Effective hair restraints shall be used by all staff/inmates to prevent hair from contacting or falling into food or onto food contact surfaces.

(4) Eating and drinking by staff/inmates shall be prohibited while they are preparing, serving, or handling food.

(5) All inmate workers assigned to the Food Services Section shall shower and change clothes daily.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; Renumbered from 291-061-0150; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0096

Wholesomeness of Food and Drink

(1) All food and drink shall be clean, wholesome, free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances or articles and so prepared, stored, handled, and displayed as to be safe for human consumption. Except as otherwise stated in section (3), all food and beverage products shall be obtained from commercial sources licensed and inspected by the State Health Division, State Department of Agriculture, U.S. Department of Agriculture or U.S. Food and Drug Administration and operating in compliance with requirements of the agency having jurisdiction. Meat product shall be obtained only from plants licensed and inspected under commercial standards by the U.S. Department of Agriculture or the Oregon Department of Agriculture. Except as provided in sections (2) and (3) below, food products obtained from noncommercial sources or other sources not licensed or regularly inspected by the State Department of Agriculture or the State Health Division shall not be received, stored, prepared, or used in institutional food service.

(2) Fresh fruit and vegetables may be purchased directly from growers who are recognized, commercial growers, and such products must meet at least the same standards and tests required if sold to a commercial vendor.

(3) Institution-grown fruit and vegetables may be accepted for use in Department of Corrections facilities provided:

(a) The Food Service Manager finds them to be safe and wholesome;

(b) The growing, harvesting and handling is under the direction, supervision and management of the facility; and

(c) All fertilizers, pesticides, soil additives, treatment substances or other chemicals are applied in accordance with the product label, and residues of such products do not exceed standards of the U. S. Department of Agriculture, Federal Drug Administration and Oregon Department of Agriculture.

(4) All milk, fluid milk products, ice cream, and other frozen desserts served shall be from sources licensed and regularly inspected by the State Department of Agriculture or commercial out-of-state sources subject to the control of U.S. Food and Drug Administration. Milk products shall be pasteurized in facilities inspected and regulated by the State Department of Agriculture or by the FDA requirements for interstate commerce.

(5) Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor or from a refrigerated bulk container, except where group feeding is practiced and in which a large number of servings of milk are poured at one time and served immediately. In this case, commercial containers larger than 1/2 pint may be used if they are opened immediately before pouring and any unused portions left in the large containers are returned immediately to refrigeration and are used only for cooking. Cream, however, may be dispensed from the original refrigerated container or dispensed from small covered pitchers which are refrigerated or held in ice.

(6) Dehydrated milk and milk products may be used under the following circumstances:

(a) Such products shall be obtained from sources licensed by the Department of Agriculture;

(b) All dehydrated milk products and ingredients shall be made only from pasteurized milk;

(c) Such products shall be stored dry and handled in a manner which precludes contamination;

(d) All reconstituted milk products or rehydrated products containing dried milk products, whether they are instant mixes or cooked after reconstitution, must be rapidly cooled to at least 41 degrees Fahrenheit.

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(e) Reconstituted milk must be held at 41 degrees Fahrenheit or colder or at 140 degrees Fahrenheit or warmer at all times until served.

(f) Under no circumstances may any uncooked food or beverage such as "instant" beverages, puddings or fillings or any non-acidified product containing rehydrated milk products which has been held for longer than four hours be served.

(7) All oysters, clams, and mussels shall be from sources licensed and inspected by the State Health Division, State Department of Agriculture, U.S. Food and Drug Administration or U.S. Department of Agriculture. If shucked, they shall be kept until used in the containers in which they were placed at the shucking plant. Shellfish sanitation certificate numbers and dates shall not be defaced, obscured, or removed from the container.

(8) Food additives in form or quantity prohibited by OAR 333-151-010 shall not be added to, mixed with, or packed in any food served.

(9) Home-canned foods or other foods produced, prepared, or packed in noncompliance with Oregon State Department of Agriculture or applicable federal regulations shall not be used or stored on the premises. Nonhazardous on-site processing of food may be evaluated and authorized in writing by the Health Division.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; Renumbered from 291-061-0090; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0100

Serving of Food and Drink

(1) The premises of all food service and preparation facilities shall be kept clean and free of litter or rubbish and all unused or inoperable equipment and utensils.

(2) All food and drink shall be so stored, displayed, and served as to be protected from grease, dust, dirt, insects, vermin, depredation and pollution by rodents, unnecessary handling, overhead leakage, or any other contamination. Sneeze shields shall be used to effectively protect foods in self-service type operations. Sneeze shields shall be designed and installed to intercept at least the zone between all food items on display and elevation 60 to 54 inches above the edge of the tray rail. All storage shall be at least 12 inches off the floor to permit cleaning of the floor, except where storage is on a wheeled platform permitting ease of movement.

(3) All readily perishable food, except when being prepared and until served, shall be kept at 41 degrees Fahrenheit or below, or 140 degrees Fahrenheit or above.

(4) No animals or fowl shall be kept or allowed in any room in which food or drink is prepared, stored, or served except for guide dogs for the blind and for the deaf which are required to be admitted pursuant to ORS 346.610 through 346.991.

(5) All means necessary for the elimination of flies, roaches, vermin, and rodents shall be used. All poisonous compounds used shall be plainly labeled and shall be so colored to be easily identified. Poisonous compounds and medications shall be stored and used in a manner precluding food contamination. Automatic insecticide dispensers, vaporizers, or fumigants shall not be stored or used in food preparation, storage, and serving areas.

(6) Persons not employed or supervised by the establishment shall be excluded from food preparation and storage areas. Only persons whose services are required for operation of the facility shall be allowed in food preparation, storage, and service areas.

(7) Food may be served family-style only where such serving is a part of a formal education or therapy program designed specifically for developing physical or social skills in enrolled participants. All other construction, operation, and equipment provisions of these rules must be met in family-style operations.

(8) None of the operations connected with food service or preparation shall be conducted in any room used as living or sleeping quarters. Beds or cots shall not be permitted in any food service facility rooms. Toilet facilities serving living quarters shall not be deemed to meet the requirements of these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0120

Liquid, Frozen, Dry Eggs and Egg Products

Liquid, frozen and dried egg products shall be used only for cooking and baking purposes. Whole shell eggs, reconstituted dry egg products, raw and cooked egg products, and all foods containing egg products shall be refrigerated at 41 degrees Fahrenheit or less or held at or above 140 degrees

Fahrenheit at all times. Dried egg products may be stored at room temperature until mixed with other foods and/or rehydrated.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0125

Reheating

(1) Potentially hazardous foods that have been cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees for 15 seconds.

(2) Specified under this section, potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating.

(3) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 140 degree for hot holding.

(4) Reheating for hot holding shall be done rapidly. The time the food is between the temperatures specified under all the above may not exceed two hours. Steam tables, bainmaries, warmers, and similar hot food holding equipment shall not be used for the rapid reheating of potentially hazardous foods.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0126

Ready to Eat, Potentially Hazardous Food, and Date Marking

Refrigerated, ready-to-eat, potentially hazardous food prepared that is held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which includes the day of preparation. The date marked shall be:

(1) Seven calendar days or less from the day the food is prepared, if the food is maintained at 41 degrees or less as specified.

(2) Four calendar days or less from the day of food is prepared, if the food is maintained at 45 degrees or less as specified.

(3) The day the food is thawed, to indicate that the food shall be consumed within 24 hour.

(4) The date the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated and which includes the day of preparation.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0145

Food Transportation

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged to be protected from contamination. Foods in original individual packages do not need to be over wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service, food shall meet the requirements of these rules relating to food protection and food storage. Readily perishable foods shall be kept below 40 degrees Fahrenheit or above 140 degrees Fahrenheit during transport and until served.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0200

Mechanical Cleaning and Sanitizing of Utensils and Equipment

(1) All mechanical dishwashing devices must be commercially rated and NSF approved meeting subsections (1) through (3) of this rule.

(a) Machines and devices shall be properly installed and maintained in good repair and shall be operated in accordance with manufacturer's instructions. For all nonconveyor machines, the cycle control switch shall automatically reset to the off position if a cycle is interrupted. Utensils and equipment placed in the machine shall be exposed to all cleaning and sanitizing cycles. Automatic detergent dispensers, wetting agent dispensers,

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and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(b) The pressure of final sanitizing rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch IPS (Iron Pipe Size) valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(c) Machine or waterline-mounted, numerically-scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit, shall be provided to indicate the temperature of the final rinse water as it enters the manifold. The temperature of the final rinse will be checked and logged during every meal.

(d) In multi-tank machines, rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper specifications are attached to the machines.

(e) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and cleaning of utensils following sanitization. This does not preclude the use of easily movable dish tables for the storage of cleaned utensils following sanitization. Wooden racks, toweling, absorbent materials or other materials which are not easily cleanable will not be used on drainboards and dish tables.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine operation unless a prewash cycle is a part of the dishwashing machine. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and in a way that permits free draining.

(g) Domestic or home-style dishwashers shall not be used unless modified by the manufacturer or factory representative to meet specifications of water pressure, water temperature, and cycling control in subsections (1) through (3) of this rule.

(2) Machines using chemicals for sanitization may be used, provided the following requirements are satisfied in addition to subsection (1) of this rule:

(a) The temperature of the wash water shall not be less than 120 degrees Fahrenheit;

(b) The wash water shall be kept clean;

(c) Chemicals added for sanitization purposes shall be automatically dispensed;

(d) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturer's specifications for the time and concentration. In no case shall the chemical concentration be less than 50 parts per million chlorine or 12.5 parts per million iodine;

(e) The chemical sanitizing rinse water temperature shall not be less than the manufacturer's recommended temperature and in no case less than 75 degrees Fahrenheit; and

(f) A test kit or other device that accurately measures the parts per million concentration of the sanitizing solution shall be provided by the institution and shall be used regularly to assure proper concentrations.

(3) Machines using hot water for sanitizing may be used provided the following requirements are satisfied in addition to subsection (1) of this rule:

(a) The wash water and pumped rinse water shall be kept clean.

(b) The water shall be maintained at a minimum of 120 to 140 degrees Fahrenheit for the wash cycle.

(c) The rinse cycle shall be 160 degrees Fahrenheit as measured at the level of the dish rack.

(d) The pressure during the rinse cycle shall be 15 to 25 pounds per square inch.

(4) Drying: After sanitizing, all equipment and utensils shall be air dried. Utensils may not be rinsed after the sanitizing cycle, and towel drying may not be practiced.

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

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

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; Renumbered from 291-061-0070; DOC 9-2004, f. & cert. ef. 9-28-04

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

Filed with Sec. of State: 9-28-2004

Certified to be Effective: 9-28-04 thru 3-27-05

Notice Publication Date:

Rules Adopted: 291-086-0046, 291-086-0047, 291-086-0060

Rules Amended: 291-086-0010, 291-086-0020, 291-086-0030, 291-086-0040, 291-086-0045, 291-086-0050

Subject: These rule amendments are necessary to revise the approval process and establish criteria that allow inmates to access and use computer equipment. Implementation of a new automated inmate legal libraries and changes in inmate work and program assignments has created a greater need to allow inmates to access and use computer equipment. These amendments establish new standards to ensure the safety and security of the department's computer equipment and information systems is not jeopardized with the increasing number of inmates who access and use computer equipment.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-086-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish the approval process and set standards that allow inmates to use computer equipment in the normal course of their work or program assignment.

(3) Policy: It is the policy of the Department of Corrections that security not be compromised by inmate use of computer equipment. Inmate use of computer equipment shall not jeopardize the safety, security or orderly operation of any Department of Corrections facility. Appropriate supervision and management practices shall be maintained to ensure adequate security safeguards.

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

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

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0020

Definitions

(1) Computer Equipment: Any automated processing or data storage devices including, but not limited to, personal computers, work stations, terminals, controllers, printers, and communication devices.

(2) Department of Corrections (DOC) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(3) DOC Standard Access: The combination(s) of hardware and software which the Assistant Director for General Services/designee and the Assistant Director for Operations/designee determine to be the standard computer configuration for inmates.

(4) Information Systems Unit (ISU): The unit that is responsible for providing technical or operational support to the DOC Information System or DOC Inmate Network.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not under parole, probation or post-prison supervision status.

(6) Inmate Access: Inmate access to, or use of, computer equipment which is granted because of work, program assignment, or authorized by Department of Corrections rule or policy.

(7) Inmate Supervisor: Any employee of the Department of Corrections, any OCE employee, or any DOC/OCE contractor that is responsible for supervising an inmate.

(8) Oregon Corrections Enterprises (OCE): A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(9) OCE Functional Unit Manager: Any person within the Oregon Corrections Enterprises who reports to either the Administrator or the Deputy Administrator and has responsibility for delivery of business services or coordination of business operations.

(10) OCE Standard Access: The combination(s) of hardware and software which the OCE Administrator and the Assistant Director for Operations/designee determine will be accessed by inmates within each correctional institution.

(11) Special Access: The combination(s) of hardware and software beyond what is determined to be standard access.

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(12) Program Assignment: Any assignment fulfilling the requirement of the inmate's Oregon corrections plan, or other Department of Corrections approved performance recognition program.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 27-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0030 General

(1) These rules (OAR 291-086-0010 through 291-086-0060) establish the approval process and set the standards for inmate access to and use of any information systems equipment; specifically computer hardware and software, peripheral devices, data communications devices, terminals, personal computers, and printers.

(2) Inmates shall only be granted access to computer equipment because of work or program assignment, except for access to resource materials as provided in Department of Corrections rule or policy.

(3) Approval for inmate access to computer equipment is not a privilege or benefit. Any decision to deny or restrict an inmate access to computer equipment may not be appealed by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0040 Approval Process for Inmate Access to Computer Equipment

(1) All requests for inmate computer equipment use shall be approved by the DOC functional unit manager or the OCE functional unit manager, depending on the area of responsibility, prior to granting access to the inmate.

(2) The DOC functional unit manager or the OCE functional unit manager may grant standard access. Any request for access that includes hardware or software that is purchased or donated beyond what is determined to be standard access (special access) shall require a recommendation from the functional unit manager requesting the access, a technical review by ISU or OCE for implementation problems, and approval by the Institutions Administrator.

(3) All requests for inmate access to computer equipment shall be submitted on the Inmate Access to Automation Equipment and Work Assignment Request form (CD-1426A). The inmate supervisor shall submit the request to the DOC functional unit manager or OCE functional unit manager for approval. If approved, the inmate supervisor and the DOC functional unit manager or OCE functional unit manager shall sign the request form, and forward it to ISU or OCE technical support for implementation. If special access is required, the Institutions Administrator shall approve and sign the request form.

(4) The Assistant Director for General Services/designee and the Assistant Director for Operations/designee will determine specifically what software and hardware combinations constitute DOC standard access.

(5) The OCE Administrator/designee and the Assistant Director for Operations/designee will determine specifically what software and hardware combinations constitute OCE standard access.

(6) ISU or OCE technical support will configure a computer as specified in the Inmate Access to Automation Equipment and Work Assignment Request form.

(a) Login accounts will be created for the number of inmates specified in the form.

(b) An inmate shared folder(s) on the computer or network hard drive will be created. This folder(s) is the only authorized data storage location on the computer or network.

(7) No inmate shall be granted access to computer equipment or systems which contain data or are connected in any way to the Department of Corrections DOC information system network unless the request for access has been reviewed, approved and recommended by either the DOC functional unit manager or the OCE functional unit manager and the Institutions Administrator. The Assistant Director for General Services shall determine final approval for such access.

(8) The inmate supervisor shall review the standards for computer use listed in OAR 291-086-0050 or 291-085-0060 with the inmate prior to allowing the inmate to use computer equipment.

(9) Inmate supervisors shall abide by all the department rules and standards governing inmate access to computer equipment. Inmate supervisors are responsible for all work done by inmates on computer equipment and shall:

(a) Perform periodic audits of software and data on the equipment to ensure appropriateness;

(b) Ensure that regular backups of department data are performed; and

(c) Maintain contingency plans for the accidental or willful destruction of data, software, or hardware.

(10) The DOC functional unit manager or designee or the OCE functional unit manager or designee shall maintain a file of all approved requests for inmate access to computer equipment and proof of licenses for installed software per computer.

(11) As appropriate, ISU or OCE technical support will perform random reviews of the DOC or OCE computer equipment respectively to ensure the configuration conforms to the configuration on the request form. The DOC or OCE functional unit manager may contact ISU or OCE technical support to request an audit of specific computer equipment.

(12) Any DOC or OCE manager may suspend the authorization for an inmate to use computer equipment if violations to this rule are suspected.

(a) The institution assignment office will be notified of the suspension and remove the inmate from the work assignment and place him/her on "Review" status.

(b) Staff shall remove the computer from the work area or secure it in such a manner as to ensure that inmates will not have access to it.

(c) As provided in this rule, the inmate supervisor(s) will audit the data on the computer and may request ISU or OCE to conduct an investigation of the computer equipment by sending a formal request to ISU or OCE management. DOC requests will be through the ISU Helpdesk. OCE requests will be through OCE technical support. Findings will be reported to the functional unit manager who signed the original request form.

(d) If rule violations are found to have occurred, appropriate actions will be taken including, but not be limited to, disciplinary misconduct reports, program failures, and permanent restriction from any DOC inmate work or program computer system.

(e) As part of this process, ISU or OCE technical support may recommend to the functional unit manager a course of action to mitigate any problem which arises because of an inmate's use of computer equipment.

(13) Any changes from the original Inmate Access to Automation Equipment and Work Assignment Request form, must follow the same approval process as a new request. Changes include hardware requirements, application software additions or deletions, modification to automation request purpose, and adjustments to the number of inmates using the automation equipment.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 27-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0045 Approval Process for Inmate Computer Operator

(1) Supervisors who need an inmate(s) for a work assignment which involves use of computer equipment shall submit a request through the institution assignment office. The assignment office will screen the inmate(s) for the appropriateness of the assignment and report any ineligibility to the requestor.

(2) Criterion that will exclude an inmate from working on computers includes, but is not limited to, computer crime or documented violation of this rule.

(3) Inmates approved for access to computer equipment must sign the Inmate Access to Automation Acknowledgement Statement (CD-1426B) prior to using the automation equipment.

(4) Inmates approved for access to computer equipment will need to obtain an inmate password from ISU or OCE.

(a) The supervisor shall request a password for the inmate by forwarding a copy of the Inmate Access to Automation Acknowledgement Statement (CD-1426B) to ISU or OCE.

(b) ISU or OCE will issue a password to the inmate.

(c) In the event the inmate shares the password, he/she shall send an Inmate Communication Form to the supervisor. The inmate supervisor shall request ISU or OCE to provide another password.

(d) The inmate supervisor shall inform ISU or OCE of any changes in inmate operator(s). ISU or OCE will update the inmate computer access to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

ADMINISTRATIVE RULES

291-086-0046

Approval Process for Inmate Computer Operator on a Program Assignment Computer

(1) Inmate access shall be restricted to those in an approved inmate program assignment. Inmate supervisors will determine inmate eligibility to program assignments requiring access to computers.

(2) The inmate supervisor shall request ISU provide a login account(s) for each program assignment computer. ISU will create the inmate login account(s). The login account will provide access to only the needed program assignment materials.

(3) The inmate supervisor shall inform ISU of any changes in a program assignment that requires access to other computer resources on the computer equipment. ISU will update the inmate login accounts to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0047

Approval Process for Inmate Computer Operator on a Resource Computer

(1) Inmate access to resource computer equipment (e.g., legal library) shall be restricted to services provided by department rule or policy.

(2) The inmate supervisor shall request ISU provide a login account for the resource computer equipment. ISU will issue a login account for the resource computer equipment. The login account will restrict inmate access to only the needed resources.

(3) The inmate supervisor shall inform ISU of any change in resource computer login requirement. ISU will update the inmate computer login to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0050

Standards for Use of Computer Equipment by Inmates

(1) No inmate shall be permitted to enter, view, update or manipulate information on computer equipment except as authorized by the DOC functional unit manager or the OCE functional unit manager.

(2) Once an inmate has been granted access to computer equipment, he/she shall not be allowed to use the equipment without specific assignment by supervising staff. No inmate shall create, modify or change programs or program scripts that will be used on the DOC Information System or DOC Inmate Network without the approval of the Assistant Director of General Services or his/her designee.

(3) An inmate shall be supervised at all times while using computer equipment.

(4) An inmate shall only use computer equipment that has been authorized in accordance with the department's rule on Inmate Access to Automation (OAR 291-086).

(5) An inmate shall not repair or modify computer equipment except as part of an authorized Department of Corrections workforce development program.

(6) An inmate shall not be allowed direct access to printers. Printers for inmate use shall be caged or secured to eliminate direct inmate access, except as authorized by the DOC functional unit manager or the OCE functional unit manager and Institutions Administrator. All print outs shall be reviewed by staff.

(7) An inmate shall not gather or store personal data relating to staff, contractors or volunteers.

(8) An inmate shall not view, gather or store personal data relating to members of the general public.

(9) An inmate shall not view, gather or store personal data relating to other inmates or offenders, unless authorized by department rule or policy.

(10) An inmate shall not have in his/her control or possession any computer media; e.g., diskettes, CDs or tapes except as authorized by supervising staff. An inmate shall not use or take computer equipment to his/her housing area or from his/her immediate work site without approval.

(11) An inmate shall not have any unique passwords, except as authorized by ISU or OCE. The password will be created, recorded, and issued by ISU or OCE and will not be changed by the inmate.

(12) An inmate shall not be allowed to manage any programs that affect inmate assignments or allocations.

(13) Without the approval of the Director or designee, no inmate shall create or maintain Internet or website content that is published to an official department Internet/web site.

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

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 4-2000, f. & cert. ef. 1-13-00 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

291-086-0060

Standards for Use of Network Computer Equipment by Inmates

(1) No inmate shall be permitted to store any data on the computer or network hard drive except as authorized by the inmate supervisor. A folder(s) will be created by ISU or OCE and shall be the only authorized data storage location.

(2) Once an inmate has been granted access to computer equipment, he/she shall not be allowed to use the computer equipment without specific assignment by supervising staff. No inmate shall create, modify or change programs or program scripts that will be used on the DOC Information System or DOC Inmate network without the approval of the Assistant Director of General Services or his/her designee.

(3) An inmate shall be supervised while using computer equipment.

(4) An inmate shall only use computer equipment that has been authorized in accordance with the department's rule on Inmate Access to Automation (OAR 291-086).

(5) An inmate shall not repair or modify network computer equipment except as part of an authorized Department of Corrections workforce development program.

(6) An inmate shall not be allowed direct access to printers. Printers for inmate use shall be caged or secured to eliminate direct inmate access, except as authorized by the DOC functional unit manager or the OCE functional unit manager and Institutions Administrator or his/her designee. All print outs shall be reviewed by staff.

(7) An inmate shall not use the network for electronic communications with other inmates.

(8) An inmate shall not gather or store personal data relating to staff, contractors or volunteers.

(9) An inmate shall not view, gather or store personal data relating to members of the general public.

(10) An inmate shall not view, gather or store personal data relating to other inmates or offenders except as authorized by department rule or policy.

(11) An inmate shall not have in his/her control or possession any computer media, e.g., diskettes, CDs or tapes except as authorized by supervising staff. An inmate shall not use or take computer equipment to his/her housing area or from his/her immediate work site without approval.

(12) An inmate shall not have any unique passwords, except as authorized by ISU. The password will be created, recorded and issued by ISU or OCE and will not be changed by the inmate.

(13) An inmate shall not be allowed to manage any programs that affect inmate assignments or allocations.

(14) Without the approval of the Director or designee, no inmate shall create or maintain Internet or website content that is published to an official department Internet/web site.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030, & 423.075
Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05

Department of Environmental Quality Chapter 340

Adm. Order No.: DEQ 8-2004

Filed with Sec. of State: 9-17-2004

Certified to be Effective: 9-17-04

Notice Publication Date: 5-1-04

Rules Adopted: 340-016-0210, 340-016-0220, 340-016-0230, 340-016-0240, 340-016-0250, 340-016-0260

Subject: The rules outline administrative procedures for review and approval of the truck engine tax credit authorized by the 2003 Legislature. The truck engine tax credit is available for Oregon taxpayers purchasing heavy duty diesel engines in Oregon and registered in Oregon emitting nitrogen oxides at the rate of 2.5 grams per brake-horsepower hour or less, when bought between January 1, 2004 through December 31, 2007.

Rules Coordinator: Roberta Young—(503) 229-6408

340-016-0210

Purpose

This rule establishes Department of Environmental Quality policies and procedures for issuing tax credits to Oregon taxpayers that purchase qualifying truck engines in accordance with Oregon Law 2003, chapter

ADMINISTRATIVE RULES

618, sections 28 through 32. These rules apply only to purchases made on or after January 1, 2004, and certificates issued on or before December 31, 2007.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

340-016-0220

Definitions

- (1) "DEQ" means the Department of Environmental Quality.
- (2) "The 2003 Act" means Oregon Law 2003, chapter 618, sections 28 through 32 as reprinted in a note following ORS 315.356.
- (3) "Program limitation" means the maximum amount of \$3 million that DEQ may approve in tax credits for all taxpayers in any one calendar year as provided by section 29(3) of the 2003 Act.
- (4) "Tax credit" or "credit" means the truck engine tax credit or the amount of the truck engine tax credit.
- (5) "Taxpayer limitation" means the maximum amount of \$80,000 in tax credits that DEQ may approve for one taxpayer in any one calendar year as provided by section 28(3) of the 2003 Act.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

340-016-0230

Application Procedures

- (1) Any Oregon taxpayer may submit an application to the DEQ after purchasing a qualifying engine and within the eligibility period provided by OAR 340-016-0210.
- (2) The taxpayer must apply for the tax credit on the form prescribed by DEQ.
- (3) The taxpayer may submit more than one application in a calendar year.
- (4) A single application may include more than one truck engine.
- (5) The taxpayer must file a complete application that includes all of the following elements:
 - (a) The taxpayer's name, contact information, and taxpayer identification number;
 - (b) The number of trucks owned prior to purchasing the engines claimed on the application;
 - (c) Proof of purchase for each truck engine claimed on the application. The proof of purchase must include the:
 - (A) purchase date;
 - (B) seller's name, address, location of the sale, and contact information;
 - (C) taxpayer's name that is identical to the name on the application; and
 - (D) vehicle identification number of the truck with the claimed engine;
- (d) A copy of the Oregon Department of Transportation registration cab card;
- (e) The engine manufacturer, the engine serial number, and the federal Environmental Protection Agency diesel engine family number;
- (f) The taxpayer's signature;
- (g) Other information as requested; and
- (h) The nonrefundable application fee of \$15 for each engine claimed on the application; and
- (i) Other information required on the application form.
- (6) An incomplete application is not eligible for an allocation of the limitation provided by ORS 340-016-0240 until the date that the taxpayer completes the application.
- (7) The DEQ will notify the taxpayer within 14 days after receiving the application if the application is incomplete. The notification will:
 - (a) Request the missing information;
 - (b) Provide the taxpayer with the opportunity to submit additional information or make corrections; and
 - (c) Inform the taxpayer of the filing and allocation status provided by ORS 340-016-0240.
- (8) DEQ may request other information to determine if the engine, the truck, and the applicant qualify for the credit according to the 2003 Act.
- (9) DEQ will file, but will not process, applications that exceed the program limitation and the taxpayer limitation.
- (10) DEQ may not accept an application for a truck engine that has previously been issued a truck engine tax credit.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

340-016-0240

Allocating the Limitations

- (1) The DEQ will first allocate the program limitation to the earliest application date based on the date that the DEQ receives a complete application according to OAR 340-016-0230(5).
- (2) If the DEQ receives several applications on the same day and the total of the tax credits requested on these applications would exceed the program limitation then DEQ will allocate the remaining limitation by the following method.
 - (a) The DEQ will allocate the remaining program limitation by the earliest postmarked date.
 - (b) If there is a tie for the earliest postmarked date then the DEQ will allocate the remaining program limitation by the earliest invoice date.
 - (c) If there is a tie for the earliest invoiced date then the DEQ will allocate the remaining program limitation by drawing.
- (3) When the program limitation has expired for the calendar year, the DEQ will retain all completed applications for processing in the following calendar year up to the taxpayer limitation for the current calendar year. The DEQ will process retained applications according to sections 1 and 2 of this rule. The tax credit claimed on a retained application will not increase the taxpayer limitation for the following calendar year.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

340-016-0250

Approval or Rejection Procedures

- (1) The DEQ will approve all qualifying truck engines within 45 days of the date that the taxpayer submits an application under the following conditions:
 - (a) The applicant filed the application within the eligibility period provided by OAR 340-016-0210; and
 - (b) The taxpayer filed a complete application according to OAR 340-015-0230; and
 - (c) The taxpayer purchased the truck from a dealer licensed with the Oregon Department of Motor Vehicles as a vehicle dealer on the date of purchase, or from a private party that is an Oregon resident.
 - (d) The engine, the truck, and the applicant qualify for the credit according to the 2003 Act; and
 - (e) The engine has not previously been awarded a tax credit under OAR 340-016-0210 through 0260; and
 - (f) The program limitation has not expired for the current calendar year; and
 - (g) The taxpayer limitation has not expired for the current calendar year.
- (2) The DEQ will:
 - (a) Reject all truck engines that do not qualify for approval under section 1 of this rule and for retention under ORS 340-016-0250(3); and
 - (b) Provide the taxpayer with a written notice of the reason for the rejection within 45 days of the date that the taxpayer filed a complete application according to OAR 340-015-0230.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

340-016-0260

Procedures for Reconsideration and Review

- If, for any reason, the taxpayer is dissatisfied with DEQ's rejection of a truck engine for the credit according to OAR 340-016-050(2), the taxpayer may appeal the rejection.
- (1) The taxpayer may request within 45 days of the date on the rejection notice that:
 - (a) The DEQ re-evaluate the rejection. The taxpayer must provide additional information in writing for the DEQ to re-evaluate the rejection; or
 - (b) The Environmental Quality Commission hears the taxpayer's case at one of its regularly scheduled meetings. The Environmental Quality Commission will issue an order providing the taxpayer with written notice of its action and a concise statement of the findings and reasons by registered or certified mail within 45 days of the decision.
 - (2) If the taxpayer is dissatisfied with the Environmental Quality Commission's order under section (1)(b) of this rule then the taxpayer may appeal from the order as provided in ORS 468.110 and 183.384 as an order in other than a contested case.

Stat. Auth.: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Stats. Implemented: OL 2003, Sec. 28 - 32, reprinted in a note following ORS 315.356
Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04

ADMINISTRATIVE RULES

Department of Fish and Wildlife Chapter 635

Adm. Order No.: DFW 95-2004(Temp)

Filed with Sec. of State: 9-17-2004

Certified to be Effective: 9-19-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-041-0075, 635-042-0060, 635-042-0160, 635-042-0170, 635-042-0180, 635-042-0190

Rules Suspended: 635-041-0075(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T), 635-042-0190(T)

Subject: Amend rules to extend the Treaty Indian commercial fall salmon fishery within Zone 6; adopt a non-Treaty commercial fall salmon season for the mainstem Columbia River; adjust the salmon fishing periods for the Blind Slough/Knapa Slough fishery and modify gear regulations within specific Select Areas. Implementation is consistent with action taken September 16, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6 from 6:00 a.m., September 20, 2004 to 6:00 p.m., September 24, 2004.

(2) There is no mesh size restriction at this time.

(3) All standard dam and river mouth sanctuaries set forth in OAR 635-041-0045 are in effect, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder.

(4) Sturgeon may not be sold. However, sturgeon between 4-5 feet in length in The Dalles and John Day Pools and sturgeon between 45"-60" in the Bonneville Pool may be kept for subsistence purposes.

(5) Until further notice, sales of platform and hook-and-line caught fish from the Big White Salmon River and Klickitat River will be allowed beginning 6 am, Wednesday, August 25, 2004, only during those days and hours when these 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.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-9-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; FWC 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; FWC 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; FWC 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; FWC 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; FWC 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; FWC 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; FWC 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; FWC 65-1999(Temp), f. & cert. ef. 9-15-99 thru 9-17-99; FWC 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; FWC 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; Administrative correction 11-17-99; FWC 50-2000, f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; FWC 60-2000(Temp), f. & cert. ef. 9-12-00 thru 12-31-00; FWC 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; FWC 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; FWC 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; FWC 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; FWC 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; FWC 100-2001(Temp), f. & cert. ef. 10-17-01 thru 12-31-01; FWC 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; FWC 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; FWC 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; FWC 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; FWC 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; FWC 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; FWC 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; FWC 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; FWC 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; FWC 101-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; FWC 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; FWC 104-2003(Temp), f. & cert. ef. 10-11-03, cert. ef. 10-11-03 thru 12-31-03; FWC 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; FWC 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

635-042-0060

Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-5 as described in OAR 635-042-0001, the open fishing period is 8:00 p.m., September 19, 2004 to 6:00 a.m., September 20, 2004. Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with a 9 3/4-inch maximum mesh size and an 8-inch minimum size upstream from the Longview Bridge. There is no minimum mesh size restriction downstream of the Longview Bridge.

(3) From the mouth upstream to the Longview Bridge, the open fishing periods are 6:00 a.m. to 6:00 p.m., September 21, 2004 and September 23, 2004. Elokomin-A and Abernathy river sanctuaries are in effect. Gear is restricted to unslackened floater gill nets with a 6-inch maximum mesh size.

(4) From the Longview Bridge upstream to Beacon Rock, the open fishing periods are 8:00 p.m., September 21, 2004 to 1:00 a.m., September 22, 2004 and 8:00 p.m., September 23, 2004 to 1:00 a.m., September 24, 2004. Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with an 8-inch minimum mesh size and a 9 3/4-inch maximum mesh size.

(5) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified above, the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-15-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; FWC 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; FWC 83-1999(Temp), f. & cert. ef. 10-27-99 thru 12-31-99; FWC 89-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; FWC 62-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; FWC 68-2000(Temp), f. & cert. ef. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; FWC 71-2000(Temp), f. & cert. ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; FWC 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; FWC 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; FWC 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; FWC 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; FWC 98-2001(Temp), f. & cert. ef. 10-8-01, cert. ef. 12-31-01; FWC 106-

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2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

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) 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.

(3) Effective May 20, 2004, salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described in those waters of Blind Slough and Knappa Slough.

(a) 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.

(b) 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.

(4) The open fishing periods for those areas as described in 635-042-0160(3)(a)(b) are nightly from 7:00 PM until 7:00 AM the following morning (12 hours), as follows:

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.

(5) Gear is restricted to gill nets not exceeding 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.

(6) Salmon and sturgeon may be taken for commercial purposes in those waters of Blind Slough and Knappa Slough. The Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately one-half mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Knappa Slough includes 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 boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. The area encompassing a 100 foot radius at the mouth of Big Creek remains closed.

(a) Open fishing periods are:

7 p.m. August 24, 2004 to 7 a.m. August 27, 2004;
7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
7 p.m. September 20, 2004 to 7 a.m. September 21, 2004;
7 p.m. September 21, 2004 to 7 a.m. September 22, 2004;
7 p.m. September 22, 2004 to 7 a.m. September 23, 2004;
7 p.m. September 23, 2004 to 7 a.m. September 24, 2004;
6 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
6 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
6 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
6 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
6 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
6 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
6 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
6 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
6 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
6 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
6 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
6 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
6 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
6 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
6 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
6 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
6 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
6 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
6 p.m. October 27, 2004 to 8 a.m. October 28, 2004;
and 6 p.m. October 28, 2004 to 8 a.m. October 29, 2004.

(b) Effective September 20, 2004 through October 29, 2004, gear is restricted to gill nets with a 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length. The attachment of additional weights and anchors directly to the leadline is allowed.

(7) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 6(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

(8) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-

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04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

635-042-0170

Tongue Point Basin and South Channel Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel. Tongue Point includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. South Channel includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(a) Open fishing periods are:

7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004;
and 4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) In Tongue Point gear is restricted to 6-inch maximum mesh size.

Nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may store gill nets on their boat with leadlines in excess of two pounds per fathom.

(c) Effective September 20, 2004, in the South Channel gear is restricted to gill nets with a 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length. The attachment of additional weights and anchors directly to the leadline is allowed.

(2) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative Correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

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.

(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.

(5) Effective May 20, 2004, salmon, shad, and sturgeon may be taken for commercial purposes from Highway 4 Bridge, downstream to the Deep River boat ramp. The fishing seasons are again open nightly, 7:00 PM to 7:00 AM the following morning (12 hours), as follows:

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.

(6) Gear restrictions as defined in 635-042-0180 (3) remain in effect.

(7) Salmon and sturgeon may be taken for commercial purposes in those waters of Deep River; all waters downriver from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore).

(a) Open fishing periods are:

7 p.m. August 23, 2004 to 7 a.m. August 24, 2004;
7 p.m. August 24, 2004 to 7 a.m. August 25, 2004;
7 p.m. August 25, 2004 to 7 a.m. August 26, 2004;
7 p.m. August 26, 2004 to 7 a.m. August 27, 2004;
7 p.m. August 30, 2004 to 7 a.m. August 31, 2004;
7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 6, 2004 to 7 a.m. September 7, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004; and
4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) Effective September 20, 2004 through October 29, 2004, gear is restricted to gill nets with a 6-inch maximum mesh size. Nets may not

ADMINISTRATIVE RULES

exceed 100 fathoms in length. The attachment of additional weights and anchors directly to the leadline is allowed.

(8) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 7(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 506.109, 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. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

635-042-0190

Steamboat Slough

(1) Salmon and sturgeon may be taken for commercial purposes in those waters of Steamboat Slough. The fishing area includes all waters bounded by markers on Price Island and the Washington shore at both ends of Steamboat Slough.

(a) Open fishing periods are:

7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28 2004; and
4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) Effective September 20, 2004 through October 29, 2004, gear is restricted to gill nets with a 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length. The attachment of additional weights and anchors directly to the leadline is allowed.

(2) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04

Adm. Order No.: DFW 96-2004(Temp)

Filed with Sec. of State: 9-20-2004

Certified to be Effective: 9-30-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-023-0130

Rules Suspended: 635-023-0130(T)

Subject: Amend fall sport fishing rules to close the Columbia River mainstem to the retention of chinook salmon.

Rules Coordinator: Katie Thiel—(503) 947-6033

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.

(4) Effective 11:59 pm, Monday, September 6, 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 retention of chinook salmon is prohibited.

(5) Effective 11:59 pm, Thursday, September 30, 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 retention of chinook salmon is prohibited.

[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 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04

Adm. Order No.: DFW 97-2004(Temp)

Filed with Sec. of State: 9-22-2004

Certified to be Effective: 9-30-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-039-0090

Rules Suspended: 635-039-0090(T)

Subject: Amend rules to allow limited harvest of yellowtail rockfish outside 40 fathoms during October, 2004. Sport harvest of all other rockfish species, lingcod, cabezon and greenlings remains closed due to unavoidable bycatch and hooking mortality of black rockfish and lingcod.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-039-0090

Inclusions and Modifications

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine 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) For the purposes of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2004 the sport harvest caps are:

(a) Black rockfish and blue rockfish combined of 382.5 metric tons, of which no more than 342 metric tons may be black rockfish.

(b) Other nearshore rockfish, 11.4 metric tons.

(c) Cabezon, 15.8 metric tons.

(d) Greenling, 5.2 metric tons.

(3) Effective August 18, 2004, retention of cabezon, as identified in (2)(c), is prohibited.

(4) Effective at 11:59 p.m., September 2, 2004, retention of all rockfish species, lingcod and all greenling species is prohibited.

(5) Effective at 11:59 p.m., September 30, 2004 through October 31, 2004, retention of yellowtail rockfish is permitted seaward of the 40-fathom depth contour, as specified in the Federal Register.

Stat. Auth.: ORS 496.138, 496.146, 497.121, 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

ADMINISTRATIVE RULES

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; 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 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04

Adm. Order No.: DFW 98-2004(Temp)

Filed with Sec. of State: 9-22-2004

Certified to be Effective: 9-22-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-042-0060

Rules Suspended: 635-042-0060(T)

Subject: Amend rules to close the non-Treaty commercial fall salmon season in the mainstem Columbia River. Implementation is consistent with action taken September 22, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-5 as described in OAR 635-042-0001, the open fishing period is 8:00 p.m., September 19, 2004 to 6:00 a.m., September 20, 2004. Elokomina-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with a 9 3/4-inch maximum mesh size and an 8-inch minimum size upstream from the Longview Bridge. There is no minimum mesh size restriction downstream of the Longview Bridge.

(3) From the mouth upstream to the Longview Bridge, the open fishing period is 6:00 a.m. to 6:00 p.m., September 21, 2004. Elokomina-A and Abernathy river sanctuaries are in effect. Gear is restricted to unslackened floater gill nets with a 6-inch maximum mesh size.

(4) From the Longview Bridge upstream to Beacon Rock, the open fishing period is 8:00 p.m., September 21, 2004 to 1:00 a.m., September 22, 2004. Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with an 8-inch minimum mesh size and a 9 3/4-inch maximum mesh size.

(5) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified above, the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1988(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert.

ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04

Adm. Order No.: DFW 99-2004(Temp)

Filed with Sec. of State: 9-24-2004

Certified to be Effective: 9-24-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-041-0075, 635-042-0060

Rules Suspended: 635-041-0075(T), 635-042-0060(T)

Subject: Amend rules to extend the Treaty Indian commercial fall salmon fishery within Zone 6 and to re-open a non-Treaty commercial fall salmon season for the mainstem Columbia River. Implementation is consistent with action taken September 24, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6 from 6:00 a.m., September 27, 2004 to 6:00 p.m., September 30, 2004.

(2) There is no mesh size restriction at this time.

(3) All standard dam and river mouth sanctuaries set forth in OAR 635-041-0045 are in effect, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder.

(4) Sturgeon may not be sold. However, sturgeon between 4-5 feet in length in The Dalles and John Day Pools and sturgeon between 45"-60" in the Bonneville Pool may be kept for subsistence purposes.

(5) Until further notice, sales of platform and hook-and-line caught fish from the Big White Salmon River and Klickitat River will be allowed beginning 6 am, Wednesday, August 25, 2004, only during those days and hours when these 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.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert.

ADMINISTRATIVE RULES

ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97, FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04

635-042-0060

Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-3, from the mouth upstream to Warrior Rock, the open fishing period is 7:00 a.m. to 7:00 p.m., September 27, 2004, and September 29, 2004. Elokomin-A Abernathy, Cowlitz, Kalama-A, and Lewis-A, river sanctuaries are in effect. Gear is restricted to unslackened floater gill nets with a 6-inch maximum mesh size or gill nets with a 9-inch minimum mesh size to a 9-3/4-inch maximum mesh size.

(3) In Zones 4-5, from Warrior Rock upstream to Beacon Rock, the open fishing period is 8:00 p.m., September 27, 2004 to 1:00 a.m., September 28, 2004 and from 8:00 p.m., September 29, 2004 to 1:00 a.m., September 30, 2004. Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with an 8-inch minimum mesh size and a 9 3/4-inch maximum mesh size.

(4) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified above, the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-198 (Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991 (Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992 (Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992 (Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC

64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04

Adm. Order No.: DFW 100-2004(Temp)

Filed with Sec. of State: 9-28-2004

Certified to be Effective: 9-28-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-004-0033

Rules Suspended: 635-004-0033(T)

Subject: Amend rules to adopt immediate closure of black rockfish/blue rockfish and greenling fisheries.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Nearshore Rockfish;
- (b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion rockfish);
- (c) Minor Slope Rockfish;
- (d) Black Rockfish;
- (e) Cabezon;
- (f) Canary Rockfish;
- (g) Greenling;
- (h) Tiger Rockfish;
- (i) Vermillion Rockfish;
- (j) Widow Rockfish;
- (k) Yelloweye Rockfish;
- (l) Yellowtail Rockfish;
- (m) Darkblotched Rockfish;
- (n) Pacific Ocean Perch;
- (o) Longspine Thornyhead;
- (p) Shortspine Thornyhead;
- (q) Arrowtooth Flounder;
- (r) Dover Sole;
- (s) Petrale Sole;
- (t) Rex Sole;
- (u) Other Flatfish;
- (v) Lingcod;
- (w) Sablefish;
- (x) Pacific Whiting.

(2) For the purpose of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year. For 2004, the commercial harvest caps are:

- (a) Black rockfish and blue rockfish combined of 111.9 metric tons, of which no more than 108 metric tons may be black rockfish.
- (b) Other nearshore rockfish, 16.0 metric tons.
- (c) Cabezon, 31.3 metric tons.
- (d) Greenling, 23.4 metric tons.

(3) Effective 12:01 a.m., September 28, 2004, no commercial fishing vessel may land black rockfish, blue rockfish, or greenling:

- (a) No vessel may land more than 2,000 pounds of cabezon or 900 pounds of other nearshore rockfish for commercial purpose during the cumulative catch period of September 1 – October 31, 2004. In addition, no more than 100 pounds (of the 900 pounds cumulative limit) of other nearshore rockfish maybe landed on, or after, September 28, 2004.

ADMINISTRATIVE RULES

(b) No commercial fishing vessel may land cabezon or other nearshore rockfish on, or after, November 1, 2004. .

Stat. Auth.: ORS 506.109 & 506.111
Stats. Implemented: ORS 506.129
Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04

Adm. Order No.: DFW 101-2004(Temp)

Filed with Sec. of State: 9-29-2004

Certified to be Effective: 9-29-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-023-0130, 635-042-0060

Rules Suspended: 635-023-0130(T), 635-042-0060(T)

Subject: Amend rules to re-open the mainstem Columbia River sport fishery to the retention of chinook salmon, and to also extend the commercial fall salmon season, Zones 1-5. Implementation is consistent with action taken September 29, 2004, by the Columbia River Compact and in the Joint State Hearing.

Rules Coordinator: Katie Thiel—(503) 947-6033

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.

(4) Effective 11:59 pm, Monday, September 6, 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 retention of chinook salmon is prohibited.

[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 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04

635-042-0060

Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-3, from the mouth upstream to Warrior Rock, the open fishing period is 7:00 a.m. to 7:00 p.m., September 27, 2004, and September 29, 2004. Elokomin-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A river sanctuaries are in effect. Gear is restricted to unslackened

floaters gill nets with a 6-inch maximum mesh size or gill nets with a 9-inch minimum mesh size to a 9-3/4-inch maximum mesh size.

(3) In Zones 1-3, from the mouth upstream to Warrior Rock, the open fishing period is 7:00 a.m., September 30, 2004 to 7:00 a.m., October 1, 2004. Elokomin-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A river sanctuaries are in effect. Gear is restricted to a 9-3/4-inch maximum mesh size. There is no minimum mesh size.

(4) In Zones 4-5, from Warrior Rock upstream to Beacon Rock, the open fishing period is 8:00 p.m., September 27, 2004 to 1:00 a.m., September 28, 2004 and from 8:00 p.m., September 29, 2004 to 7:00 a.m., October 1, 2004. Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with an 8-inch minimum mesh size and a 9 3/4-inch maximum mesh size.

(5) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified above, the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-198 (Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991 (Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992 (Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992 (Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04

Adm. Order No.: DFW 102-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-4-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-041-0075, 635-042-0060

Rules Suspended: 635-041-0075(T), 635-042-0060(T)

Subject: Amend rules to extend the Treaty Indian commercial fall salmon fishery within Zone 6 and extend non-Treaty commercial fall salmon season for the mainstem Columbia River. Implementation is consistent with action taken October 1, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

ADMINISTRATIVE RULES

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6 from 6:00 a.m., September 27, 2004 to 6:00 p.m., September 30, 2004, and from 6:00 a.m., October 4, 2004 to 6:00 p.m., October 8, 2004.

(2) There is no mesh size restriction at this time.

(3) All standard dam and river mouth sanctuaries set forth in OAR 635-041-0045 are in effect, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder.

(4) Sturgeon may not be sold. However, sturgeon between 45"-60" in length in The Dalles and John Day Pools and sturgeon between 45"-60" in the Bonneville Pool may be kept for subsistence purposes.

(5) Until further notice, sales of platform and hook-and-line caught fish from the Big White Salmon River and Klickitat River will be allowed beginning 6 am, Wednesday, August 25, 2004, only during those days and hours when these tributaries are open under lawfully enacted Yakama Nation Tribal subsistence fisheries.

(6) Commercial sales of coho, chinook and steelhead caught from the permitted gillnet fishery in Drano Lake will be allowed beginning October 5, 2004 only during those days and hours as lawfully enacted by the Yakama Nation.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90; FWC 85-1991, f. & cert. ef. 8-7-91; FWC 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-4-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92; FWC 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; FWC 8-9-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97; FWC 57-1997(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; FWC 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; FWC 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98; FWC 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98; FWC 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99; FWC 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-21-99; FWC 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. & cert. ef. 8-18-00; FWC 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00; FWC 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01; FWC 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01; FWC 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02; FWC 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02; FWC 81-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03; FWC 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03; FWC 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03; FWC 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03; FWC 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03; FWC 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04; FWC 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 102-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04

635-042-0060

Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-3, from the mouth upstream to Warrior Rock, the open fishing period is 7:00 a.m. to 7:00 p.m., September 27, 2004, and September 29, 2004. Elokomin-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A river sanctuaries are in effect. Gear is restricted to unslackened floater gill nets with a 6-inch maximum mesh size or gill nets with a 9-inch minimum mesh size to a 9-3/4-inch maximum mesh size.

(3) In Zones 1-3, from the mouth upstream to Warrior Rock, the open fishing period is 7:00 a.m., September 30, 2004 to 7:00 a.m., October 1, 2004. Elokomin-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A river sanctuaries are in effect. Gear is restricted to a 9-3/4-inch maximum mesh size. There is no minimum mesh size.

(4) In Zones 4-5, from Warrior Rock upstream to Beacon Rock, the open fishing period is 8:00 p.m., September 27, 2004 to 1:00 a.m., September 28, 2004 and from 8:00 p.m., September 29, 2004 to 7:00 a.m., October 1, 2004. Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to gill nets with an 8-inch minimum mesh size and a 9-3/4-inch maximum mesh size.

(5) In Zones 1-5, from the mouth upstream to Beacon Rock, the open fishing period is 7:00 a.m., October 4, 2004 to 7:00 a.m., October 5, 2004; 7:00 a.m., October 7, 2004 to 7:00 a.m., October 8, 2004; 7:00 a.m., October 11, 2004 to 7:00 a.m., October 12, 2004; 7:00 a.m., October 14, 2004 to 7:00 a.m., October 15, 2004; 7:00 a.m., October 18, 2004 to 7:00 a.m., October 19, 2004; and 7:00 a.m., October 21, 2004 to 7:00 a.m., October 22, 2004. Gear is restricted to a 9-3/4-inch maximum mesh size. There is no minimum mesh size.

(a) During the fishing period October 4, 2004 through October 15, 2004, Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect.

(b) During the fishing period October 18, 2004 through October 22, 2004 Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect.

(6) In Zones 2-5, from a line between Harrington Point on the Washington shore to Settler Point on the Oregon shore upstream to Beacon Rock, the open fishing period is 7:00 a.m., October 25, 2004 to 7:00 a.m., October 26, 2004 and 7:00 a.m., October 28, 2004 to 7:00 a.m., October 29, 2004. Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect. Gear is restricted to a 9-3/4-inch maximum mesh size. There is no minimum mesh size.

(7) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified above, the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-15-89; FWC 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91; cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 9-27-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-27-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. & cert. ef. 10-8-99; FWC 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cert. ef. 9-15-00; FWC 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-6-

ADMINISTRATIVE RULES

00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04

Adm. Order No.: DFW 103-2004(Temp)

Filed with Sec. of State: 10-4-2004

Certified to be Effective: 10-04-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-014-0090

Rules Suspended: 635-014-0090(T)

Subject: Amend rule to correct the deadline area in Tahkenitch Lake.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-014-0090

Inclusions and Modifications

(1) The **2004 Oregon Sport Fishing Regulations** provide requirements for the Northwest 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) Siltcoos Lake and Tahkenitch Lake is open to angling for coho salmon effective October 1, 2004 through December 31, 2004. The daily bag limit is one adult coho salmon and one jack coho salmon. The annual limit, in aggregate from both lakes, is five adult coho.

(a) The waters of Siltcoos Lake is defined as that area upstream from the Highway 101 Bridge and downstream of the railroad trestle on the Maple Creek arm and the Fivemile Road crossing on the Fiddle Creek arm.

(b) The waters of Tahkenitch Lake is defined as that area upstream from the Highway 101 Bridge and downstream of the railroad trestle on the Leitell Creek arm and ODFW Marker at Snare Point on the Fivemile Creek arm.

(3) All other specification and restrictions as outlined in the current

2004 Oregon Sport Fishing Regulation

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04

Adm. Order No.: DFW 104-2004(Temp)

Filed with Sec. of State: 10-12-2004

Certified to be Effective: 10-13-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amend rule to extend the Treaty Indian commercial fall salmon fishery within Zone 6. Implementation is consistent with action taken October 12, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6 from 6:00a.m., September 27, 2004 to 6:00p.m., September 30, 2004; 6:00a.m., October 4, 2004 to 6:00p.m., October 8, 2004; and 6:00a.m., October 13, 2004 to 6:00p.m., October 16, 2004.

(2) There is no mesh size restriction at this time.

(3) All standard dam and river mouth sanctuaries set forth in OAR 635-041-0045 are in effect, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder.

(4) Sturgeon may not be sold. However, sturgeon between 4-5 feet in length in The Dalles and John Day Pools and sturgeon between 45"-60" in the Bonneville Pool may be kept for subsistence purposes.

(5) Until further notice, sales of platform and hook-and-line caught fish from the Big White Salmon River and Klickitat River will be allowed beginning 6 am, Wednesday, August 25, 2004, only during those days and hours when these tributaries are open under lawfully enacted Yakama Nation Tribal subsistence fisheries.

(6) Commercial sales of coho, chinook and steelhead caught from the permitted gillnet fishery in Drano Lake will be allowed beginning October 5, 2004 only during those days and hours as lawfully enacted by the Yakama Nation.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. ef. 8-2-79; FWC 36-1979(Temp), f. & cert. ef. 8-22-79; FWC 47-1979(Temp), f. & cert. ef. 9-21-79; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 46-1980(Temp), f. & cert. ef. 9-13-80; FWC 33-1981(Temp), f. & cert. ef. 9-15-81; FWC 58-1982(Temp), f. & cert. ef. 8-27-82; FWC 62-1982(Temp), f. & cert. ef. 9-7-82; FWC 63-1982(Temp), f. & cert. ef. 9-14-82; FWC 75-1982(Temp), f. & cert. ef. 10-29-82; FWC 36-1983, f. & cert. ef. 8-18-83; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 51-1983(Temp), f. & cert. ef. 9-30-83; FWC 55-1983(Temp), f. & cert. ef. 10-4-83; FWC 46-1984, f. & cert. ef. 8-30-84; FWC 55-1984(Temp), f. & cert. ef. 9-10-84; FWC 58-1984(Temp), f. & cert. ef. 9-17-84; FWC 61-1984(Temp), f. & cert. ef. 9-21-84; FWC 70-1984(Temp), f. & cert. ef. 10-9-84; FWC 47-1985, f. & cert. ef. 8-23-85; FWC 60-1985(Temp), f. & cert. ef. 9-13-85; FWC 63-1985(Temp), f. & cert. ef. 9-24-85; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 53-1986(Temp), f. & cert. ef. 9-4-86; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 57-1986(Temp), f. & cert. ef. 9-11-86; FWC 60-1986(Temp), f. & cert. ef. 9-26-86; FWC 62-1986(Temp), f. & cert. ef. 10-2-86; FWC 63-1987, f. & cert. ef. 8-7-87; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-1-87; FWC 78-1987(Temp), f. & cert. ef. 9-15-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 89-1987(Temp), f. & cert. ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-

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2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04

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Adm. Order No.: DFW 105-2004(Temp)

Filed with Sec. of State: 10-13-2004

Certified to be Effective: 10-13-04 thru 11-15-04

Notice Publication Date:

Rules Amended: 635-060-0009, 635-060-0023, 635-060-0046, 635-071-0000, 635-071-0005

Subject: Amend open season dates for Hunt 248A2 - Heppner No. 2 due to an error in the 2004 Oregon Big Game Regulations and lack of notification to successful hunters.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-060-0009

Successful Applicants

Successful controlled hunt applicants must purchase the controlled hunt tag or permit for the hunt in which they were successful from a department license agent connected to the computerized licensing system within the following dates:

(1) Spring black bear controlled hunts tag sales begin February 20, each year and end at 11:00p.m. the day before the season start date.

(2) Pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk controlled hunts tag sales begin June 20 each year and end at 11:00p.m. the day before the season start date for which the tag is valid.

(3) Notwithstanding (2) above, the tag sale deadline for Hunt 248A2-Heppner No. 2 is 11:00pm November 5, 2004.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 44-1996(Temp), f. 8-12-96, cert. ef. 8-14-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 6-1999(Temp), f. & cert. ef. 2-9-99 thru 2-19-99; DFW 12-1999(Temp), f. & cert. ef. 2-25-99 thru 6-30-99; Administrative correction 11-17-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 4-2002(Temp), f. & cert. ef. 1-3-02 thru 2-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04

635-060-0023

Modified Preference Point System

(1) The Modified Preference Point System separates the tags for each controlled game mammal hunt into two groups:

(a) Seventy-five percent of the tags will be issued through the preference point system;

(b) The remaining 25 percent of the tags will be issued by the equal-probability computer drawing.

(2) Applicants shall accrue no more than one preference point per hunt number series per year.

(a) Valid applicants who did not receive controlled hunt tags for their first choice hunt number in the 100, 200, 400, 600, 700 or 800 series hunts during the controlled hunt drawing shall receive one preference point applicable to subsequent controlled hunt drawings for the respective hunt number series, except as excluded in OAR 635-060-0008(4).

(b) In 2004, applicants who were successful in drawing Hunt 248A2-Heppner No. 2 for their first hunt choice will have their 200 series preference points reinstated and will be awarded a 200 series preference point.

(3) A preference point will automatically accrue within each controlled hunt series when an applicant's first choice is as follows:

- (a) Hunt number 199: controlled buck deer;
- (b) Hunt number 299: controlled elk;
- (c) hunt number 499: controlled pronghorn antelope;
- (d) Hunt number 699: controlled antlerless deer;
- (e) Hunt number 799: controlled black bear;
- (f) Hunt number 899: controlled additional deer.

(4) The Modified Preference Point System will group controlled hunt applicants by the number of preference points they have accrued for each hunt number series. Applicants with the highest number of preference points for each hunt number will be drawn first. Applicants having the next highest number of preference points per hunt number will be drawn next.

This tag issuance process will continue through descending numbers of preference points until 75 percent of the tags authorized for the hunt have been issued, unless all qualified applicants with preference points have been issued tags prior to that point. Any tags remaining following the issuance of preference point tags will be issued through the equal-probability computer drawing. Applicants unsuccessful in the preference point tag issuance procedure and those applicants without preference points will be placed in the equal-probability computer drawing for the remaining tags.

(5) Applicants successful in drawing their first choice hunt except numbers ending in 99 within a hunt number series shall have zero preference points when they next apply for a tag in that hunt number series.

(6) Applicants will forfeit preference points accumulated for a hunt number series when they do not apply for that hunt number series for two consecutive years.

(7) Party applicant preference points shall be determined by totaling the preference points of all party members and then calculating the average of this total. Party preference points will be rounded up from x.51 (e.g. 3.51 to 4, 3.50 to 3) to the next whole number.

(8) Department records are final to determine accrued preference points for controlled hunt applicants.

(9) Each applicant's preference point accrual record will be linked to his or her permanent identification number. Preference point applicants shall use the permanent identification number each time they apply for a controlled hunt tag. Failure to do so shall place the applicant in the equal-probability drawing for his or her hunt number series and preference points will not be accrued together.

(10) Applicants will receive no preference points when:

(a) Their application is not received by the appropriate application date;

(b) They request their controlled hunt application be withdrawn prior to the controlled hunt drawing;

(c) The controlled hunt application has been falsified.

(11) The Modified Preference Point System shall apply to 100, 200, 400, 600, 700, and 800 series hunts.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162
Hist.: FWC 6-1994, f. & cert. ef. 1-26-94; FWC 13-1994(Temp), f. & cert. ef. 3-1-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04

635-060-0046

Lost Tags and Tag Exchanges

(1) A fee of \$5.00 and a \$1.50 license agent fee is charged to replace or exchange a tag or permit. Duplicates and exchanges may be obtained only through the Salem headquarters, regional offices of the department, and designated district offices. Hunt 248A2-Heppner No. 2 tag holders can exchange their controlled hunt tag for a general season tag before the opening date of the general season at no charge.

Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Salem headquarters or regional office of the department if the department determines that the person never received the original controlled tag or permit mailed from the Salem headquarters office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-075-0001. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f), (g), or (h).

(7) In situations involving national security emergency, the Commission shall accommodate individuals who lose hunting opportunities because of being called to service in the national interest:

(a) The Commission shall (as specified in paragraph (b)) accommodate the following individuals called to service because of national emergency: regular members of the United States Armed Forces (Army, Navy,

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Air Force, Marines, Coast Guard), members of the United States military reserves, and members of the National Guard.

(b) The Commission authorizes the Director to make such accommodation by:

(A) Allowing an individual to hunt during the same hunt period for the same species in a later year for bighorn sheep, Rocky Mountain goat, and pronghorn antelope; or

(B) Refunding general or controlled season tag fees and reinstating preference points existing for a series, plus an additional point for participating in the drawing. (Original tag must be returned to ODFW and no refund is available for the hunting license).

(c) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Wildlife Division headquarters office within one year of loss of hunting opportunity. Each request must include a copy of military orders documenting service dates or date of service status change. Each request must include proof of tag draw success and tag purchase.

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

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

Hist.: FWC 118, f. & ef. 6-3-77; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. & ef. 2-18-81, f. & ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & ef. 3-10-88; FWC 37-1988, f. & ef. 6-13-88; FWC 48-1989, f. & ef. 7-25-89; FWC 18-1991, f. & ef. 3-12-91; FWC 55-1992(Temp), f. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & ef. 6-14-93; FWC 46-1993, f. & ef. 8-4-93; FWC 6-1994, f. & ef. 1-26-94; FWC 94-1994, f. & ef. 12-22-94; FWC 63-1995, f. & ef. 8-3-95; FWC 9-1997, f. & ef. 2-27-97; DFW 1-1999, f. & ef. 1-14-99; DFW 47-1999, f. & ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 52-2001(Temp), f. & ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & ef. 2-12-02; DFW 34-2002, f. & ef. 4-18-02; DFW 36-2002(Temp), f. & ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & ef. 4-9-03 thru 10-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 105-2004(Temp), f. & ef. 10-13-04 thru 11-15-04

635-071-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2004 are listed in Tables 1 and 2 and are adopted and incorporated in OAR 635, division 071 by reference.

(3) OAR 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2004 Oregon Big Game Regulations," into OARs. Therefore, persons must consult the "2004 Oregon Big Game Regulations" in addition to OAR 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife. Notwithstanding this, the 2004 Oregon Big Game Regulations are amended to further amend the open season dates for Hunt 248A2-Heppner No. 2 on page 73. The amended dates can be found under OAR 635-071-0005.

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

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

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

Hist.: FWC 42-1988, f. & ef. 6-13-88; FWC 35-1996, f. & ef. 6-7-96; FWC 9-1997, f. & ef. 2-27-97; FWC 38-1997, f. & ef. 6-17-97; FWC 71-1997, f. & ef. 12-29-97; DFW 49-1998, f. & ef. 6-22-98; DFW 1-1999, f. & ef. 1-14-99; DFW 47-1999, f. & ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & ef. 6-11-02; DFW 2-2003, f. & ef. 1-17-03; DFW 9-2003(Temp), f. & ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & ef. 6-16-04; DFW 105-2004(Temp), f. & ef. 10-13-04 thru 11-15-04

635-071-0005

Controlled Rocky Mountain Bull Elk Rifle Hunts

Hunt 248A2 — Hunt Name: Heppner No. 2

(1) Bag Limit: one spike only elk

(2) Open Season: October 27 through October 31, 2004 and November 6 through 14, 2004.

(3) Hunt Area: 38% public lands. That part of Unit 48 north and west of North Fork John Day River.

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

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

Hist.: FWC 37-1982, f. & ef. 6-25-82; FWC 28-1983, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 45-1987, f. & ef. 7-6-87; FWC 18-1988, f. & ef. 3-10-88; FWC 42-1988, f. & ef. 6-13-88; FWC 20-1989, f. & ef. 3-28-89; FWC 69-1989, f. & ef. 8-15-89; FWC 29-1990, f. & ef. 3-21-90; FWC 43-1990, f. & ef. 5-25-90; FWC 61-1990, f. & ef. 6-21-90; FWC 25-1991, f. & ef. 3-12-91; FWC 64-1991, f. & ef. 6-24-91; FWC 49-1992, f. & ef. 7-15-92; FWC 36-1993, f. & ef. 6-14-93; FWC 46-1993, f. & ef.

ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & ef. 6-28-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & ef. 6-20-95; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & ef. 6-7-96; FWC 9-1997, f. & ef. 2-27-97; DFW 1-2004(Temp), f. & ef. 1-13-04 thru 7-9-04; DFW 105-2004(Temp), f. & ef. 10-13-04 thru 11-15-04

Department of Human Services, Child Welfare Programs Chapter 413

Adm. Order No.: CWP 16-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date:

Rules Amended: 413-010-0748

Subject: OAR 413-010-0748 is being amended to correct a spelling error that occurred during the January 1, 2004 permanent rule filing.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-010-0748

Review Initiated by the Department

The CPS Program Manager may direct that either the Field Office Review Committee or the Central Review Committee review a founded disposition if there is good cause to do so, such as a determination that there is a legal finding that contradicts the CPS founded disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2004, f. & ef. 10-1-04

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

Adm. Order No.: OMAP 72-2004

Filed with Sec. of State: 9-23-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Amended: 410-120-1390

Subject: The General Rules program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. Rule 410-120-1390 is permanently amended to describe premium sponsorship, provider related donations as premium sponsorship, and the conditions under which OMAP shall accept or decline premium sponsorship. This rule requires provider compliance with federal anti-kickback statutes related to premium sponsorship.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1390

Premium Sponsorships

(1) Premium donations made for the benefit of one or more specified OMAP clients shall be referred to as a premium sponsorship and the donor shall be referred to as a sponsor.

(2) DHS may accept premium sponsorships consistent with the requirements of this rule. DHS may adopt such forms and reporting requirements, and change the forms and reporting requirements, as necessary to carry out its functions under this rule. DHS may identify one or more designees to perform one or more of the functions of DHS under this rule.

(3) This rule does not create or establish any premium sponsorship program. DHS does not operate or administer a premium sponsorship program. DHS does not find sponsors for clients or take requests or applications to be sponsored from clients.

(4) This rule does not create a right for any OMAP client to be sponsored. Premium sponsorship is based solely on the decisions of sponsors; DHS only applies the premium sponsorship funds that are accepted by DHS as instructed by the sponsor. DHS does not determine who may be sponsored. Any operations of a premium sponsorship program are solely the responsibility of the sponsoring entity.

(5) A premium sponsorship amount that is not actually received by the OMAP client shall not be deemed to be cash or other resource attributed to the OMAP client, except to the extent otherwise required by federal law. An OMAP client's own payment of his or her obligation, or payment made by an authorized representative of the OMAP client, is not a sponsorship

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except to the extent that the authorized representative is otherwise subject to subsection (7) of this rule.

(6) Nothing in this rule alters the OMAP client's personal responsibility for assuring that his or her own payments (including current or past due premium payments) are made on time as required under any rule of the Department of Human Services. If a premium sponsorship payment is accepted by DHS for the benefit of a specified client, DHS or its designee will credit the amount of the sponsorship payment toward any outstanding amount owed by the specified client. DHS or its designee is not responsible for notifying the client that a premium sponsorship payment is made or that a sponsorship payment has stopped being made.

(7) If a sponsor is a health care provider, or an entity related to a health care provider, or an organization making a donation on behalf of such provider or entity, the following requirements apply.

(a) DHS will decline to accept premium sponsorships that are not "bona fide donations" within the meaning of 42 CFR 433.54. A premium sponsorship is a "bona fide donation" if the sponsorship has no direct or indirect relationship to Medicaid payments made to a health care provider, a related entity providing health care items or services, or other providers furnishing the same class of items or services as the provider or entity;

(b) For purposes of this rule, terms "health care provider," "entity related to a health care provider" and "provider-related donation" shall have the same meaning as those terms are defined in 42 CFR 433.52. A health care provider includes but is not limited to any provider enrolled with OMAP or contracting with a Prepaid Health Plan for services to Oregon Health Plan clients.

(c) Premium sponsorships made to DHS by a health care provider or an entity related to a health care provider do not qualify as a "bona fide donation" within the meaning of subsection (a) of this section, and DHS will decline to accept such sponsorships;

(d) If a health care provider or an entity related to a health care provider donates money to an organization, which in turn donates money in the form of a premium sponsorship to DHS, the organization will be referred to as an organizational sponsor. DHS may accept premium sponsorship from an organizational sponsor if the organizational sponsor has completed the initial DHS certification process and complies with this rule. An organizational sponsor may not itself be a health care provider, provider-related entity, or a unit of local government;

(e) All organizational sponsors that make premium sponsorships to DHS submit quarterly reports to DHS about the percentage of its revenues that are from donations by providers and provider-related entities. The organization's chief executive officer or chief financial officer must certify the quarterly report. In its certification, the organizational sponsor must agree that its records may be reviewed to confirm the accuracy, completeness and full disclosure of the donations, donation amounts and sources of donations. DHS will decline to accept donations or gifts from an organization that refuses or fails to execute necessary certifications or to provide access to documentation upon request;

(f) DHS will decline to accept premium sponsorships from an organizational sponsor if the organization receives more than 25 percent of its revenue from donations from providers or provider-related entities during the State's fiscal year;

(g) Any health care provider or entity related to a health care provider making a donation to an organizational sponsor, or causing another to make a premium sponsorship on its behalf, and any organizational sponsor, is solely responsible for compliance with laws and regulations applicable to any donation, including but not limited to 42 CFR 1001.951 and 1001.952.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 38-2004(Temp), f. 5-28-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 72-2004, f. 9-23-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 73-2004
Filed with Sec. of State: 9-23-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 9-1-04
Rules Repealed: 410-130-0165

Subject: The Medical-Surgical Services Program Rules govern the Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP eliminated Oregon Health Plan (OHP) Standard copayments effective June 19, 2004 pursuant to *Spry, et al. v. Thompson, et al.*, court order, therefore, OAR 410-130-0165 is now invalid and is repealed.

Rules Coordinator: Darlene Nelson—(503) 945-6927

Adm. Order No.: OMAP 74-2004
Filed with Sec. of State: 9-23-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 9-1-04
Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. OMAP revised OAR 410-121-0040 to remove the prior authorization requirement from over-the-counter (OTC) drugs and drugs that have a reimbursement cost less than the prior authorization (PA) process fee. PA may be required on these two groups if OMAP determines there is a drug safety issue.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prior authorization (PA) will not be required when the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Office of Medical Assistance Programs.

(2) PA will not be required on over the counter (OTC) covered drugs when prescribed for covered diagnosis.

(3) PA will be required on (1) and (2) above if the Office of Medical Assistance Programs determines a potential client safety risk associated with the prescribed drug.

(4) Prescribing practitioners are responsible for obtaining PA for the following drugs and products:

(a) Isotretinoin (Accutane) and Retinoic Acid (Retin A);

(b) Growth hormone;

(c) Oral Nutritional supplements;

(d) Antihistamines (selected);

(e) Nasal inhalers (selected);

(f) Antifungals (selected);

(g) Weight reduction drugs;

(h) Excessive daily doses;

(i) Excessive drug therapy duration;

(j) Coal tar preparations;

(k) Topical antibiotics;

(l) Topical antivirals (selected);

(m) Topical testosterone;

(n) Dronabinol (marinol);

(o) Drugs with cosmetic indications;

(A) Emollients;

(B) Dermatologicals;

(C) Hair growth products;

(D) Proton Pump Inhibitors (PPI) after eight weeks of acute anti-ulcer therapy;

(q) Gabapentin (Neurontin);

(r) Triptan quantity limits;

(s) FluMist (Influenza Virus Vaccine Live, Intranasal).

(5) PA will be required for brand name drugs that have two or more generically equivalent products available.

(6) Psychotropic prescriptions for children under the age of six cannot be processed when a default 999999 provider number has been entered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 75-2004(Temp)
Filed with Sec. of State: 9-30-2004
Certified to be Effective: 10-1-04 thru 3-15-05
Notice Publication Date:
Rules Amended: 410-120-1295

Subject: The General Rules program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for serv-

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ices provided to clients. OMAP temporarily amended rule 410-120-1295 to accurately reference the existing inpatient and outpatient reimbursement table. With this filing OMAP references the Oregon Health Plan, FCHP Non-Contracted DRG Hospital Reimbursement Rates, dated October 1, 2003 and extends the usage/effective date of the document.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1295

Non-Participating Provider

(1) For purposes of this rule, a provider enrolled with the Office of Medical Assistance Programs (OMAP) that does not have a contract with an OMAP-contracted managed care plan is referred to as a non-participating provider.

(2) For covered services that are subject to reimbursement from the managed care plan, a nonparticipating provider, other than a hospital governed by (3)(b) below, must accept from the OMAP-contracted managed care plan, as payment in full, the amount that the provider would be paid from OMAP if the client was fee-for-service.

(3) The OMAP-contracted FCHP that does not have a contract with a hospital, is required to reimburse, and hospitals are required to accept as payment in full the following reimbursement:

(a) The FCHP will reimburse a non-participating Type A and Type B Hospital fully for the cost of covered services based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid to the FCHP for the contract period (ORS 414.727).

(b) All other non-participating hospitals, not designated as a rural access or Type A and Type B hospital, for dates of service on or after October 1, 2003 reimbursement will be based upon the following:

(i) Inpatient service rates are based upon the capitation rates developed for the budget period, at the level of the statewide average unit cost, multiplied by the geographic factor, the payment discount factor and an adjustment factor of 0.925.

(ii) Outpatient service rates are based upon the capitation rates developed for the budget period, at the level of charges, multiplied by the statewide average cost to charge ratio, the geographic factor, the payment discount factor and an adjustment factor of 0.925.

(4) The geographic factor, and the statewide average unit costs for inpatient service rates for subsection (3)(i) and for outpatient service rates for subsection (3)(ii), are calculated by the department's contracted actuarial firm. The FCHP Non-Contracted DRG Hospital Reimbursement Rates document, dated October 1, 2003, is posted on the department's website at www.dhs.state.or.us/policy/healthplan/guides/hospital/.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.743

Hist.: OMAP 10-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 22-2004, f. & cert. ef. 3-22-04; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 75-2004(Temp), f. 9-30-04, cert. ef. 10-1-04 thru 3-15-05

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Adm. Order No.: OMAP 76-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Amended: 410-122-0202, 410-122-0210

Subject: 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. OMAP amended rules 410-122-0202 and 410-122-0210 to allow for dispensing of ventilators, continuous positive airway pressure systems (CPAP's), and related supplies and equipment without prior authorization and to reformat the rule, clarify language and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0202

Continuous Positive Airway Pressure (CPAP) System

(1) A continuous positive airway pressure system (CPAP) is a non-invasive technique for providing single levels of air pressure from a flow generator, via nose mask or facemask. This is to prevent the collapse of the oropharyngeal walls and the obstruction of airflow during sleep.

(2) Definitions:

(a) Apnea-Hypopnea Index (AHI) is defined as the average number of episodes of apnea and hypopnea per hour and must be based on a minimum of two hours of recording time without the use of a positive airway pressure

device, reported by polysomnogram. The AHI may not be extrapolated or projected;

(b) Apnea is defined as a cessation of airflow for at least 10 seconds documented on a polysomnogram;

(c) Hypopnea is defined as an abnormal respiratory event lasting at least 10 seconds with at least a 30% reduction in thoracoabdominal movement or airflow as compared to baseline, and with at least a 4% oxygen desaturation;

(d) Moderate and severe sleepiness per "Sleep-Related Breathing Disorders in Adults: Recommendations for Syndrome Definition and Measurement Techniques in Clinical Research: The Report of an American Academy of Sleep Medicine Task Force" published in Sleep, Volume 22, Number 5, 1999:

(A) "Moderate: Unwanted sleepiness or involuntary sleep episodes occur during activities that require some attention. Examples include uncontrollable sleepiness that is likely to occur which attending activities such as concerts, meetings or presentations. Symptoms produce moderate impairment of social or occupational function;

(B) Severe: Unwanted sleepiness or involuntary sleep episodes occur during activities that require more active attention. Examples include uncontrollable sleepiness while eating, during conversation, walking or driving. Symptoms produce marked impairment in social or occupational function."

(3) Polysomnography:

(a) For the purpose of this rule, polysomnography must be performed in an attended, facility-based sleep study laboratory, and not in the home or in a mobile facility. These labs must be qualified providers of Medicare services and comply with all applicable state regulatory requirements; and,

(b) Polysomnographic studies must not be performed by a DME provider. This prohibition does not extend to the results of studies conducted by hospitals certified to do such tests.

(4) Initial Coverage:

(a) A single level continuous positive airway pressure (CPAP) device (E0601) may be covered if the client has a diagnosis of a breathing-related sleep disorder (obstructive sleep apnea, central apnea, mixed apnea or obstructive sleep apnea-hypopnea syndrome). The polysomnogram must support:

(A) An Apnea-Hypopnea Index (AHI) > 10 per hour; and,

(B) An oxygen saturation related to an apneic or hypopneic event which is less than 90%; and

(C) Surgery is a likely alternative.

(b) A single level continuous positive airway pressure (CPAP) device (E0601) may be covered if the client has a diagnosis of upper airway resistance syndrome (UARS) and the following criteria are met:

(A) An arousal index > 15; and

(B) Significant excessive daytime sleepiness as defined by any of the following:

(i) Epworth sleepiness scale > 10; or

(ii) History of moderate or severe sleepiness; or

(iii) Multiple Sleep Latency Test (MSLT) with a mean sleep latency < 8; and

(iv) Surgery is a likely alternative.

(c) A three-month rental period is required for CPAP prior to purchase.

(5) Continued Coverage Beyond the First Three Months of Therapy: Ongoing rental beyond the first three months is an option in lieu of purchase if medically appropriate and cost effective.

(6) For a client using a CPAP prior to Medicaid enrollment, and, with recent, supportive documentation from the treating practitioner indicative of effective treatment with a CPAP device, coverage criteria in this rule may be waived.

(7) Payment Authorization: A CPAP device and related accessories may be dispensed without prior authorization. The provider is still responsible to assure all rule requirements are met. Payment authorization is required prior to submitting claims and will be given once all required documentation has been received and any other applicable rule requirements have been met. Payment authorization is obtained from the same authorizing authority as specified in 410-122-0040.

(8) Documentation:

(a) Initial Coverage: Prior to the third date of service, submit the following documentation:

(A) Summary of events from a recent technician-attended, facility-based polysomnogram, if required; and,

(B) Any other medical documentation that supports indications of coverage;

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(C) Documentation that surgery is a likely alternative does not need to be submitted, but must be present in the provider's record and made available upon request.

(b) Continued Coverage Beyond the First Three Months of Therapy: No sooner than the 61st day after initiating therapy and prior to the fourth date of service, submit documentation from the treating practitioner that the client is continuing to effectively use the CPAP device.

(9) Accessories:

(a) Accessories used with an E0601 device are covered when the coverage criteria for the device are met; and,

(b) Accessories are separately reimbursable at the time of initial issue and when replaced; and,

(c) Either a non-heated (E0561) or heated (E0562) humidifier is covered when ordered by the treating physician for use with a covered E0601 device.

(10) Miscellaneous:

(a) If there is discontinuation of usage of an E0601 device at any time, the provider is expected to ascertain this, and stop billing for the equipment and related accessories and supplies.

(b) For auto-titrating CPAP devices, use HCPCS code E0601. Table 122-0202: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04

410-122-0210

Ventilators

(1) Indications and limitations of coverage:

(a) Mechanical ventilatory support may be provided to a client for the purpose of life support during therapeutic support of suboptimal cardiopulmonary function, or therapeutic support of chronic ventilatory failure;

(b) A ventilator may be covered for treatment of neuromuscular diseases, thoracic restrictive diseases, and chronic respiratory failure consequent to chronic obstructive pulmonary disease. This includes both positive and negative pressure types.

(2) A primary ventilator may be covered if supporting documentation indicates:

(a) A client is unable to be weaned from the ventilator or is unable to be weaned from use at night; or

(b) Alternate means of ventilation were used without success; or,

(c) A client is ready for discharge and has been on a ventilator more than 10 days.

(d) E0450, E0460, E0461 or E0472 may be covered if:

(A) A client has no respiratory drive either due to paralysis of the diaphragm or a central brain dysfunction; or

(B) A client has a stable, chronic condition with no orders to wean from the ventilator; or

(C) A client has had a trial with blood gases and has no signs or symptoms of shortness of breath or increased work of breathing; or,

(D) A client has uncompromised lung disease.

(e) E0454 may be covered if supporting documentation indicates:

(A) A client has chronic lung disease where volume ventilation may further damage lung tissue; or

(B) A client has a compromised airway or musculature and has respiratory drive and a desire to breathe; or

(C) A client will eventually be weaned from the ventilator; or

(D) A client has compromised respiratory muscles from muscular dystrophies or increased resistance from airway anomalies or scoliosis conditions.

(3) A backup ventilator may be covered if supporting documentation indicates:

(a) The client is more than 60 minutes from the nearest hospital or a backup ventilator and has no documented spontaneous respirations; or

(b) Documentation supports medical appropriateness; or

(c) The client is transported frequently with a portable ventilator, and the ventilator is not a portable model; or

(d) The primary ventilator is used at maximum performance with high pressure and rate.

(4) Rental fee:

(a) The rental fee for the ventilator is all-inclusive of any equipment, supplies, services, including respiratory therapy (respiratory care) services, routine maintenance and training necessary for the effective use of the ventilator; and

(b) The ventilator provider must provide 24-hr. emergency coverage, including an emergency telephone number; and

(c) The client must have a telephone or reasonable access to one.

(5) Payment authorization: Prior authorization is not required when E0450, E0460, E0461 or E0472 is dispensed as the primary ventilator. The provider is responsible to assure all rule requirements are met. Payment authorization is required prior to submitting claims and will be given once all required documentation has been received and any other applicable rules and criteria have been met. Payment authorization is obtained from the same authorizing authority as specified in 410-122-0040.

(6) Prior authorization:

(A) Prior authorization is required for a backup ventilator; and

(B) Reimbursement for a backup ventilator is paid at 50% of the usual charge, the Office of Medical Assistance program's maximum allowable rate, or the manufacturer's suggested retail price, whichever is the lowest.

(7) Documentation:

(a) For services requiring prior authorization, submit supporting documentation as indicated in section (2), subsection (d), paragraphs (A)–(D) and subsection (e), paragraphs (A)–(D) and section (3), subsections (a)–(d); and,

(b) For services requiring payment authorization, submit supporting documentation as indicated in section (2), subsections (a)–(d), paragraphs (A)–(D), prior to the second date of service. Table 122-0210 [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 77-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04 thru 3-29-05

Notice Publication Date:

Rules Amended: 410-007-0210, 410-007-0220, 410-007-0230, 410-007-0270, 410-007-0310, 410-007-0340

Subject: These rules standardize criminal record and background check processes through much of the Department of Human Services. The rules define who is subject to the background check and defines the process. The rules establish a common set of potentially disqualifying crimes and the criteria that must be employed to determine fitness or suitability. The rules establish a standardized appeal process.

Rules Coordinator: Pat Bougher—(503) 945-5844

410-007-0210

Definitions

As used in OAR chapter 410, division 007, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Adult Foster Home" has the same definition as is provided in ORS 443.705.

(2) "Approved" means that a subject individual has completed the criminal history check process, including any required fitness determination, and is eligible to provide care or reside in an environment covered by these rules.

(3) "Authorized Designee" means a person who is designated by an approved qualified entity and authorized by the Department to receive and process criminal history check request forms from subject individuals and criminal history information from the Department. The authorized designee conducts fitness determinations.

(4) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, transportation, recreation or support to children, the elderly or persons with disabilities.

(5) "Client" means any person who receives care, or funding for care, through the Department.

(6) "Contact Person" means a person who is designated by a qualified entity to receive and process criminal history check request forms from subject individuals, but who is not authorized to receive criminal history information from the Department. The contact person is not allowed to

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make final fitness determinations. The contact person is allowed to make preliminary fitness determinations only if a weighing test is not required.

(7) "Conviction" means that the subject individual was convicted in a court of law, or was adjudicated in a juvenile court and found responsible for the crime. "Conviction" as used in these rules includes a finding of "guilty except by reason of insanity," "not guilty by reason of insanity," or similarly worded findings. Entering a plea of "guilty" or "no contest" is also considered a conviction for the purpose of these rules unless a subsequent court decision has dismissed the charges.

(8) "Criminal History Check Rules" or "These Rules" means OAR chapter 410, division 007.

(9) "Criminal History Check" or "CHC" means the Oregon Criminal History Check and when required, a National Criminal History Check and/or a State-Specific Criminal History Check, and the processes and procedures required by these rules.

(10) "Criminal History Information" means criminal justice records, fingerprints, court records, sexual offender registration records, warrants, DMV information, information provided on the Department's criminal history check forms, and any other information obtained by or provided to the Department pursuant to these rules for the purpose of conducting a fitness determination. "Criminal history information" does not include violations or infractions (see ORS 161.505-161.585).

(11) "Denied" means that a subject individual who has completed a criminal history check, including a fitness determination, has been found to be not eligible to be certified, licensed, registered or otherwise authorized by the Department to provide care or to reside in an environment covered by these rules.

(12) "Department" means the Oregon Department of Human Services or any subdivision thereof.

(13) "Employer," if the qualified entity is a corporation, means the corporation or parent corporation.

(14) "Facility" means any entity that is licensed or certified by the Department and which provides care.

(15) "Homecare Worker" or "Home Care Worker" means a provider who is enrolled in the Department's client-employed provider program and who provides either hourly or live-in services, as defined in ORS 410.600.

(16) "Independent Provider" means a person who meets the qualifications described in OAR 411-305-0020, 411-330-0020 or 411-340-0020.

(17) "National Criminal History Check" means obtaining and reviewing criminal history outside Oregon's borders. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources.

(18) "Oregon Criminal History Check" means obtaining and reviewing information from the Oregon State Police's Law Enforcement Data System (LEDS). The Oregon Criminal History Check may also include a review of information from the Oregon Judicial Information Network (OJIN), Oregon Department of Corrections records, Motor Vehicles Division, local or regional criminal history information systems, or other official law enforcement agency or court records in Oregon.

(19) "Personal Care Services Provider" means a person who is directly employed by a client of the Department to provide assistance with activities of daily living and other activities as described in OAR chapter 411, division 34.

(20) "Potentially Disqualifying Crime" means a crime listed in OAR 410-007-0280.

(21) "Probationary Status" means a condition in which a subject individual may be allowed by the authorized designee to work, volunteer, be trained or reside in an environment covered by these rules following submission of a completed DHS Criminal History Request form. The term "probationary status" is applicable only during the timeframe prior to a final fitness determination.

(22) "Qualified Entity" means the Department; local government agency; community mental health or developmental disability program; local health department; or an individual or business or organization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including a business or organization that licenses, certifies or registers others to provide care. (See ORS 181.533)

(23) "Qualified Vendor" means a supplier of criminal history information who is approved by the Department of Human Services as having access to substantially the same criminal offender information as the Law Enforcement Data System.

(24) "Related" means spouse, domestic partner, natural parent, child, sibling, adopted child, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, broth-

er-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(25) "Service Provider" means a person or entity that is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department and that provides care.

(26) "State-Specific Criminal History Check" means obtaining and reviewing information from law enforcement agencies, courts or other criminal history information resources located in a state or jurisdiction outside Oregon.

(27) "Subject Individual" means a person who is required to complete a criminal history check pursuant to these rules.

(a) "Subject individual" includes:

(A) An employee of the Department, person who has been offered employment by the Department, volunteer or student over whom the Department has direction and control.

(B) A person who is licensed, certified, registered or otherwise regulated or authorized for payment by the Department and who provides care.

(C) An employee or volunteer who provides care within any entity or agency licensed, certified, registered or otherwise regulated by the Department.

(D) A direct care staffperson secured through the services of a personnel services or staffing agency who works in any long term care facility licensed by the Department pursuant to ORS chapter 441.

(E) Except as provided in paragraphs (27)(b)(C) and (D) of this rule, a person who lives in a facility that is licensed, certified, registered or otherwise regulated by the Department to provide care.

(F) An individual working for a private, licensed child caring agency or system of care contractors providing child welfare services pursuant to ORS chapter 418.

(G) A homecare worker, personal care services provider or an independent provider employed by a Department client and who provides services to the client if the Department helps to pay for the services.

(H) A child care provider reimbursed through the Department's child care program, and employees and other persons in child care facilities that are exempt from certification or registration by the Child Care Division of the Employment Department. This includes all persons who reside in or who are frequent visitors to the residence or facility where the child care services are provided and who may have unsupervised access to the children. (REF: OAR chapter 461, division 165.)

(I) A contact person as defined in OAR 410-007-0210.

(J) A person providing training to staff within a long term care facility.

(K) Any person serving as an owner, operator or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(L) Notwithstanding subsection (27)(b) of this rule, any person who is required to complete a criminal history check pursuant to a contract or written agreement with the Department or by other Oregon Administrative Rules of the Department, if the requirement is within the statutory authority granted to the Department. Specific statutory authority must be specified in the contract.

(b) "Subject Individual" does not include:

(A) Any person under 16 years of age.

(B) A person receiving training in a DHS-licensed facility as a part of the required curriculum through any college, university or other training program and who is not an employee in the facility in which training is provided. Facilities must ensure that all such students have passed a substantially equivalent background check process through the training program or are:

(i) Actively supervised at all times as defined in OAR 410-007-0310, and

(ii) Not allowed to have unsupervised access to vulnerable people.

(C) Residents of facilities licensed, certified or registered by the Department who are receiving care or treatment, unless specific, written permission to conduct a criminal history check is received from the Department. The only circumstance in which the Department will allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in subsection (27)(a) of this rule.

(D) Persons who live in or visit relative adult foster homes. This exemption does not apply to the licensee.

(E) Individuals working in child care facilities certified or registered by the Employment Department.

(F) Individuals receiving spousal pay from the Department for care of a spouse.

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(G) Individuals employed by a private business that provides services to clients and the general public and that is not regulated by the Department.

(H) Individuals employed by a business that provides appliance repair or structural repair to clients and the general public, and who are temporarily providing such services in an environment regulated by the Department, but who do not have unsupervised access to vulnerable people. This exclusion does not apply to a business that receives funds from the Department for care provided by an employee of the business.

(I) Individuals employed by a private business in which a client of the Department is working as part of an employment service program sponsored by the Department. This exclusion does not apply to an employee of a business that receives funds from the Department for care provided by the employee.

(J) Employees and volunteers working in hospitals, ambulatory surgical centers, special inpatient care facilities, outpatient renal dialysis facilities, and freestanding birthing centers as defined in ORS 442.015, in-home care agencies as defined on ORS 443.305, and home health agencies as defined in ORS 443.005.

(K) Volunteers who are not under the direction and control of the Department or any entity licensed, certified, registered or otherwise regulated by the Department.

(L) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure by the State of Oregon.

(M) People working in restaurants or at public swimming pools.

(N) Hemodialysis technicians.

(O) Individuals employed by Alcohol and Drug Programs that are certified, licensed, or approved by the Office of Mental Health and Addictions Services to provide Prevention, Evaluation or Treatment Services. This exclusion does not apply to programs specifically required by other Department rules to conduct criminal history checks in accordance with these rules.

(P) Persons working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(Q) Persons being certified by the Department as interpreters pursuant to ORS 409.623. This paragraph is not intended to exempt a Department-certified interpreter from a criminal history check when being considered for a specific position.

(R) Subject individuals and persons subject to Oregon LEDS Checks in accordance to OAR chapter 309, division 18.

(S) Provider group categories that were authorized for payment by the Department for care if such provider group categories were not covered by a Department criminal record check process prior to 2004.

(T) Foster and adoptive parents providing care for children pursuant to ORS chapter 418.

(U) Emergency Medical Technicians and First Responders certified by the Department of Human Services Emergency Medical Services and Trauma Systems program.

(V) A person employed by an entity that provides services solely contracted under ORS 414.022.

(28) "Weighing Test" means a process carried out by one or more authorized designees in which known negative and positive information is considered to determine if a subject individual is approved or denied (see OAR 410-007-0320(5)(c)).

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

410-007-0220

Criminal History Check Required

(1) Approval Required. A qualified entity must be approved in writing by the Department pursuant to these rules in order to appoint an authorized designee or contact person.

(2) Revocation. The Department may suspend or revoke the written approval of a qualified entity for failure of the qualified entity, an appointed designee or a contact person to comply with these rules.

(3) Appointment of Authorized Designees and Contact People. Qualified entities approved by the Department must appoint authorized designees or contact persons within 90 days of Department approval. All qualified entities approved to have criminal history checks processed by the Department under these rules on or before October 1, 2004, must appoint authorized designees or contact persons in accordance with these rules, no later than March 1, 2005.

(a) A qualified entity with 10 or more employees must appoint authorized designees or contact people. If a qualified entity has no authorized designee, it must appoint one or more contact people.

(b) A qualified entity with fewer than 10 employees is not eligible to appoint authorized designees, but must rely on the Department or another approved qualified entity to conduct fitness determinations for subject individuals.

(4) Revocation of Approval. Approval may be revoked by the Department if the Department determines that the qualified entity, or a contact person or authorized designee appointed by the qualified entity, has failed to comply with these rules.

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

410-007-0230

Qualified Entity

(1) Approval Required. A qualified entity must be approved in writing by the Department pursuant to these rules in order to appoint an authorized designee or contact person.

(2) Revocation. The Department may suspend or revoke the written approval of a qualified entity for failure of the qualified entity, an appointed designee or a contact person to comply with these rules.

(3) Appointment of Authorized Designees and Contact People. Qualified entities approved by the Department must appoint authorized designees or contact persons within 90 days of Department approval. All qualified entities approved to have criminal history checks processed by the Department under these rules on or before October 1, 2004, must appoint authorized designees or contact persons in accordance with these rules, no later than March 1, 2005.

(a) A qualified entity with 10 or more employees must appoint authorized designees or contact people. If a qualified entity has no authorized designee, it must appoint one or more contact people.

(b) A qualified entity with fewer than 10 employees is not eligible to appoint authorized designees, but must rely on the Department or another approved qualified entity to conduct fitness determinations for subject individuals.

(4) Revocation of Approval. Approval may be revoked by the Department if the Department determines that the qualified entity, or a contact person or authorized designee appointed by the qualified entity, has failed to comply with these rules.

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

410-007-0270

National Criminal History Check Process

(1) National Criminal History Check. In addition to an Oregon check (OAR 410-007-0250), a national criminal history check may be required by the Department under any of the following circumstances:

(a) Out-of-State Residency or Employment.

(A) Child Care Providers (18 months). The subject individual is a child care provider or other person included in OAR 410-007-0210(27)(a)(H) who has lived outside Oregon for 60 or more consecutive days during the previous eighteen months.

(B) Child Welfare System (5 years). The subject individual is working for private, licensed child caring agencies and system of care contractors providing child care pursuant to ORS chapter 418 and has lived outside Oregon for 60 or more consecutive days during the previous five years.

(C) Other Subject Individuals (3 years). The subject individual is not covered by paragraphs (A), (B) or (C) of this subsection and has lived outside Oregon for 60 or more consecutive days during the previous three years.

(b) Multi-state Offender. The LEDS check, or any other information obtained by the Department, indicates there may be criminal history outside of Oregon, or the subject individual self-discloses criminal history outside of Oregon.

(c) Identity or History Questioned. The social security number appears not to be valid or is not provided to the Department on the DHS Criminal History Request form, the subject individual has no Oregon Driver License or Oregon Identification card, or the Department has other reason to question the identity or history of the subject individual.

(2) Fingerprinting a Juvenile. Consent of the parent or guardian is required to obtain fingerprints from a child under the age of 18 years.

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(3) Forms and Processing. The subject individual must complete and submit fingerprint cards when requested by the Department.

(a) Fingerprint Cards. The subject individual must use fingerprint cards (Example: FBI Form FD 258) provided by the Department.

(b) Time Frame for Return. The cards must be submitted within 30 days of the request to the Department's Criminal Records Unit to avoid delay or denial.

(c) Extension. The Department may extend the time allowed for good cause.

(d) Information Required from Subject Individual. The Department or the authorized designee may require that a subject individual obtain and provide to the Department additional criminal, judicial or other background information.

(4) Department Makes Fitness Determination. When a subject individual has a potentially disqualifying national criminal history, the Department makes the fitness determination.

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

410-007-0310

Probationary Status

A subject individual may work, volunteer, reside, or be trained in a facility or other environment identified in these rules prior to a final fitness determination only under the following conditions. If allowed to work, volunteer, reside, or be trained under the following conditions, the subject individual is on probationary status:

(1) Request Must Be Submitted. A DHS Criminal History Request form must have been completed and submitted to the Department.

(2) Preliminary Fitness Determination Required. A preliminary fitness determination must have been completed pursuant to OAR 410-007-0320.

(3) Active Supervision. A subject individual who is on probationary status must be actively supervised at all times by someone who completes a history check and is approved pursuant to these rules.

(a) Duties. The person providing active supervision at all times must meet all of the following conditions:

(A) Be in the same building as the subject individual or be within line-of-sight, except as provided in subsection (5)(b) of this rule,

(B) Know where the person on probationary status is and what the person is doing, and

(C) Periodically observe the actions of the person on probationary status.

(b) Supervision by Exempt Person. A client of the Department, an adult client's related adult family member, or a child's parent or guardian, may provide active supervision if authorized in section (5) of this rule without a history check.

(c) Exemption from Active Supervision. A subject individual who was approved without restrictions within the previous 24 months through a documented criminal history check pursuant to these rules or prior DHS criminal history check rules may function on probationary status without active supervision. The qualified entity must maintain the documentation.

NOTE: Time frame (24 months) is based on length of time between date of previous approval and date starting new position.

(4) Status Prior to Final Fitness Determination. Nothing in this rule is intended to require that a subject individual who is eligible for probationary status be allowed to work, volunteer, reside, or be trained in a facility prior to a final fitness determination.

(5) Criteria for Specific Provider Types.

(a) Adult Foster Homes (AFH).

(A) Before a new license or a license renewal is issued, the AFH provider and all subject individuals living or working in the AFH must complete the final fitness determination and be approved by the Department.

(B) Substitute caregivers in AFHs must complete the Oregon criminal history check and, when required, have submitted fingerprint cards, before being allowed to work in an AFH. An expedited review process is available when requested by an AFH because of an immediate staffing need.

(b) Child Care Providers. Responsibility for providing active supervision in the case of child care providers is with the child's parent or guardian, but the supervision is not required to be performed by someone in the building.

(c) Homecare Worker, Personal Care Services Provider and Independent Provider.

(A) A homecare worker, personal care services provider, or independent provider may be actively supervised by the client if the client makes an informed decision to employ the provider.

(B) The Department may allow a homecare worker, personal care services provider, Department volunteer or an independent provider to be actively supervised by someone related to the client.

(d) Child Foster Care. Probationary status is not allowed in child foster care.

(6) Termination of Probationary Status. Probationary status may be terminated by the qualified entity immediately if there is any indication of falsification of application, including but not limited to:

(a) The criminal history check reveals a conviction for any potentially disqualifying crime not disclosed by the subject individual.

(b) The LEDS check identifies the subject individual as a "multi-state offender" and the subject individual did not disclose an out-of-state conviction or arrest.

(c) The subject individual failed to disclose an arrest that did not result in a conviction within the previous five years for a potentially disqualifying crime.

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

410-007-0340

Record Keeping, Confidentiality

(1) LEDS Reports.

(a) Confidentiality. All LEDS reports and other information (see OAR 410-007-0290 and 410-007-0300) are confidential and must be maintained by the authorized designee in accordance with applicable Oregon State Police requirements.

(A) Authorized Designee Access. LEDS reports are confidential and may only be shared with another authorized designee if there is a need to know consistent with these rules.

(B) Subject Individual Access. The subject individual must be allowed to inspect the LEDS report if the subject individual requests to see it. The LEDS report, and photocopies of the LEDS report, must not be given to the subject individual.

NOTE: Photocopies of the LEDS report should not be made under any circumstances.

(b) Retention. LEDS reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives.

(2) National (FBI) Information. National criminal information is confidential and may not be disseminated by the Department.

(3) DHS Forms and Other Documentation.

(a) Confidentiality. All completed DHS Criminal History Request forms must be kept confidential and disseminated only on a need-to-know basis.

(b) Retention Time.

(A) DHS forms and other records documenting the criminal history check and the fitness determination must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives.

(B) Documentation must be retained by the qualified entity to demonstrate that the fitness determination was completed pursuant to these rules.

(4) DHS Criminal History Database. The Department maintains a database regarding criminal history checks.

(a) Data. The Department will develop a system that maintains information regarding criminal history checks and minimizes the administrative burden that these rules impose upon subject individuals and providers.

(b) Confidentiality. Records maintained under section (4) of this rule are confidential and are not disseminated by the Department except for the purpose of this section and in accordance with the rules of the Department and the Department of State Police (Oregon State Police).

(c) Retention. Information is maintained in the database for a minimum of three years from the date of the fitness determination.

Stat. Auth.: ORS 181.537, 409.010, 409.050

Stats. Implemented: ORS 181.537

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

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Adm. Order No.: OMAP 78-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04 thru 3-15-05

Notice Publication Date:

Rules Amended: 410-125-0141, 410-125-0195

ADMINISTRATIVE RULES

Subject: The Hospital Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP temporarily amends 410-125-0141 and 410-125-0195 to reflect reimbursement methodology and rate changes for DRG Hospitals for inpatient and outpatient services.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0141

DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign individual claims to a DRG category. Medicare revises the Grouper program each year in October. The Office of Medical Assistance Programs (OMAP) uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, OMAP may modify the logic of the grouper program. OMAP will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. OMAP DRG weight tables can be found on the DHS web site.

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, OMAP establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, OMAP uses the following methodology: Using the formula $N = \frac{Z}{R}$ where $Z = 1.15$ (a 75% confidence level), S is the standard deviation, and $R = 10\%$ of the mean. OMAP determines the minimum number of claims required to set a stable weight for each DRG (N must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, OMAP sets a relative weight using:

(A) OMAP non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the OMAP Title XIX caseload.

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the OMAP Title XIX population in that DRG, the weight derived from OMAP Title XIX claims history is used instead of the externally derived weight for that DRG.

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State specific relative weights shall be adjusted, as needed, as determined by OMAP. When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighting of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Indexed: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Unit Value: Hospitals larger than fifty (50) beds are reimbursed using the Diagnosis Related Grouper (DRG) as described in (2). Effective for services on or after March 1, 2004, the Unit Value payment is 80% of the 2004 Medicare Unit Value and related data published in Federal Register/Vol.68, No. 148, August 1, 2003. The unit value is also referred to as the operating cost per discharge.

(6) DRG Payment: The DRG payment to each Oregon DRG hospital is calculated by adding the unit value to the capital amount, then multiplied by the claim assigned DRG relative weight (out of state hospitals do not receive the capital amount).

(7) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to in-state and contiguous hospitals for exceptionally costly services or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients.

(b) For dates of service on and after March 1, 2004 the calculation to determine the cost outlier payment for Oregon DRG hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital's cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid caseload;

(C) If the hospital's net costs as determined above are greater than 270 percent of the DRG payment for the admission and are greater than \$25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold (\$25,000 or 270% of the DRG payment, whichever is greater) are reimbursed using the following formula:

(i) Billed charges less non-covered charges, times;

(ii) Hospital-specific cost-to-charge ratio equals;

(iii) Net Costs, minus;

(iv) 270% of the DRG or \$25,000 (whichever is greater), equals;

(v) Outlier Costs, times;

(vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;

(vii) Cost Outlier Payment.

(E) Third party reimbursements are deducted from the OMAP calculation of payable amount;

(F) When hospital cost reports are audited, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and OMAP 42, adjusted to reflect the Medicaid mix of services.

(8) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. OMAP uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) For the dates of service on and after March 1, 2004 the Capital cost per discharge is one hundred (100) percent of the published Medicare capital rate for fiscal year 2004, see (5). The capital cost is added to the Unit Value and paid per discharge.(9) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the delivery of services to Title XIX eligible persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct Medical Education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This is the Title XIX Direct Medical Education Cost per discharge;

(B) The Title XIX Direct Medical Education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Direct Medical Education Payment Per Discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment Per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(10) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to in-state hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect

ADMINISTRATIVE RULES

medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the Office of Medical Assistance Program's indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) For dates of service on and after March 1, 2004 the calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the hospital specific February 29, 2004 Unit Value, multiplied by the Indirect Factor equals the Indirect Medical Education Payment;

(e) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-15-120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-570, 461-015-0590, 461-105-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 78-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05

410-125-0195

Outpatient Services In-State DRG Hospitals

(1) The interim reimbursement for laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services is the OMAP fee schedule.

(2) Settlement reimbursement:

(a) For Title XIX/Title XXI clients; an adjustment to 59 percent of outpatient costs is made during the cost settlement process.

(b) For GA clients; outpatient hospital services are reimbursed at 50 percent of billed charges or 59 percent of costs, whichever is less.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540 & 461-015-0550; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780 & 410-125-0800; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 78-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05

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Adm. Order No.: OMAP 79-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04 thru 3-15-05

Notice Publication Date:

Rules Amended: 410-142-0300

Subject: The Hospice Services Rules govern Office of Medical Assistance Programs payment for services provided to clients. Medicaid hospice rates are calculated based upon the annual hospice rates

established by Centers for Medicare and Medicaid Services (CMS). These rates are authorized by section 1814 of the Social Security Act. New Hospice rates, effective 10/01/04, have been received by the Office of Medical Assistance Programs. Rule 410-142-0300 is amended to update the Hospice Rates in compliance with federal regulations.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-142-0300

Billing and Rate Information

(1) Hospice care is defined as a group of services and is therefore paid on a per diem basis dependent upon the level of care being provided. If the client is enrolled in a prepaid health plan, the hospice must contact the plan and bill according to their instructions.

(2) When the client has the "OHP Standard or OHP Plus" benefit package but is not enrolled in a prepaid health plan, bill with the appropriate Revenue Codes using the instructions on how to complete the UB-92.

(3) If the client is enrolled in Medicare Part A, do not bill OMAP unless no Medicare certified Hospice is available.

(4) If the client is enrolled in Medicare Part B, enter NC or MC in Form Locator 84.

(5) If the client is enrolled in Medicare Part A and you are not a Medicare-certified hospice, and there is no Medicare-certified hospice available in the area, enter NC or MC in Form Locator 84.

(6) Submit your claim to OMAP on a hard copy UB-92 or electronically:

(a) Send paper UB-92 claims to: Office of Medical Assistance Programs (OMAP);

(b) For information about electronic billing (EMC), contact OMAP. Electronic billing (EMC) information is also available at OMAP's website, www.dhs.state.or.us.

(7) When billing for hospice services, the provider must bill the usual charge or the rate based upon the geographic location in which the care is furnished, whichever is lower. See Table 142-0300: (Hospice Rate Chart — Revised 10/01/04. Rates were calculated per CMS State Agency Letter, dated August 11, 2004)

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 16-1995, f. & cert. ef. 8-1-95; OMAP 47-1998, f. & cert. ef. 12-1-98; OMAP 40-1999, f. & cert. ef. 10-1-99; OMAP 34-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 55-2001(Temp) f. 10-31-01, cert. ef. 11-1-01 thru 4-15-02; OMAP 65-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 41-2002(Temp), f. & cert. ef. 10-1-02 thru 3-15-03; OMAP 15-2003, f. & cert. ef. 2-28-03; OMAP 80-2003(Temp), f. & cert. ef. 10-10-03 thru 3-15-04; OMAP 86-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 66-2004, f. 9-13-04, cert. ef. 10-1-04; OMAP 79-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05

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Department of Human Services, Public Health Chapter 333

Adm. Order No.: PH 29-2004

Filed with Sec. of State: 9-23-2004

Certified to be Effective: 9-23-04

Notice Publication Date: 5-1-04

Rules Adopted: 333-560-0140, 333-560-0150

Rules Amended: 333-550-0010, 333-590-0040

Subject: Amends OAR 333-590-0040 to change how service areas for existing general hospitals are determined. Also amends OAR 333-590-0040 to delete an outdated reference to projects which involve a specific service or services. Amends OAR 333-550-0010 to change how hospital service areas are determined for the purpose of determining what is a new hospital. Adopts OAR 333-560-0140 and OAR 333-560-0150 to create an accelerated certificate of need review process for new hospitals under specific conditions.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-550-0010

Health Services Subject to Review

(1) Pursuant to ORS 442.315(1), a certificate of need must be obtained from the division prior to the offering or development of any new hospital or new skilled nursing or intermediate care service or facility, other than a facility, as defined in ORS 441.065.

(2) A new hospital is any facility that did not offer inpatient hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services. For the pur-

ADMINISTRATIVE RULES

poses of this section, the service area of an existing general hospital will be determined in accordance with the provisions of OAR 333-590-0040 but shall not extend beyond a seven-mile radius from the main hospital campus. A new hospital is not created by the reinstatement of services by an established hospital which has experienced an interruption of services of less than 12 months. A change in category of license for an already operating hospital does not create a new hospital unless the hospital proposes to offer one or more new services not encompassed within its existing license (e.g., a facility for the treatment of alcoholism or drug abuse which proposes to offer inpatient psychiatric services). A new hospital does not include the expansion of an existing hospital at its current site; but it does include any replacement, rebuilding or relocation of an existing hospital that involves a substantial increase or change in the services offered. The definition of "rebuilding" contained in subsection (3)(c) of this rule will also be used for the purposes of this section. For the purposes of this section, a substantial increase in services will be considered to include any increase in the total facility bed capacity or in the bed capacity of any hospital service of greater than ten beds or ten percent of the bed capacity of the facility or service. A substantial change in the services offered will be considered to include any establishment of a new health service, as defined in section (4) of this rule.

(3) A new skilled nursing or intermediate care service or facility includes any of the following:

(a) The initiation of inpatient skilled nursing or intermediate care services by a new facility or by a health care facility that did not offer such services within the prior 12-month period. A change in ownership of a long-term care facility is not considered to constitute establishment of a new facility. A change in the services of an existing long-term care facility is not considered to constitute the establishment of a new facility or service, unless the new services are not within the scope of services allowable under a long-term care facility license and require licensure under a hospital licensure category;

(b) An increase in the skilled nursing or intermediate care bed capacity of a long-term care facility by more than ten beds or more than ten percent of the current long-term care bed capacity, whichever is less, within a two-year period after the most recent previous increase in beds at the facility. The date of the most recent increase in capacity will be considered to be the date on which a revised license was issued by the Senior and Disabled Services Division reflecting the new licensed capacity. In calculating ten percent of a facility's capacity, the division will round up to the nearest whole number;

(c) The rebuilding of an existing long-term care facility. "Rebuilding" is considered to include any construction project in which at least 50 percent of the square footage of the existing building or buildings is demolished and replaced through new construction; or remodeling which is so extensive that the cost of the remodeling is at least 50 percent of the estimated replacement cost of the facility; or remodeling which involves replacement through new construction of at least 50 percent of the facility's structural bed capacity;

(d) The relocation of an existing long-term care facility building to a new site;

(e) The relocation of existing long-term care beds from one licensed health care facility to another.

(4) A new hospital health service is any health services except basic health services as defined in ORS 442.315(9) that were not offered in or through the hospital on a regular basis within the 12-month period prior to the time such services are proposed to be offered, provided that the annual operating expenses exceed \$500,000 in the first full year of operation at normal levels of utilization. Such operating expenses shall include a full allotment of ongoing expense items attributable to the health service. In other words, if any expense item is budgeted in the first year of operation at a level substantially lower than that which will be incurred routinely in future years, the routine level of allocation will be used. However, the development of operating units or areas of the hospital dedicated exclusively to the provision of ambulatory surgery services shall not be subject to review. In addition, the reinstatement of an established service which has been interrupted for less than 12 months shall not be considered to constitute the establishment of a new service.

(5) In determining whether annual operating expenses for a proposed new hospital service exceed \$500,000, the division will consider all direct and indirect costs which are properly allocable to the service, whether or not such costs are already being incurred.

(6) A service is considered to have been established as an existing service once it has been continuously offered by the hospital for a period of at least 12 months.

(7) In determining, under section (4) of this rule, whether a health service has been or will be offered on a regular basis, the division shall consider, as appropriate and among others, the following:

(a) Whether there was or will be a change in staffing in terms of quantity, training or qualifications;

(b) Whether there has been or will be substantial change in the amount of reimbursement as a result of the proposed service;

(c) Whether there has been or will be substantial change in the standards of care, levels of care, or methods of care;

(d) Whether there has been or will be substantial change in the type or category of patients;

(e) Whether there has been or will be a fixed and definable area for the primary use of the service;

(f) Whether there has been or will be specialized equipment available for use in connection with the service;

(g) The number of patients served during the last 12 months versus the number of patients expected to be served in the subsequent 12 months; and

(h) The current maximum number of patients which can be served versus the proposed maximum number of patients to be served.

(8) Section (7) of this rule can also be used to distinguish one health service from another.

(9) In determining, under section (4) of this rule, whether a health service is or will be offered in or through a hospital, the division shall consider, as appropriate, the following:

(a) Whether or not the majority of patients served or to be served by such health services are the hospital's patients;

(b) Whether or not the staff or portions of the staff for the health service will be employed or contracted by the hospital;

(c) Whether the hospital will receive reimbursement for the rendering of health services;

(d) Whether inpatients of a hospital will be served; and

(e) The type of legal entity involved, its ownership, and its corporate parts and relationships.

(10) Pursuant to ORS 442.315(6), a certificate of need shall not be transferred. A transfer will be considered to have occurred if there is a change in ownership of a service, item of equipment, or facility prior to the completion of a project for which a certificate of need has been issued, provided that the change of ownership will result in the provision of affected services in a substantially different manner of different location from that contemplated in the certificate of need application.

(11) Nothing in this chapter limits the responsibility of the applicant to provide, or the division to require sufficient data on which to assess the capital costs and the financial impact of a proposal prior to issuing a certificate of need decision. Where determined appropriate by the division, Forms CN-3 through CN-9 and additional forms, when necessary, together with suitable explanations and required narrative, will be required of a lessor, owner, or other provider of land and/or improvements to the applicant. See Division 580.

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

Stat. Auth.: ORS 431.120(6), 442.015 & 442.315

Stats. Implemented: ORS 431.120(6) & 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; OHD 11-1998, f. & cert. ef. 10-22-98; PH 29-2004, f. & cert. ef. 9-23-04

333-560-0140

Accelerated Certificate of Need Review for Specific Projects

The following types of projects are eligible for accelerated review:

(1) The development of a "new hospital" as that term is defined in OAR 333-550-0010(2) when all of the following conditions are met:

(a) The new hospital is the result of a relocation of an existing general hospital under OAR 333-500-0070(1)(a) and does not involve a "substantial increase in services" or "change in the services offered" as those terms are defined in OAR 333-550-0010(2) and determined by the Department;

(b) The existing general hospital must be delicensed and acute inpatient care must not be provided at that location without approval pursuant to certificate of need review. The applicant must provide Health Services with assurances that this condition will be met. No application will be approved under this section without adequate assurances of these conditions as determined by the Department;

(c) New hospital health services will not be offered for a period of three years after licensure of the new facility. A new hospital health service must have been offered at the applicant's existing hospital for a period of at least one year prior to the licensure of the new facility in order for such service not to be considered a new hospital health service when offered at the new facility. For purposes of this section, the term "new hospital health

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service” has the same meaning as is found in OAR 333-550-0010(4) and 333-550-0010(5) through (9) apply to this definition. Projects approved under this section are subject to the full review process detailed in Division 570 of this chapter and to the application and review criteria established in Division 580 if a new hospital health service is offered at the new facility within this three year period. The applicant must provide Health Services with assurances that this condition will be met. No application will be approved under this section without adequate assurances of these conditions as determined by the Department;

(d) The location of the new general hospital will not result in the loss of the critical access status of an existing federally designated critical access hospital;

(e) A general hospital, unaffiliated with the applicant, proposes to relocate its main hospital campus into the service area of applicant’s existing hospital. As used in this section, the term “unaffiliated” means under independent ownership or control. The Department must have ruled, based upon a letter of intent, that the relocation of the unaffiliated hospital is not subject to certificate of need review. As used in this section, the term “service area” will be determined in accordance with the provisions of OAR 333-550-0010(2).

(f) The applicant must demonstrate, to the Department’s satisfaction, that relocation of the unaffiliated hospital will have an adverse economic impact on the applicant’s hospital operations and that this adverse impact will jeopardize the applicant’s ability to continue to operate. The applicant must further demonstrate to the Department’s satisfaction that loss of applicant’s services will result in a significant decrease in provider competition and consumer choice.

(g) The new hospital will be sited within the boundaries of the service area of the hospital that is proposing to relocate into the service area of the applicant’s existing hospital. In addition, the applicant’s new hospital must be located at a site that is no further than half the distance between the main campus of the hospital that is proposing to relocate into the applicant’s service area and either the new site of the main campus of the hospital that is proposing to relocate into the applicant’s service area or the site of any other existing general hospital.

Stat. Auth.: ORS 431.120(6), 442.315
Stats. Implemented: ORS 431.120(6), 442.315
Hist.: PH 29-2004, f.& cert. ef. 9-23-04

333-560-0150 Procedures for Accelerated Review

(1) The accelerated review process will be initiated upon the written request of the applicant and payment of the fee specified in OAR 333-565-0000(4). Decisions to grant or not to grant accelerated review will be based on a letter of intent which has been properly filed by the applicant under OAR 333-555-0000 through 333-555-0020 and on the Department’s findings concerning whether the conditions for accelerated review under OAR 333-560-0140 and the requirements of this rule have been met. In addition to a letter of intent, applicants seeking accelerated review must submit sufficient information and narrative to allow the Department to make findings regarding the conditions and requirements for accelerated review set out in OAR 333-560-0140 and this rule. The applicant must provide the letter of intent and other materials submitted for review in both electronic and paper formats.

(2) The Department will hold at least one public meeting in the geographical area affected by the proposed relocation prior to issuing a decision. The purpose of the public meeting is to discuss issues relevant to the project under review and to allow submission of documents or other evidence relevant to the application:

(a) Department staff will chair and conduct the meeting.

(b) Any person may speak at a public meeting, and any person who speaks at the public meeting may be questioned by the Department’s staff. No questions by other than staff of the Department will be allowed, unless permission is given by the chair. The chair may set time limits for testimony in order to assure a timely and equitable presentation of information.

(c) Notice of the public meeting will be given to the applicant; any hospitals located in the affected service areas; newspapers providing general circulation to the affected service areas; and persons who have requested and been granted designation as affected parties.

(d) The Department will not unnecessarily delay scheduling the public meeting(s).

(3) The applicant must provide the Department with the following documents:

(a) A copy of a city council or county board of commissioners resolution supporting the siting of the facility in its jurisdiction. A city council resolution is required if the facility is to be located within the boundaries of

a city, otherwise a county board of commissioners resolution is required; and

(b) Proof that zoning approval for the facility has been applied for or obtained.

(4) The division will provide written notification to the applicant that accelerated review is:

(a) Denied and state the reason; or

(b) Granted.

(5) If accelerated review is granted, the proposal is exempt from the full review process detailed in Division 570 of this chapter, with the exception of OAR 333-570-0070(3) through (10); and from the application requirements and review criteria established in Division 580. The notification to the applicant will include a proposed order granting the certificate of need. Such an order will contain findings sufficient to justify the granting of accelerated review, but need contain no other findings.

(6) The proposed order on an accelerated review is subject to an informal hearing, as provided in OAR 333-570-0070(5) through (9). Notwithstanding the provisions of OAR 333-570-0070(8), within ten days following the close of an informal hearing on an accelerated review, the Department will either issue a final order approving the application, or will rescind its granting of accelerated review and require the project to undergo full review.

(7) The granting of accelerated review may be rescinded following an informal hearing only if:

(a) The Department finds that the project does not meet the criteria for accelerated review; or

(b) The Department finds that significant issues have been raised regarding the appropriateness of the proposed project.

(8) The final order in an accelerated review is subject to a reconsideration hearing, as provided in OAR 333-570-0070(10) and Division 670 of this chapter.

(9) Projects granted a certificate of need under the accelerated review provisions are not exempt from the monitoring and reporting requirements of OAR 333-575-0000 and 333-575-0010.

Stat. Auth.: ORS 431.120(6), 442.315
Stats. Implemented: ORS 431.120(6), 442.315
Hist.: PH 29-2004, f.& cert. ef. 9-23-04

333-590-0040 Determination of Service Area for Existing Hospitals

For purposes of Divisions 545 through 670 of OAR chapter 333, the service area for an existing general hospital will be defined as including those zip codes from which either ten percent or more of the hospital’s discharges originate, or in which the hospital has at least a 20 percent market share. Minor adjustments to the boundaries of the hospital service area may be made to create a contiguous service area or to conform more closely to the boundaries of demographic units for which census data are reported (county, county census division, enumeration district, or zip codes if conversion has been done).

(1) Discharge and patient day market shares in the service area of the applicant facility should be calculated from the most recent statewide patient origin studies. Changes in relative market shares should be examined if two or more such studies are available. Appropriate steps should be taken to adjust for comparability between these studies if they differ in number of hospitals included, and/or other pertinent factors. More recent patient origin data on a less than statewide basis may also be considered if a method of adjustment for balance-of-state origins and utilization acceptable to the division and the applicant can be developed prior to filing the application.

(2) Federal (V.A.) hospitals may be excluded from the calculation of discharge and patient day market shares, and from other steps in this methodology, but if federal hospitals are excluded from any step, they must be excluded from all steps. For instance, market shares cannot be calculated using nonfederal patient days when the service area use-rate is calculated based on combined federal and nonfederal patient days. If explicit adjustments for projected declines in users eligible for care in federal facilities acceptable to the division and the applicant can be developed prior to filing the application, this factor must be considered.

(3) In the absence of evidence to the contrary, current market shares will be expected to be stable. Factors to which consideration may be given include population shifts; different rates of population growth among sub-areas within the hospital service area; changes in hospital location service mix, age mix, reimbursement mix, transportation patterns, locations of physician specialists; projected changes in amount or types of utilization among other providers with market shares in the hospital service area; and documented commitments to develop procompetitive initiatives such as

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alternative delivery systems, selective contracting, successful competitive bidding, and other market oriented changes.

Stat. Auth.: ORS 431.120(6) & 442.315

Stats. Implemented: ORS 431.120(6) & 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; PH 29-2004, f. & cert. ef. 9-23-05

Adm. Order No.: PH 30-2004(Temp)

Filed with Sec. of State: 9-17-2004

Certified to be Effective: 9-17-04 thru 3-13-05

Notice Publication Date:

Rules Adopted: 333-024-0241

Rules Amended: 333-024-0210, 333-024-0215, 333-024-0220, 333-024-0225, 333-024-0230, 333-024-0231, 333-024-0232, 333-024-0235, 333-024-0240

Subject: Retroactively amends 333-024-0210, 333-024-0215, 333-024-0220, 333-024-0225, 333-024-0230, 333-024-0231, 333-024-0232, 333-024-0235, 333-024-0240 and adopts 333-024-0241 relating to testing for metabolic diseases. These rule changes were previously submitted to the Secretary of State's office and became effective on October 4, 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 October 4, 2002.

The amendments increased the number of disorders for which Oregon newborns are screened and modified the methods which are used; clarified guidelines for follow-up of infants when specimens are collected improperly or too early; and increased the test fee to cover the costs of the additional testing.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-024-0210

Infants Tested for Metabolic Diseases

No later than November 1, 2002, every newborn infant in Oregon shall be tested for at least the following Metabolic Diseases by the state public health laboratory:

- (1) Phenylketonuria;
- (2) Maple Syrup Urine Disease;
- (3) Galactosemia;
- (4) Hypothyroidism;
- (5) Abnormal Hemoglobin;
- (6) Biotinidase Deficiency;
- (7) Amino Acid Disorders:
 - (a) Tyrosinemia (types I and II);
 - (b) Homocystinuria;
 - (8) Urea Cycle Disorders:
 - (a) Citrullinemia;
 - (b) Argininosuccinate lyase deficiency (ASA);
 - (9) Organic Acidemias:
 - (a) Isovaleryl-CoA dehydrogenase deficiency (Isovaleric acidemia);
 - (b) 3-methylcrotonyl-CoA carboxylase deficiency;
 - (c) 3-methylglutaconyl-CoA hydratase deficiency;
 - (d) 3-hydroxy-3-methylglutaryl-CoA lyase deficiency;
 - (e) Propionic acidemia (PA);
 - (f) Methylmalonic acidemia (MMA).
 - (10) Fatty Acid Oxidation Disorders:
 - (a) Very long chain acyl-CoA dehydrogenase deficiency (VLCADD);
 - (b) Long chain L-3 hydroxyacyl-CoA dehydrogenase deficiency (LCHADD);
 - (c) Medium chain acyl-CoA dehydrogenase deficiency (MCADD);
 - (d) Short chain acyl-CoA dehydrogenase deficiency (SCADD);
 - (e) Glutaric aciduria, Type I (glutaryl-CoA dehydrogenase deficiency);
 - (f) glutaric aciduria, Type II (multiple acyl-CoA dehydrogenase deficiency (MADD));
 - (g) Carnitine acylcarnitine translocase deficiency (CT);
 - (h) Carnitine palmitoyl transferase II deficiency (CPT II).

In addition, no later than July 1, 2003, every newborn infant in Oregon shall be tested for congenital adrenal hyperplasia (CAH).

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0215

Person Responsible for Submitting Specimens for Metabolic Diseases

(1)(a) The person responsible for assuring that the specimen is submitted for testing the infant for Metabolic Diseases, shall be in order of responsibility:

(A) The hospital, alternate birthing facility, or other health care facility licensed under ORS 441, or if the infant is not in such a facility;

(B) The practitioner, or if no practitioner is in attendance;

(C) The parent or legal guardian.

(b) For purposes of this section and OAR 333-024-0225, in the case of infants entering a health care facility before 48 hours of age as a result of transfer from another health care facility or from out-of-hospital birth, the receiving health care facility shall be responsible for the timely collection of specimens.

(2) The state public health laboratory may perform tests for certain Metabolic Diseases for patients from outside Oregon.

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0220

Manner of Submitting Specimens

(1) All specimens submitted to the state public health laboratory for testing for Metabolic Diseases shall be collected using kits available from the state public health laboratory according to procedures, protocols, and shipping instructions specified in the Guide to Services maintained by the state public health laboratory. The manual may be reviewed at or copies obtained from the state public health laboratory.

(2) Specimens collected for testing for Metabolic Diseases shall be sent to the state public health laboratory within 24 hours of collection.

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

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0225

Time of Collecting Specimens for Testing Infants

A specimen for testing for Metabolic Diseases shall be collected within ten days after birth from every infant surviving more than two days, as follows:

(1) In the case of infants born outside a hospital or other health care facility and of infants who will remain in the hospital or health care facility for 48 hours or more, a specimen shall be collected after 48 hours but before ten days after birth, preferably between 72 and 96 hours after birth. A second specimen shall be collected after 14 days but before two months of age.

(2) In the case of infants discharged from a hospital or other health care facility before 48 hours of age, a specimen shall be collected within eight hours prior to discharge from the facility, and a second specimen shall be collected from such infants after 72 hours but before 15 days after birth.

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0230

Methods of Testing

(1) Infants shall be tested for Metabolic Diseases by methods approved by rule of the Department. The following laboratory procedures are approved. No other method shall be approved unless it meets or exceeds these methods in respect to specificity, sensitivity, and precision of the assay. Persons wanting amendment of this rule to include another method must provide technical data to the state public health laboratory showing to the satisfaction of the state public health laboratory that the proposed method meets or exceeds the approved methods in these respects.

(2) Laboratory methods for detecting Metabolic Diseases shall be performed upon dried blood specimens and be as follows.

(3) Phenylketonuria: Bacterial Inhibition Assay for phenylalanine or tandem mass spectrometry.

(4) Maple Syrup Urine Disease: Bacterial Inhibition Assay for leucine or tandem mass spectrometry.

(5) Galactosemia: Enzyme immunoassay or fluorescent immunoassay for the presence or absence of detectable galactose uridyl transferase in erythrocytes and/or galactose.

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(6) Hypothyroidism: Radioimmunoassay, enzyme immunoassay or fluorescent immunoassay of thyroxine (T4), and of thyroid stimulating hormone (thyrotropin or TSH).

(7) Abnormal Hemoglobin: Screening by Isoelectric Focusing and confirmation by High Pressure Liquid Chromatography to detect hemoglobin variants.

(8) Biotinidase Deficiency: Colorimetric assay for biotinidase activity.

(9) Congenital Adrenal Hyperplasia (CAH): Radioimmunoassay, enzyme immunoassay or fluorescent immunoassay of 17-alpha hydroxypregesterone (17-OHP).

(10) Additional Amino Acid Disorders: Tandem mass spectrometry.

(11) Urea Cycle Disorders: Tandem mass spectrometry.

(12) Organic Acidemias: Tandem mass spectrometry.

(13) Fatty Acid Oxidation Disorders: Tandem mass spectrometry.

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0231

Procedures for Follow-Up of Samples Administered Too Early, Improperly Collected, and Those That Show Abnormal Results

The purpose of this rule is to establish procedures to be followed by the state public health laboratory in cases where initial testing of metabolic diseases is administered too early to detect these diseases, where the sample submitted for testing is improperly collected, and where a sample shows an abnormal result:

(1) Initial testing administered too early. The state public health laboratory will maintain an ongoing system of monitoring, which will identify the time period during which each newborn infant has had a sample taken and submitted for testing.

(2) Improperly collected samples. Where samples contain insufficient blood or are contaminated (refer to Newborn Screening Specimen Collection in the state public health laboratory's Guide to Services), a repeat sample will be requested. A letter and a collection kit will be mailed to the health care provider who submitted the original specimen within two working days after receiving the sample. If there is no response after ten working days, the state public health laboratory will send a follow-up letter. If there is no response within ten working days after the second letter, a registered letter will be sent indicating that the state public health laboratory will no longer be tracking that infant.

(3) Samples that show abnormal results. The state public health laboratory will refer abnormal results to the screening program's medical consultants. Reports of abnormal findings will be made by the medical consultants to individual health care providers. Requests for repeat or follow-up samples will be made through the medical consultants by letter or telephone call, depending upon the urgency of the situation. The state public health laboratory will be informed of the final resolution or confirmation of each case by the medical consultants to ensure timely and complete follow-up.

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

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 6-1985, f. 4-26-85, ef. 5-1-85; HD 10-1986, f. & ef. 6-11-86; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0232

Demographic Data

The state public health laboratory will maintain demographic data records on newborn infants to be used for the purposes of monitoring statistical trends and screening practices in hospitals, birthing facilities, and individual practices. This monitoring will enable the state public health laboratory to:

(1) Identify facilities and health care providers that submit inadequate samples;

(2) Evaluate the overall effectiveness of the screening program;

(3) Monitor and ensure timely and complete follow-up; and

(4) Ensure that the most effective newborn screening program for the

State of Oregon will be maintained.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433.285 & 433.290

Hist.: HD 6-1985, f. 4-26-85, ef. 5-1-85; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0235

Religious Exemption from Testing

(1) A religious exemption from testing for Metabolic Diseases may be claimed if the infant is being reared as an adherent to a religion the teachings of which are opposed to such testing.

(2)(a) In the event a religious exemption is claimed from the requirements for testing for Metabolic Diseases, the person otherwise responsible for submitting the specimen for testing shall be responsible for submitting a completed statement to the state public health laboratory signed by the infant's parent using the following language:

STATEMENT OF RELIGIOUS EXEMPTION
The undersigned parent of _____ states that this child is exempt from testing for detection of METABOLIC DISEASES in that the child is being reared as an adherent to a religion the teachings of which are opposed to such testing.

(parent's signature)

(date)

(b) The completed statement in subsection (a) of this section may be made on the reverse side of the original specimen identification form which otherwise accompanies the dried blood specimen used to test the infant for Metabolic Diseases.

Stat. Auth.: ORS 431

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 8-1991, f. & cert. ef. 6-19-91; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0240

Fees

(1)(a) The person responsible for submitting specimens for those tests performed on specimens received in the state public health laboratory on or after April 1, 1998, shall pay a test fee upon billing by the Department, in accordance with the following schedule:

(A) Mycology/virus serology — \$20.30;

(B) Virus isolation — \$35;

(C) Reference test — \$40;

(D) Blood lead — \$10;

(E) Chlamydia — \$7;

(F) Hepatitis B pre- or post-vaccine screen — \$7;

(G) HIV antibody screen — \$12;

(H) HIV confirmation — \$40;

(I) Hepatitis acute panel — \$40;

(J) Hepatitis B carrier status panel — \$40;

(K) Hepatitis B contact panel — \$27.30;

(L) Hepatitis B infant of HBsAg positive mother — \$27.30;

(M) Rule out flu culture — \$15;

(N) Syphilis screen — \$5;

(O) Syphilis FTA-AB(DS) — \$12;

(P) Syphilis VDRL CSF — \$7;

(Q) Virus special test — \$25.

(b) Public and private non-profit agencies may apply for a reduction or waiver of the test fees stated in section (1)(a) of this rule. Reduction or waiver requests must be sent to the Director of the state public health laboratory and be accompanied by proof of non-profit status. Requests should include estimated number and type of tests anticipated per year. The decision to reduce or waive fees is discretionary with the state public health laboratory.

(2) For Metabolic Disease Test kits purchased by prepayment on or after October 14, 2002:

(a) \$27 per specimen; or

(b) \$54 per two-specimen kit.

(3) Specimens which are submitted in an inadequate quantity or any unsatisfactory condition shall be subject to the fee of \$5 per repeat specimen except for metabolic screening specimens, which may be subject to a charge of \$27 per specimen. Additional specimens from the same infant or patient specifically required or requested by the state public health laboratory, but not because the original specimen was inadequate or unsatisfactory, shall be exempt from additional fees.

(4)(a) The state public health laboratory may provide kits upon request to persons authorized to submit specimens to the state public health laboratory. The state public health laboratory shall bill for the performance of other tests in accordance with the fees stated in sections (1) and (3) of this rule;

(b) Kits requested for testing for Metabolic Diseases shall be prepaid by the requestor in the amount as specified in section (2) of this rule. Kits must be requested in writing and the request must be accompanied by a check or money order for the full amount of the order;

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(c) No Oregon infant shall be denied testing for Metabolic Diseases because of inability of the infant's parent to pay the fee for a test or kit:

(A) A practitioner or parent requesting exemption from fees shall complete a statement such as the following:

STATEMENT OF FEE EXEMPTION

The undersigned states that the parents of _____ are unable to pay the fee for testing for METABOLIC DISEASES because of lack of sufficient funds.

(parent's signature)

(date)

(B) The above completed statement shall be made either:

(i) On the original specimen identification form which accompanies the dried blood specimen used to test the infant for Metabolic Diseases; or

(ii) On a listing of exempt infants which listing shall include each infant's name and birth date, the name of the parent or practitioner, and date;

(iii) Exemption statements must be received within one year of the first metabolic screening.

(C) Upon receipt of the statement in paragraph (4)(c)(A) of this rule, and confirmation of Department records, the Department will issue a refund check. The Department will replace or refund fees for kits, damaged or unused, which are returned to the laboratory. By special arrangement, credits may be issued.

(5) Specimens submitted to the state public health laboratory for the diagnosis of the reportable communicable diseases identified in OAR 333-018-0005(1) and (2) are not subject to the fees specified in these rules. For tests performed for or on behalf of Oregon state or local government agencies, as determined by the Administrator to have a significant public health impact, a lesser fee, calculated to recover costs, may be charged.

(6) All specimens submitted to the state public health laboratory shall be collected according to procedures, protocols, and shipping instructions specified in the Oregon State Public Health Laboratory's Guide to Services. The guide may be reviewed at or copies obtained from the state public health laboratory.

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

Stat. Auth.: ORS 431.310 & 433.285

Stats. Implemented: ORS 431.310 & ORS 433.285

Hist.: HB 18-1981(Temp), f. & ef. 9-11-81; HB 3-1982, f. & ef. 2-25-82; HD 12-1982, f. 6-11-82, ef. 7-1-82; HD 27-1982(Temp), f. 12-15-82, ef. 12-16-82; HD 9-1983, f. 6-24-83, ef. 7-1-83; HD 11-1983(Temp), f. & ef. 7-11-83; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 7-1987, f. & ef. 7-15-87; HD 12-1990, f. & cert. ef. 5-22-90; HD 8-1991, f. & cert. ef. 6-19-91; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; HD 12-1997, f. 9-26-97, cert. ef. 10-1-97; OHD 3-1998, f. 3-31-98, cert. ef. 4-1-98; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

333-024-0241

Effective Date

The effective date for rules 333-024-0210, 333-024-0215, 333-024-0220, 333-024-0225, 333-024-0230, 333-024-0231, 333-024-0232, 333-024-0235, 333-024-0240 and 333-024-0241 shall be October 4, 2002.

Stat. Auth.: ORS 431.310 & 433.285

Stats. Implemented: ORS 431.310 & ORS 433.285

Hist.: PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05

Adm. Order No.: PH 31-2004(Temp)

Filed with Sec. of State: 10-8-2004

Certified to be Effective: 10-8-04 thru 4-5-05

Notice Publication Date:

Rules Adopted: 333-100-0057, 333-100-0080, 333-101-0003, 333-102-0040, 333-102-0190, 333-102-0247, 333-102-0350, 333-102-0355, 333-102-0360, 333-102-0365, 333-105-0003, 333-105-0050, 333-105-0075, 333-105-0420, 333-105-0430, 333-105-0440, 333-105-0450, 333-105-0460, 333-105-0470, 333-105-0480, 333-105-0490, 333-105-0500, 333-105-0510, 333-105-0520, 333-105-0530, 333-105-0540, 333-105-0550, 333-105-0560, 333-105-0570, 333-105-0580, 333-105-0590, 333-105-0600, 333-105-0610, 333-105-0620, 333-105-0630, 333-105-0640, 333-105-0650, 333-105-0660, 333-105-0670, 333-105-0680, 333-105-0690, 333-105-0700, 333-105-0710, 333-105-0720, 333-105-0730, 333-105-0740, 333-105-0750, 333-105-0760, 333-106-0750, 333-116-0025, 333-116-0035, 333-116-0055, 333-116-0057, 333-116-0059, 333-116-0105, 333-116-0107, 333-116-0165, 333-116-0265, 333-116-0495, 333-116-0515, 333-116-0525, 333-116-0573, 333-116-0577, 333-116-0583, 333-116-0585, 333-116-0587, 333-116-0605, 333-116-0905, 333-116-0910, 333-116-0915, 333-118-0800, 333-120-0015, 333-120-0017, 333-120-0215

Rules Amended: 333-100-0001, 333-100-0005, 333-100-0060, 333-100-0065, 333-100-0070, 333-101-0001, 333-101-0010, 333-102-0001, 333-102-0005, 333-102-0010, 333-102-0015, 333-102-0020, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0075, 333-102-0101, 333-102-0103, 333-102-0105, 333-102-0110, 333-102-0120, 333-102-0125, 333-102-0130, 333-102-0135, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0245, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0300, 333-102-0305, 333-102-0310, 333-102-0315, 333-102-0327, 333-102-0330, 333-102-0335, 333-102-0340, 333-103-0015, 333-105-0001, 333-105-0005, 333-106-0005, 333-106-0035, 333-106-0045, 333-106-0055, 333-106-0101, 333-106-0105, 333-106-0210, 333-106-0220, 333-106-0325, 333-106-0575, 333-106-0700, 333-106-0710, 333-106-0720, 333-106-0730, 333-111-0010, 333-116-0010, 333-116-0020, 333-116-0040, 333-116-0050, 333-116-0070, 333-116-0080, 333-116-0090, 333-116-0100, 333-116-0120, 333-116-0125, 333-116-0140, 333-116-0150, 333-116-0160, 333-116-0170, 333-116-0180, 333-116-0190, 333-116-0200, 333-116-0250, 333-116-0260, 333-116-0290, 333-116-0300, 333-116-0310, 333-116-0320, 333-116-0330, 333-116-0340, 333-116-0350, 333-116-0360, 333-116-0370, 333-116-0380, 333-116-0390, 333-116-0410, 333-116-0420, 333-116-0430, 333-116-0440, 333-116-0450, 333-116-0460, 333-116-0470, 333-116-0480, 333-116-0490, 333-116-0530, 333-116-0540, 333-116-0560, 333-116-0570, 333-116-0580, 333-116-0590, 333-116-0600, 333-116-0610, 333-116-0640, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0720, 333-116-0730, 333-116-0830, 333-118-0020, 333-118-0040, 333-118-0050, 333-118-0060, 333-118-0070, 333-118-0080, 333-118-0090, 333-118-0100, 333-118-0110, 333-118-0120, 333-118-0130, 333-118-0140, 333-118-0150, 333-118-0160, 333-118-0170, 333-118-0180, 333-118-0190, 333-118-0200, 333-119-0030, 333-119-0040, 333-119-0080, 333-119-0090, 333-119-0100, 333-119-0120, 333-120-0100, 333-120-0110, 333-120-0130, 333-120-0170, 333-120-0180, 333-120-0190, 333-120-0200, 333-120-0210, 333-120-0220, 333-120-0230, 333-120-0240, 333-120-0250, 333-120-0320, 333-120-0400, 333-120-0420, 333-120-0430, 333-120-0450, 333-120-0460, 333-120-0520, 333-120-0540, 333-120-0550, 333-120-0560, 333-120-0600, 333-120-0610, 333-120-0640, 333-120-0650, 333-120-0660, 333-120-0670, 333-120-0680, 333-120-0700, 333-120-0710, 333-120-0720

Rules Suspended: 333-102-0225, 333-102-0240, 333-102-0287, 333-102-0295, 333-105-0101, 333-105-0105, 333-105-0110, 333-105-0115, 333-105-0120, 333-105-0125, 333-105-0130, 333-105-0135, 333-105-0140, 333-105-0201, 333-105-0202, 333-105-0205, 333-105-0210, 333-105-0301, 333-105-0305, 333-105-0310, 333-105-0315, 333-105-0320, 333-105-0325, 333-105-0330, 333-105-0335, 333-116-0510

Subject: To retroactively update and maintain compatibility with Nuclear Regulatory Commission regulations for radioactive materials, a requirement of our Agreement State status. Additional changes utilize guidance from the Suggested State Regulations for the Control of Radiation published by the Conference of Radiation Control Program Directors. These rule changes were previously submitted to the Secretary of State's office and became effective on March 27, 2003. These rules are identical to the rules previously filed with the Secretary of State's office on March 27, 2003. The following is a general description of the retroactive changes.

333-100 General Provisions: added several new definitions, added maintenance of records and deliberate misconduct, text clarification and/or minor corrections.

333-101 Registration of Radiation Machines, General License Radioactive Materials, Licensing of Radiation Services, and Accreditation of Hospital Radiology Inspectors: added definitions, changing radiation units to Standard International units.

333-102 Licensing of Radioactive Material: added several new definitions, expanded and clarified Scope, clarification of license types, specifically identifies information required by general licens-

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ee, additional requirements for certain measuring, gauging or controlling devices, added General License to Install Devices Generally Licensed, added new Application for Specific Licenses, changed General Requirements for the Issuance of Specific Licenses, moved radiography licensing requirements to Division 333-105, added Records and Material Transfer Reports, changed Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116, deleted Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceutical Containing Radioactive Material, deleted Filing Application for Specific Licenses, changes to Specific Terms and Conditions of License, adding Financial Assurance and Recordkeeping for Decommissioning, added Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas, added requirements to section on reciprocity, added Reporting Requirements, added Records, added Right to Cause the Withholding or Recall of Byproduct Material, added Third Party Method, other clarifications and editorial corrections.

333-103: Clarification of applicability in Annual Registration Fee for General Licenses and Devices.

333-105: Major re-write to include certification of industrial radiographers using radioactive sources.

333-106: Added definitions, changes in fluoroscopy training and usage requirements, changes in mammography requirements, correction of formulas and tables.

333-111: Added three year frequency for training.

333-116: Change in scope, new and edited definitions, added Application for License, Amendment, or Renewal, changed notification requirements, exemptions for Broad Scope A licensees, added License Issuance, added Specific Exemptions, additional requirements for Radiation Safety Officer, additional requirements for Statement of Authorities and Responsibilities, changes for Supervision, added Written Directives, added Procedures for Administrations Requiring a Written Directive, clarified requirements for Possession, Use, Calibration and Check of Dose Calibrators, added Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides, changes to Assay of Radiopharmaceutical Doses, added new sources to Authorization for Calibration and Reference Source, added Release of Individuals Containing Radiopharmaceuticals or Implants, added requirements for compounding radiopharmaceuticals, changes to Use of Radiopharmaceuticals for Therapy, expanded Teletherapy to include Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, change in requirements for Installation, Maintenance, Adjustment, and Repair of therapy units, added Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, added Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, added Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Dosimetry Equipment, clarification for Full Calibration Measurement, added Full Calibration Measurements on Remote Afterloader Units, added Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units, added Periodic Spot-checks for Remote Afterloader Units, added Additional Technical Requirements for Mobile Remote Afterloader Units, added Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units, added Therapy-related Computer Systems, added Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, other minor clarifications and editorial corrections.

333-118: Several changed and new definitions, changes to Transportation of Radioactive Material, General License Requirements,

Previously Approved Packages, U.S. Department of Transportation Specification Container, updated table of A1 and A2 quantities.

333-119: Added requirement for posting public notice, delete requirement for providing removable plastic sheets, operator training required within 12 months, removed date expired requirements, clarified token use.

333-120: added definitions, changed radiation measurement units to Standard International units, added information dose calculations for fluoroscopy, change in monitoring requirements, added Location of Individual Monitoring Devices, clarified requirements for Control of Access To certain Radiation Areas, added requirements for storage (securing) radiation sources, clarification of posting requirements, change in radiation survey requirements for package receipt, other minor clarification and editorial corrections.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-100-0001

Scope

Except as otherwise specifically provided, these rules apply to all persons who acquire receive, possess, use, transfer, own, or dispose of any source of radiation; provided, however, that nothing in these rules shall apply to any person to the extent such person is subject to regulation by the U.S. Nuclear Regulatory Commission.

NOTE: Attention is directed to the fact that state regulation of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to 10 CFR Part 150 of the Commission's regulations.

[Publications: Publications referenced are available for review at Oregon Health Services, Radiation Protection Services office.]

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0005

Definitions

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain Division will be found in that Division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term..

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 to 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7 x 10¹⁰ disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agency" means Radiation Protection Services of Oregon Health Services.

(8) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(9) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(10) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DAC's) specified in appendix B, Table I, to 10 CFR Part 20.1001 to 20.2401, or;

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(11) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as

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far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(12) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(13) "Annual" means occurring every year or within a consecutive twelve month cycle.

(14) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(15) "As Low As Reasonably Achievable" see "ALARA".

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Agency.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days, for Class W, Weeks, from 10 to 100 days, and for Class Y, Years, of greater than 100 days. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 to 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" (HE, 50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (HE,50 = $\sum wT,HT,50$).

(30) "Contamination" (Radioactive) means: deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits (a) release of the property for unrestricted use and termination of license or (b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (Hd), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm²).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration (DAC)" means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" HT means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment. [(HE,50 = $\sum wTHT,50$)]

(42) "Effective dose equivalent (HE)" means the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated (HE = $\sum wTHT$).

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(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means (a) the quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram. (b) being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm²).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, and not moved, that is, not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray"(Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means (a) the professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this agency, they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or (b) any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "High radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates.

(61) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(62) "Individual" means any human being.

(63) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(64) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(65) "Inhalation class" (see "Class").

(66) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

(67) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(68) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(69) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(70) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(71) "License" means a license issued by the Agency in accordance with rules adopted by the Agency.

(72) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Agency. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(73) "Licensee" means any person who is licensed by the Agency in accordance with these rules and the Act.

(74) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(75) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(76) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(77) "Lung class" (see "Class").

(78) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in section Division 118 of this Chapter.

(79) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(80) "Minor" means an individual less than 18 years of age.

(81) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(82) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(83) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(84) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

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(85) "Natural thorium" means thorium-232 in equilibrium with all decay products.

(86) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium-235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(87) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(88) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form".

(89) "NRC" is the acronym for Nuclear Regulatory Commission.

(90) "Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(91) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for a licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received from background radiation, or as a patient from medical practices, or from voluntary participation in medical research programs, or as a member of the public.

(92) "Package" means packaging together with its radioactive contents as presented for transport.

(93) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(94) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(95) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices".

(96) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy. (See also Authorized Nuclear Pharmacist).

(97) "Physician" means an individual licensed by the Oregon State Board of Medical Examiners to dispense drugs in the practice of medicine.

(98) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

NOTE: Although there is an annual occupational radiation dose limit, additional dose is permitted provided the situation is planned in advance and a justification is provided that the extra dose is necessary. There is a limit to planned special exposures (PSEs) of 1 times the annual limit in any year and 5 times the annual limit in a lifetime. This translates to: [Table not included. See ED. NOTE.]

(99) "Portable gauge" means a measuring or controlling device that is intended to be portable, that is, not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(100) "Public dose" means the dose received by a member of the public by exposure to sources of radiation from licensed or registered operations. Public dose does not include occupational dose, or dose received from background radiation, or dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

(101) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130 °F (54.4 °C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(102) "Qualified expert" means an individual, approved by the Agency, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to

evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual shall:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed 1 year of documented, full time training in the appropriate field and also 1 year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual shall have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Department for specific activities.

(103) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this Division) that is used to derive dose equivalent from absorbed dose.

(104) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(105) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(106) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Agency has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Agency has determined to present a biological hazard to the occupational or public health and safety.

(107) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(108) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(109) "Radiation safety officer" means (a) an individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; (b) the representative of licensee management, authorized by the Agency, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(110) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously. Radioactive material, as used in these rules, includes

(a) Byproduct material, as defined in OAR 333-100-0005(19)(a), naturally occurring radioactive material, and accelerator produced material; and

(b) Source material and byproduct material, as defined in OAR 333-100-0005(19)(b).

(111) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in Division 50 of OAR 345. No radioactive material may be disposed of in Oregon except as provided in Division 50 of Chapter 345.

(112) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(113) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(114) "Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these rules and the Act.

(115) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device shall

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furnish information to the Agency in accordance with the rules adopted by the Agency.

(116) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(117) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(118) "Research and development" means (a) Theoretical analysis, exploration, or experimentation; or (b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(119) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(120) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(121) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58×10^{-4} Coulombs/kilogram of air (see "Exposure" and Division 120).

(122) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(123) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(124) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(125) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(126) "Shallow dose equivalent" (Hs), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²) averaged over an area of 1 square centimeter.

(127) "SI" means the abbreviation for the International System of Units.

(128) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). See OAR 333-100-0070(2).

(129) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(130) "Source material" means material, in any physical or chemical form, including ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(131) "Source material milling" means any activity that results in the production of byproduct material, as defined by the definition in OAR 333-100-005(19)(b), "Byproduct material".

(132) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(133) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory

Commission requirements in effect on March 31, 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(134) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(135) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one (1). For example, the following quantities in combination would not exceed the limitation and are within the formula: *

$$\frac{* 175 \text{ (grams contained U-235)} + 50 \text{ (grams U-233)} + 50 \text{ (grams Pu)}}{1 \ 350 \ 200 \ 200}$$

(136) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(137) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(138) "Supervision" as used in these rules, shall mean the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the agency.

(139) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(140) "Termination" means (a) the end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter or (b) the closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(141) "Test" means the process of verifying compliance with an applicable rule.

(142) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(143) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(144) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in OAR 333-120-650(1)(d).

(145) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(146) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of

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Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(147) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

NOTE: AOre@ refers to fuel cycle materials pursuant to 10 CFR Part 150.

(148) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, Auncontrolled area@ is an equivalent term.

(149) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes;

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(150) "Validation certificate" means the official document issued upon payment to the Agency of the appropriate fee listed in Division 103 of these rules. The license or registration is subject and void without the annual validation certificate.

(151) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.)

(152) "Waste" means radioactive waste.

(153) "Week" means 7 consecutive days starting on Sunday.

(154) "Weighting factor" wT for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of wT are: [Table not included. See ED. NOTE.]

(a) 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, wT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(155) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(156) "Worker" means an individual engaged in work under a license or registration issued by the Agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

(157) "Working level" (WL) means any combination of short-lived radon progeny in 1 liter of air that will result in the ultimate emission of 1.3 x 10⁵ MeV of potential alpha particle energy. The short-lived radon-222 progeny are polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(158) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(159) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendices referenced are available from the agency.]

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0057

Maintenance of Records

Each record required by this Division shall be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required

retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.685 & 453.761

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0060

Inspections

(1) Each licensee and registrant shall afford to the Agency at all reasonable times opportunity to inspect sources of radiation and radioactive material and the premises and facilities wherein such sources of radiation and radioactive material are used or stored.

(2) Each licensee and registrant shall make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to the rules in this Chapter.

(3) Within the available resources of the Agency, X-Ray Machine Registrants shall be inspected at the following frequency based upon the class of X-Ray machine(s) registered: [Table not included. See ED. NOTE.]
NOTE: Nothing in this section affects the fee schedule in ORS 453.670 for X-Ray machine registrants.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.685 & ORS 453.761

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 16-1994, f. & cert. ef. 6-27-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0065

Tests

Each licensee and registrant shall perform, or permit the Agency to perform, such tests as the Agency deems appropriate or necessary for the administration of the rules in this Division and Divisions 101, 105, 106, 108, 109, 112, 113, 115, 116, 117, 119, and 121 of this Chapter including, but not limited to, tests of:

(1) Sources of radiation and radioactive material;

(2) Facilities wherein sources of radiation and radioactive material are used or stored;

(3) Radiation detection and monitoring instruments; and,

(4) Other equipment and devices used in connection with the utilization or storage of licensed or registered sources of radiation and radioactive material.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.685 & 453.752

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0070

Units of Exposure and Dose

The Metric Conversion Act of 1975 (PL 94-168) urged the increasing awareness and use of the International System of Units (SI). The generally accepted regulatory values in the narrative portions of this document are followed by the SI equivalents in parentheses. Where appropriate, schedules and appendices are provided with notes concerning conversion factors. The inclusion of the SI equivalent is for informational purposes only.

(1) The unit of exposure is the coulomb per kilogram (C/kg). One roentgen is equal to 2.58x10⁻⁴ coulomb per kilogram of air.

(2) The units of radiation dose are:

(a) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad);

(b) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy);

(c) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(d) Sievert is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(e) As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in 10 CFR 20 part 20.1004 Table 1004 (b).1.

(3) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sieverts per hour, as provided in paragraph (b) of this section, 1 rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information

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exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from 10 CFR 20 part 20.1004 Table 1004(b).2 (at the end of this division) to convert a measured tissue dose in gray or rad to dose equivalent in sievert rem. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 - 453.635

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-100-0080

Deliberate Misconduct

(1) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(a) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Agency; or

(b) Deliberately submit to the Agency, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Agency.

(2) A person who violates paragraph (1)(a) or (1)(b) of this rule may be subject to enforcement action in accordance with OAR 333-100-0035.

(3) For purposes of paragraph (1)(a) of this rule, deliberate misconduct by a person means an intentional act or omission that the person knows:

(a) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Agency; or

(b) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 - 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-101-0001

Purpose and Scope

(1) This Division provides for the registration of radiation machines, general license radioactive materials, and for the licensing of persons providing radiation machine, radioactive material, or tanning installation, consultation, servicing, and/or services, and hospital radiology inspectors performing hospital X-ray machine inspections, unless such activities are subject to other Divisions of these Rules.

(2) In addition to the requirements of this Division, all licensees, registrants, and accredited individuals are subject to the applicable provisions of other portions of these rules.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-101-0003

Definitions

(1) "Facility" means the location, building, vehicle, or complex under one administrative control, at which one or more devices or sources of radiation (X-ray, radioactive materials, or non-ionizing radiation) are installed.

(2) "Health Physics Consultant" means a person, business, facility, or institution providing health physics knowledge and skills for a fee. A health physics consultant may not use or possess radioactive material without specific license authorization pursuant to OAR 333-102-200.

(3) "Inoperable" means disabling equipment such that ionizing radiation cannot be produced. This is accomplished by removing the X-ray tube, removal of the control unit, removal of the power supply or physical removal of the power cord on a free standing unit.

(4) "Storage" means a condition in which a device or source is not being used for an extended period of time, and has been made inoperable.

(5) "Vendor" means a person, business, facility, or institution providing a product or service for a fee. Radiation vendors include machine salespersons, repair and technical personnel, or marketing representatives who

sell, demonstrate, or market x-ray machines or tanning beds and provide advice, consultation, service, or technical information to registrants.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.685 & 453.761

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-101-0010

Exemptions

(1) Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Division, provided dose equivalent rate averaged over an area of 10 square centimeters does not exceed 5 μ Sv (0.5 millirem) per hour at five centimeters from any accessible surface of such equipment. The production, testing or factory servicing of such equipment shall not be exempt.

(2) Radiation machines while in transit or inoperable are exempt from the requirements of this Division. For the purposes of registration and fees, the Agency considers an X-ray unit to be inoperable only if the machine's X-ray tube (insert) has been removed or the machine disassembled. With the X-ray tube in place, and the machine assembled, the unit is considered to be operable. If a machine is "in storage," it must be registered and charged a registration fee. However, an "inoperable" machine need not be registered or assessed a fee.

(3) Domestic television receivers are exempt from the requirements of this Division.

(4) Electron microscopes are exempt from the requirements of this Division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 μ Sv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

NOTE: Electron microscope: A type of microscope which uses electrons to produce magnified images and may therefore produce ionizing radiation incidental to its use.

(5) Electron beam welding machines and electron beam furnaces are exempt from the requirements of this Division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 μ Sv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

(6) Persons licensed under OAR 333-102-0200 or equivalent specific licenses rules under an Agreement State or the U.S. Nuclear Regulatory Commission are exempt from this requirement.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625, & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0001

Purpose and Scope

(1) This Division prescribes rules applicable to all persons in the State of Oregon governing licensing of radioactive material, and for exemptions from licensing requirements. No person shall receive, produce, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license pursuant to this Division or Divisions 105, 113, 115, 116, 117, or 121 of this Chapter.

(2) In addition to the requirements of Division 102, all licensees are subject to applicable requirements in Divisions 100, 103, 111, 118, and 120 of this Chapter. The requirements of this Division are in addition to, and not in substitution for, other requirements of this Chapter. In any conflict between the requirements in this Division and a specific requirement in another Division of the rules in this chapter, the specific requirement governs.

(3) This Division establishes general licenses for the possession and use of source material and depleted uranium, for radioactive material contained in certain items, and for ownership of radioactive material.

(4) This Division gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this Division, that they may be individually subject to Agency actions pursuant to OAR 333-100-0035 or 333-100-0040.

(5) This Division prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing radioactive material for sale or distribution to persons granted a general license by this Division or to persons authorized by the US Nuclear Regulatory Commission to distribute to persons exempted from licensing requirements, and it prescribes certain rules governing holders of these licenses. In addition, this Division prescribes requirements for the issuance of specific licenses to persons who introduce radioactive material into a product or material owned by or in the possession of the licensee or another

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er and rules governing holders of such licenses. Further, this Division describes procedures and prescribes requirements for the issuance of certificates of registration (governing radiation safety information about a product) to manufacturers or initial transferors of sealed source or devices containing sealed sources, which are to be used by persons specifically licensed under this Division or equivalent regulations of an Agreement State or the US Nuclear Regulatory Commission.

(6) The Agency may engage the services of qualified persons in order to assist the Agency in meeting the requirements of this Chapter, including, but not limited to, evaluating information that may be required under OAR 333-102-0200(6).

(7) Information provided to the Agency by an applicant for a license or by a licensee or information required by statute or by the Agency's rules, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

(8) Each applicant or licensee shall notify the Agency of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety. An applicant or licensee violates this rule only if the applicant or licensee fails to notify the Agency of information that the applicant or licensee has identified as having a significant implication for public health and safety. Notification shall be provided to the Agency within two working days of identifying the information. This requirement is not applicable to information that already is required to be provided to the Agency by other reporting or updating requirements.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0005

Source Material

(1) Any person is exempt from this Division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this Division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or process such ore.

(3) Any person is exempt from this Division to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction;

(D) Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four (4) percent by weight and that this exemption shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee pursuant to 10 CFR Part 40;

(B) Each counterweight has been impressed with the following legible clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in OAR 333-102-0005(3)(e)(B) and 333-102-0005(3)(e)(C) need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by 10 CFR 40.13(c)(5)(ii) in effect on June 30, 1969, which read CAUTION — RADIOACTIVE MATERIAL — URANIUM.

(C) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(D) This exemption shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption shall not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

(B) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 185 Bq (0.005 uCi) of uranium; or

(i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in OAR 333-102-0005(3) do not authorize the manufacture of any of the products described.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0010

Exempt Concentrations

(1) Except as provided in OAR 333-102-0010(2), any person is exempt from this Division to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in 10 CFR Part 30.70 Schedule A.

(2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under OAR 333-102-0010(1) or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State, or Licensing State except in accordance with a specific license issued pursuant to OAR 333-102-0245 or the general license granted by OAR 333-102-0340.

NOTE: 10 CFR Part 30.70 Schedule A is available from DHS-Oregon Health Services, Radiation Protection Services.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-102-0015

Certain Items Containing Radioactive Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels shall be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels shall be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels shall be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at 10 centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface;

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at 10 centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in timepieces acquired prior to June 1, 1977.

(b) Lock illuminators containing not more than 15 millicuries (555 MBq) of tritium or not more than two millicuries (74 MBq) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium;

(e) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries (925 MBq) of tritium per thermostat;

(g) Electron tubes: Provided, That each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven (7) milligrams per square centimeter of absorber.

NOTE: For purposes of, 333-102-0015(1)(g) "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions shall not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under 333-102-0015(8).

(i) Spark gap irradiators containing not more than one microcurie (37 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons per hour (11.4 liters per hour).

(2) The exemptions contained in this rule shall not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefor;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under OAR 333-102-0015(2)(e), the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

NOTE: 10 CFR Part 30.71 Schedule B is available from the Oregon Health Services, Radiation Protection Services.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0020

Resins Containing Scandium-46, Designed for Sand Consolidation in Oil Wells

Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0025

Gas and Aerosol Detectors Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from the rules in this Division and in Divisions 105, 113, 115, 116, 117, 120, and 121 of this Chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material shall have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under OAR 333-102-0025(1),

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provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0260.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605, 453.625 & 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0030

Self-Luminous Products Containing Radioactive Material

(1) Tritium, Krypton-85 or Promethium-147. Except for persons who manufacture, process, produce or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85 or promethium-147, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.22 of 10 CFR Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this rule does not apply to tritium, krypton-85 or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(2) Radium-226. Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers or owns articles containing less than 0.1 microcurie (3.7 kBq) of radium-226, which were acquired prior to July 1, 1977.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605, 453.625 & 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0035

Exempt Quantities

(1) Except as provided in OAR 333-102-0035(2) and 333-102-0035(3), any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in 10 CFR Part 30.71 Schedule B.

(2) This rule does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

(3) Any person who possesses radioactive material received or acquired under the general license formerly provided in OAR 333-102-0105(2) is exempt from the requirements for a license set forth in this part to the extent that such person possesses, uses, transfers or owns such radioactive material. Such exemption does not apply for radium-226.

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in 10 CFR Part 30.71 Schedule B, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under OAR 333-102-0035 or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.18 of 10 CFR Part 32 or by the Agency pursuant to OAR 333-102-0255, which license states that the radioactive material may be transferred by the licensee to persons exempt under this rule or the equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer or any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTE: 10 CFR Part 30.71 Schedule B is available from DHS-Oregon Health Services, Radiation Protection Services.

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

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-2985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0040

In Vivo Testing in Humans for H. Pylori Using Carbon-14 Labeled Urea

(1) Except as provided in 333-102-0040(3) and 333-102-0040(4), any person is exempt from the requirements for a specific license pursuant to this Division and Division 116 of this Chapter provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 microcurie) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

NOTE: "Nominal variation" as used in this context means $\pm 10\%$ of the reported per capsule dose.

(2) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to Division 102 of this Chapter.

(3) Any person who desires to manufacture, prepare, process, produce, package, repack, or transfer for commercial distribution such capsules shall apply for and receive a specific license pursuant to 10 CFR 32.21.

(4) Nothing in this rule relieves persons from complying with applicable FDA, other Federal, and State requirements governing receipt, administration, and use of drugs.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0075

Types of Licenses

Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in this Division are granted as being effective without the filing of applications with the Agency or the issuance of licensing documents to particular persons, except Depleted Uranium subject to OAR 333-102-0103, Measuring, Gauging, and Controlling devices subject to 333-102-0115, and In Vitro Clinical or Laboratory Testing subject to 333-102-0130.

(2) Specific licenses require the submission of an application to the Agency and the issuance of a specific licensing document by the Agency. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document. Specific licenses are issued to named persons upon applications filed pursuant to OAR 333-102-0200 and Divisions 105, 113, 115, 116, 117, and 121 of this Chapter.

(3) General licenses granted by 333-102-0103, 333-102-0115, 333-102-0117, and 333-102-0130 require the submission of an application to the Agency for registration pursuant to 333-101-0007, payment of a fee in accordance with 333-103-0015, and the issuance of a registration (licensing document or general license acknowledgment) by the Agency.

(4) General licenses are subject to 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) Terms and Conditions of Licenses, 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and Divisions 103, 111, 118, and 120 of this Chapter unless indicated otherwise in the language of the general license.

NOTE: Attention is directed particularly to the provisions of the regulations in Division 120 of this chapter that relate to the labeling of containers and notification of incidents.

(5) Any record required by this Division must be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as letters, stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-102-0101

General Licenses — Source Material

A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds (6.82 kg) of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive or possess more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

(1) Persons who receive, possess, use, or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are prohibited from administering source material, or the radiation therefrom, either externally or internally to human beings except as may be authorized by the Agency in a specific license.

(2) Persons who receive, possess, use or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are exempt from the provisions of Divisions 111 and 120 of this Chapter to the extent that such receipt, possession, use or transfer is within the terms of such general license; provided, however, that this exemption shall not be deemed to apply to any such person who also is in possession of source material under a specific license issued pursuant to this Division.

(3) A general license is hereby granted authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

(4) Persons who receive, acquire, possess or use source material pursuant to the general license granted by OAR 333-102-0101(1) shall develop and maintain procedures to establish physical control over the source material and prevent transfer of such source material to persons not authorized to receive the source material.

(5) A person who receives, acquires, possesses or uses source material pursuant to the general license granted by OAR 333-102-0101(1):

(a) Shall not introduce such source material, in any form, into a chemical, physical, or metallurgical treatment or process;

(b) Shall not abandon such source material; and

(c) Shall transfer or dispose of such source material only by transfer in accordance with the provisions of OAR 333-102-0330 or 333-120-0500.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0103

General Licenses — Depleted Uranium in Industrial Products and Devices

(1) A general license is hereby granted to receive, acquire, possess, use or transfer, in accordance with the provisions of OAR 333-102-0103(2), 333-102-0103(3), 333-102-0103(4) and 333-102-0103(5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in OAR 333-102-0103(1) applies only to industrial products or devices that have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to OAR 333-102-0235 or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons granted a general license by the U.S. Nuclear Regulatory Commission or an Agreement State.

(3) Persons who receive, acquire, possess or use depleted uranium pursuant to the general license established by 333-102-0103(1) shall apply for registration of the general license pursuant to OAR 333-101-0007, and submit the required fee pursuant to 333-103-0015. Applicants will receive a validation certificate from the Agency application for registration shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium.

(a) The general licensee shall provide the following information in accordance with the registration application required by OAR 333-101-0007 and such other information as may be required by that form:

(A) Name and address of the general licensee;

(B) A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in OAR 333-102-0103(1) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in 333-102-0103 (3)(b).

(b) The general licensee possessing or using depleted uranium under the general license established by OAR 333-102-0103(1) shall report any changes in information in writing to the Agency within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses or uses depleted uranium pursuant to the general license established by OAR 333-102-0103(1):

(a) Shall not introduce such depleted uranium, in any form, into a chemical, physical or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(b) Shall not abandon such depleted uranium;

(c) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of OAR 333-102-0330. In the case where the transferee receives the depleted uranium pursuant to the general license granted by OAR 333-102-0103(1), the transferor shall furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 333-102-0103(1), the transferor shall furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in this rule;

(d) Within 30 days of any transfer, shall report in writing to the Agency the name and address of the person receiving the depleted uranium pursuant to such transfer; and

(e) Shall not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using or transferring depleted uranium pursuant to the general license established by OAR 333-102-0103(1) is exempt from the requirements of divisions 111 and 120 of this chapter with respect to the depleted uranium covered by that general license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0105

Certain Devices and Equipment

A general license is hereby granted to transfer, receive, acquire, own, possess and use radioactive material incorporated in the following devices or equipment that have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), and 333-100-0065 (Tests), 333-102-0010(2) (Exempt Concentrations), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and Division 111, 118, and 120 of this Chapter.

NOTE: Attention is directed particularly to the provisions of Division 120 of this Chapter that relate to the labeling of containers (OAR 333-120-0430 and 333-120-0440).

(1) Static Elimination Devices. Devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device;

(2) Ion Generating Tubes. Devices designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device or a total of not more than 50 millicuries (1.85 GBq) of hydrogen-3 (tritium) per device.

NOTE: Different general licenses are issued in this Division, each of which has its own specific conditions and requirements.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

ADMINISTRATIVE RULES

333-102-0110

Luminous Safety Devices for Aircraft

(1) A general license is hereby granted to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 10 curies (370 GBq) of tritium or 300 millicuries (11.1 GBq) of promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR Part 32.53.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in OAR 333-102-0110(1) are exempt from the requirements of divisions 111 and 120 of this chapter except that they shall comply with the provisions of 333-120-0700 and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), and 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and Division 118 of this Chapter.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0120

Ownership of Radioactive Material

A general license is hereby granted to own radioactive material without regard to quantity. Notwithstanding any other provisions of this Division, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0125

Calibration and Reference Sources

(1) A general license is hereby granted to those persons listed in OAR 333-102-0125(1)(a) and 333-102-0125(1)(b) to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5), americium-241, plutonium, and/or radium-226, in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material; and

(b) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission that authorizes receipt, possession, use, and transfer of special nuclear material.

(2) A general license is hereby granted to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of [sections] 333-102-0125(4) and 333-102-0125(5) to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material.

(3) A general license is hereby granted to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5) to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer radioactive material.

(4) The general licenses in OAR 333-102-0125(1), 333-102-0125(2), and 333-102-0125(3) apply only to calibration or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to section 32.57 of 10 CFR Part 32 or section 70.39 of 10 CFR Part 70 or that have been manu-

factured in accordance with the specifications contained in a specific license issued to the manufacturer by the Agency, any Agreement State or Licensing State pursuant to licensing requirements equivalent to those contained in section 32.57 of 10 CFR Part 32, or section 70.39 of 10 CFR Part 70.

(5) The general licenses provided in OAR 333-102-0125(1), 333-102-0125(2) and 333-102-0125(3) are subject to the provisions of 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) Terms and Conditions of Licenses, 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and Divisions 111, and 120 of this Chapter. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Shall not possess at any one time, at any one location of storage or use, more than five microcuries (185 kBq) each of americium-241, of plutonium-238, plutonium-239, or of radium-226 in such sources; and

(b) Shall not receive, possess, use or transfer such source unless the source or the storage container, bears a label which includes one of the following statements, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, as appropriate:

(A) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM) DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE. _____ Name of manufacturer or importer

NOTE: Show only the name of the appropriate material.

(B) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE. _____ Name of manufacturer or importer

(c) Shall not transfer, abandon or dispose of such source except by transfer to a person authorized by a specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 that might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium, or radium-226.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625

Hist.: HD 4-1085, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0130

General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

(1) A general license is hereby granted to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with OAR 333-102-0130(2), 333-102-0130(3), 333-102-0130(4), 333-102-0130(5) and 333-102-0130(6), the following radioactive materials in prepackaged units for use in in Vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(a) Iodine-125 in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(b) Iodine-131, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

ADMINISTRATIVE RULES

(c) Carbon-14, in units not exceeding 10 microcuries each for use in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries each for use in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(e) Iron-59 in units not exceeding 20 microcuries (740 kBq) each for use in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(f) Selenium-75, in units not exceeding 10 microcuries each for use in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(g) Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcuries of iodine-129 and 0.005 microcuries of americium-241 each for use in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(2) A person shall not receive, acquire, possess, use or transfer radioactive material under the general license granted by section OAR 333-102-0130(1) unless that person:

(a) Has filed the required Agency application for registration pursuant to OAR 333-101-0007 and submitted the registration fee pursuant to 333-103-0015 and received from the Agency a validated license with certification number assigned, or

(b) Has a license that authorizes the medical use of byproduct material that was issued under OAR 333-116 of this chapter.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by section 333-102-0130(1) of this rule shall comply with the following:

(a) The general licensee shall not possess at any one time, at any one location of storage or use a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 200 microcuries (7.4 MBq);

(b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection;

(c) The general licensee shall use the radioactive material only for the uses authorized by OAR 333-102-0130(1);

(d) The general licensee shall dispose of the mock iodine-125 reference or calibration sources described in 333-102-0130(1)(g) of this rule as required by OAR 333-120-0500 and 333-102-0130(6);

(e) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(4) The general licensee shall not receive, acquire, possess or use radioactive material pursuant to OAR 333-102-0130(1):

(a) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued by the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59 or mock iodine-125 for distribution to persons generally licensed under section (1) of this rule or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of Manufacturer

(B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or

external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of Manufacturer

(5) The registrant possessing or using radioactive material granted by the general license of section OAR 333-102-0130(1) shall report in writing to the Agency any changes in the information furnished on the required Agency form. The report shall be furnished within 30 days after the date of such change.

(6) Any person using radioactive material pursuant to the general license granted by OAR 333-102-0130(1) is exempt from the requirements of Divisions 111 and 120 of this chapter with respect to radioactive material covered by that general license, except that such persons using mock iodine-125 described in OAR 333-102-0130(1)(g) shall comply with provisions of OAR 333-120-0500, 333-120-0700 and 333-120-0710.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0135

Ice Detection Devices

(1) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries (1.85 MBq) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Agency or an Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in section 32.61 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license granted by OAR 333-102-0135(1):

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Agency, the U.S. Nuclear Regulatory Commission or any other Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of OAR 333-120-0500;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of Divisions 111 and 120 of this Chapter except that such persons shall comply with the provisions of OAR 333-120-0500, 333-102-0700, and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

(4) This general license is subject to the provisions of OAR 333-100-0005, Definitions; 333-100-0025, Exemptions; 333-100-0030, Additional Requirements; 333-100-0055, Records; 333-100-0060(1) and 333-100-0060(2), Inspections; 333-100-0065, Tests; 333-102-0305(1) through 333-102-0305(8), Terms and Conditions of Licenses; 333-102-0330, Transfers; 333-102-0335, Modification, Revocation, and Termination of Licenses; and Division 118 of this Chapter.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0190

Application for Specific Licenses.

(1) Applications for specific licenses shall be filed on a form prescribed by the Agency. Information contained in previous applications, statements or reports filed with the Agency, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

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(4) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this Chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Agency and the US Nuclear Regulatory Commission as to applications for such licenses.

(5) Each new application for a radioactive material license shall be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in 333-103-0010.

(6) An application for a license to receive and possess radioactive material for the conduct of any activity that the Agency has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(7) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or

(b) Contain the information identified in 10 CFR Part 32.210(c).

(8) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this Chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

NOTE: If a renewal application was submitted on or before July 27, 1990, the decommissioning information may follow the renewal application but must be submitted prior to the license being issued.

(9)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, Schedule C - Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release," must contain either:

(A) An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under OAR 333-102-0190(9)(a)(A) of this section:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range would be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C - Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material would reduce the dose received;

(E) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures would prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (9)(a)(B) of this section must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, includ-

ing those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the Agency; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also shall commit to notify the Agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supercede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Agency.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(d) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to Agency. The licensee shall provide any comments received within the 60 days to the Agency with the emergency plan.

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

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0200

General Requirements for the Issuance of Specific Licenses

An application for a specific license, will be approved if:

(1) The application is for a purpose authorized by the Act;

(2) The applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property;

(3) The applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property;

(4) The applicant satisfies any applicable special requirements contained Divisions 102, 105, 113, 115, 116, 117, or 121 of this Chapter; and

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(5) In the case of an application for a license to receive and possess radioactive material for the conduct of any activity which the Agency determines will significantly affect the quality of the environment, the Agency Manager or designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Subpart A of Part 51 of 10 CFR, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this rule, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. Upon a determination that an application meets the requirements of the Act, and the rules of the Agency, the Agency will issue a specific license authorizing the possession and use of radioactive material (Radioactive Materials License").

(6) Financial assurance and recordkeeping for decommissioning must meet the requirements of 10 CFR 30.35 and 10 CFR Part 30.36.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS Ch. 453.605 - 453.807
Stats. Implemented: ORS 453.655 & 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0203

Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this Division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe, etc. samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibration (excluding activities authorized by OAR 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems", as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that will increase or concentrate any component (including the radioactive materials) to benefit the product.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site.

(10) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(11) "Decontamination and Decommissioning" means (a) a facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; (b) activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(12) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(13) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a general license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter.

(14) "Exempt Source" means radioactive material, exempt from the rules in this Chapter.

(15) "Facility" means location of licensed activities under the direct control of licensee management. If a "Facility", as used in this Division, includes multiple separate addresses, the Agency may determine how the scope of licensed activities, pursuant to OAR 333-102-0295, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(16) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-Ray & Hybrid Gauges pursuant to division 115 of this chapter, that contain both X-Ray sources and radioactive sealed sources.

(17) "General license" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(18) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0103.

(19) "General License Device" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging, or controlling devices granted the general license by 333-102-0015.

(20) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(21) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(22) "General License for "Certain Devices and "Equipment" means the general license granted for use and possession of devices consisting for not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(23) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than 10 curies of tritium or not more than 300 millicuries of promethium-147.

(24) "General license for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(25) "General License for Calibration and Reference sources" means the general license granted to possess not more than five (5) microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(26) "General License for Ice Detection Devices" means the general license granted to possess not more than fifty (50) microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(27) "Generators and kits" means "Imaging and Localization."

(28) "Healing Arts Specific License" means a specific license authorizing activities in Division 116 of this Chapter.

(29) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or

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stationary, and which deliver a dose rate in excess of 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed dose rate remote afterloader.

(30) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an x-ray source, pursuant to Division 115 of this Chapter.

(31) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by OAR 333-102-0130(2).

(32) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(33) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(34) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(35) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this Chapter.

(36) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by Division 121 of this Chapter.

(37) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(38) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(39) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

(40) "Low Dose rate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a dose rate of less than 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(41) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in division 102 of this chapter.

(42) "Manufacturing or Compounding and Distribution" (Manufacturing and Distribution) means "Manufacturing or Compounding" pursuant to OAR 333-102-0203(31) and "Distribution", pursuant to OAR 333-102-0203(12). Manufacturing activities and distribution activities require separate specific licenses.

(43) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(44) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05% source material.

(45) "Net working capital" means current assets minus current liabilities.

(46) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(47) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005(127)), that generates neutrons that are used for analytical, teaching, or research purposes.

(48) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(49) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(n) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in Division 50 of Chapter 345 of the Oregon Administrative Rules (OAR). Except for Division 50 exemptions, any material that contains NORM requires a specific license. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(50) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility", see 333-102-0203(61).

(51) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(s) for activities authorized by 333-102-0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of OAR 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license should specify which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(52) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other non-portable analytical instruments, including those devices that contain multiple sources but are configured and used as a 'system', in accordance with the definition in 333-102-0203(73).

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant to 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(53) "Pool-type irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(54) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of 'portable gauge' and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(55) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by 333-116-0800 and included in the facility specific license issued pursuant to OAR 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(56) "Possession or storage of industrial wastes containing radioactive material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of OAR chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(57) "Possession or storage of uranium tailings" means activities incidental to uranium processing or milling operations resulting in the production of tailings.

(58) "Principal activities" means activities authorized by the license that [which] are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(59) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (e.g., breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding".

(60) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(61) "Radioactive Material Not Otherwise Specified Facility" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such

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as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(62) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to OAR 333-102-0295, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(63) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with OAR 333-116-0360.

(64) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(65) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in OAR 333-100-0005(112), but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to OAR 333-103-0010 and 333-103-0015.

(66) "Responsible Representative" means the person designated as having responsibility for general license device or general license material; the person management has selected to certify general license inventory; and the individual responsible to the Agency and to management to ensure that all regulatory elements are adequate.

(67) "Sealed source/device evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Agency no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(68) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(69) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with OAR 333-116-0400.

(70) "Special Nuclear Material (sealed)" means a source-specific license issued pursuant to OAR 333-103-0010(2)(aa), authorizing the use, possession, or transfer of sealed sources (special form) containing special nuclear material, as defined in OAR 333-100-0005(134). (See "Neutron Howitzer"; "Neutron Production".)

(71) "Special Nuclear Material (unsealed)" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(bb), authorizing the use, possession, or transfer of unsealed (normal form) special nuclear material, as defined in OAR 333-100-0005(134).

(72) "Specific license radioactive material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annotated on the specific license, and validated with a specific license fee pursuant to 333-103-010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(73) "System", as used in this chapter, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(74) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(75) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(76) "Temporary job site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the State if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(77) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(78) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to Agencies in the Oregon Health Services.

(79) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(80) "Use and Possession of Source Material" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005(123), in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in Division 100 of this Chapter and the specific license (billable object) in division 103 of this chapter.

(81) Use of Xenon Gas means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to OAR 333-116-0280;

(82) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(83) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses shall be used only at one authorized site.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0235

Requirements for License to Manufacture, or Initially Transfer Radioactive Material Contained in Devices Granted a General License Under OAR 333-102-0115

(1) An application for a specific license to manufacture, or initially transfer devices containing radioactive material, excluding special nuclear material, to persons granted a general license by OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(a) The applicant satisfies the general requirements of OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) The device can be safely operated by persons not having training in radiological protection;

(B) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device; and it is unlikely that any person will receive in one (1) year a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100; and

(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in 10 CFR Part 32.24 :

(i) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye 150 mSv (15 rem)

(ii) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one (1) square centimeter 2 Sv (200 rem)

(iii) Other organs 500 mSv (50 rem)

(c) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, which contain in a clearly identified and separate statement:

(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(B) The requirements, or lack of requirement, for leak testing, or for testing of any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

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(C) The information called for in the following statement in the same or substantially similar form:

The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or of a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION — RADIOACTIVE MATERIAL

(Name of manufacturer or initial transferor)

NOTE: Devices licensed under 10 CFR Part 32.51 prior to January 19, 1975 may bear labels authorized by the regulations in effect on January 1, 1975. The model, serial number, and name of manufacturer, or initial transferor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or both, the applicant shall include in this application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

- (a) Primary containment (source capsule);
- (b) Protection of primary containment;
- (c) Method of sealing containment;
- (d) Containment construction materials;
- (e) Form of contained radioactive material;
- (f) Maximum temperature withstood during prototype tests;
- (g) Maximum pressure withstood during prototype tests;
- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under OAR 333-102-0115, or under equivalent rules of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, be authorized to install the device, collect the sample to be analysed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100.

(4) Prior to transfer of a device to a person granted a general license by OAR 333-102-0115(1), the licensee shall:

(a) Furnish a copy of the general license contained in OAR 333-102-0115 to each person to whom the licensee directly, or through an intermediate person, transfers radioactive material in a device for use pursuant to the general license contained in OAR 333-102-0115;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State's rules equivalent to OAR 333-102-0115. Alternatively, a copy of the general license contained in OAR 333-102-0115 shall be furnished to each person to whom directly, or through an intermediate person, is transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the Agreement State or the Licensing State. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it shall be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State under requirements substantially the same as those in OAR 333-102-0115;

(c) Report to the Agency all transfers of such devices to persons for use under the general license in OAR 333-102-0115. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, con-

tact and relationship to the intended user. If no transfers have been made to persons granted a general license by OAR 333-102-0115 during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days after the end of each quarter;

(d) Furnish reports to other agencies

(A) Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 31.5 of 10 CFR Part 31. Reports must be submitted on the NRC form "Transfers of Industrial Devices Report" or on a clear and legible report containing all of the data required by the form. The required information includes:

- (i) The identity of each general licensee by name and address;
 - (ii) The name and phone number of the person designated by the general licensee to be responsible for ensuring compliance with the appropriate regulations and requirements;
 - (iii) The date of transfer; the type, model number, and serial number of the device transferred; and
 - (iv) The quantity and type of byproduct material contained in the device.
- (v) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include the same information for each intermediate person, and clearly designate that person as an intermediate person.

(vi) If the device transferred replaced another returned by the general licensee, report also the type, model number, and serial number of the one returned.

(vii) If no transfers have been made to persons generally licensed under 10 CFR 31.5 or OAR 333-102-0115 during the reporting period, the report must so indicate.

(viii) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(ix) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee;

(B) Report to the responsible Agreement or Licensing State agency all transfers of such devices to persons for use under a general license in an Agreement State's regulations equivalent to OAR 333-102-0115. Such reports shall identify all of the information in 333-102-0235(4)(d), including each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact and relationship to the intended user. The report shall be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person granted a general license;

(e) If no transfers have been made to U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;

(f) If no transfers have been made to persons granted a general license within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency;

(g) Keep records showing the name, address and the point of contact for each general licensee to whom directly, or through an intermediate person is transferred radioactive material in devices for use pursuant to the general license provided in OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The records should show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person and compliance with the reporting requirements of 333-102-0235(4)(h). Records required by this rule must be maintained for a period of three years following the estimated useful life of the device or the date of final disposition, if known;

(h) Furnish a list of the services that only can be performed by a specific licensee, and information on acceptable disposal options, including estimated costs of disposal, to each person to whom he directly, or through an intermediate person, transfers radioactive material in a device for use under the general license granted in 333-102-0115;

(i) Furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained. If a copy of the general license in OAR 102-0115 is furnished

ADMINISTRATIVE RULES

to such person, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State.

(j) Label each device transferred if more than one year after the effective date of this rule in accordance with the labeling requirements in § 32.51(a)(3) through (5).

(k) If a notification of bankruptcy has been made under § 30.34(h) or the license is to be terminated, provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under § 32.52(c).

[Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0245

Introduction of Radioactive Material in Exempt Concentrations into Products or Materials, and Transfer of Ownership or Possession: Requirements for License

An application for a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material: will be approved if the applicant:

(1) Satisfies the general requirements specified in OAR 333-102-0200;

(2) Provides a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioisotopes in the product or material at the time of transfer;

(3) Provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in 10 CFR Part 30.70 Schedule A, that reconcentrating of the radioactive material in concentrations exceeding those in 10 CFR Part 30.70 Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

NOTE: 10 CFR Part 30.70 Schedule A is available from the Health Division.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0247

Records and Material Transfer Reports

(1) Each person licensed under OAR 333-102-0245 shall maintain records of transfer of material and file a report with the Agency.

(2) The report shall identify the:

(a) Type and quantity of each product or material into which radioactive material has been introduced during the reporting period;

(b) Name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction;

(c) The type and quantity of radionuclide introduced into each such product or material; and

(d) The initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee.

(3) The licensee shall file the report within 30 days following:

(a) Five years after filing the preceding report; or

(b) Filing an application for renewal of the license under OAR 333-102-0315; or

(c) Notifying the Agency under OAR 333-102-0305(5) of the licensee's decision to permanently discontinue activities authorized under the license issued under OAR 333-102-0245.

(4) The report must cover the period between the filing of the preceding report and the occurrence specified in paragraphs OAR 333-102-0247(3)(a), 333-102-0247(3)(b), or 333-102-0247(3)(c). If no transfers of radioactive material have been made under 333-102-0245 during the reporting period, the report shall so indicate.

(5) The licensee shall maintain the record of a transfer for a period of one year after the event is included in a report to the Agency.

(6) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 10 CFR Part 30.14 or equivalent regulations of an Agreement State, except in accordance with a license issued pursuant to 10 CFR Part 32.11 or the general license provided in 10 CFR Part 150.20 (reciprocity).

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0250

Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License

An application for a specific license to manufacture or distribute radioactive material for use under the general license specified in OAR 333-102-0130 or equivalent will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Carbon-14 in units not exceeding 10 microcuries (370 kBq) each;

(b) Cobalt-57 in units not exceeding 10 microcuries (370 kBq) each;

(c) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each;

(d) Iodine-125 in units not exceeding 10 microcuries (370 kBq) each;

(e) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each;

(f) Iodine-131 in units not exceeding 10 microcuries (370 kBq) each;

(g) Iron-59 in units not exceeding 20 microcuries (740 kBq) each;

(h) Selenium-75 in units not exceeding 10 microcuries (370 kBq) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 10 microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; and

(b) Displaying the radiation caution symbol described in OAR 333-120-0400 and the words, CAUTION, RADIOACTIVE MATERIAL and Not for Internal or External Use in Humans or Animals.

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements in OAR 333-120-0500 of this Chapter.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-102-0255

Licensing the Distribution of Radioactive Material in Exempt Quantities

(1) An application for a specific license to distribute NARM to persons exempt from these rules pursuant to OAR 333-102-0035 will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.

(2) The license issued under this rule is subject to the following conditions:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) No more than 10 exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity;

(b) Each exempt quantity shall be separately and individually packaged. No more than 10 such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to OAR 333-102-0035. The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem (five μ Sv) per hour;

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and
(B) Bears the words Radioactive Material.

(d) In addition to the labeling information required by OAR 333-102-0255(2)(c), the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from Licensing State requirements;

(B) Bear the words, Radioactive Material — Not for Human Use — Introduction into Foods, Beverages, Cosmetics, Drugs or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited — Exempt Quantities Should Not Be Combined; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(3) Each person licensed under this rule shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under OAR 333-102-0035 or the equivalent rules of any Agreement State or Licensing State and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Agency. Each report shall cover the year ending June 30, and shall be filed within 30 days thereafter. If no transfers of radioactive material have been made pursuant to this rule during the reporting period, the report shall so indicate.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.605 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0260

Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors

An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under OAR 333-102-0025 will be approved if the application satisfies requirements equivalent to those contained in section 32.26 of 10 CFR Part 32. The maximum quantity of radium-226 in each device shall not exceed 0.1 microcurie (3.7 kBq).

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0265

Special Requirements for the Manufacture, Assembly or Repair of Luminous Safety Devices for Use in Aircraft

An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons granted a general license by OAR 333-102-0110 will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.53, 32.54, 32.55, 32.56, 32.101, and 32.110 of 10 CFR Part 32 or their equivalent.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.655 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0270

Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Granted a General License by OAR 333-102-0125

An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons granted a general license by OAR 333-102-0125 will be approved if:

(1) The applicant satisfies the general requirement of OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.57, 32.58, 32.59, and 32.102 of 10 CFR Part 32 and section 70.39 of 10 CFR Part 70 or their equivalent.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0275

Licensing the Manufacture and Distribution of Ice Detection Devices

An application for a specific license to manufacture and distribute ice detection devices to persons granted a general license by OAR 333-102-0135 will be approved if:

(1) The applicant satisfies the general requirements of OAR 333-102-0200;

(2) The criteria of sections 32.61, 32.62, 32.103, and 32.110 of 10 CFR Part 32 are met.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs containing radioactive material for use by persons authorized pursuant to Division 116 of this Chapter will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a State Board of Pharmacy; or

(D) Operating as a nuclear pharmacy within a Federal medical institution.

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(b) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(c) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraph OAR 333-102-0285(1)(b)(C) or 333-102-0285(1)(b)(D) of this rule:

(a) May prepare radioactive drugs for medical use, as defined in OAR 333-116-0020(14), provided that the radioactive drug is prepared either by an authorized nuclear pharmacist, as specified in paragraph (2)(b) and (2)(c), or an individual under the supervision of an authorized nuclear pharmacist as specified in 10 CFR 35.25.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020,

(B) This individual meets the requirements specified in OAR 333-116-0910 and 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist, or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with paragraph 333-116-0285(2)(c).

(c) The actions authorized in paragraphs 333-116-0285(2)(a) and 333-116-0285(2)(b) are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020(23)) as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an authorized user on a nuclear pharmacy license issued by the Agency pursuant to this Division.

(e) Shall provide to the Division a copy of each individual's certification by the Board of Pharmaceutical Specialties, the Commission or Agreement State license, or the permit issued by a licensee of broad scope, and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to paragraphs OAR 333-102-0285(2)(b)(A) and 333-102-0285(2)(b)(C), the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this section relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Agency for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to Division 116 of this Chapter for use as a calibration or reference source or for the uses listed in OAR 333-116-0400 and 333-116-0420 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. Provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months,

(a) The applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-102-0293

Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0103 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in OAR 333-120-0100 of these rules; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Agency will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Agency may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to 333-102-0293(1) shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and

in the installation of the depleted uranium into the product or device.

(b) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in OAR 333-102-0103; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0103 and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in OAR 333-102-0103.

(d) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0103. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0103 during the reporting period, the report shall so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to OAR 333-102-0103.

(B) Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission, and

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon the request of that agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained until inspection by the Agency and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of 333-102-0293(9).

(h) Licensees required to submit emergency plans by OAR 333-102-0190(9) shall follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605, 453.625 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0300

Issuance of Specific Licenses

(1) Upon a determination that an application meets the requirements of the Act and these rules, the Agency will issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The Agency may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material subject to this Division as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;

(b) Require such reports and the keeping of such records and to provide for such inspections of activities under the license as may be appropriate or necessary; and

(c) Prevent loss of theft of material subject to this Division.

(3) Whenever the Agency denies an application for a new license or a license renewal, the Agency will notify the applicant in writing stating the grounds for denial. Upon denial, the applicant may request a hearing pursuant to OAR 333-102-0345.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.655

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0305

Specific Terms and Conditions of License

(1) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Agency.

(2) No license issued or granted pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter nor any right shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Agency shall, after securing full infor-

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mation, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the Agency pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material shall be in accordance with the provisions of division 118 of this chapter

(4) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b-d., inclusive, of the Act, whether or not these provisions are expressly set forth in the license.

(5) The Agency may incorporate, in any license issued pursuant to pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

- (a) Promote the common defense and security;
- (b) Protect health or to minimize danger to life or property;
- (c) Protect restricted data;

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(6) Licensees required to submit emergency plans by OAR 333-102-200(10) shall follow the emergency plan approved by the Agency. The licensee may change the approved plan without Agency approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Agency and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Agency.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough in accordance with OAR 333-116-330. The licensee shall record the results of each test and retain each record for three years after the record is made.

(8)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee shall notify the Agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101 (14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101 (2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(9) Sealed sources or detector cells containing licensed material shall not be opened or sources removed from source holders or detector cells by the licensee.

(10) No licensee shall acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(11) Any sealed source fabricated by a licensee shall be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(12) Each licensee shall conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories shall include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory shall include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date

of the inventory. Records of the inventories required by OAR 333-102-0305(12) shall be kept until inspection by the agency.

(13) Each licensee shall transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this chapter, "Transportation of Radioactive Material."

(14) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) shall perform an inspection of all devices at intervals not to exceed six months. Inspections shall include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections required by OAR 333-102-0305(14) shall be kept until inspection by the agency.

(15) No licensee shall open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(16) No person shall repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(17) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources shall be performed only by persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys shall be maintained for inspection by the Radiation Protection Agency.

(18) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation shall be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(19) Testing for Leakage or Contamination of Sealed Sources shall be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person shall not be put into use until tested.

(20) Detector cells shall be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells shall be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(21) Licensees who possess sealed sources used for testing at field sites shall possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area shall be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(22) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(23) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste with a physical half-life of less than 65 days, for decay-in-storage, before disposal in ordinary trash, provided that:

(a) Waste to be disposed of by storage-for-decay shall be held for decay a minimum of 10 half-lives; and

(b) Prior to disposal in ordinary trash, decayed waste shall be surveyed with an instrument that will properly record background radiation dose, to confirm that the radioactivity cannot be distinguished from background. All radiation labels shall be removed or obliterated; and

(c) Notwithstanding OAR 333-102-305(22)(a) iodine-125 waste in microcurie amounts may be held for a minimum of five half-lives. Such waste must be surveyed with an appropriate instrument prior to disposal to confirm that waste is indistinguishable from background.

(24) Licensed materials in an unrestricted area and not in storage shall be tended under the constant surveillance and immediate control of the licensee.

(25) Except as otherwise specified in a radioactive materials license, the licensee shall have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(26) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2) of the Oregon Rules for the control of Radiation, the licensee is hereby authorized to label detector cells and cell baths, containing licensed

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radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(27) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this chapter, two or more exposure devices at one jobsite, the licensee shall require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite shall not be less than $n+1$ where n =the number of cameras.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0310

Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

(1)(a) Except as provided in OAR 333-102-0310(1)(b), each specific license shall expire at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 333-102-0315 before the expiration date stated in the existing license (or, for those licenses subject to paragraph 333-102-0310(1)(b), before the deemed expiration date in that paragraph). If an application for renewal has been filed before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Agency makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph OAR 333-102-0310(1)(c), shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(c) The following specific licenses are not subject to, or otherwise affected by, the provisions of paragraph OAR 333-102-0310(1)(b):

(A) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with OAR 333-102-0190(9);

(B) Specific licenses whose holders are subject to the financial assurance requirements specified in OAR 333-102-0306, and on February 15, 1996, the holders either:

(i) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(ii) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(C) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(D) Specific licenses who need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 and OAR 333-102-0200(5);

(E) Specific licenses whose holders have not had at least one Agency inspection of licensed activities before February 15, 1996;

(F) Specific licenses whose holders, as the result of the most recent Agency inspection of licensed activities conducted before February 15, 1996, have been:

(i) Cited for a serious health and safety noncompliance;

(ii) Subject to an Order issued by the Agency; or

(iii) Subject to a Confirmatory Action Letter issued by the Agency.

(G) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under OAR 333-102-0315.

(2) Each specific license revoked by the Agency expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Agency Order.

(3) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material until the Agency notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(a) Limit actions involving radioactive material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release in accordance with Agency requirements.

(4) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in OAR 333-100-0045, each licensee shall provide notification to the Agency in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with Agency requirements, or submit within 12 months of notification a decommissioning plan, if required by paragraph (7)(a), and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to paragraph OAR 333-102-0310(1) or 333-102-0310(2); or

(b) The licensee has decided to permanently cease principal activities, as defined in OAR 333-102-0203(59), at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements; or

(c) No principal activities under the license have been conducted for a period of 24 months; or

(d) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements.

(5) Coincident with the notification required by OAR 333-102-0310(4), the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to OAR 333-102-0306 in conjunction with a license issuance or renewal or as required by this rule. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to OAR 333-102-0310(7)(d)(E).

(a) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Agency.

(6) The Agency may grant a request to extend the time periods established in OAR 333-102-0310(4) if the Agency determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to 333-102-0310(4). The schedule for decommissioning set forth in 333-102-0310(4) may not commence until the Agency has made a determination on the request.

(7)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Agency and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The Agency may approve an alternate schedule for submittal of a decommissioning plan required pursuant to OAR 333-102-0310(4) of this section if the Agency determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in paragraph (g)(1) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(A) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) A description of planned decommissioning activities;

(C) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

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(D) A description of the planned final radiation survey; and

(E) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(F) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan shall include a justification for the delay based on the criteria in OAR 333-102-0310(9).

(e) The proposed decommissioning plan will be approved by the Agency if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(8)(a) Except as provided in OAR 333-102-0310(9), licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(b) Except as provided in OAR 333-102-0310(9), when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(9) The Agency may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Agency determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the Agency may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(10) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E. The licensee shall, as appropriate:

(A) Report levels of gamma radiation in units of millisieverts (micro-roentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters — removable and fixed — for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(11) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Agency determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(A) A radiation survey has been performed that demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

(d) The licensee has kept records of receipt, transfer, and disposal of radioactive material, pursuant to OAR 333-100-0055 that meet the following criteria:

(A) The licensee shall retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(B) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another Part of the rules in this chapter dictates otherwise.

(C) The licensee who disposed of the material shall retain each record of disposal of byproduct material until the Agency terminates each license that authorizes disposal of the material.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0315

Application for Renewal of Licenses

(1) Application for renewal of a specific license must be filed in accordance with OAR 333-102-0190.

(2) In any case in which a licensee, not less than 30 days prior to expiration of the existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until final action by the Agency.

(3) Unless otherwise specified, specific licenses shall expire after five (5) years.

(4) The Agency shall require reapplication when the license expires.

(5) The Agency may grant, upon written request from a licensee, extension of the license expiration date up to five (5) years from the original expiration date. Notwithstanding any licensee request, the Agency is not required, and may deny, any license extension, based on review of licensed activities.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0327

Specifically Licensed Items — Registration of Product Information

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the Agency for evaluation of radiation safety information about its product and for its registration.

(2) The request for review must be made in duplicate and sent to the Manager, Radioactive Materials Licensing Program, Oregon Health Services, Radiation Protection Services, Suite 260, 800 N.E. Oregon Street, Portland, Oregon 97232.

(3) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(4) The Agency normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the Agency formulates reasonable standards and criteria with the help of the manufacturer or distributor. The Agency shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(5) After completion of the evaluation, the Agency, after review by the U.S. Nuclear Regulatory Commission, issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(6) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program, contained in the request; and

(b) The provisions of the registration certificate.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.635

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0330

Transfer of Material

(1) No licensee shall transfer radioactive material except as authorized pursuant to this rule.

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(2) Except as otherwise provided in the license and subject to the provisions of 333-102-0330(3) and 333-102-0330(4), any licensee may transfer radioactive material:

(a) To the Agency;

NOTE: A licensee may transfer radioactive material to the Agency only after receiving prior approval in writing from the Agency.

(b) To the U.S. Department of Energy;

(c) To any person exempt from the rules in this Division to the extent permitted under such exemption;

(d) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State, or to any person otherwise authorized to receive such material by the Federal Government or any agency thereof, the Agency, an Agreement State or a Licensing State; or

(e) As otherwise authorized by the Agency in writing.

(3) Before transferring radioactive material to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or to a general licensee who is required to register with the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.

(4) Any of the following methods for the verification required by 333-102-0330(3) are acceptable:

(a) The transferor may possess and read a current copy of the transferee's specific license or registration certificate;

(b) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date; provided, that the oral certification is confirmed in writing within 10 days;

(d) The transferor may obtain other information compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State regarding the identity of licensees and the scope and expiration dates of licenses and registration;

(e) When none of the methods of verification described in OAR 333-102-0330(4)(a) through 333-102-0330(4)(d) are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State or a Licensing State that the transferee is licensed to receive the radioactive material.

(5) Shipment and transport of radioactive material shall be in accordance with the provisions of division 118 of this chapter.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0335

Modification, Revocation and Termination of Licenses

(1) The terms and conditions of each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this Chapter shall be subject to amendment, revision or modification or by reason of amendments to the Act, or by reason of rules, regulations and orders issued in accordance with the terms of the Act by the Agency.

(2) Any license may be revoked, suspended or modified, in whole or in part, for any material false statement in the application or any statement of fact required under section 182 of the Act, or because of conditions revealed by such application or statement of fact or any report, record or inspection or other means that would warrant the Agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act or of any rule, regulation or order of the US Nuclear Regulatory Commission or the Agency.

(3) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended or revoked unless, prior to the institution of proceedings therefor, facts

or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(4) The Agency may terminate a specific license upon request submitted by the licensee to the Agency in writing.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0340

Reciprocal Recognition of Licenses

(1) Subject to these rules, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or a licensing state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in any calendar year, provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee has notified the Agency using the Agency Reciprocity Application form at least three days prior to engaging in such activity and has paid the applicable registration fee pursuant to OAR 333-103-0030. Such notification shall indicate the location, period and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Agency, obtain permission to proceed sooner. The Agency may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license granted by OAR 333-102-0340(1)(a);

(c) The out-of-state licensee complies with all applicable rules of the Agency and with all the terms and conditions of the licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the Agency or laws of the State of Oregon;

(d) The out-of-state licensee supplies such other information as the Agency may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in OAR 333-102-0340(1)(a) except by transfer to a person:

(A) Specifically licensed by the Agency or by the U.S. Nuclear Regulatory Commission to receive such material; or

(B) Exempt from the requirements for a license for such material under OAR 333-102-0010(2).

(2) Notwithstanding the provisions of OAR 333-102-0340(1), any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR 31.6 or equivalent regulations of an Agreement State, authorizing the holder of the license to manufacture, transfer, install or service a device described in OAR 333-102-0115(1) within the State of Oregon is hereby granted a general license to install, transfer, demonstrate or service such a device in this state provided that:

(a) Such person shall register the general license pursuant to OAR 333-101-0007;

(b) File a report with the Agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(c) Ensure that the device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an Agreement State;

(d) Ensure that any labels required to be affixed to the device under rules of the licensing authority also include the statement "Removal of this label is prohibited"; and

(e) The holder of the specific license shall furnish to each general licensee to whom such device is transferred, or on whose premises such a device is installed, a copy of the general license contained in OAR 333-102-0115 or in equivalent rules of the agency having jurisdiction over the manufacture and distribution of the device.

(3) The Agency may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S.

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Nuclear Regulatory Commission or an Agreement State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(4) The out-of-state licensee shall at all times during work at any work location within the state have available the pertinent licensing document, the applicable sections of the State of Oregon radiation regulations, a complete source inventory, pertinent U.S. Department of Transportation documentation, leak test records, instrument calibration records, personnel training records, and necessary documentation required by applicable special requirements of these regulations.

(5) While working in Oregon, the out-of-state licensee shall notify the Agency (in writing, indicating date and court) immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title II (bankruptcy) of the United States code by or against:

(a) The licensee;

(b) An entity (as that term is defined in II U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in II U.S.C. 101(2)) of the licensee.

(6) The out-of-state licensee shall notify the Agency within 1 hour after arrival at the actual work location within the state and notification within 1 hour after any change of work location within the state.

(7) If multiple work crews or persons work concurrently at more than one work location under a general license granted pursuant to OAR 333-102-0340, each day worked at each location shall count toward the limit of 180 days in a calendar year.

(8) The Agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by the U. S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(9) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to OAR 333-102-0340, based upon an acceptable licensing document, will receive acknowledgment from the Department. This acknowledgment shall be kept at the site of use.

(10) Each general licensee granted authorization to conduct activities within the state of Oregon pursuant to OAR 333-102-0340 based upon an acceptable licensing document is subject to the reciprocity fee and may be inspected by the Agency. The fee for the general license granting reciprocity shall:

(a) Be charged as provided by Division 103 of this Chapter; and

(b) Shall not be charged more often than once during each calendar year.

(11) Each general licensee operating within the state under reciprocity in areas of exclusive federal jurisdiction shall comply with the applicable provisions of 10 CFR 150.20.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0350

Reporting Requirements

(1) Immediate report. Each licensee shall notify the Agency as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee shall notify the Agency within 24 hours after the discovery of any of the following events involving licensed material:

(a) An unplanned contamination event that:

(A) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(C) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed when:

(A) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) The equipment is required to be available and operable when it is disabled or fails to function; and

(C) No redundant equipment is available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(B) The damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees shall make reports required by paragraphs OAR 333-102-0350(1) and 333-102-0350(2) by telephone to the Agency. To the extent that the information is available at the time of notification, the information provided in these reports must include:

NOTE: The 24-hour telephone number for the Agency is 503-731-4014.

(A) The caller's name and call back telephone number;

(B) A description of the event, including date and time;

(C) The exact location of the event;

(D) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(E) Any personnel radiation exposure data available.

(b) Written report. Each licensee who makes a report required by paragraph OAR 333-102-0350(1) or 333-102-0350(2) shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be Faxed or sent to the Agency with Attention to Radioactive Materials Manager, 800 NE Oregon Street, Portland, OR 97232. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(3) The provisions of this rule apply to licensees subject to the notification requirements in OAR 333-102-0200(5).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0355

Records

(1) Each person who receives radioactive material pursuant to a license issued in accordance with the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall keep records showing the receipt, transfer, and disposal of the radioactive material as follows:

(a) The licensee shall retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(b) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another division of the rules in this chapter dictates otherwise.

(c) The licensee who disposed of the material shall retain each record of disposal of radioactive material until the Agency terminates each license that authorizes disposal of the material.

(2) The licensee shall retain each record that is required by the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule

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or license condition, the record must be retained until the Agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3)(a) Records that must be maintained pursuant to this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Agency rules. The record also may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, or specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

(b) If there is a conflict between the Agency's rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, license condition, or other written Agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter for such records shall apply unless the Agency, pursuant to OAR 333-102-0003, has granted a specific exemption from the record retention requirements specified in the rules in this division or divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the Agency Office:

(a) Records of disposals of licensed material made prior to January 28, 1981; and

(b) Records required by OAR 333-120-0620(2)(d).

NOTE: Prior to EFSC rules burial of small quantities of licensed materials in soil was permitted without specific Agency authorization.

(5) If licensed activities are transferred or assigned in accordance with OAR 333-102-0305(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal of licensed material made under OAR 333-120-0510 (including burials authorized before January 28, 1981, 333-120-0520, 333-120-0530, 333-120-0540); and

(b) Records required by 120-620(2)(d).

(6) Prior to license termination, each licensee shall forward the records required by OAR 333-102-0306(7) to the Agency Office.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0360

Right to Cause the Withholding or Recall of Byproduct Material

The Agency may cause the withholding or recall of byproduct material from any licensee who is not equipped to observe or fails to observe such safety standards to protect health as may be established by the Agency, or who uses such materials in violation of law or regulation of the Agency, or in a manner other than as disclosed in the application therefore or approved by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-102-0365

Third Party Method

If the applicant consents, the Agency may enter into third party agreements for the applicant to engage and pay for the services of a third party contractor to prepare an environmental impact analysis required by OAR 333-102-0295 and/or to furnish an opinion of independent experts, satisfactory to the Agency, in respect to the completeness and adequacy of any information or data furnished by the applicant and on any aspect of the applicant's project or effects thereof.

(1) When the license applicant pays for a third party agreement, the monies paid for the consultant shall not be considered as specific license fees, pursuant to OAR 333-103-0010 of this Chapter.

(2) In proceeding under the third party agreement, the Agency shall carry out the following practices:

(a) Such contractor shall be chosen solely by the Agency.

(b) The Agency shall manage the contract.

(c) The consultant shall be selected based on the consultant's ability and relevant and applicable work experience and an absence of conflict of

interest. Third party contractors shall be required to execute a disclosure statement showing that they have no financial or other conflicting interest in the outcome of the project.

(d) The Agency shall specify the information to be developed and supervise the gathering, analysis and presentation of the information. The Agency shall have sole authority for approval and modification of the statement, analysis, and conclusions included in third party's report.

(e) The Agency has the single right of refusal of the final application, and the Agency is not obligated to approve the application or issue a license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-103-0015

Annual Registration Fee for General Licenses and Devices

(1) Any general license granted by the Agency shall be validated annually by the general license registration fee listed in section (2) of this rule, unless otherwise exempted by subsection (2)(e) of this rule. General License registration fees as defined in OAR 333-103-0003(2)(b) shall:

(a) Validate each general licensed source of radiation due July 1 of each year for sources of radiation; and

(b) Validate each new application to register general license material pursuant to OAR 333-101-0007; and

(2) The general licenses appearing in the following fee schedule shall be registered on the appropriate Agency form and shall be validated annually by a general license registration fee:

(a) Each healing arts facility that uses radioactive material for In Vitro laboratory or clinical testing authorized by OAR 333-102-0130: \$100

(b) Each radiation source in a generally license measuring, gauging or controlling device authorized pursuant to OAR 333-102-0115(1), except for radioactive material contained in devices designed and manufactured for the purpose of producing light or an ionized atmosphere pursuant to 333-102-0105: \$100

(c) Each general licensee possessing or using depleted uranium for the purpose of providing a concentrated mass in a small volume of the product or device pursuant to OAR 333-102-0103: \$100

(d) Each General Licensee possessing or using source material for research, development, educational, commercial or operational purposed pursuant to OAR 333-102-0101: \$150

(e) General licenses not specifically identified in subsections (a), (b) and (c) of this section are exempt from the payment of an annual general license registration fee.

(f) Each out-of-state or NRC specific licensee granted a general license pursuant to OAR 333-102-0340 to conduct activities within the state of Oregon for a period not to exceed 180 days in a calendar year shall pay a registration validation fee as required by OAR 333-103-0030(6).

(3) Notwithstanding subsection (2)(f) of this rule, the general license fee shall be due and payable on or before July 1 of each year.

(4) A certificate of validation for the then current fiscal year shall be provided by the Agency. The certificate for the then current fiscal year shall be retained by the licensee and attached to the general license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.757

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0001

Purpose

This Division prescribes requirements for the industrial use of sources of radiation and radiation safety requirements for persons using these sources of radiation in industrial radiography.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665 & 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0003

Scope

The provisions and requirements of this Division are in addition to, and not in substitution for, other requirements of these rules. In particular, the general requirements of Divisions 100, 101, 102, 111, 118, and 120 of this Chapter apply to applicants, licensees, and registrants subject to this Division. Division 102 and 118 of these rules apply to licensing and transportation of radioactive material and Division 101 of these rules applies to the registration of radiation machines. Except for sections that are applica-

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ble only to sealed radioactive sources, both radiation machines and sealed radioactive sources are covered by this Division. This rule does not apply to medical uses addressed in Division 116.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.665 & ORS 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0005

Definitions

As used in this Division, the following definitions apply:

(1) "Annual refresher safety training" means a review conducted or provided by the licensee or registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as a minimum, a review of radiation safety aspects of industrial radiography, any results of internal audits, Agency inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed. The review shall also provide opportunities for employees to ask safety questions.

(2) "ANSI" means the American National Standards Institute.

(3) "Associated equipment" means equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube and collimator when it is used as an exposure head.

(4) "Cabinet radiography" means industrial radiography conducted in an enclosure or cabinet so shielded that every location on the exterior meets the dose limits for individual members of the public as specified in OAR 333-120-0180;

(5) "Cabinet X-ray system" means an X-ray system with the X-ray tube installed in an enclosure hereinafter termed a cabinet, that is independent of existing architectural structures except the floor. The cabinet x-ray system is intended to contain at least that portion of a material being irradiated, provide radiation attenuation and exclude personnel from its interior during generation of radiation. This definition includes X-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad and bus terminals and in similar facilities. An X-ray tube used within a shielded part of a building, or X-ray equipment that may temporarily or occasionally incorporate portable shielding, is not considered a cabinet X-ray system.

(6) "Camera" see "Radiographic exposure device".

(7) "Certifiable cabinet x-ray system" means an existing uncertified x-ray system that has been modified to meet the certification requirements specified in 21 CFR 1020.40.

(8) "Certified cabinet X-ray system" means an X-ray system that has been certified in accordance with 21 CFR 1020.40.

(9) "Certifying entity" means an independent certifying organization meeting the requirements in Appendix A of Division 105 or an Agreement State regulatory program meeting the requirements in Appendix A, Sections II and III.

(10) "Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size, shape, and direction of the radiation beam

(11) "Control drive cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(12) "Control drive mechanism" means a device that enables the source assembly to be moved into and out of the exposure device.

(13) "Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(14) "Drive cable" see "Control cable".

(15) "Exposure head" means a device that locates the gamma radiography sealed source in the selected working position. An exposure head also is known as a source stop or end cap.

(16) "Field station" means a facility from which sources of radiation may be stored or used and from which equipment is dispatched.

(17) "Guide tube" (projection sheath) means a flexible or rigid tube, or "J" tube, for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(18) "Hands-on experience" means experience in all of those areas considered to be directly involved in the radiography process, and includes taking radiographs, calibration of survey instruments, operational and performance testing of survey instruments and devices, film development,

posting of radiation areas, preparing radiographic sources for transport, set-up of radiography equipment, posting of records and radiation area surveillance, etc., as applicable. In addition the Radiation Safety Officer experience shall include source exchange and source retrieval. Excessive time spent in only one or two of these areas, such as film development or radiation area surveillance, should not be counted toward the 2000 hours of hands-on experience required for a radiation safety officer in 333-105-0520 or the hands-on experience for a radiographer as required by 333-105-0530.

(19) "Independent certifying organization" means an independent organization that meets all of the criteria of Appendix A of this part.

(20) "Industrial radiography" means a nondestructive examination of the structure of materials using ionizing radiation to make radiographic images.

(21) "Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.

(22) "Lixiscope" means a portable light-intensified imaging device using a sealed source.

(23) "Offshore platform radiography" means industrial radiography conducted from a platform over a body of water.

(24) "Permanent radiographic installation" means an enclosed shielded room, cell, or vault, not located at a temporary jobsite, in which radiography is performed.

(25) "Personal supervision" means supervision in which the radiographer is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the radiographer's assistant and in such proximity that immediate assistance can be given if required.

(26) "Pigtail" see "Source assembly".

(27) "Pill" see "Sealed source".

(28) "Practical examination" means a demonstration through application of the safety rules and principles in industrial radiography including use of all procedures and equipment to be used by radiographic personnel.

(29) "Projection sheath" see "Guide tube".

(30) "Projector" see "Radiographic exposure device".

(31) "Radiation safety officer for industrial radiography" means an individual with the responsibility for the overall radiation safety program on behalf of the licensee or registrant and who meets the requirements of 333-105-0520.

(32) "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of these rules and the conditions of the license or registration.

(33) "Radiographer certification" means written approval received from a certifying entity stating that an individual has satisfactorily met the radiation safety, testing, and experience criteria in 333-105-0530.

(34) "Radiographer's assistant" means any individual who, under the direct supervision of a radiographer, uses radiographic exposure devices, sources of radiation, related handling tools or radiation survey instruments in industrial radiography.

(35) "Radiographer instructor" means any radiographer who has been authorized by the Agency to provide on-the-job training to radiographer trainees in accordance with OAR 333-105-0530(3).

(36) "Radiographer trainee" means any individual who, under the direct supervision of a radiographer instructor, uses sources of radiation, related handling tools or radiation survey instruments during the course of his instruction.

(37) "Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(38) "Radiographic operations" means all activities performed with a radiographic exposure device, or with a radiation machine. Activities include using, transporting (except when being transported by common or contract carriers), storing at a temporary job site, performing surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries. Transporting a radiation machine is not considered a radiographic operation.

(39) "Radiographic personnel" means any radiographer, radiographer's assistant, radiographer instructor or radiographer trainee.

(40) "Radiography" see "Industrial radiography."

(41) "Residential location" means any area where structures in which people lodge or live are located and the grounds on which such structures

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are located including, but not limited to, houses, apartments, condominiums and garages.

(42) "S-tube" means a tube through which the radioactive source travels when inside a radiographic exposure device.

(43) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(44) "Shielded position" means the location within the radiographic exposure device, source changer, or storage container that, by manufacturer's design, is the proper location for storage of the sealed source.

(45) "Shielded room radiography using radiation machines" means industrial radiography using radiation machines, which is conducted in an enclosed room, the interior of which is not occupied during radiographic operations, which is so shielded that every location on the exterior meets conditions for an unrestricted area as specified in OAR 333-120-0180, and the only access to which is through openings that are interlocked so that the radiation machine will not operate unless all openings are securely closed.

(46) "Source assembly" means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(47) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices. They also may be used for transporting and storing sealed sources.

(48) "Storage area" means any location, facility or vehicle that is used to store and secure a radiographic exposure device, a radiation machine, or a storage container when it is not used for radiographic operations. Storage areas are locked or have a physical barrier to prevent accidental exposure, tampering with or unauthorized removal of the device, container, source, or machine.

(49) "Storage container" means a device in which sealed sources are secured or stored.

(50) "Temporary jobsite" means any location where radiographic operations are performed and where sources of radiation may be stored other than those location(s) of use authorized on the license or registration.

(51) "Transport container" means a package that is designed to provide radiation safety and security when sealed sources are transported and which meets all applicable requirements of the U.S. Department of Transportation.

(52) "Underwater radiography" means radiographic operations performed when the radiographic exposure device or radiation machine and/or related equipment are beneath the surface of the water.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605

Hist.: HD 4-1985, f. & cert. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0050

Exemptions

(1) Uses of certified and certifiable cabinet x-ray systems are exempt from the requirements of this Division except for the following:

(a) For certified and certifiable cabinet x-ray systems, including those designed to allow admittance of individuals:

(A) No registrant shall permit any individual to operate a cabinet x-ray system until the individual has received a copy of and instruction in the operating procedures for the unit. Records that demonstrate compliance with this subparagraph shall be maintained for Agency inspection until disposal is authorized by the Agency.

(B) Tests for proper operation of interlocks must be conducted and recorded at intervals not to exceed six months. Records of these tests shall be maintained for Agency inspection until disposal is authorized by the Agency.

(C) The registrant shall perform an evaluation of the radiation dose limits to determine compliance with OAR 333-120-0180, 333-120-0190 and 21 CFR 1020.40, Cabinet X-Ray Systems (39 Federal Register 12986, April 10, 1974), at intervals not to exceed one year. Records of these evaluations shall be maintained for Agency inspection for two years after the evaluation.

(b) Certified cabinet X-ray systems shall be maintained in compliance with 21 CFR 1020.40, Cabinet X-Ray Systems (39 Federal Register 12986, April 10, 1974), and no modification shall be made to the system unless prior Agency approval has been granted.

(2) Industrial uses of lixiscopes are exempt from the requirements of this Division if the dose rate 18 inches from the source of radiation to any individual does not exceed 2 millirem per hour. Devices that exceed this

limit shall meet the applicable requirements of this Division and the licensing or registration requirements of division 101 or division 102 of these rules, as applicable.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0075

Licensing and Registration Requirements for Industrial Radiography Operations

The Agency will approve an application for a specific license for the use of licensed material or a registration for use of radiation machines if the applicant meets the following requirements:

(1) The applicant satisfies the general requirements specified in OAR 333-101-0005 for radiation machine facilities or 333-102-0200 for radioactive material, as applicable, and any special requirements contained in this Division;

(2) The applicant submits an adequate program for training radiographers and radiographer's assistants that meets the requirements of 333-105-0530:

(a) After July 1, 2003, the applicant need not describe the initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(b) From December 1, 2002 to July 1, 2003, the applicant may affirm that all individuals acting as industrial radiographers will be certified in radiation safety by a certifying entity before commencing duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(3) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid;

(4) The applicant submits written operating and emergency procedures as described in 333-105-0540;

(5) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed 6 months as described in 333-105-0530(5);

(6) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility;

(7) The applicant submits the qualifications of the individual(s) designated as the radiation safety officer as described in 333-105-0520(1);

(8) If an applicant intends to perform leak testing of sealed sources or exposure devices containing depleted uranium (DU) shielding, the applicant must describe the procedures for performing the test. The description must include the:

(a) Methods of collecting the samples;

(b) Qualifications of the individual who analyzes the samples;

(c) Instruments to be used; and

(d) Methods of analyzing the samples.

(9) If the applicant intends to perform calibrations of survey instruments and alarming ratemeters, the applicant must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 333-105-0450 and 333-105-0560(7)(d);

(10) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations;

(11) The applicant identifies the location(s) where all records required by this and other Divisions of these rules will be maintained;

(12) If a license application includes underwater radiography, a description of:

(a) Radiation safety procedures and radiographer responsibilities unique to the performance of underwater radiography;

(b) Radiographic equipment and radiation safety equipment unique to underwater radiography; and

(c) Methods for gas-tight encapsulation of equipment; and

(13) If an application includes offshore platform and/or lay-barge radiography, a description of:

(a) Transport procedures for radioactive material to be used in industrial radiographic operations;

(b) Storage facilities for radioactive material; and

(c) Methods for restricting access to radiation areas.

(14) A license or registration will be issued if 333-105-0075(1) through 333-105-0075(13), as applicable, are met.

Stat. Auth.: ORS 453.605 - 453.807

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Stats. Implemented: ORS 453.625, 453.635 & 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0420

Performance Requirements for Industrial Radiography Equipment

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981);

(2) In addition to the requirements specified in 333-105-0420(1), the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources;

(a) The licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(A) Chemical symbol and mass number of the radionuclide in the device;

(B) Activity and the date on which this activity was last measured;

(C) Model or product code and serial number of the sealed source;

(D) Name of the manufacturer of the sealed source; and

(E) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B packages must meet the applicable transportation requirements of Division 118 of these rules.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless approved by the Agency or other approval body.

(3) In addition to the requirements specified in 333-105-0420(1) and 333-105-0420(2), the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers;

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(d) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words:

"DANGER—RADIOACTIVE."

The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during industrial radiography operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this section; and

(5) As an exception to 333-105-0420(1), equipment used in industrial radiographic operations need not comply with § 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of

the torque that an individual using the radiography equipment can reasonably exert on the lever or crankshaft of the drive mechanism.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0430

Limits on External Radiation Levels From Storage Containers and Source Changers

The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 mrem) per hour at any exterior surface, and 0.1 millisieverts (10 mrem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0440

Locking of Sources of Radiation, Storage Containers and Source Changers

(1) Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked (If a keyed lock, the key must be removed at all times) when not under the direct surveillance of a radiographer or a radiographer's assistant except at permanent radiographic installations as stated in 333-105-0580. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

(2) Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked (If a keyed lock, the key must be removed at all times) when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

(3) The control panel of each radiation machine shall be equipped with a lock that will prevent the unauthorized use of an x-ray system or the accidental production of radiation. The radiation machine shall be kept locked and the key removed at all times except when under the direct visual surveillance of a radiographer or a radiographer's assistant.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0450

Radiation Survey Instruments

(1) The licensee or registrant shall keep sufficient calibrated and operable radiation survey instruments at each location where sources of radiation are present to make the radiation surveys required by this division and by division 120 of these rules. Instrumentation required by this section must be capable of measuring a range from 0.02 millisieverts (2 mrem) per hour through 0.01 sievert (1 rem) per hour.

(2) The licensee or registrant shall have each radiation survey instrument required under 333-105-0450(1) calibrated:

(a) At energies appropriate for use and at intervals not to exceed 6 months or after instrument servicing, except for battery changes;

(b) For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 mrem) per hour; and

(c) So that an accuracy within plus or minus 20 percent of the true radiation dose rate can be demonstrated at each point checked.

(3) The licensee or registrant shall maintain records of the results of the instrument calibrations in accordance with 333-105-0620.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0460

Leak Testing and Replacement of Sealed Sources

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source must

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be performed by persons authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(2) The opening, repair, or modification of any sealed source must be performed by persons specifically authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(3) Testing and recordkeeping requirements.

(a) Each licensee who uses a sealed source shall have the source tested for leakage at intervals not to exceed 6 months. The leak testing of the source must be performed using a method approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State. The wipe sample should be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis.

(b) The licensee shall maintain records of the leak tests in accordance with 333-105-0630.

(c) Unless a sealed source is accompanied by a certificate from the transferor that shows that it has been leak tested within 6 months before the transfer, it may not be used by the licensee until tested for leakage. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds 6 months.

(4) Any test conducted pursuant to 333-105-0460(2) and 333-105-0460(3) that reveals the presence of 185 Becquerel (0.005 microCurie) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall have it decontaminated and repaired or disposed of in accordance with Agency rules. A report must be filed with the Agency within 5 days of any test with results that exceed the threshold in this paragraph, describing the equipment involved, the test results, and the corrective action taken.

(5) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis. Should such testing reveal the presence of DU contamination, the exposure device must be removed from use until an evaluation of the wear of the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while not in use and in storage. Before using or transferring such a device, however, the device must be tested for DU contamination, if the interval of storage exceeds 12 months. A record of the DU leak-test must be made in accordance with 333-105-0630.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0470

Quarterly Inventory

(1) Each licensee or registrant shall conduct a quarterly physical inventory to account for all sources of radiation, and for devices containing depleted uranium received and possessed under the license.

(2) The licensee or registrant shall maintain records of the quarterly inventory in accordance with 333-105-0640.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0480

Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) The licensee or registrant shall perform visual and operability checks on survey meters, radiation machines, radiographic exposure devices, transport and storage containers, associated equipment and source changers before each day's use, or work shift, to ensure that:

(a) The equipment is in good working condition;

(b) The sources are adequately shielded; and

(c) Required labeling is present.

(2) Survey instrument operability must be performed using check sources or other appropriate means.

(3) If equipment problems are found, the equipment must be removed from service until repaired.

(4) Each licensee or registrant shall have written procedures for and perform inspection and routine maintenance of radiation machines, radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed 3 months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment must be removed from service until repaired.

(5) The licensee's inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(6) Records of equipment problems and of any maintenance performed under 333-105-0480 must be made in accordance with 333-105-0660.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0490

Permanent Radiographic Installations

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation must have either:

(a) An entrance control of the type described in OAR 333-120-0220 that causes the radiation level upon entry into the area to be reduced; or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal must be actuated by radiation whenever the source is exposed or the machine is energized. The audible signal must be actuated when an attempt is made to enter the installation while the source is exposed or the machine is energized.

(2) The alarm system must be tested for proper operation with a radiation source each day before the installation is used for radiographic operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry as designated in 333-105-0490(1)(a) must be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within 7 calendar days. The facility may continue to be used during this 7-day period, provided the licensee or registrant implements the continuous surveillance requirements of 333-105-0580 and uses an alarming rate-meter. Test records for entrance controls and audible and visual alarms must be maintained in accordance with 333-105-0670.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0500

Labeling, Storage, and Transportation

(1) The licensee may not use a source changer or a container to store radioactive material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION RADIOACTIVE MATERIAL
NOTIFY CIVIL AUTHORITIES
or "DANGER"

(2) The licensee may not transport radioactive material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in division 118.

(3) Radiographic exposure devices, source changers, storage containers, and radiation machines, must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store radioactive material in a manner that will minimize danger from explosion or fire.

(4) The licensee shall lock and physically secure the transport package containing radioactive material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

(5) The licensee's or registrant's name and city or town where the main business office is located shall be prominently displayed with a durable, clearly visible label(s) on both sides of all vehicles used to transport radioactive material or radiation machines for temporary job site use.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

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Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0510

Conducting Industrial Radiographic Operations

(1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of 333-105-0530(3). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations must be conducted in a permanent radiographic installation unless otherwise specifically authorized by the Agency.

(3) Except when physically impossible, collimators shall be used in industrial radiographic operations that use radiographic exposure devices that allow the source to be moved out of the device.

(4) A licensee or registrant may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0520

Radiation Safety Officer

The radiation safety officer shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's or registrant's program.

(1) The minimum qualifications, training, and experience for radiation safety officers for industrial radiography are as follows:

(a) Completion of the training and testing requirements of 333-105-0530(1);

(b) 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The Agency will consider alternatives when the radiation safety officer has appropriate training and experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the radiation safety officer include:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by Division 120 of these rules and reviewing them regularly to ensure that they conform to Agency rules and to the license or registration conditions;

(b) Overseeing and approving the training program for radiographic personnel to ensure that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the rules, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated, if applicable, and used properly; that records are kept of the monitoring results; and that timely notifications are made as required by Division 120 of these rules; and

(e) Ensuring that operations are conducted safely and for implementing corrective actions including terminating operations.

(4) Licensees and registrants will have 2 years from the effective date of this rule to meet the requirements of 333-105-0520(1) and 333-105-0520(2).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0530

Training

(1) The licensee or registrant may not permit any individual to act as a radiographer until the individual:

(a) Has received at least 40 hours of training in the subjects outlined in 333-105-0530(7), in addition to on the job training consisting of hands-on experience under the supervision of a radiographer and is certified

through a radiographer certification program by a certifying entity in accordance with the criteria specified in Appendix A of this Division. The on the job training shall include a minimum of 2 months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours); or

(b) The licensee or registrant may, until July 1, 2003, allow an individual who has not met the requirements of 333-105-0530(1)(a), to act as a radiographer after the individual has received at least 40 hours of training in the subjects outlined in 333-105-0530(7) and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Agency, the Nuclear Regulatory Commission, or another Agreement State, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer. The on the job training shall include a minimum of 2 months (320 hours) of active Participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours).

(2) In addition, the licensee or registrant may not permit any individual to act as a radiographer until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this Division, and applicable sections of Divisions 120, 111, and 118 of these rules, in the license or registration under which the radiographer will perform industrial radiography, and the licensee's or registrant's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(2)(a) by successful completion of a written or oral examination;

(c) Has received training in the use of the registrant's radiation machines, or the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(2)(c) by successful completion of a practical examination.

(3) The licensee or registrant may not permit any individual to act as a radiographer's assistant until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this Division, and applicable sections of Divisions 120, 111, and 118 of these regulation, in the license or registration under which the radiographer's assistant will perform industrial radiography, and the licensee's or registrant's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(3)(a) by successful completion of a written or oral examination;

(c) Under the personal supervision of a radiographer, has received training in the use of the registrant's radiation machines, or the licensee's radiographic exposure devices and sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(3)(c) by successful completion of a practical examination.

(4) The licensee or registrant shall provide annual refresher safety training, as defined in 333-105-0005(1), for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

(5) Except as provided in 333-105-0530(5)(d), the radiation safety officer or designee shall conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the Agency's rules, license or registration requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed 6 months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than 6 months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of 333-105-0530(2)(c) and the radiographer's assistant must demonstrate knowledge of the training requirements of 333-

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105-0530(3)(c) by a practical examination before these individuals can next participate in a radiographic operation.

(c) The Agency may consider alternatives in those situations where the individual serves as both radiographer and radiation safety officer.

(d) In those operations where a single individual serves as both radiographer and radiation safety officer, and performs all radiography operations, an inspection program is not required.

(6) The licensee or registrant shall maintain records of the above training to include certification documents, written, oral and practical examinations, refresher safety training and inspections of job performance in accordance with 333-105-0680.

(7) The licensee or registrant shall include the following subjects required in 333-105-0530(1):

(a) Fundamentals of radiation safety including:

- (A) Characteristics of gamma and x-radiation;
- (B) Units of radiation dose and quantity of radioactivity;
- (C) Hazards of exposure to radiation;
- (D) Levels of radiation from sources of radiation; and
- (E) Methods of controlling radiation dose (time, distance, and shielding);

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment;

(c) Equipment to be used including:

(A) Operation and control of radiographic exposure equipment, remote handling equipment, and storage containers, including pictures or models of source assemblies (pigtailed);

(B) Operation and control of radiation machines;

(C) Storage, control, and disposal of sources of radiation; and

(D) Inspection and maintenance of equipment.

(d) The requirements of pertinent state and federal rules; and

(e) Case histories of accidents in radiography.

(8) Licensees and registrants will have one year from the effective date of this rule to comply with the additional training requirements specified in 333-105-0530(2)(a) and 333-105-0530(3)(a).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0540

Operating and Emergency Procedures

(1) Operating and emergency procedures must include, as a minimum, instructions in the following:

(a) Appropriate handling and use of sources of radiation so that no person is likely to be exposed to radiation doses in excess of the limits established in Division 120 of these rules;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods for posting and controlling access to radiographic areas;

(d) Methods and occasions for locking and securing sources of radiation;

(e) Personnel monitoring and the use of personnel monitoring equipment;

(f) Transporting equipment to field locations, including packing of radiographic exposure devices and storage containers in the vehicles, placarding of vehicles when required, and control of the equipment during transportation as described in Division 118 of these rules;

(g) The inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, survey instruments, alarming ratemeters, transport containers, and storage containers;

(h) Steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale or an alarming ratemeter alarms unexpectedly;

(i) The procedure(s) for identifying and reporting defects and non-compliance, as required by 333-105-0740;

(j) The procedure for notifying proper persons in the event of an accident or incident;

(k) Minimizing exposure of persons in the event of an accident or incident, including a source disconnect, a transport accident, or loss of a source of radiation;

(l) Source recovery procedure if licensee will perform source recoveries; and

(m) Maintenance of records.

(2) The licensee or registrant shall maintain copies of current operating and emergency procedures in accordance with 333-105-0690 and 333-105-0730.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0550

Supervision of Radiographer's Assistants

The radiographer's assistant shall be under the direct visual supervision of a radiographer when using radiographic exposure devices, associated equipment or sources of radiation, or when conducting radiation surveys required by 333-105-0570(2) to determine that the sealed source has returned to the shielded position or the radiation machine is off after an exposure. The personal supervision must include:

(1) The radiographer's physical presence at the site where the sources of radiation are being used;

(2) The availability of the radiographer to give immediate assistance if required; and

(3) The radiographer's direct observation of the assistant's performance of the operations referred to in this section.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0560

Personnel Monitoring

(1) The licensee or registrant may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a combination of direct reading dosimeter, an alarming ratemeter, and either a film badge or a TLD or other NAVLAP approved technologies. At permanent radiographic installations where other appropriate alarming or warning devices are in routine use, or during radiographic operations using radiation machines, the use of an alarming ratemeter is not required.

(a) Pocket dosimeters must have a range from zero to 2 millisieverts (200 mrem) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) Each film badge and TLD must be assigned to and worn by only one individual.

(c) Film badges and TLD's must be exchanged at periods not to exceed one month.

(d) After replacement, each film badge or TLD must be returned to the supplier for processing within 14 calendar days of the end of the monitoring period, or as soon as practicable. In circumstances that make it impossible to return each film badge or TLD in 14 calendar days, such circumstances must be documented and available for review by the Agency.

(2) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters, must be read and the exposures recorded at the beginning and end of each shift, and records must be maintained in accordance with 333-105-0700.

(3) Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation, and records must be maintained in accordance with 333-105-0700(1). Acceptable dosimeters must read within plus or minus 20 percent of the true radiation exposure.

(4) If an individual's pocket dosimeter is found to be off-scale, or the electronic personal dosimeter reads greater than 2 millisieverts (200 mrem), the individual's film badge or TLD must be sent for processing within 24 hours. In addition, the individual may not resume work associated with the use of sources of radiation until a determination of the individual's radiation exposure has been made. This determination must be made by the radiation safety officer or the radiation safety officer's designee. The results of this determination must be included in the records maintained in accordance with 333-105-0700.

(5) If a film badge or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge or TLD. The results of the calculated exposure and the time period for which the film badge or TLD was lost or damaged must be included in the records maintained in accordance with 333-105-0700.

(6) Reports received from the film badge or TLD processor must be retained in accordance with 333-105-0700.

(7) Each alarming ratemeter must:

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(a) Be checked to ensure that the alarm functions properly before using at the start of each shift;

(b) Be set to give an alarm signal at a preset dose rate of 5 millisieverts (500 mrem per hour; with an accuracy of plus or minus 20 percent of the true radiation dose rate;

(c) Require special means to change the preset alarm function; and

(d) Be calibrated at periods not to exceed 12 months for correct response to radiation. The licensee shall maintain records of alarming ratemeter calibrations in accordance with 333-105-0700(2)

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0570

Radiation Surveys

The licensee or registrant shall:

(1) Conduct all surveys with a calibrated and operable radiation survey instrument that meets the requirements of 333-105-0450;

(2) Conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or the guide tube. The survey must determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. Radiation machines shall be surveyed after each exposure to determine that the machine is off;

(3) Conduct a survey of the radiographic exposure device whenever the source is exchanged and whenever a radiographic exposure device is placed in a storage area as defined in 333-105-0005, to ensure that the sealed source is in its shielded position; and

(4) Maintain records in accordance with 333-105-0710.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0580

Surveillance

During each radiographic operation, the radiographer shall ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or a high radiation area, as defined in Division 100 of these rules, except at permanent radiographic installations where all entryways are locked and the requirements of 333-105-0490 are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0590

Posting

All areas in which industrial radiography is being performed must be conspicuously posted as required by OAR 333-120-0410. The exceptions listed in 333-120-0420 do not apply to industrial radiographic operations.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0600

Records for Industrial Radiography

Each licensee or registrant shall maintain a copy of its license or registration, documents incorporated by reference, and amendments to each of these items until superseded by new documents approved by the Agency, or until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0610

Records of Receipt and Transfer of Sources of Radiation

(1) Each licensee or registrant shall maintain records showing the receipts and transfers of sealed sources, devices using DU for shielding, and radiation machines, and retain each record for 3 years after it is made.

(2) These records must include the date, the name of the individual making the record, radionuclide, number of Becquerel (Curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0620

Records of Radiation Survey Instruments

Each licensee or registrant shall maintain records of the calibrations of its radiation survey instruments that are required under 333-105-0450 and retain each record for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0630

Records of Leak Testing of Sealed Sources and Devices Containing DU

Each licensee shall maintain records of leak test results for sealed sources and for devices containing DU. The results must be stated in units of Becquerel (microcuries). The licensee shall retain each record for 3 years after it is made or until the source in storage is removed.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0640

Records of Quarterly Inventory

(1) Each licensee or registrant shall maintain records of the quarterly inventory of sources of radiation, including devices containing depleted uranium as required by 333-105-0470, and retain each record for 3 years.

(2) The record must include the date of the inventory, name of the individual conducting the inventory, radionuclide, number of Becquerel (curies) or mass (for DU) in each device, location of sources of radiation and/or devices, and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0650

Utilization Logs

(1) Each licensee or registrant shall maintain utilization logs showing for each source of radiation the following information:

(a) A description, including the make, model, and serial number of the radiation machine or the radiographic exposure device, transport, or storage container in which the sealed source is located;

(b) The identity and signature of the radiographer to whom assigned;

(c) The location and dates of use, including the dates removed and returned to storage; and

(d) For permanent radiographic installations, the dates each radiation machine is energized.

(2) The licensee or registrant shall retain the logs required by 333-105-0650(1) for 3 years.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0660

Records of Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) Each licensee or registrant shall maintain records specified in 333-105-0480 of equipment problems found in daily checks and quarterly inspections of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; and retain each record for 3 years after it is made.

(2) The record must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was performed.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-105-0670

Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations

Each licensee or registrant shall maintain records of alarm system and entrance control device tests required by 333-105-0490 and retain each record for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0680

Records Of Training and Certification

Each licensee or registrant shall maintain the following records for 3 years after the individual terminates employment:

(1) Records of training of each radiographer and each radiographer's assistant. The record must include radiographer certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, the names of individuals conducting and receiving the oral and practical examinations, and a list of items tested and the results of the oral and practical examinations; and

(2) Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any non-compliance observed by the radiation safety officer or designee.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0690

Copies of Operating and Emergency Procedures

Each licensee or registrant shall maintain a copy of current operating and emergency procedures until the Agency terminates the license or registration. Superseded material must be retained for 3 years after the change is made.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0700

Records of Personnel Monitoring

Each licensee or registrant shall maintain the following exposure records specified in 333-105-0560:

(1) Direct reading dosimeter readings and yearly operability checks required by 333-105-0560(2) and 333-105-0560(3) for 3 years after the record is made;

(2) Records of alarming ratemeter calibrations for 3 years after the record is made;

(3) Reports received from the film badge or TLD processor until the Agency terminates the license or registration; and

(4) Records of estimates of exposures as a result of off-scale personal direct reading dosimeters, or lost or damaged film badges or TLD's, until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0710

Records of Radiation Surveys

Each licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage as specified in 333-105-0570(3) Each record must be maintained for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0720

Form of Records

Each record required by this Division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a

clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0730

Location Of Documents and Records

(1) Each licensee or registrant shall maintain copies of records required by this Division and other applicable Divisions of these rules at the location specified in 333-105-0410(11).

(2) Each licensee or registrant shall also maintain current copies of the following documents and records sufficient to demonstrate compliance at each applicable field station and each temporary job site:

(a) The license or registration authorizing the use of sources of radiation;

(b) A copy of divisions 100, 120, 105 & 111 of this chapter;

(c) Utilization logs for each source of radiation dispatched from that location as required by 333-105-0650.

(d) Records of equipment problems identified in daily checks of equipment as required by 333-105-0660(1);

(e) Records of alarm system and entrance control checks required by 333-105-0670, if applicable;

(f) Records of dosimeter readings as required by 333-105-0700;

(g) Operating and emergency procedures as required by 333-105-0690;

(h) Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by 333-105-0620;

(i) Evidence of the latest calibrations of alarming ratemeters and operability checks of dosimeters as required by 333-105-0700;

(j) Survey records as required by 333-105-0710 and OAR 333-120-0620 as applicable, for the period of operation at the site;

(k) The shipping papers for the transportation of radioactive materials required by Division 118 of these rules; and

(l) When operating under reciprocity pursuant to OAR 333-102-0340, a copy of the applicable State license or registration, or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0740

Notifications

(1) In addition to the reporting requirements specified in 10 CFR 30.50 and in division 120 of these rules, each licensee or registrant shall provide a written report to the Agency within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(a) Unintentional disconnection of the source assembly from the control cable;

(b) Inability to retract the source assembly to its fully shielded position and secure it in this position;

(c) Failure of any component, which is critical to safe operation of the device, to properly perform its intended function; or

(d) An indicator on a radiation machine fails to show that radiation is being produced, an exposure switch fails to terminate production of radiation when turned to the off position, or a safety interlock fails to terminate x-ray production.

(2) The licensee or registrant shall include the following information in each report submitted under 333-105-0740(1), and in each report of over-exposure submitted under OAR 333-120-0720 which involves failure of safety components of radiography equipment:

(a) Description of the equipment problem;

(b) Cause of each incident, if known;

(c) Name of the manufacturer and model number of equipment involved in the incident;

(d) Place, date, and time of the incident;

(e) Actions taken to establish normal operations;

(f) Corrective actions taken or planned to prevent recurrence; and

(g) Names and qualifications of personnel involved in the incident.

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(3) Any licensee or registrant conducting radiographic operations or storing sources of radiation at any location not listed on the license or registration for a period in excess of 180 days in a calendar year, shall notify the Agency prior to exceeding the 180 days.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0750

Reciprocity

(1) All reciprocal recognition of licenses and registrations by the Agency will be granted in accordance with OAR 333-102-0340.

(2) Reciprocal recognition by the Agency of an individual radiographer certification will be granted provided that:

(a) The individual holds a valid certification in the appropriate category issued by a certifying entity, as defined in 333-105-0005;

(b) The requirements and procedures of the certifying entity issuing the certification affords the same or comparable certification standards as those afforded by 333-105-0530(1);

(c) The applicant presents the certification to the Agency prior to entry into the state; and

(d) No escalated enforcement action is pending with the Nuclear Regulatory Commission or in any other state.

(3) Certified individuals who are granted reciprocity by the Agency shall maintain the certification upon which the reciprocal recognition was granted, or prior to the expiration of such certification, shall meet the requirements of 333-105-0530(1).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-105-0760

Specific Requirements for Radiographic Personnel Performing Industrial Radiography

(1) At a job site, the following shall be supplied by the licensee or registrant:

(a) At least one operable, calibrated survey instrument for each exposure device or radiation machine in use;

(b) A current whole body personnel monitor (TLD or film badge) for each person performing radiographic operations;

(c) An operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens for each person performing radiographic operations ;

(d) An operable, calibrated, alarming ratemeter for each person performing radiographic operations using a radiographic exposure device; and

(e) The appropriate barrier ropes and signs.

(2) Each radiographer at a job site shall have on their person a valid certification ID card issued by a certifying entity.

(3) Industrial radiographic operations shall not be performed if any of the items in 333-105-0760(1) and 333-105-0760(2) are not available at the job site or are inoperable.

(4) During an inspection, the Agency may terminate an operation if any of the items in 333-105-0760(1) and 333-105-0760(2) are not available or operable, or if the required number of radiographic personnel are not present. Operations shall not be resumed until all required conditions are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0005

Definitions

As used in this Division, the following definitions apply:

(1) "Accessible Surface" means the external surface of the enclosure or housing provided by the manufacturer;

(2) "Added Filtration" means any filtration which is in addition to the inherent filtration.

(3) "Aluminum Equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

NOTE: The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Agency approved Instructor" means an individual who has been evaluated and approved by the Agency to teach Radiation Safety.

(5) "Agency approved training course" means a course of training that has been evaluated and approved by the Agency.

(6) "A.R.R.T. means the American Registry of Radiologic Technologists.

(7) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an X-ray system or subsystem. The term includes the owner of an X-ray system or his or her employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

(8) "Attenuation Block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(9) "Automatic Exposure Control (AEC)" means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation. (See also "Photo timer".)

(10) "Barrier" (see "Protective Barrier").

(11) "Beam Axis" means a line from the source through the centers of the X-ray fields.

(12) "Beam-Limiting Device" means a device which provides a means to restrict the dimensions of the X-ray field.

(13) "Beam Monitoring System" means a system designed to detect and measure the radiation present in the useful beam.

(14) "C-arm x-ray system" means an x-ray system in which the image receptor and x-ray tube housing are connected by a common mechanical support system in order to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

(15) "Cephalometric Device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(16) "Certified Components" means components of X-ray systems which are subject to the X-ray Equipment Performance Standard promulgated under Public Law 90-602, the Radiation Control Agency for Health and Safety Act of 1968.

(17) "Certified System" means any X-ray system which has one or more certified component(s).

(18) "Changeable Filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(19) "Coefficient of Variation (C)" means the ratio of the standard deviation to the mean value of a set of observations. It is estimated using the following equation: [Equation not included. See ED. NOTE.]

(20) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

(21) "Contact Therapy System" means an X-ray system used for therapy with the tube port placed in contact with or within five centimeters of the surface being treated.

(22) "Control Panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.

(23) "Cooling Curve" means the graphical relationship between heat units stored and cooling time.

(24) "Dead-Man Switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(25) "Detector" (see "Radiation detector").

(26) "Diagnostic x-ray imaging system" means an assemblage of components for the generation, emission, and reception of x-rays and the transformation, storage, and visual display of the resultant x-ray image.

(27) "Diagnostic Source Assembly" means the tube housing assembly with a beam-limiting device attached.

(28) "Diagnostic-Type Protective Tube Housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 milliroentgens in one hour when the tube is operated at its leakage technique factors.

(29) "Diagnostic X-Ray System" means an X-ray system designed for irradiation of any part of the human body or animal body for the purpose of diagnosis or visualization.

(30) "Direct Scattered Radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam (see "Scattered radiation").

(31) "Entrance Exposure Rate" means the exposure free in air per unit of time .

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(32) "Field Emission Equipment" means equipment which uses a tube in which electron emission from the cathode is due solely to the action of an electric field.

(33) "Filter" means material placed in the useful beam to absorb preferentially selected radiations.

(34) "Fluoroscopic Benchmark" means a standard based upon the average cumulative fluoroscopic on-time normally found to be used for a specific fluoroscopic procedure at the site.

(34) "Fluoroscopic Imaging Assembly" means a subsystem in which X-ray photons produce a visible image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

(35) "Fluoroscopic x-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/or button of a fluoroscopic x-ray machine or physically positions patients or animals. Human holders, used solely for immobilization purposes (i.e. veterinarian human holders) are excluded from this rule.

(36) "Focal Spot" means the area projected on the anode of the tube by the electrons accelerated from the cathode and from which the useful beam originates.

(37) "General Purpose Radiographic X-Ray System" means any radiographic X-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(38) "Gonad Shield" means a protective barrier for the testes or ovaries.

(39) "Half-Value Layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(40) "Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by an Oregon licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment.

(41) "Heat Unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes and seconds, i.e., kVp x mA x second.

(42) "HVL" (see "Half-value layer").

(43) "Image Intensifier" means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

(44) "Image Receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident photons either into a visible image or into another form which can be made into a visible image by further transformations.

(45) "Inherent Filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

(46) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(47) "Irradiation" means the exposure of matter to ionizing radiation.

(48) "Kilovolt-Peak" (see "Peak tube potential").

(49) "kV" means kilovolts.

(50) "kVp" (see "Peak tube potential").

(51) "kWs" means kilowatt second. It is equivalent to 103 kV.mA.s, i.e., (A)kVs = (X)kV x (Y)mA x (Z)s x kWs = XYZ kVs 103kV x mA x 103

(52) "Lead Equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(53) "Leakage Radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(a) The useful beam; and

(b) Radiation produced when the exposure switch or timer is not activated.

(54) "Leakage Technique Factors" means the technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliamperere seconds, or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For all other diagnostic or therapeutic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

(55) "Light Field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(56) "Line-Voltage Regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential. It is calculated using the following equation: [Equation not included. See ED. NOTE.]

(57) "mA" means milliamperere.

(58) "mAs" means milliamperere second.

(59) "Maximum Line Current" means the root-mean-square current in the supply line of an X-ray machine operating at its maximum rating.

(60) "Mobile Equipment" (see "Equipment").

(61) "Operator" means an individual who, under the supervision of a practitioner of the healing arts, uses ionizing radiation upon a human being for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, and the handling of ionizing radiation equipment.

(62) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(63) "Peak Tube Potential" means the maximum value of the potential difference across the X-ray tube during an exposure.

(64) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

(65) "Photo timer" means a method for controlling radiation exposures to image receptors by measuring the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is a part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").

(66) "PID" (see "Position indicating device").

(67) "Portable Equipment" (see "X-Ray Equipment").

(68) "Position Indicating Device" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(69) "Primary Dose Monitoring System" means a system which will monitor useful beam during irradiation and which will terminate irradiation when a preselected number of dose monitor units have been acquired.

(70) "Primary Protective Barrier" (see "Protective barrier").

(71) "Protective Apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

(72) "Protected Area" means an area shielded with primary or secondary protective barriers or an area removed from the radiation source such that the exposure rate within the area due to normal operating procedures and workload does not exceed any of the following limits:

(a) Two milliroentgens in any one hour; or

(b) One hundred milliroentgens in any one year.

(c) See OAR 333-120-0180 for additional information.

(73) "Protective Barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure;

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(74) "Protective Glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(75) "Qualified Expert" means an individual who has demonstrated to the satisfaction of the Agency that such individual possesses the knowledge, training and experience to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs.

(76) "Quality Control Program" means a program directed at film processing and radiographic image quality whereby periodic monitoring of film processing is performed. Test films are compared against a control

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film, either visually or by use of a densitometer, to determine if density or contrast have changed. Steps can then be taken to investigate such change and correct the problem. The X-ray machine itself can also be involved in the quality control program, as can other components of the imaging chain.

(77) "Radiation Detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

(78) "Radiation Therapy Simulation System" means a radiographic or fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(79) "Radiograph" means an image receptor on which the image is created directly or indirectly by a pattern and results in a permanent record.

(80) "Radiographic Imaging System" means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(81) "Radiological Physicist" means an individual who:

(a) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or

(b) Has a bachelor's degree in one of the physical sciences or engineering and three years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot checks of a medical accelerator or a sealed source teletherapy unit; or

(c) Has a Master's or a Doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one year's full-time training in therapeutic radiological physics; and has had one year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot checks of a medical accelerator or a sealed source teletherapy unit.

(82) "Rating" means the operating limits as specified by the component manufacturer.

(83) "Recording" means producing a permanent form of an image resulting from X-ray photons.

(84) "Registrant", as used in this Division, means any person who owns or possesses and administratively controls an X-ray system which is used to deliberately expose humans or animals to the useful beam of the system and is required by the provisions contained in Divisions 100 and 101 of this chapter to register with the Agency.

(85) "Response Time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero, sufficient to provide a steady state midscale reading.

(86) "Scattered Radiation" means radiation that, during passage through matter, has been deviated in direction (see "Direct Scattered Radiation").

(87) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(88) "Secondary Dose Monitoring System" means a system which will terminate irradiation in the event of failure of the primary system.

(89) "Secondary Protective Barrier" (see "Protective barrier").

(90) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(91) "SID" (see "Source-image receptor distance").

(92) "Source" means the focal spot of the X-ray tube.

(93) "Source-Image Receptor Distance" means the distance from the source to the center of the input surface of the image receptor.

(94) "Spot Check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(95) "Spot Film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(96) "Spot-Film Device" means a device intended to transport and/or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(97) "SSD" means the distance between the source and the skin of the patient.

(98) "Stationary Equipment" (see "X-Ray Equipment").

(99) "Stray Radiation" means the sum of leakage and scattered radiation.

(100) "Technique Factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses;

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(101) "Termination of Irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(102) "Traceable to a National Standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

(103) "Tube" means an X-ray tube, unless otherwise specified.

(104) "Tube Housing Assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when such are contained within the tube housing.

(105) "Tube Rating Chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(106) "Unprotected Area" means any area in which the exposure rate, due to the use of the radiation machine under normal operating procedures and workload, exceeds any of the following limits:

(a) Two milliroentgens in any one hour; or

(b) One hundred milliroentgens in any seven consecutive days; or

(c) Five hundred milliroentgens in any one year.

(107) "Useful Beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

(108) "Variable-Aperture Beam-Limiting Device" means a beam-limiting device which has capacity for stepless adjustment of the X-ray field size at a given SID.

(109) "Visible Area" means that portion of the input surface of the image receptor over which the incident X-ray photons are producing a visible image.

(110) "Wedge Filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

(111) "X-Ray Control" means a device which controls input power to the X-ray high-voltage generator and/or the X-ray tube. It includes equipment such as exposure switches (control), timers, photo timers, automatic brightness stabilizers and similar devices, which control the technique factors of an X-ray exposure.

(112) "X-Ray Equipment" means an X-ray system, subsystem, or component thereof. Types of equipment are as follows:

(a) "Mobile equipment" means X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled;

(b) "Portable equipment" means X-ray equipment designed to be hand-carried;

(c) "Stationary equipment" means X-ray equipment which is installed in a fixed location;

(d) "Transportable" means X-ray equipment installed in a vehicle or trailer.

(113) "X-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button of an x-ray machine, or physically positions patients or animals for an x-ray.

(114) "X-Ray Field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(115) "X-Ray High-Voltage Generator" means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

(116) "X-Ray System" means an assemblage of components for the controlled production of X-rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

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(117) "X-Ray Subsystem" means any combination of two or more components of an X-ray system for which there are requirements specified in this Division.

(118) "X-Ray Tube" means any electron tube which is designed to be used primarily for the production of X-rays.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0035

Deliberate Exposures Restricted

Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the x-ray/s is determined, and has been authorized by a physician licensed to practice the healing arts in Oregon. Any useful diagnostic information obtained from each exposure shall be reviewed by a practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(2) Exposure of an individual for the purpose of healing arts screening :

(a) Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the Agency;

(b) When requesting such approval, that person shall submit the following information. If any information submitted to the Agency becomes invalid or outdated, the Agency shall be immediately notified:

(A) Name and address of the applicant and, where applicable, the names and addresses of agents within this state;

(B) Diseases or conditions for which the X-ray examinations are to be used in diagnoses;

(C) A detailed description of the X-ray examinations proposed in the screening program;

(D) Description of the population to be examined in the screening program, i.e., age, sex, physical conditions, and other appropriate information;

(E) An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the X-ray examinations;

(F) An evaluation by a qualified expert of the X-ray system(s) to be used in the screening program. The evaluation by the qualified expert shall show that such system(s) do satisfy all requirements of these rules;

(G) A description of the diagnostic film quality control program;

(H) A copy of the technique chart for the X-ray examination procedures to be used;

(I) The qualifications of each individual who will be operating the X-ray system(s);

(J) The qualifications of the individual who will be supervising the operators of the X-ray system(s). The extent of supervision and the method of work performance evaluation shall be specified;

(K) The name and address of the individual who will interpret the radiograph(s);

(L) A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated;

(M) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the X-ray examinations.

(3) Mammography screening shall be exempt from the requirements of section (2) of this rule if the following conditions are met:

(a) The requirements set forth in OAR 333-106-0699 are satisfied.

(b) All other applicable rules are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0045

Use of Best Procedures and Equipment

Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized. This is interpreted to include, but not limited to:

(1) The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations.

(2) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality, see Tables 1, 2 and 3. [Tables not included. See ED. NOTE.]

(3) Portable or mobile X-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary X-ray installation.

(4) X-ray systems subject to OAR 333-106-0301(1) shall not be utilized in procedures where the source to patient distance is less than 30 centimeters.

(5) Cardboard cassettes without screens shall not be used (dental intraoral excluded).

(6) Fluoroscopy:

(a) Use shall be restricted to those properly trained, and deemed competent in the safe use of fluoroscopy by a hospital radiation safety committee, radiologist or roentgenologist:

(A) Physician here means a MD, DO, DC, DPM or DVM only;

(B) Technologist here means A.R.R.T. — Registered only;

(i) The use of fluoroscopy by technologists shall be performed under the direction of a radiologist or roentgenologist and is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes;

(ii) Allowing technologists to assist in the use of fluoroscopy is not to be interpreted as giving the technologist the authority to do fluoroscopic studies on patients on their own accord.

(c) Proper training to meet the requirements of subsection (a) of this section shall include but not be limited to the following:

(i) Principles and operation of the fluoroscopic X-ray machine;

(ii) Biological effects of X-ray;

(iii) Radiation units;

(iv) Typical fluoroscopic outputs;

(v) High level control options;

(vi) Dose reduction techniques for fluoroscopy;

(vii) Protective devices;

(viii) Radiation monitoring;

(ix) Applicable radiation rules and regulations.

(D) Physicians or technologists using fluoroscopy prior to the effective date of these rules will be considered to have met the requirements of paragraph (6)(a)(C) of this rule if they have a written statement attesting that they have been evaluated and deemed competent in the safe use of fluoroscopy. Such evaluation and attestation must include the input of a radiologist or roentgenologist. In addition such attestation could be used as the basis of establishing proper training and competency in the safe use of fluoroscopy by other registrants that the individual may be associated with.

(b) All images formed by the use of stationary fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist or other qualified specialist;

(c) Mobile fluoroscopy shall meet the requirements of subsection (6)(a) and (b) of this rule;

(d) Written procedures for technologists performing fluoroscopy shall be available and include:

(A) A description of the examinations that the technologist is allowed to perform;

(B) A description of the qualifications to be met by a technologist who is performing fluoroscopy;

(C) A list of all technologists who are qualified and who are performing fluoroscopy.

(e) At no time will any student be allowed to perform fluoroscopy unless directly supervised by a radiologist or qualified technologist;

(f) Overhead fluoroscopy is not to be routinely used as a positioning tool for radiographic exams.

(7) Use of techniques designed to compensate for anatomical thickness variations after the primary beam has exited the patient is specifically prohibited. This includes "split screen" imaging techniques whereby multiple speed intensifying screens are placed in the same cassette, or any techniques which rely on attenuation of secondary (remnant) radiation for compensatory purposes. Lead lined grids, which are designed to reduce scattered radiation are excluded from this provision.

(8) Filter slot covers shall be provided when necessary.

(9) All patients' radiographs, or copies shall be made available for review by any practitioner of the healing arts upon request of the patient.

(10) Protective equipment including aprons, gloves and shields shall be checked annually for defects, such as holes, cracks and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Agency. If such defect is found, equipment shall be replaced or removed from service until repaired. Fluoroscopy shall only be

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used for this purpose if a visual and manual check indicated a potential problem.

(11) Facilities shall determine or cause to be measured the typical patient exposure for their most common radiographic examinations. The exposures shall be recorded as milliroentgens measured in free air at the point of skin entrance for an average patient. These values must then be compared to existing guidelines, and if such values are significantly higher than such guidelines, action must be taken to reduce the values while at the same time maintaining or improving diagnostic image quality. In addition, typical patient exposure values shall be posted or made readily available to administrators, X-ray operators, patients and practitioners.

(12) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The record must indicate the patients name, the type of examination, the date of the examination, the fluoroscopists name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on time for each fluoroscopic examination and:

(a) DHS Response: Change wording of OAR 333-106-0045(12)(a) as follows: "Effective twelve (12) months after the effective date of this rule, establish cumulative fluoroscopic on-time benchmarks for each at least two (if applicable) of the most common types of fluoroscopic examinations performed at their site in the following categories:

- (A) Routine procedures performed on adults;
- (B) Routine procedures performed on children;
- (C) Orthopedic procedures performed in surgery;
- (D) Urologic procedures performed in surgery;
- (E) Angiographic procedures performed;
- (F) Interventional cardiac studies;

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic on-time benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action, when the established benchmarks are consistently exceeded The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmark/s established by the facility for a particular procedure on three or more occasions during the study period. Documentation of the RSC review, as well as any corrective action/s taken, must be available for Agency review. Corrective action should, at a minimum, include;

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching, training, etc. in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

(13) Dental X-ray machines designed and manufactured to be used for dental purposes shall be restricted to dental use only.

(14) An X-ray quality control program shall be administered when appropriate.

(15) The number of radiographs taken for any radiographic examination should be the minimum number needed to adequately diagnose the problem.

(16) All X-ray equipment must be capable of functioning at the manufacturer's intended specifications.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0055

X-ray Operator Training

(1) The registrant shall assure that individuals who will be operating the X-ray equipment shall have adequate training in radiation safety. Adequate training in radiation safety means a minimum of forty (40) hours of didactic instruction for medical X-ray equipment operators, thirty (30) hours for dental X-ray equipment operators, and twenty (20) hours for veterinary X-ray equipment operators from an Agency approved training course covering the following subjects:

- (a) Nature of X-rays;
- (b) Interaction of X-rays with matter;
- (c) Radiation units;
- (d) Principles of the X-ray machine;
- (e) Biological effects of X-ray;
- (f) Principles of radiation protection;
- (g) Low dose techniques;
- (h) Applicable radiation regulations;

(i) Darkroom and film processing;

(j) Film critique.

(2) In addition to the above;

(a) Medical X-ray equipment operators using diagnostic radiographic equipment on human patients, and who are not responsible to the Oregon Board of Radiologic Technology. Must have 100 hours or more of instruction in radiologic technology including but not limited to anatomy and physiology, patient positioning, exposure and technique all of which must be appropriate to the types of X-ray examination that the individual will be involved with; and

(b) Have 200 hours or more of X-ray laboratory instruction and practice in the actual use of an energized X-ray unit, setting techniques and practicing positioning of the appropriate diagnostic radiographic procedures that they intend to administer; and

(c) Must have completed the required radiation use and safety hours and a minimum of 50 hours in X-ray laboratory before X-raying a human patient; and

(d) The training required in OAR 333-106-0055(1) and (2) must be taught by an Agency approved Instructor. Approval will be based the following criteria;

(A) Medical:

(i) Currently licensed as a Radiologic Technologist and approved as an education provider by the Oregon Board of Radiologic Technology.

(B) Dental:

(i) Passed the Dental Assisting National Board (DANB) written radiology health and safety examination; And

(ii) Currently licensed, by the Oregon Board of Dentistry as a dentist;

or

(iii) Dental hygienist; or

(iv) Is a dental assistant certified in Radiologic proficiency and has a minimum of two years of experience in taking dental radiographs.

(C) Veterinarian:

(i) Currently credentialed with the Oregon Veterinary Medical Examining Board; or

(ii) Currently licensed as a Radiologic Technologist by the Oregon Board of Radiologic Technology; And

(iii) Have training specific to veterinarian radiography; And

(iv) Have a minimum of two years of experience in taking veterinary radiographs.

(D) On a case by case basis, if an evaluation by the Agency reveals the individual has alternative qualifications that are substantially equivalent to the qualifications listed in sections (2)(d)(A)(B), or (C) of this rule Alternative Radiation Safety Instructor Qualifications-(D) "The radiation safety training specified in OAR 333-106-0055(1) could also be provided by a person qualified under Agency rules as a Hospital Radiology Inspector, Qualified expert; or

(E) On a case by case basis, by a person whose qualifications as an instructor in radiation safety, are deemed by the Agency to be substantially equivalent to those listed in sections (2)(d)(A), (B), or (C) of this rule, or

(3) In addition to the requirements in sections (1), (2)(d)(B) of this rule, dental X-ray equipment operators must also satisfy any requirements established by the Oregon Board of Dentistry;

(4) The operator shall be able to demonstrate competency in the safe use of the X-ray equipment and associated X-ray procedures.

(5) Any operator is deemed to have adequate training to meet the requirements of section (1) of this rule if they meet any of the following:

(a) Hold a current license from the Oregon Board of Radiologic Technology;

(b) Hold a current limited permit from the Oregon Board of Radiologic Technology;

(c) Are a student in a two-year approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the supervision of a radiologist who is currently licensed with the Oregon Medical Examiners Board or a radiologic technologist who is currently registered with the American Registry of Radiologic Technologists and licensed with the Oregon Board of Radiologic Technology;

(d) Are a student in an Oregon Board of Radiologic Technology approved limited permit program under a Radiologic Technologist who is currently registered with the American Registry of Radiologic Technologists and licensed by the Oregon Board of Radiologic Technology; or

(e) Medical X-ray equipment operators not responsible to the Oregon Board of Radiologic Technology, who have met the training requirements

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listed in section (1) of this rule prior to September 1995, will be considered to have met the requirements of section (2) of these rules.

(f) Reciprocity. X-ray equipment operators who have received their radiation safety training outside of Oregon will be considered to have met the training requirements listed in section (1) or (2) as applicable of this rule, if the Agency's evaluation of their training or training and experience, reveals that they substantially meet the intent of section (1) or (2) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.695
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0101

Diagnostic X-ray Systems

Additional Requirements. In addition to other requirements of this Division, all diagnostic X-ray systems shall meet the following requirements:

(1) Warning Label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This X-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed".

(2) The state will attach an identification number to each X-ray control panel:

(a) Identification numbers shall not be removed without written permission of the Agency;

(b) Identification numbers shall not be defaced.

(3) Mobile and portable X-ray systems shall meet the requirements of a stationary system when used for greater than seven consecutive days in the same location.

(4) Battery Charge Indicator. On battery-powered X-ray generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(5) Leakage Radiation from the Diagnostic Source Assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 100 milliroentgens (25.8 C/kg) in one hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(6) Radiation from Components Other Than the Diagnostic Source Assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed two milliroentgens (0.516 C/kg) in one hour at five centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(7) Beam Quality:

(a) Half-Value Layer:

(A) The half-value layer of the useful beam for a given X-ray tube potential shall not be less than the values shown in Table 4. If it is necessary to determine such half-value layer at an X-ray tube potential which is not listed in Table 4, linear interpolation or extrapolation may be made; [Tables not included. See ED. NOTE.]

(B) In addition to the requirements of section (5) of this rule, all intra-oral dental radiographic systems manufactured on and after December 1, 1980, shall have a minimum half-value layer not less than 1.5 millimeters aluminum equivalent filtration permanently installed in the useful beam;

(C) Beryllium window tubes shall have a minimum of 0.5 millimeter aluminum equivalent filtration permanently installed in the useful beam;

(D) For capacitor energy storage equipment, compliance with the requirements of section (5) of this rule shall be determined with the maximum quantity of charge per exposure;

(E) The required minimal aluminum equivalent filtration shall include the filtration contributed by all materials which are always present between the source and the patient.

(b) Filtration Controls. For X-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filter(s) and shall prevent an exposure unless the minimum amount of filtration required by subsection (5)(a) of this rule is in the useful beam for the given kVp which has been selected.

(8) Multiple Tubes. Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. This indication

shall be both on the X-ray control panel and at or near the tube housing assembly which has been selected.

(9) Mechanical Support of Tube Head. The tube housing assembly supports shall be adjusted such that the tube housing assembly will remain stable during an exposure unless the tube housing movement is a designed function of the X-ray system.

(10) Technique Indicators:

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins. If automatic exposure controls are used, the technique factors which are set prior to the exposure shall be indicated;

(b) The requirement of subsection (10)(a) of this rule may be met by permanent marking on equipment having fixed technique factors.

(11) There shall be provided for each X-ray machine a means for determining the proper S.I.D.

(12) X-ray film developing requirements. Compliance with this section is required of all healing arts registrants and is designed to ensure that patient and operator exposure is minimized and to produce optimum image quality and diagnostic information:

(a) Manual processing of films:

(A) The following relationship between temperature of the development and development time must be used (standard chemistry only) or manufacturer's recommendations: [Tables not included. See ED. NOTE.]

(B) Processing of film. All films shall be processed in such a fashion as to achieve adequate sensitometric performance. This criterion shall be adjudged to have been met if:

(i) Film manufacturer's published recommendations for time and temperature are followed; or

(ii) Each film is developed in accordance with the time-temperature chart (see subsection (a) of this section).

(C) Chemical-film processing control:

(i) Chemicals shall be mixed in accordance with the chemical manufacturer's recommendations;

(ii) Developer replenisher shall be periodically added to the developer tank based on the recommendations of the chemical or film manufacturer. Solution may be removed from the tank to permit the addition of an adequate volume of replenisher.

(D) All processing chemicals shall be completely replaced at least every two months or as indicated by the manufacturer;

(E) Devices shall be available which will:

(i) Give the actual temperature of the developer; and

(ii) Give an audible or visible signal indicating the termination of a preset development time (in minutes or seconds).

(b) Automatic film processing. Films shall be processed in such a manner that the degree of film development is the same as would be achieved by proper adherence to subsection (a) of this section (manual processing);

(c) Darkrooms. Darkrooms shall be constructed so that film being processed, handled, or stored will be exposed only to light which has passed through an appropriate safelight filter;

(d) Safelights shall be properly mounted to eliminate film fogging;

(e) Safelights shall be properly matched to the type of film being used;

(f) Rapid film processing. Special chemicals have been designed for use in Endodontics. These chemicals have special development requirements and do not permit as large of a margin of error in darkroom technique as do standard developing chemicals. Failure to precisely follow manufacturer's recommendations can easily lead to overexposure and underdevelopment. Darkroom procedures shall include:

(A) The manufacturer's time temperature development is crucial and shall be followed exactly;

(B) Caution: A timer capable of accurately measuring the short development times required shall be used;

(C) If rapid chemical processing is used for general radiography all applicable requirements of section (12) of this rule shall be followed.

(g) The department shall make such tests as may be necessary to determine compliance with this section.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0105

Information and Maintenance Record and Associated Information

(1) The registrant shall maintain the following information for each x-ray and automatic film processing system for inspection by the Agency:

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(a) Model, serial numbers and manufacturer's user manuals for all x-ray systems and automatic film processors;

(b) Tube rating charts and cooling curves;

(c) Records of surveys, calibrations maintenance, and modification performed on the x-ray system(s) with names of persons who perform such services;

(d) A scale drawing of the room in which a stationary x-ray system is located with such drawing indicating the current use of areas adjacent to the room and an estimate of the extent of occupancy by individuals in such areas. In addition, the drawing shall include:

(A) The result of a survey for radiation levels present at the operator's position and at pertinent points outside the room at specified test conditions; or

(B) The type and thickness of materials, or lead equivalency, of each protective barrier.

(e) A copy of all correspondence with this Agency regarding that x-ray system;

(f) Provisions in section (1) of this rule shall pertain to X-ray systems placed in service after the effective date of these rules.

(2) X-ray Log. Each facility shall maintain an x-ray log containing the patient's name, the type of examinations, and the dates the examinations were performed and the name of the x-ray operator. The following facilities are exempt from this requirements:

(a) Dental facilities that maintain patient records showing the type and date of the examination and the operator's name;

(b) Industrial facilities doing industrial X-ray only;

(c) Veterinary facilities;

(d) Hospitals or clinics who employ only fully licensed X-ray operators;

(e) Doctors' offices or clinics with only one X-ray operator, or one X-ray exam;

(f) Academic, when not X-raying humans.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0210

Entrance Exposure Rates

(1) Fluoroscopic equipment manufactured before May 19, 1995 that is provided with Automatic Exposure Rate Control (AERC) shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute, at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or;

(b) When optional high-level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(2) Fluoroscopic equipment that is not provided with AERC shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or

(A) When optional high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(3) Equipment with both an AERC mode and a manual mode. Fluoroscopic equipment that is provided with both an AERC and a manual mode shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute in either mode at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images, or;

(A) When the mode or modes have an optional high-level control, in which case that mode or modes shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated.

Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(4) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirements set forth in sections 1, 2, and 3 of this rule.

(5) For fluoroscopic equipment manufactured on and after May 19, 1995, the following requirements will apply:

(a) Fluoroscopic equipment operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient shall be equipped with AERC. Provision for manual selection of the technique factors may be provided.

(b) Fluoroscopic equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute at a point where the center of the useful beam enters the patient except;

(A) During the recording of fluoroscopic images from an x-ray image-intensifier tube using photographic film or a video camera when the x-ray source is operated in a pulsed mode.

(B) When an optional high-level control is activated, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of twenty (20) roentgens per minute at a point where the center of the useful beam enters the patient. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(4) Measuring compliance. Compliance with the requirements of this rule shall be determined as follows:

(a) If the source is below the table, exposure rate shall be measured one (1) centimeter above the tabletop or cradle;

(b) If the source is above the table, the exposure rate shall be measured at thirty (30) centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;

(c) For a C-arm type of fluoroscope, the exposure rate shall be measured thirty (30) centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than thirty (30) centimeters from the input surface of the fluoroscopic imaging assembly;

(d) For a lateral type fluoroscope, the exposure rate shall be measured at a point fifteen (15) centimeters from the centerline of the X-ray table and in the direction of the X-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is moveable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than fifteen (15) centimeters to the centerline of the X-ray table.

(5) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirement set forth in section 5 of this rule.

(6) Periodic measurement of entrance exposure rate shall be performed as follows:

(a) Such measurement shall be made annually or after any maintenance of the system which might affect the exposure rate;

(b) Results of these measurements shall be posted where any fluoroscopist may have ready access to such results while using the fluoroscope and in the record required in OAR 333-106-0105(1)(c). The measurement results shall be stated in roentgens per minute and include the technique factors used in determining such results. The name of the person performing the measurements and the date the measurements were performed shall be included in the results;

(c) Personnel monitoring devices may be used to perform the measurements required by subsection (5)(a) of this rule, provided the measurements are made as described in subsection (5)(d) of this rule;

(d) Conditions of periodic measurement of entrance exposure rate are as follows:

(A) The measurement shall be made under the conditions that satisfy the requirements of section (4) of this rule;

(B) The kVp shall be the kVp typical of clinical use of the X-ray system;

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(C) The X-ray system(s) that incorporates automatic exposure control shall have sufficient material placed in the useful beam to produce a milliamperage typical of the use of the X-ray system or the worst case; and

(D) X-ray system(s) that do not incorporate an automatic exposure control shall utilize a milliamperage typical of the clinical use of the X-ray system.

NOTE: Materials should be placed in the useful beam when conducting these periodic measurements to protect the imaging system.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0220

Indication of Potential and Current

During fluoroscopy and cinefluorography x-ray tube potential and current shall be continuously indicated. Deviation of x-ray tube potential and current from the indicated values shall not exceed the maximum deviation stated by the manufacturer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0325

Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101, the requirements of this rule apply to X-ray equipment and associated facilities used for intraoral dental radiography. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320. Only systems meeting the requirements of OAR 333-106-0325 shall be used.

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than:

(a) 18 centimeters if operable above 50 kVp; or

(b) 10 centimeters if operable at 50 kVp only.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that the beam at the minimum SSD shall be containable in a circle having a diameter of no more than seven (7) centimeters:

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure by through the adjustment of exposure time, number of pulses, and/or current/milliamps (mA), or the product of current and exposure time (mAs). In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not initiated without such an action ; and

(b) It shall not be possible to make an exposure when the timer is set to a "zero" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Exposure termination.

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An x-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 1/2 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "zero".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control shall be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area which shall be located behind a secondary protective barrier as defined in OAR 333-106-0005(66)(b) and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of paragraph (4)(b)(A) of this rule;

(B) Used for less than one week at the same location, i.e., a room or suite, shall be provided with either a protective barrier of at least six and

one half (6.5) feet (2 meters) high for operator protection, or a means to allow the operator to be at least nine (9) feet (2.7 meters) from the tube housing assembly while making exposures.

(5) Exposure Reproducibility. When the equipment is operated on an adequate power supply as specified by the manufacturer, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05 for any specific combination of technique factors. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (E_{max}) minus the minimum exposure (E_{min}): $E > 5 (E_{max} - E_{min})$

(6) Accuracy. (a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer. In the absence of manufacturer's specifications the deviation shall not exceed ten (10) percent of the indicated value for kVp and twenty (20) percent for exposure time.

(b) kVp Limitations. Dental x-ray machines with a nominal fixed kVp of less than 50 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls:

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand-held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of subsections (2)(a) of this rule or its updated version;

(d) All patients shall be provided with a leaded lap apron during any X-ray exposure;

(e) Dental fluoroscopy without image intensification shall not be used;

(f) Pointed cones shall not be utilized unless specific authorization has been granted by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0575

Spot Checks

Spot checks shall be performed on systems subject to OAR 333-106-0480 during calibrations and thereafter at intervals not to exceed one month. Such spot checks shall meet the following requirements:

(1) The spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Agency prior to its implementation.

(2) If a radiological physicist does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a radiological physicist within 15 days.

(3) The spot-check procedures shall specify the frequency at which tests or measurements are to be performed and the acceptable tolerance for each parameter measured in the spot check when compared to the value for that parameter determined in the calibration.

(4) At intervals not to exceed one week, spot checks shall be made to ensure that the energy remains within ± 3 percent.

(5) Where a system has built-in devices which provide a measurement of any parameter during irradiation, such measurement shall not be utilized as a spot-check measurement.

(6) The cause for a parameter exceeding a tolerance set by the radiological physicist shall be investigated and corrected before the system is used for patient irradiation.

(7) Whenever a spot check indicates a significant change in the operating characteristics of a system, as specified in the radiological physicist's spot-check procedures, the system shall be recalibrated as required in OAR 333-106-0570(1).

(8) Records of spot-check measurements shall be maintained by the registrant for a period of 2 years after completion of the spot-check measurements and any necessary corrective actions.

(9) Where a spot check involves a radiation measurement, such measurements shall be obtained using a system satisfying the requirements of OAR 333-106-0570(3) or which has been intercompared with a system meeting those requirements within the previous year.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-106-0700

Definitions

In addition to the definitions provided in Division 100 and 106 of these rules, the following definitions shall be applicable to the rules in this section.

(1) Air Kerma means the sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a given mass of air. The unit used to measure the quantity of kerma is the Gray (Gy). For x-rays with energies below 300 kiloelectronvolts (keV), 1Gy=100 rad and is equivalent to 114 Roentgens (R) of exposure.

(2) FDA means the Food and Drug Administration.

(3) An Image receptor support surface means that portion of the image receptor support which is the x-ray input surface and is used to support the patient's breast during mammography.

(4) Interpreting physician means a licensed physician who interprets mammographic images and meets the qualifications of OAR 333-106-0750(2).

(5) Lead Interpreting Physician means a physician who interprets mammographic images, meets the qualifications of OAR 333-106-0750(2), and who has the general responsibility for ensuring that the registrant's quality assurance program meets all applicable rules and regulations.

(6) Mammographic screening means the use of radiation to test women for the detection of diseases of the breast when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such tests for the purposes of diagnosis. Screening is considered as self-referral by asymptomatic women without physicians orders (see OAR 333-100-0020(5)(6) and 333-106-0035(3)).

(7) Mammography means radiography of the breast.

(8) Mammography equipment evaluation means an onsite assessment of a mammography unit/s or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable state and federal standards.

(9) Mammography unit/s means an assemblage of components for the production of X-rays for use during mammography, including, at a minimum; An X-ray generator, an X-ray control, a tube housing assembly, a beam limiting device, and the supporting structures for these components.

(10) Medical Physicist means a person trained in evaluating the performance of mammography equipment and quality assurance programs and meets the qualifications of OAR 333-106-0750(3).

(11) MQSA means the Mammography Quality Standards Act of 1992.

(12) Phantom means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. (The "FDA accepted phantom" meets this requirement.)

(13) Quality Assurance is a comprehensive concept that comprises all of the management practices instituted by the registrant or the registrant's representative/s to ensure that:

(a) Every imaging procedure is necessary and appropriate to the clinical problem at hand;

(b) The images generated contain information critical to the solution of that problem;

(c) The recorded information is correctly interpreted and made available in a timely fashion to the patient's physician;

(d) The examination results in the lowest possible radiation exposure, cost, and inconvenience to the patient, consistent with objective (b) noted above.

(14) Quality Assurance Program includes such facets as efficacy studies, continuing education, quality control, preventive maintenance, and calibration of equipment.

(15) Quality Control means a series of distinct technical procedures that ensure the production of a satisfactory product, e.g., a high quality screening or diagnostic image.

(16) Quality Control Technologist means an individual who is qualified under MQSA, and who is responsible for those quality assurance responsibilities not assigned to the Lead Interpreting Physician or to the Medical Physicist.

(17) Resting period means the period of time necessary to bleed out air that has been trapped between the radiographic film and intensifying screen during the loading process in the darkroom. This period of time is usually measured in minutes and determined by the individual manufacturer of the intensifying screen/mammography cassette combination.

(18) Standard Breast means a 4.2 centimeter(cm) thick compressed breast, consisting of 50 percent adipose, and 50 percent glandular tissue.

(19) Survey means an onsite physics consultation and evaluation of a registrant's mammography equipment, and quality assurance program performed by a medical physicist.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0710

Equipment Standards

Only x-ray systems meeting the design and performance standards required under MQSA shall be used, unless otherwise specified in the following rules.

(1) System design. The x-ray system shall be specifically designed for mammography.

(2) Image receptor.

(a) Image receptor systems shall be specifically designed, or appropriate for mammography.

(b) Systems using screen-film image receptors shall provide, at a minimum, image receptor sizes of 18X24, and 24X30 centimeters (cm).

(c) An adequate number of image receptors shall be provided to accommodate the resting period recommended by the manufacturer.

(3) Target/filter. The x-ray system shall have the capability of providing kVp/target/filter combinations compatible with image receptor systems meeting the following requirements;

(a) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(b) When more than one target is provided, the system shall indicate, prior to exposure, the preselected target material.

(c) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after exposure, the target material and/or focal spot actually used during the exposure.

(4) Beam quality: When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam shall have a minimum half-value layer (HVL). The minimum HVL, for mammography equipment designed to operate below 50 kVp, is determined by dividing the actual kVp by 100, and is expressed in millimeters (mm) of aluminum equivalent.

(5) Resolution. Until October 28, 2002, focal spot condition shall be evaluated either by determining system resolution or by measuring focal spot dimensions. After October 28, 2002, facilities shall evaluate focal spot condition only by determining system resolution.

(a) Each X-ray system used for mammography, in combination with the mammography screen-film combination used, shall provide a minimum resolution of 11 Cycles/millimeters (mm)(line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

(b) The bar pattern shall be placed 4.5 centimeters (cm) above the image receptor support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 centimeter (cm) of the chest wall edge of the image receptor.

(6) Compression.

(a) All mammography systems shall incorporate a compression device capable of compressing the breast with a force of at least 25 pounds.

(b) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 25 pounds and 45 pounds.

(c) All mammography systems shall be equipped with different sized compression paddles that match the sizes of all full field image receptors provided for the system. The compression paddle shall:

(A) Be flat and parallel to the image receptor support and shall not deflect from parallel by more than 1.0 centimeter (cm) at any point on the surface of the compression paddle when compression is applied. If the compression paddle is not designed to be flat and parallel to the image receptor support during compression, it shall meet the manufacturer's design specifications and maintenance requirements;

(B) Have a chest wall edge that is straight and parallel to the edge of the image receptor support;

(C) Clearly indicate the size and available positions of the detector at the x-ray input surface of the compression paddle;

(D) Not extend beyond the chest wall edge of the image receptor support by more than one (1) percent of the SID when tested with the compression paddle placed above the support surface at a distance equivalent to a standard breast thickness;

(E) Shall not be visible, at its vertical edge, on the image.

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(c) When equipped with a compression paddle height digital display, the display shall accurately represent the actual height of the compression paddle to within + or - 0.5 centimeter (cm). Testing shall be performed according to manufacturer's specifications.

(7) System capabilities. A mammographic x-ray system utilizing screen-film image receptors shall:

(a) Be equipped with moving grids matched to all image receptor sizes provided.

(b) Provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, non-grid, magnification; and various target-filter combinations.

(A) The automatic exposure control shall be capable of maintaining film optical density(OD) within + or - 0.30 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 centimeters (cm) and the kVp is varied appropriately for such thicknesses over the kVp range used clinically. If this requirement can not be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different thicknesses and compositions that must be used so that optical densities within + or - 0.30 of the average under photo- timed conditions can be produced;

(B) After October 28, 2002, the AEC shall be capable of maintaining film optical density (OD) to within + or - 0.15 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 centimeters (cm) and the kVp is varied appropriately for such thicknesses over the kVp range used clinically.

(8) Breast entrance kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

(9) Collimation.

(a) All mammography systems shall have beam limiting devices that allow the entire chest wall edge of the X-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the X-ray field does not extend beyond any edge of the image receptor by more than two (2) percent of the SID. Under no circumstances, shall the X-ray field extend beyond the non-chest wall edges of the image receptor support.

(b) The total misalignment of the edges of the visually defined light field with the respective edges of the X-ray field either along the length or width of the visually defined field shall not exceed two (2) percent of the SID.

(10) Kilovoltage peak (kVp) accuracy and reproducibility;

(a) The kVp, shall be accurate within + or - five (5) percent of the indicated or selected kVp at the lowest clinical kVp that can be measured by a kVp test device, and the most commonly used, and highest available clinical kVp; and

(b) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

(11) Dose. The average glandular dose delivered during a single cranio-caudal view of an FDA accepted phantom simulating a standard breast, shall not exceed 200 millirad (2.0 mGy). The dose shall be determined with technique factors and conditions used, by the registrant, clinically for a standard breast. The testing protocol used shall be the same as used by MQSA.

(a) If the average glandular dose exceeds 200 millirad (2.0 mGy) but is no greater than 250 millirad (2.5 mGy), patient mammography may be continued until the cause of the problem is determined and corrected. Correction must be completed within thirty (30) working days of when the registrant became aware of the problem. If correction has not been completed within thirty (30) working days, and the registrant has not requested an extension in writing from the agency, patient mammography must cease until correction of the dose problem has occurred.

(b) If the average glandular dose exceeds 250 millirad (2.5 mGy), patient mammography must cease until the cause of the dose problem is determined and corrected.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0720

Quality Assurance Program

(1) The registrant shall have a written, on-going equipment quality assurance program specific to mammographic imaging, covering all components of the diagnostic x-ray imaging system. The quality assurance program shall include the testing required in section (5) of this rule, as well as the evaluation of the test results and corrective actions necessary to ensure

consistently high-quality images with minimum patient exposure. Responsibilities under this requirement are as follows:

(a) The registrant shall identify in policy/procedure, by name, a Lead Interpreting Physician meeting the requirements of OAR 333-106-0750(2), whose responsibilities at a minimum must include:

(A) Ensuring that the registrant's quality assurance program meets all associated rules and regulations;

(B) Ensuring that an effective quality assurance program exists;

(C) Providing frequent feedback to mammography technologists regarding film quality and quality control procedures;

(D) Reviewing the Quality Control Technologist's test data at least every three months, or more if consistency has not been shown or problems are evident;

(E) Reviewing the Medical Physicist's annual survey report/ or equipment evaluation results.

(b) The registrant shall identify in policy/procedure, by name, and have the services of, a Medical Physicist who meets the requirements of OAR 333-106-0750(3). The Medical Physicist shall assist in overseeing the equipment quality assurance practices of the registrant. At a minimum, the Medical Physicist shall be responsible for the annual surveys, mammography equipment evaluations, and associated reports meeting all the requirements of MQSA.

(c) The registrant shall identify in policy/procedure, by name, a single qualified Quality Control Technologist meeting the requirements of OAR 333-106-0750(1), who shall be responsible for:

(A) Equipment performance monitoring functions;

(B) Analyzing the monitoring results to determine if there are problems requiring correction;

(C) Carrying out or arranging for the necessary corrective actions when results of quality control tests including those specified in section (5) of this rule, indicate the need; and

(D) The Quality Control Technologist may be assigned other tasks associated with the quality assurance program that are not assigned to the Lead Interpreting Physician or Medical Physicist. These additional tasks must be documented in written policy/procedure.

(2) Annual Survey. At intervals not to exceed 12-14 months, the registrant shall have a Medical Physicist meeting the requirements of OAR 333-106-0750(3) conduct a survey to evaluate the mammography equipment, and the effectiveness of the quality assurance program required in section (1) of this rule. Records of annual surveys shall be maintained for a minimum of two years, and shall be available on-site for agency review.

(3) Annual survey /or equipment evaluation corrective actions. Corrective action shall be completed within thirty (30) working days of when the registrant received written or verbal notice of recommendations or failures on their annual survey /or equipment evaluation report, unless otherwise noted in these rules or a written request for extension has been submitted to and approved by the Agency;

(a) Correction of equipment related failures or recommendations shall be demonstrated by a repeat test using the same test methodology and documentation, or a test accepted as the equivalent by the Agency, that was used to initially identify the problem.

(b) When the results of a quality control test/s fail to meet applicable action limits defined in these rules, the appropriate action regarding the suspension or continuation of mammography as defined in these rules or in MQSA, shall be taken.

(4) Quality assurance records. The registrant shall ensure that;

(a) Records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, policies, previous inspection findings, and radiation protection are maintained until inspected by the agency.

(b) Quality control monitoring data and records, problems detected by the analysis of that data, corrective actions, and records of the Lead Interpreting Physician's periodic reviews of the Quality Control Technologist's monitoring data taken must be maintained for a minimum of two years.

(5) Equipment quality control tests frequency. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed or replaced and performed thereafter at least as often as the frequency specified as follows; [Table not included. See ED. NOTE.]

(6) Testing methods and action limits for quality control tests shall meet the most current requirements of MQSA, in addition to the following;

(7) Screen/film contact. Screen film contact tests shall be performed on all screens used clinically, using a 40 mesh test tool and 4 cm thick sheet of acrylic. Screens demonstrating one or more areas of poor contact that are

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greater than 1 cm in diameter, that are not eliminated by screen cleaning, and remain in the same location during subsequent tests, shall not be used for mammography. Screen/film contact shall be such that any areas of poor contact, regardless of size, shall not detract from image quality.

(8) Processor performance. A processor performance test shall be performed by sensitometric means and evaluated daily, after the solution temperature in the processor has reached proper temperature, and just prior to processing any clinical mammograms. The test shall be an assessment of the base plus fog, mid-density, density difference, and developer temperature.

(a) Sensitometers and densitometer used to evaluate processor performance shall be calibrated every twelve (12) months and a record of the calibration shall be maintained until inspected by the Agency.

(b) The mid-density and density difference action limits must be within + or - 0.15 of the control operating level.

(c) The base plus fog (B+F) action limit must be within + or - 0.03 of the control operating level.

(d) If the mid-density and/or the density difference fall outside of the + or - 0.15 control limit but within the + or - 0.15 control limit for a period of three (3) days (a trend), steps must be taken to determine the cause and correct the problem ;

(e) If the mid-density and/or the density difference falls outside of the + or - 0.15 control limit, mammograms must not be processed through the processor until the cause of the problem is determined, corrected, and a repeat test is done demonstrating that the mid-density and/or density difference are within the + or - 0.15 control limit;

(f) Processor quality control graphs must be in the format of the registrant's accrediting body or equivalent, and indicate test date/s, mid-density and density difference action limits, base plus fog action limit, film brand, type and emulsion number in use, as well as high-lighting the date column when chemistry changes occurred, and noting corrective action taken when limits are exceeded;

(g) Cross over records and calculations must be maintained for agency review. New mid-density and/or density difference operating levels must be charted on a new graph page.

(h) Re-establishment of operating levels must be done in accordance with the accrediting body's protocol regarding the appropriateness of this procedure or at the specific direction of the facility's medical physicist.

(i) While re-establishing operating levels (five day average), the facility must chart each day's results against its old operating control levels. At the end of the five days, a new chart must be established, indicating the new calculated operating limits. During the five day average, the facility will not be cited for having exceeded the old processor operating levels, and must also do a phantom image test each day. Should the phantom image test exceed either the + 0.20 background optical density limit or the +0.05 density difference limit, mammography must be suspended until the cause of the problem is identified and corrected, and a repeat phantom image test is shown to be within limits.

(9) Primary/secondary barrier transmission — upon initial x-ray system installation and significant modification of the system or the facility.

(10) Image quality. The mammography system must be capable of producing an image of the phantom demonstrating the following;

(a) A minimum score of four (4.0) fibers, three (3.0) speck groups, and three (3.0) masses (or the most current minimum score established by the accrediting body and accepted by the FDA).

(b) Background density action limits within + or - 0.20 of the control level ;

(c) Density difference action limits within + or - 0.05 of the control level;

(d) Milliamperes seconds (mAs) within + or - 15% of the control level;

(e) Demonstrating a level of contrast sufficient enough to clearly help define fibril, speck, and mass edges.

(f) Without objectionable levels of image noise or quantum mottle that obscure the visualization of fibrils, specks, or masses.

(g) Demonstrating reasonably sharp fibril, and mass margins.

(h) With a minimum optical density (measured at the center of the phantom) of 1.20.

(i) Phantom image test records must be in the most current format of the registrant's accrediting body or the equivalent, and indicate the exposure mode, kVp, and photo-cell used for the test as well as remarks indicating the corrective action that was taken when limits were exceeded.

(j) When phantom image results do not meet the requirements defined in sections (a),(b),(c), (d),(e), (f),(g),or (h) of this rule, corrective action must occur, and a repeat phantom image test must be performed demon-

strating compliance, before further mammography examinations are performed using the x-ray machine.

(11) Darkroom fog. Darkroom fog levels shall not exceed 0.05 in optical density when sensitized film is exposed to darkroom conditions with safelight on for two (2) minutes. Film shall be sensitized by exposing it to sufficient light from an appropriate intensifying screen so that after processing, an optical density of at least 1.20 is achieved.

(a) If the darkroom fog level exceeds 0.05 in optical density but is less than 0.10, mammography may be continued until the problem is corrected.

(b) If the darkroom fog level exceeds 0.10 in optical density, mammography must be curtailed until the problem is corrected and the fog level no longer exceeds 0.05 in optical density.

(12) Repeat rate. Corrective actions shall be recorded and the results of these corrective actions shall be assessed if the reject rate exceeds five (5) percent or changes by +2% from the previously measured rate. The reject rate shall be based on repeated clinical images.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0730

Additional Requirements

(1) Masks. Masks shall be provided on the view boxes to block extraneous light from the viewer's eye when the illuminated surface of the view box is larger than the area of clinical interest.

(2) Film processing. Film processors utilized for mammography shall be:

(a) Used with x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

(b) Use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

(c) Be adjusted to and operated at the specifications recommended by the mammographic film manufacturer, or at other settings such that the sensitometric performance is at least equivalent.

(3) Instruments and devices. The following instruments and devices shall be available and properly maintained;

(a) FDA accepted image quality phantom;

(b) 21 step sensitometer that is calibrated every 12 months;

(c) Densitometer that is calibrated every 12 months and checked against the instrument control strip at least monthly.

(4) Image retention. Clinical images shall be retained for a minimum of five (5) years or not less than ten (10) years if no additional mammograms of the patient are performed.

(5) Mobile Mammography. In addition to meeting the requirements of this section as well as OAR 333-106-0699, 333-106-0710, 333-106-0720, 333-106-0730, and 333-106-0750, registrants shall ensure that for a mammography system that is used at more than one location:

(a) The film processor is operated in accordance with the requirements of OAR 333-106-0740(2)(a)(b)(c)(d), and is located where the mammography examinations are performed (batch processing is prohibited).

(b) The following tests are conducted, evaluated and documented after every move and before any mammography examinations are conducted, in order to verify that the unit's performance continues to meet quality requirements:

(A) Phantom image;

(B) The measured radiation output or the data from the post exposure mAs display does not deviate by more than + or - 10 % of the established operating level.

(6) Technique charts. Mammography technique charts shall be posted in the vicinity of the mammography system's X-ray control. The technique chart shall indicate;

(a) Technique factors for 3, 3-5, 5-7, and > 7 centimeter compressed breast thicknesses for fatty, 50 percent fatty-50 percent dense, and dense breast tissue;

(b) The target/filter combination to be used;

(c) The kVp to be selected for the patient sizes and breast tissue compositions indicated in section (a) of this rule, or if an auto-kVp mode is used, indicate the post kVp that is selected;

(d) The exposure mode to be used (i.e. auto-kVp, manual, etc.);

(e) The manual technique factors to be used for small, medium, and large sized breast tissue specimens, and implanted breasts;

(f) The film/ screen combination to be used;

(g) The date that the technique chart was last reviewed for accuracy and the name of the reviewer.

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Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-106-0750

Personnel Qualifications

(1) Operator qualifications. In order to use any mammography X-ray machine the operator of the mammography X-ray unit must have the following qualifications:

(a) Have a current license issued by the Oregon Board of Radiologic Technology; and

(b) Have prior to the effective date of these rules qualified as a radiologic technologist under the MQSA interim rules or completed forty (40) contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not be limited to:

(A) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, imaging patients with breast implants;

(B) The performance of 25 examinations under the direct supervision of an individual qualified under this section; and

(C) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams; and

(D) Be currently registered and in good standing with the American Registry of Radiologic Technologist (ARRT); and

(E) Be certified in mammography by the ARRT or the equivalent; or

(F) Provide documented evidence that an ARRT mammography certification test is scheduled. Technologists meeting the requirements of sections (1)(a)(b)(A)(B)(C)(D) of this rule may work under the supervision (supervision means that a fully qualified technologist is on-site and readily available to answer questions or assist) of a technologist, meeting all of the requirements of this rule, for up to one year while waiting to take the certification test.

(2) Interpreting Physician qualifications. All physicians interpreting mammograms shall meet MQSA qualifications; and

(a) Hold a current license to practice medicine in the State of Oregon;

(3) Medical Physicist qualifications. All Medical Physicists conducting surveys and equipment evaluations of mammography facilities and providing oversight of their quality assurance programs shall;

(a) Meet MQSA requirements; and

(b) Be currently licensed as a vendor by the agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-111-0010

Instructions to Workers

All individuals working in or frequenting any portion of a restricted area:

(1) Shall be kept informed of the storage, transfer or use of sources of radiation in such portions of the restricted area;

(2) Shall be instructed in the health protection problems associated with exposure to radiation or radioactive material, in precautions or procedures to minimize exposure and in the purposes and functions of protective devices employed;

(3) Shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of these rules and licenses for the protection of personnel from exposures to radiation or radioactive material occurring in such areas;

(4) Shall be instructed of their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to or cause a violation of Agency rules and licenses or unnecessary exposure to radiation or radioactive material;

(5) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

(6) Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to OAR 333-111-0015.

(7) Refresher training shall be provided at intervals not to exceed three (3) years covering the topics identified in 333-111-0010.

NOTE: The extent of these instructions shall be commensurate with potential radiological health protection problems in the restricted area.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.745

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0010

Purpose and Scope

This Division establishes requirements and provisions to regulate the production, preparation, compounding and use of radionuclides in the healing arts and for issuance of licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of this Division are in addition to, and not in substitution for, others in these Rules. The requirements and provisions of these Rules apply to applicants and licensees subject to this Division unless specifically exempted.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0020

Definitions

As used in this Division, the following definitions apply:

(1) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used, or stored.

(2) "Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using or storing radioactive material;

(3) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915; or

(b) Is identified as an authorized nuclear pharmacist on an Agency, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of byproduct material in the practice of nuclear pharmacy; or

(c) Is identified as an authorized nuclear pharmacist on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(4) "Authorized user" means a practitioner of the healing arts who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740 or

(b) is identified as an authorized user on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(5) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(6) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centimeters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(7) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(8) "Dental use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(9) "Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(10) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

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(11) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of 2 gray (200 rads) per hour, to the point or surface where the dose is prescribed.

(12) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than 2 gray (200 rads) per hour, to the point or surface where the dose is prescribed.

(13) "Management" means the chief executive officer or that individual's designee;

(14) "Medical institution" means an organization in which several medical disciplines are practiced;

(15) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user.

(16) "Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(17) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 μ Ci) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical, or

(B) When both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceed 1.11 megabecquerels (30 μ Ci).

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 megabecquerels (30 μ Ci) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; or

(B) When the dose to the individual exceeds 50 millisieverts (5 rem) effective dose equivalent or 500 millisieverts (50 rem) dose equivalent to any individual organ.

(18) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(19) "Nuclear Pharmacist" means an authorized nuclear pharmacist, as defined in OAR 333-116-0020(3), who has received additional training, pursuant to 333-116-0910 and 333-116-0915 in the management and handling of radioactive drugs and is authorized by license to receive, use, transfer, and dispose of such radioactive drugs.

(20) "Output" means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(21) "PET" means Positron Emission Tomography

(22) "PET Isotope Nuclear Pharmacy" means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(23) "PET cyclotron facility" means a facility that manufactures short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(24) "PET Medical Facility" means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(25) "Pharmacist" means an individual licensed by a State or Territory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(26) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(27) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record, in accordance with the directions of the authorized user for diagnostic procedures.

(28) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction, as documented in the written directive;

(c) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote afterloaders, the total dose as documented in the written directive.

(29) "Podiatric use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(30) "Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(31) "Positron Emission Tomography (PET) facility" means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(32) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(33) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote afterloaders, the total dose as documented in the written directive.

(34) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the "high dose rate" range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(35) "Radiation Safety Officer" means the individual identified as the Radiation Safety Officer on a Agency, Agreement State, or U.S. Nuclear Regulatory Commission license.

(36) "Recordable event" means the administration of:

(a) A radiopharmaceutical or radiation without a written directive where a written directive is required;

(b) A radiopharmaceutical or radiation where a written directive is required without daily recording of each administered radiopharmaceutical dosage or radiation dose in the appropriate record;

(c) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 μ Ci) of either sodium iodide I-125 or I-131 when both:

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(A) The administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage, and

(B) The difference between the administered dosage and prescribed dosage exceed 15 micro-curies;

(d) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage;

(e) A teletherapy radiation dose when the calculated weekly administered dose is 15 percent greater than the weekly prescribed dose; or

(f) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than 10 percent of the prescribed dose.

(37) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(38) "Stereotactic radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(39) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(40) "Teletherapy physicist" means the individual identified as the qualified teletherapy physicist on a Agency license.

(41) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(42) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(43) "Unit dosage" means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Agency as a nuclear pharmacy.

(44) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(45) "Written directive" means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 μ Ci) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0025

FDA, Other Federal, and State Requirements

Nothing in this part relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs or devices.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0035

Application for License, Amendment, or Renewal

(1) An application must be signed by the management of the facility.

(2) An application for a license for medical use of radioactive material as described in OAR 333-116-0200, 333-116-0300, 333-116-0320, 333-116-0360, 333-116-0400, and 333-116-0420 and for medical use of remote afterloaders in 333-116-0480, must be made by filing a "Radioactive Materials License Application — Medical". A request for a license amendment or renewal may be submitted in letter format.

(3) Except for medical use of remote afterloaders, a separate license application must be filed for each medical use of radioactive material as described in 333-116-0480 by filing a "Radioactive Materials License Application — Medical" A request for a license amendment or renewal may be submitted in letter format.

(4) An application for a license for medical use of radioactive material as described in 333-116-0800 must be made by filing a "Radioactive Materials License Application — Medical."

(a) In addition to the information required in the "Radioactive Materials License Application — Medical," the application must also include information regarding any radiation safety aspects of the medical use of the radioactive material that is not addressed in this division, as well as any specific information necessary for:

(A) Radiation safety precautions and instructions;

(B) Training and experience of proposed users;

(C) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(D) Calibration, maintenance, and repair of equipment necessary for radiation safety.

(b) The applicant of licensee shall also provide any other information requested by the Agency in its review of the application.

(5) An applicant that satisfies the requirements specified in OAR 333-102-0900 may apply for a Broad Scope A specific license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0040

License Amendments

A licensee shall apply for and shall receive a license amendment:

(1) Before using radioactive material for a method or type of medical use not permitted by the license issued under this Division;

(2) Before permitting anyone, except a visiting authorized user described in OAR 333-116-0110, to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license except an individual who is:

(a) An authorized user who meets the requirements of 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0690, 333-116-0700, 333-116-0710 or 333-116-0720 of these rules;

(b) An authorized nuclear pharmacist who meets the requirements in OAR 333-116-0910;

(c) Identified as an authorized user, or an authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively, or

(3) Before changing the Radiation Safety Officer or Teletherapy Physicist;

(4) Before receiving radioactive material in excess of the amount authorized on the license;

(5) Before adding to or changing the area of use or mailing address identified on the license; and

(6) Before changing statements, representations and procedures which are incorporated into the license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0050

Notifications

(1) A licensee shall provide to the Agency a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of Broad Scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, pursuant to OAR 333-116-0040(2)(a) through (c)

(2) A licensee shall notify the Agency by letter no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer or an authorized medical Physicist permanently discontinues performance of duties under the license or has a name change.

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name does not constitute a transfer of control of the license as described in OAR 333-102-0305 of these rules; or

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(d) The licensee has added to or changed the areas where radioactive material is used in accordance with 333-116-0200 and 333-116-0300.

(3) The licensee shall mail the documents required in this Division to the Agency for review.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0055

Exemptions Regarding Type A Specific Licenses of Broad Scope

A licensee possessing a Type A specific license of broad scope for medical use is exempt from:

(1) The provisions of OAR 333-116-0040(2);

(2) The provisions of 333-116-0040(5) regarding additions to or changes in areas of use only at the addresses specified in the license;

(3) The provisions of 333-116-0050(1);

(4) The provisions of 333-116-0050(2)(a) for an authorized user, or authorized nuclear pharmacist, and

(5) The provisions of 333-116-0140(1).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0057

License Issuance

(1) The Agency shall issue a license for the medical use of radioactive material if:

(a) The applicant has filed a "Radioactive Materials License Application — Medical" in accordance with the instructions in OAR 333-116-0035;

(b) The applicant has paid any applicable fee as provided in Division 103 of these rules;

(c) The Agency finds the applicant equipped and committed to observe the safety standards established by the Agency in these rules for the protection of the public health and safety; and

(d) The applicant meets the requirements of Division 102 of these rules.

(2) The Agency shall issue a license for mobile services if the applicant:

(a) Meets the requirements in paragraph (1) above; and

(b) Assures that individuals or human research subjects to whom radiopharmaceuticals or radiation from implants will be administered may be released following treatment in accordance with 333-116-0460.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0059

Specific Exemptions

The Agency may, upon application of any interested person or upon its own initiative, grant such exemptions from the regulations in this division as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0070

Radiation Safety Officer

(1) A licensee shall appoint a Radiation Safety Officer responsible for implementing the radiation safety program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

(2) The Radiation Safety Officer shall:

(a) Investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, disposals, misadministrations and other deviations from approved radiation safety practice and implement corrective actions as necessary;

(b) Establish and implement written policy and procedures for:

(A) Authorizing the purchase of radioactive material;

(B) Receiving and opening packages of radioactive material;

(C) Storing radioactive material;

(D) Keeping an inventory record of radioactive material;

(E) Using radioactive material safely;

(F) Taking emergency action if control of radioactive material is lost;

(G) Performing periodic radiation surveys;

(H) Performing checks and calibrations of survey instruments and other safety equipment;

(I) Disposing of radioactive material;

(J) Training personnel who work in or frequent areas where radioactive material is used or stored; and

(K) Keeping a copy of all records and reports required by the Agency Rules, a copy of these Rules, a copy of each licensing request and license and amendments and the written policy and procedures required by the Rules.

(c) Brief management once each year on the byproduct material program;

(d) Establish personnel exposure investigational levels that, when exceeded, will initiate an investigation by the Radiation Safety Officer of the cause of the exposure;

(e) Establish personnel exposure investigational levels that, when exceeded, will initiate a prompt investigation by the Radiation Safety Officer of the cause of the exposure and a consideration of actions that might be taken to reduce the probability of recurrence;

(f) For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submission to the Agency for licensing action;

(g) For medical use sited at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0080

Radiation Safety Committee

(1) Each medical institution licensee shall establish a Radiation Safety Committee to oversee the use of radioactive material which shall meet the following administrative requirements:

(a) Membership must consist of at least three individuals and shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service and a representative of management who is neither an authorized user nor a Radiation Safety Officer. Other members may be included as the licensee deems appropriate;

(b) The Committee shall meet at least once each calendar quarter;

(c) To establish a quorum and to conduct business, one-half of the Committee's membership shall be present, including the Radiation Safety Officer and the management's representative;

(d) The minutes of each Radiation Safety Committee meeting shall include:

(A) The date of the meeting;

(B) Members present;

(C) Members absent;

(D) Summary of deliberations and discussions;

(E) Recommended actions and the numerical results of all ballots; and

(F) Document any reviews required in OAR 333-116-0060(2) and 333-116-0080(2).

(e) The Committee shall provide each member with a copy of the meeting minutes and retain one copy until the Agency authorizes its disposition.

(2) To oversee the use of licensed material, the Committee shall:

(a) Be responsible for monitoring the institutional program to maintain individual and collective doses as low as reasonably achievable;

(b) Review, on the basis of safety and with regard to the training and experience standards of this division, and approve or disapprove any individual who is to be listed as an authorized user, the Radiation Safety Officer or Teletherapy Physicist before submitting a license application or request for amendment or renewal;

(c) Review on the basis of safety and approve or disapprove each proposed method of use of radioactive material;

(d) Review on the basis of safety, and approve with the advice and consent of the Radiation Safety Officer and the management representative, or disapprove procedures and radiation safety program changes prior to submission to the Agency for licensing action;

(e) Review quarterly, with the assistance of the Radiation Safety Officer, occupational radiation exposure records of all personnel working with radioactive material;

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(f) Review quarterly, with the assistance of the Radiation Safety Officer, all incidents involving radioactive material with respect to cause and subsequent actions taken;

(g) Review annually, with the assistance of the Radiation Safety Officer, the radioactive material program; and

(h) Establish a table of investigational levels for occupational dose that, when exceeded, will initiate investigations and considerations of action by the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0090

Statement of Authorities and Responsibilities

(1) A licensee shall provide the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee, sufficient authority and organizational freedom to:

- (a) Identify radiation safety problems;
- (b) Initiate, recommend or provide solutions; and
- (c) Verify implementation of corrective actions.

(2) A licensee shall establish in writing the authorities, duties, responsibilities and radiation safety activities of the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee.

(3) In addition to the radiation protection program requirements of OAR 333-120-0020, a licensee's management shall approve in writing:

(a) Requests for license application, renewal, or amendments before submission to the Agency;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under 333-116-0040 and 333-116-0500;

(4) A licensee with multiple modalities or multiple users shall also develop, implement, and maintain written administrative procedures for interdepartmental/interdisciplinary coordination of the licensee's radiation protection program.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0100

Supervision

(1) A licensee who permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by OAR 333-116-0030 shall:

(a) Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, the licensee's written quality management program, the Oregon Rules for the Control of Radiation and the institutions radioactive materials license conditions appropriate to that individual's use of radioactive material; and

(b) Review the supervised individual's use of radioactive material, provide reinstruction as needed and review records kept to reflect this use;

(c) Require the authorized user to be immediately available to communicate with the supervised individual;

(d) Require the authorized user to be able to be physically present and available to the supervised individual (on one hour notice); and

(e) Require that only those individuals specifically trained and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients.

(2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by OAR 333-116-0030(3), shall

(a) Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's use of radioactive material, and

(b) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, the written radiation protection procedures established by the licensee and this Division, and license conditions.

(3) A licensee shall establish, implement and maintain a policy for all supervised individuals to request clarification, as needed, from:

(a) The authorized user, before initiating or continuing any procedure that requires a written directive, if the supervised individual has any question about what should be done or how it should be done; and

(b) The authorized user or authorized nuclear pharmacist about the instructions and requirements provided to the supervised individual in accordance with paragraphs (1) and (2).

(4) A licensee that permits supervised activities under paragraph (1) and (2) is responsible for the acts and omissions of the supervised individual.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0105

Written Directives

(1) A written directive must be prepared, dated and signed by an authorized user prior to administration of I-131 sodium iodide greater than 1.11 Megabecquerels (MBq) (30 microcuries (μCi)), any therapeutic dosage of a radiopharmaceutical, or any therapeutic dose of radiation from radioactive material.

NOTE 1: If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in writing in the patient's record. (i.e. written directive is prepared within 48 hours of the oral directive)

NOTE 2: If, because of a patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize a patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written revision to an existing written directive may be made by any diagnostic or therapeutic procedure provided that the revision is dated and signed by the authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic dose, the teletherapy dose, or the next teletherapy fractional dose.

(2) The written directive must contain the patient or human research subject's name and the following:

(a) For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131; the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-131: the radiopharmaceutical dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates (including gamma angle), collimator size, plug pattern, total dose for the treatment, and the total treatment volume;

(d) For teletherapy: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(e) For remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: treatment site, the radionuclide, number of sources and source strengths or dose; and

(B) After implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time (or equivalently, the total dose).

(3) The licensee shall retain the written directive until records are reviewed by Agency inspectors.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0107

Procedures for Administrations Requiring a Written Directive

(1) For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

(a) The patient's or human research subject's identity is verified before each administration; and

(b) Each administration is in accordance with the written directive.

(2) The procedures required by paragraph (1) of this section shall, at a minimum, address:

(a) Verifying the identity of the patient or human research subject;

(b) Verifying that the specific details of the administration are in accordance with the written directive and treatment plan;

(c) Checking both manual and computer-generated dose calculations; and

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical devices.

Stat. Auth.: ORS 453.605 - 453.807

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Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0120

Mobile Nuclear Medicine Service Administrative Requirements

(1) The Agency will only license mobile nuclear medicine services in accordance with OAR 333-116-0300, 333-116-0320, and 333-116-0400 of this Division and OAR 333-102-0130.

(2) Mobile nuclear medicine service licensees shall obtain a letter signed by the management of each client for which services are rendered that authorizes use of licensed radioactive material at the client's address of use. The mobile nuclear medicine service licensee shall retain the letter for three years after the last provision of service.

(3) If a mobile nuclear medicine service provides services that the client also is authorized to provide, the client is responsible for assuring that services are conducted in accordance with the rules in this Division while the mobile nuclear medicine service is under the client's direction.

(4) A mobile nuclear medicine service may not order radioactive material to be delivered directly from the manufacturer or the distributor to the client's address of use unless the client has a radioactive materials license. Radioactive material delivered to the client's address of use shall be received and handled in conformance with the client's license.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0125

Quality Management Program

(1) Each applicant or licensee under this division, as applicable, shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive (see NOTE below) is prepared for:

(A) Any teletherapy radiation dose;

(B) Any gamma stereotactic radiosurgery radiation dose;

(C) Any brachytherapy radiation dose;

(D) Any administration of quantities greater than 1.11 megabecquerels (30 μ Ci) of either sodium iodide I-125 or I-131; or

(E) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

NOTE: If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

(A) A representative sample of patient administrations,

(B) All recordable events, and

(C) All misadministrations to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

(b) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of paragraph (a) of this section; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for five years or until inspected by the agency, of the relevant facts and what corrective action, if any, was taken.

(4) The licensee shall retain:

(a) Each written directive; and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in OAR 333-116-0125(1)(a), in an auditable form, for five years, or until inspected by the agency, after the date of administration.

(5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Agency Office within 30 days after the modification has been made.

(6) Each applicant for a new license, as applicable, shall submit to the Agency Office in accordance with OAR 333-102-0295 a quality management program as part of the application for a license and implement the program upon issuance of the license by the agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & 453.665

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0140

Suppliers

A licensee may use for medical use only:

(1) Radioactive material manufactured, produced, labeled, prepared, compounded, packaged and distributed in accordance with a license issued pursuant to these Rules or the equivalent Rules of another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission; and

(2) Reagent kits, radiopharmaceuticals, and/or radiobiologics that have been manufactured, labeled, packaged and distributed in accordance with an approval issued by the U.S. Department of Health and Human Services, Food and Drug Administration.

(3) Radiopharmaceuticals compounded from a prescription in accordance with the regulations of the state Board of Pharmacy.

(4) Teletherapy and brachytherapy sources manufactured and distributed in accordance with a license issued pursuant to these regulations, or the equivalent regulations of another Agreement State, a Licensing State, or the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0150

Quality Control of Imaging Equipment

Each licensee shall establish written quality control procedures for all diagnostic equipment used to obtain images from radionuclide studies. As a minimum the quality control procedures and frequencies shall include quality control procedures recommended by equipment manufacturers or procedures which have been approved by the Agency. The licensee shall conduct quality control procedures in accordance with written procedures.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0160

Possession, Use, Calibration and Check of Dose Calibrators

(1) A medical use licensee authorized to administer radiopharmaceuticals shall possess a dose calibrator and use it to measure the amount of activity of radionuclides prior to administration to each patient or human research subject. The licensee shall also develop, implement and maintain written procedures for proper calibration and operation of the dose calibrator.

(2) At a minimum, a licensee shall:

(a) Check each dose calibrator for constancy and proper operation with a dedicated check source at the beginning of each day of use. To satisfy the requirement of this section, the check must be done on a frequently used setting with a sealed source of not less than 1.85 megabecquerels (50 μ Ci) of any photon-emitting radionuclide with a half-life greater than 90 days. The results of this test must be within +10 percent of the sources

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stated activity. Sources used for the daily constancy test shall be determined by the manufacturer to be within +5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology.

(b) Test each dose calibrator for accuracy upon installation and at intervals not to exceed 12 months thereafter by assaying at least two sealed sources containing different photon-emitting radionuclides 1.85 megabecquerels (50 μ Ci) each, at least one of which has a principal photon energy between 100 keV and 500 keV. All sources used to satisfy the accuracy test shall be determined by the manufacturer to be within + 5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology;

(c) Test each dose calibrator for linearity upon installation and at intervals not to exceed three months thereafter over the range of use between 1.1 megabecquerels (30 microcuries) and the highest dosage that will be administered; and

(d) Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee shall mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 1.1 megabecquerels (30 microcuries) and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

(4) A licensee shall also perform checks and tests required by 333-116-0160(2) following adjustment or repair of the dose calibrator and prior to use.

(5) A licensee shall retain a record of each check and test required by 333-116-0160(2) until inspection by the Agency. The records required by 333-116-0160(2) shall include:

(a) For constancy, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings and the initials of the individual who performed the check;

(b) For accuracy, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings and the signature of the Radiation Safety Officer;

(c) For linearity, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test and the signature of the Radiation Safety Officer; and

(d) For geometry dependence, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0165

Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides

(1) For other than unit dosages, a licensee shall possess and use instrumentation to measure the radioactivity of alpha- or beta-emitting radionuclides. A licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha- or beta-emitting radionuclides prior to administration to each patient or human research subject.

(2) A licensee shall develop, implement, and maintain written procedures for use of the instrumentation. At a minimum, a licensee shall:

(a) Perform tests before initial use, and following repair, on each instrument for accuracy, linearity, and geometry dependence, unless it is not appropriate for the use of the instrument; and make adjustments when necessary;

(b) Perform accuracy annually;

(c) Perform linearity tests annually over the range of medical use; and

(d) Check each instrument for constancy and proper operation at the beginning of each day of use.

(3) Accuracy tests shall be performed with source(s) that are traceable to National Institute of Standards and Technology (NIST) or by a supplier who has compared the source to a source that was calibrated by NIST.

(4) A licensee shall retain a record of each check and test required by this section until inspection by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0170

Calibration and Check of Survey Instrument

(1) A licensee shall ensure that the survey instruments used to show compliance with this Division have been calibrated before first use, annually and following repair.

(2) To satisfy the requirements of section (1) of this rule the licensee shall:

(a) Calibrate all required scale readings up to 10 millisieverts (1000 mrem) per hour with a radiation source;

(b) For each scale that shall be calibrated, calibrate two readings separated by at least 50 percent of scale reading; and

(c) Conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(3) To satisfy the requirements of section (2) of this rule, the licensee shall:

(a) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 10 percent; and

(b) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent if a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee shall check each survey instrument for proper operation with the dedicated check source before each use. The licensee is not required to keep records of these checks.

(5) The licensee shall retain a record of each calibration required in section (1) of this rule until inspection by the Agency. The record shall include:

(a) A description of the calibration procedure; and

(b) A description of the source used and the certified exposure rates from the source and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration and the date of calibration.

(6) To meet the requirements of sections (1), (2) and (3) of this rule, the licensee may obtain the services of individuals licensed by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform calibrations of survey instruments. Records of calibrations which contain information required by section (5) of this rule, shall be maintained by the licensee.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0180

Assay of Radiopharmaceutical Doses

A licensee shall:

(1) Assay, within 30 minutes before medical use, the activity of each radiopharmaceutical dosage that contains more than 370 kilobecquerels (10 μ Ci) of an alpha-, beta-, or photon-emitting radionuclide;

(2) Assay, before medical use, the activity of each radiopharmaceutical dosage emitting alpha and/or beta radiation as the radiation of principal interest, unless such radiopharmaceutical has been obtained:

(a) In unit dose form, calibrated by the supplier for individual patients; and

(b) From a supplier which participates in a measurement quality assurance program with the National Institute of Standards and Technology, and which is designed to ensure that unit doses have a calibration traceable to a national standard;

(3) For a dosage of an alpha- or beta-emitting radionuclide prepared by the licensee, this determination shall be made by direct measurement or by a combination of measurements and calculations.

(4) A licensee shall not use a dosage if the dosage differs from the prescribed dosage by more than 20 percent, unless authorized in writing by an authorized user.

(5) Retain a record of the assays required by this section until inspection by the Agency. To satisfy this requirement, the record shall contain the:

(a) Generic name, trade name or abbreviation of the radiopharmaceutical, its lot number and expiration dates and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

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- (c) Prescribed dosage and activity of the dosage at the time of assay or a notation that the total activity is less than 370 kilobecquerels (10 μ Ci);
 - (d) Date and time of the assay; and
 - (e) Date and time of administration; and
 - (f) Initials of the individual who performed the assay.
- Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0190

Authorization for Calibration and Reference Source

Any person authorized by OAR 333-116-0030 for medical use of radioactive material may receive, possess and use the following radioactive material for check, calibration and reference use:

- (1) Sealed sources manufactured and distributed by persons specifically licensed pursuant to OAR 333-102-0290 or equivalent provisions of the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State and that do not exceed 555 MBq (15 mCi) each;
- (2) Any radioactive material listed in OAR 333-116-0300, 333-116-0320 or 333-116-0360 with a half-life of 100 days or less in individual amounts not to exceed 555 MBq (15 mCi), except Y-90 sources not to exceed 2.8 GBq (75 mCi);
- (3) Any radioactive material listed in 33-116-0300, 333-116-0320 or 333-116-0360 with a half life greater than 100 days in individual amounts not to exceed 7.4 MBq (200 mCi) each; and
- (4) Technetium-99m in individual amounts to exceed 1.85 GBq (50 mCi).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0200

Requirements for Possession of Sealed Sources and Brachytherapy Sources

- (1) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the Agency, and shall maintain the instructions for the duration of source use in a legible form convenient to users.
- (2) A licensee in possession of a sealed source shall assure that:
 - (a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and
 - (b) The source is tested for leakage at intervals not to exceed six months or at intervals approved by the Agency, another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission in the Sealed Source and Device Registry (SS&D).
- (3) To satisfy the leak test requirements of this Division, the licensee shall assure that:
 - (a) Leak tests are capable of detecting the presence of 185 Bq (0.005 μ Ci) of radioactive material on the test sample, or in the case of radium, the escape of radon at the rate of 37 Bq (0.001 μ Ci) per 24 hours;
 - (b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination might be expected to accumulate; and
 - (c) For teletherapy units, test samples are taken when the source is in the "off" position.
- (4) A licensee shall retain leak test records until inspected by the Agency. The records shall contain the model number and serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries (Bq), a description of the method used to measure each test sample, the date of the test and the signature of the Radiation Safety Officer.
- (5) If the leak test reveals the presence of 185 Bq (0.005 μ Ci) or more of removable contamination, the licensee shall:
 - (a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of these Rules; and
 - (b) File a report within five days of receiving the leakage test results with the Agency describing the equipment involved, the test results and the action taken.
- (6) A licensee need not perform a leak test on the following sources:
 - (a) Sources containing only radioactive material with a half-life of less than 30 days;
 - (b) Sources containing only radioactive material as a gas;

- (c) Sources containing 3.7 MBq (100 μ Ci) or less of beta or photon-emitting material or 370 kBq (10 μ Ci) or less of alpha-emitting material;
- (d) Seeds of iridium-192 encased in nylon ribbon; and
- (e) Sources stored and not being used. The licensee shall, however, test each such source for leakage before any use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source shall conduct a physical inventory of all such sources at intervals not to exceed three months. The licensee shall retain each inventory record until inspected by the Agency. The inventory records must contain the model number of each source and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, date of the inventory and the signature of the Radiation Safety Officer.

(8) A licensee in possession of a sealed source or brachytherapy source shall survey with a radiation survey instrument at intervals not to exceed three months all areas where such sources are stored. This does not apply to teletherapy sources in teletherapy units, gamma stereotactic radio-surgery sources, or sealed sources in diagnostic devices.

(9) A licensee shall retain a record of each survey required in section (8) of this rule until inspection by the Agency. The record must include the date of the survey, a sketch of each area that was surveyed, the measured dose rate at several points in each area expressed in μ Sv (mrem) per hour, the model number and serial number of the survey instrument used to make the survey and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0250

Surveys for Contamination and Ambient Radiation Dose Rate

- (1) A licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.
- (2) A licensee shall survey with a radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radioactive wastes are stored.
- (3) A licensee shall conduct the surveys required by section (1) and (2) of this rule so as to be able to measure dose rates as low as 1 μ Sv (0.1 mrem) per hour.
- (4) A licensee shall establish dose rate action levels for the surveys required by section (1) and (2) of this rule and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds an action level.
- (5) A licensee shall survey for removable contamination each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.
- (6) A licensee shall conduct the surveys required by section (5) of this rule so as to be able to detect contamination on each wipe sample of 33.3 Bq (2000 dpm).
- (7) A licensee shall establish removable contamination action levels for the surveys required by section (5) of this rule and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds action levels.
- (8) A licensee shall retain a record of each survey required by this rule until inspection by the Agency. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in μ Sv mrem per hour or the removable contamination in each area expressed in Bq (dpm) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples and the initials of the individual who performed the survey.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0260

Release of Patients Containing Therapeutic Quantities of Radiopharmaceuticals or Permanent Implants

- (1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

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(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the consequences of failure to follow the guidance.

(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for 3 years after the date of release, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered,

(b) Using an occupancy factor less than 0.25 at 1 meter,

(c) Using the biological or effective half-life; or

(d) Considering the shielding by tissue.

(4) The licensee shall maintain a record, for 3 years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0265

Release of Individuals Containing Radiopharmaceuticals or Implants

(1) A licensee may authorize the release from its control any individual who has been administered radiopharmaceuticals or implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not calculated to exceed 5 mSv (0.5 rem) Note: U. S. Nuclear Regulatory Commission Regulatory Guide 8.39, "Release of Patients Administered Radioactive Materials", describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 millisieverts (0.5 rem).

(2) A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 mSv (0.1 rem). If the total effective dose equivalent to a breast-feeding infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) A licensee shall maintain a record of the basis for authorizing the release of an individual, until inspected by the Agency, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered,

(b) Using an occupancy factor less than 0.25 at 1 meter,

(c) Using the biological or effective half-life, or

(d) Considering the shielding by tissue.

(4) The licensee shall maintain a record, for 3 years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0290

Decay-In-Storage

(1) A licensee shall hold radioactive material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of OAR 333-120-0500 of these Rules if the licensee:

(a) Holds radioactive material for decay a minimum of 10 half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a radiation detection

survey instrument set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates all radiation labels; and

(d) Separates and monitors each generator column individually with all radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with the licensee shall retain a record of section (1) of this rule each disposal until inspection by the Agency. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container and the name of the individual who performed the disposal.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0300

Use of Radiopharmaceuticals for Uptake, Dilution or Excretion Studies

(1) A licensee may use any radioactive material in a radiopharmaceutical and for a diagnostic use involving measurements of uptake, dilution or excretion:

(a) Which the Food and Drug Administration (FDA) has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100.

(2) A licensee using a radiopharmaceutical specified in section (1) of this rule for a clinical procedure other than one specified in the product label or package insert instructions for use shall comply with the product label or package insert instructions regarding physical form, route of administration and dosage range.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0310

Possession of Survey Instrument

A licensee authorized to use radioactive material for uptake, dilution and excretion studies shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 Sv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour. The instrument shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0320

Use of Radiopharmaceuticals, Generators and Reagents Kits for Imaging and Localization Studies

(1) A licensee may use any radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for:

(a) Which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100.

(2) A licensee using radiopharmaceuticals specified in section (1) of this rule for clinical procedures other than one specified in the product label or package insert instructions shall comply with the product label or package insert regarding physical form and dosage range.

(3) A licensee shall elute generators in compliance with OAR 333-116-0330 and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentatate as an aerosol for lung function studies is not subject to the restrictions in section (1) of this rule. Provided the conditions of OAR 333-116-0340 are met, a licensee shall use radioactive aerosols or gases only if specific application is made to and approved by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

ADMINISTRATIVE RULES

Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0330

Permissible Molybdenum-99 Concentration

(1) A licensee shall not administer to humans a radiopharmaceutical containing more than 0.15 kBq (0.15 μ Ci) of molybdenum-99 per MBq (mCi) of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall measure the molybdenum-99 concentration in each eluate or extract.

(3) A licensee who must measure molybdenum concentration shall retain a record of each measurement until inspection by the Agency. The record shall include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in MBq (mCi), the measured activity of the molybdenum expressed in kBq (μ Ci), the ratio of the measures expressed as kBq (μ Ci) of molybdenum per MBq (mCi) of technetium, the date of the test and the initials of the individual who performed the test.

(4) A licensee shall report immediately to the Agency each occurrence of molybdenum-99 concentration exceeding the limits specified in section (1) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0340

Control of Aerosols and Gases

(1) A licensee who administers radioactive aerosols or gases shall do so with a system that will keep airborne concentrations within the limits prescribed by OAR 333-120-0130 and 333-120-0180.

(2) The system shall either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee shall only administer radioactive gases in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using or storing a radioactive gas, the licensee shall calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 10 CFR Part 20 Appendix B to 20.1001 to 20.2401. The calculation shall be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(5) A licensee shall post the time calculated in accordance with 333-116-0340(4) of this rule at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee shall check the operation of collection systems before each use and measure the ventilation rates in areas of use at intervals not to exceed six months. Records of these checks and measurements shall be maintained for 5 years or until inspected by the Agency.

(7) A copy of the calculations required in 333-116-0340(4) of this rule shall be recorded and retained for the duration of the license.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0350

Possession of Survey Instruments

A licensee authorized to use radioactive material for imaging and localization studies shall have in its possession a portable, radiation detection survey instrument capable of detecting dose rates over the range of 1 μ Sv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 millisieverts (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0360

Use of Radiopharmaceuticals for Therapy

(1) A licensee may use for therapeutic administration any unsealed byproduct material prepared for medical use that:

(a) Has been granted acceptance or approval by the Food and Drug Administration; and

(b) Has been prepared by an authorized nuclear pharmacist, a physician who is an authorized user on a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission.

(2) The licensee shall comply with the package insert instructions regarding indications and method of administration.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0370

Safety Instruction

(1) A licensee shall provide oral and written radiation safety instruction for all personnel caring for patients undergoing radiopharmaceutical therapy. Refresher training shall be provided at intervals not to exceed one year.

(2) To satisfy 333-116-0370(1) of this rule, the instruction shall describe the licensee's procedures for:

- (a) Patient control;
- (b) Visitor control;
- (c) Contamination control;
- (d) Waste control; and
- (e) Notification of the Radiation Safety Officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee shall keep until inspection by the Agency a list of individuals receiving instruction required by 333-116-0370(1) of this rule, a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0380

Safety Precautions

(1) For each patient receiving radiopharmaceutical therapy and hospitalized for compliance with OAR 333-116-0260 or 333-116-0265, a licensee shall:

- (a) Provide a private room with a private sanitary facility;
- (b) Post the patient's door with a "Caution: Radioactive Material" sign and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;
- (c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of OAR 333-120-0180 of these Rules and retain until inspection by the Agency a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in mrem per hour, the instrument used to make the survey and the initials of the individual who made the survey;

(e) Either monitor material and items removed from the patient's room to determine that any contamination cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle materials and items as radioactive waste;

(f) Instruct the patient and, where appropriate, the patient's family, orally and in writing concerning radiation safety precautions that will help to keep radiation dose to household members and the public as low as reasonably achievable before authorizing release of the patient;

(g) Survey the patient's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient to the room. The room must not be reassigned until removable contamination is less than 3.33 Bq (200 dpm) per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a dosage of iodine-131 within three days after administering the dosage and retain for the period required by OAR 333-120-0620 of these Rules a record of each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured and the initials of the individual who made the measurements. Other procedures acceptable to the Agency may be used for individuals who only prepare, but do not administer, doses of stabilized I-131.

(2) A licensee shall notify the Radiation Safety Officer or the nuclear physician immediately if the patient dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - 453.807

ADMINISTRATIVE RULES

Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0390

Possession of Survey Instruments

A licensee authorized to use radioactive material for radiopharmaceutical therapy shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μ Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0410

Availability of Survey Instrument

A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μ Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instrument shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0420

Use of Sources for Brachytherapy

A licensee shall use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

- (1) Cesium-137 as a sealed source in needles and applicator cells for topical, interstitial and intracavitary treatment of cancer;
- (2) Cobalt-60 as a sealed source in needles and applicator cells for topical, interstitial and intracavitary treatment of cancer;
- (3) Gold-198 as a sealed source in seeds for interstitial treatment of cancer;
- (4) Iodine-125 as a sealed source in seeds for interstitial treatment of cancer;
- (5) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;
- (6) Radium-226 as a sealed source in needles or applicator cells for topical, interstitial and intracavitary treatment of cancer;
- (7) Radon-222 as seeds for interstitial, treatment of cancer;
- (8) Strontium-90 as a sealed source in an applicator for treatment of superficial eye conditions; and
- (9) Palladium-103 as a sealed source in seeds for the interstitial treatment of cancer.
- (10) Any medical device or material approved for human use by the US FDA and approved for licensing purposes by the US NRC or an Agreement State.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0430

Safety Instructions

- (1) The licensee shall provide oral and written radiation safety instruction to all personnel caring for a patient receiving implant therapy. Refresher training shall be provided at intervals not to exceed one year.
- (2) To satisfy section (1) of this rule, the instruction shall describe:
 - (a) Size and appearance of the brachytherapy sources;
 - (b) Safe handling and shielding instructions in case of a dislodged source;
 - (c) Procedures for patient control;
 - (d) Procedures for visitor control; and
 - (e) Procedures for notification of the Radiation Safety Officer or authorized user if the patient dies or has a medical emergency.
- (3) A licensee shall retain until inspection by the Agency a record of individuals receiving instruction required by 333-116-0430(1) of this rule,

a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0440

Safety Precaution

- (1) A licensee shall, for each patient receiving implant therapy:
 - (a) Not place the patient in the same room with a patient who is not receiving radiation therapy unless the licensee can demonstrate compliance with the requirement of OAR 333-120-0180 of these rules at a distance of one meter from the implant;
 - (b) Post the patient's door with a "Caution: Radioactive Materials" sign and note on the door or in the patient's chart where and how long visitors may stay in the patient's room;
 - (c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;
 - (d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with OAR 333-120-0180 of these Rules, and retain until inspection by the Agency, a record of each survey that includes the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts (mrem) per hour, the instrument used to make the survey and the initials of the individual who made the survey; and
 - (e) Instruct the patient and, where appropriate, the patient's family, orally and in writing concerning radiation safety precautions that will help to keep the radiation dose to household members and the public as low as reasonably achievable before releasing the patient if the patient was administered a permanent implant.
- (2) A licensee shall notify the Radiation Safety Officer or authorized user immediately if the patient dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0450

Brachytherapy Sources Inventory

- (1) Each time brachytherapy sources are returned to an area of storage from an area of use, the licensee shall immediately count the number returned to ensure that all sources taken from the storage area have been returned.
- (2) A licensee shall make a record of brachytherapy source use which includes:
 - (a) The names of the individuals permitted to handle the sources;
 - (b) The number and activity of sources removed from storage, the room number of use and patient's name, the time and date they were removed from storage, the number and activity of the sources in storage after the removal and the initials of the individual who removed the sources from storage; and
 - (c) The number and activity of sources returned to storage, the room number of use and patient's name, the time and date they were returned to storage, the number and activity of sources in storage after the return and the initials of the individual who returned the sources to storage.
- (3) Immediately after implanting sources in a patient and immediately after removal of sources from a patient the licensee shall make a radiation survey of the patient and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.
- (4) A licensee shall retain the records required in 333-116-0450(2) and 333-116-0450(3) of this rule until inspection by the Agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625, 453.635 & 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0460

Release of Patients Treated with Temporary Implant

- (1) Immediately after removing the last temporary implant source from a patient, the licensee shall make a radiation survey of the patient with a radiation detection survey instrument to confirm that all sources have been removed. The licensee shall not release from confinement for medical care a patient treated by temporary implant until all sources have been removed.

ADMINISTRATIVE RULES

(2) A licensee shall retain a record of patient surveys which demonstrate compliance with OAR 333-116-0450(1) until inspection by the Agency. Each record must include the date of the survey, the name of the patient, the dose rate from the patient expressed as μSv (mrem) per hour and measured within one meter from the patient and the initials of the individual who made the survey.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0470

Possession of Survey Instruments

A licensee authorized to use radioactive material for implant therapy shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0480

Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit. A licensee shall use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0490

Installation, Maintenance, Adjustment, and Repair

(1) Only a person specifically licensed by the Commission or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source(s), reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the Commission or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the Commission or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source(s) contained in the unit.

(4) A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units in accordance with § 35.2605.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0495

Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with the source(s);

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source(s) in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(A) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(B) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(C) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by 333-116-0495(1)(d) of this section must be physically located at the unit console.

(3) A licensee shall post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by 333-116-0495(1)(d) of this section; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(4) A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties in:

(a) The procedures identified in paragraph (a)(4) of this section; and

(b) The operating procedures for the unit.

(5) A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee shall retain a record of individuals receiving instruction required by paragraph (d) of this section, in accordance with § 35.2310.

(7) A licensee shall retain a copy of the procedures required by §§ 35.610(a)(4) and (d)(2) in accordance with § 35.2610.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0515

Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

A licensee shall use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0525

Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall control access to the treatment room by a door at each entrance.

(2) A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the source(s) to be shielded when an entrance door is opened; and

(c) Prevent the source(s) from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source(s) on-off control is reset at the console.

(3) A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

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(6) In addition to the requirements specified in paragraphs (a) through (e) of this section, a licensee shall:

(a) For medium dose-rate and pulsed dose-rate remote afterloader units, require:

(A) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator(s) in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For high dose-rate remote afterloader units, require:

(A) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the Radiation Safety Officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0530

Possession of Survey Instrument

A licensee authorized to use radioactive material in a teletherapy therapy unit shall have in its possession either both a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μ Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0540

Radiation Monitoring Device

(1) A licensee shall have in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

(2) Each radiation monitor shall be capable of providing visible evidence of a teletherapy unit malfunction that results in an exposed or partially exposed source. The visible indicator of high radiation levels must be observable by an individual prior to entering the teletherapy room.

(3) Each radiation monitor shall be equipped with a backup power supply separate from the power supply to the teletherapy unit. This backup power supply may be a battery system or other type of uninterruptible power supply (UPS).

(4) Each radiation monitor must be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients.

(5) A licensee shall maintain a record of the check required by 333-116-0540(4) until inspection by the Agency. The record shall include the date of the check, notation that the monitor indicates when the source is exposed and the initials of the individual who performed the check.

(6) If a radiation monitor is inoperable, the licensee shall require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter shall be checked with a dedicated

check source for proper operation at the beginning of each day of use. The licensee shall keep a record as described in 333-116-0540(4).

(7) If a radiation monitor is inoperable, the licensee shall require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism. The instrument or dosimeter shall be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee shall keep a record as described in 333-116-0540(5).

(8) A licensee shall promptly repair or replace the radiation monitor if it is inoperable.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0560

Dosimetry Equipment

(1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.

(a) The system shall have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system shall have been calibrated within the previous four years; 18 to 30 months after that calibration, the system shall have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the AAPM. The intercomparison meeting shall be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting must show that the calibration factor of the licensee's system had not changed by more than two percent. The licensee shall not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee shall have available for use a dosimetry system for spot-check output measurements, if applicable. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with 333-116-0560(1) of this rule. This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in section 333-116-0560(1) of this rule.

(3) The licensee shall retain a record of each calibration, intercomparison and comparison for the duration of the license. For each calibration, intercomparison or comparison, the record shall include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared or compared as required by 333-116-0560(1) and 333-116-0560(2), the correction factors that were deduced, the names and credentials of the individuals who performed the calibration, intercomparison or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0570

Full Calibration Measurement

(1) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the radioactive source or following reinstallation of the teletherapy unit in a new location;

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(C) Following any repair of the teletherapy unit that includes removal of the radioactive source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of 333-116-0570(1), full calibration measurements shall include determination of:

(a) The output within ± 3 percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy, constancy, and linearity;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee shall use the dosimetry system described in OAR 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in 333-116-0570(2)(a) may then be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by 333-116-0570(1) in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall correct mathematically the outputs determined in 333-116-0570(2)(a) for physical decay for intervals not exceeding one month for cobalt-60 and intervals not exceeding six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.

(6) Full calibration measurements required by 333-116-0570(1) and physical decay corrections required by 333-116-0570(5) shall be performed by a teletherapy or medical physicist certified to perform such measurements and named on the licensee's license or authorized by a license issued by the Nuclear Regulatory Commission or an Agreement State to perform such services.

(7) A licensee shall retain a record of each calibration for the duration of the license. The record shall include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device and the signature of the teletherapy physicist.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0573

Full Calibration Measurements on Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(B) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding 1 quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and

(d) At intervals not exceeding 1 year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of paragraph (a) of this section, full calibration measurements must include, as applicable, determination of:

(a) The output within ± 5 percent;

(b) Source positioning accuracy to within ± 1 millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee shall use the dosimetry system described in § 35.630(a) to measure the output.

(4) A licensee shall make full calibration measurements required by paragraph (a) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in paragraph (b) of this section, a licensee shall perform an autoradiograph of the source(s) to verify inventory and source(s) arrangement at intervals not exceeding 1 quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with paragraphs (a) through (e) of this section.

(7) A licensee shall mathematically correct the outputs determined in paragraph (b)(1) of this section for physical decay at intervals consistent with 1 percent physical decay.

(8) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (g) of this section must be performed by the authorized medical physicist.

(9) A licensee shall retain a record of each calibration.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0577

Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(C) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding 1 year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of paragraph (a) of this section, full calibration measurements must include determination of:

(a) The output within ± 3 percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee shall use the dosimetry system described in § 35.630(a) to measure the output for one set of exposure conditions. The remaining radiation measurements required in paragraph (b)(1) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by paragraph (a) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in paragraph (b)(1) of this section at intervals not exceeding 1 month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

(6) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (e) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-116-0580

Periodic Spot-Checks

(1) A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit at intervals not to exceed one month.

(2) To satisfy the requirement of 333-116-0580(1), measurements shall include determination of:

(a) Timer constancy, accuracy, and linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560; and

(f) The difference between the measurement made in 333-116-0580(2)(e) and the anticipated output, expressed as a percentage of the anticipated value obtained at last full calibration corrected mathematically for physical decay.

(3) A licensee shall use the dosimetry system described in OAR 333-116-0560 to make the measurement required in 333-116-0580(2)(e).

(4) A licensee shall perform measurements required by 333-116-0580(1) in accordance with procedures established by the teletherapy or medical physicist. That individual is not required to actually perform the output spot-check measurements.

(5) A licensee shall have the teletherapy or medical physicist review the results of each output spot-check within 15 days of each measurement. The teletherapy or medical physicist shall promptly notify the licensee in writing of the results of each output spot-check. The licensee shall keep a copy of each written notification until inspection by the Agency.

(6) A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility at intervals not to exceed one month;

(7) To satisfy the requirement of 333-116-0580(5), checks shall assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism;

(c) Beam condition indicator lights on the teletherapy unit, on the control console and in the facility;

(d) Viewing systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned "off".

(8) A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized by the Agency.

(9) A licensee shall promptly repair any system identified in 333-116-0580(7) that is not operating properly.

(10) A licensee shall retain a record of each spot-check required by 333-116-0580(1) and 333-116-0580(6) until inspection by the Agency. The record shall include, the date of the spot-check, the manufacturer's name, model number and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, the measured timer accuracy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the individual who performed the periodic spot-check.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0583

Periodic Spot-checks for Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee shall perform the measurements required by paragraph (a) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of paragraph (a) of this section, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed source(s) activity in the unit's computer.

(5) If the results of the checks required in paragraph (d) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each check required by paragraph (d) and a copy of the procedures required by paragraph (b) of this section.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0585

Additional Technical Requirements for Mobile Remote Afterloader Units

(1) A licensee providing mobile remote afterloader service shall:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by § 35.643, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of (a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in paragraph (b), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in paragraph (b) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee shall retain a record of each check required by paragraph (b) of this section in accordance with 333-116-0620.

Stat. Auth.: ORS 453.605 - 453.807

ADMINISTRATIVE RULES

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0587

Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

- (a) Monthly;
 - (b) Before the first use of the unit on a given day; and
 - (c) After each source installation.
- (2) A licensee shall:

(a) Perform the measurements required by 333-116-0587(1) in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of 333-116-0587(1)(a), spot-checks must, at a minimum:

- (a) Assure proper operation of:
 - (A) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 - (B) Helmet microswitches;
 - (C) Emergency timing circuits; and
 - (D) Stereotactic frames and localizing devices (trunnions).
- (b) Determine:

(A) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560;

(B) The difference between the measurement made in 333-116-0587(3)(b)(A) and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

- (C) Source output against computer calculation;
- (D) Timer accuracy and linearity over the range of use;
- (E) On-off error; and
- (F) Trunnion centricity.

(4) To satisfy the requirements of 333-116-0587(1)(b) and 333-116-0587(1)(c), spot-checks must assure proper operation of:

- (a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
- (b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
- (c) Viewing and intercom systems;
- (d) Timer termination;
- (e) Radiation monitors used to indicate room exposures; and
- (f) Emergency off buttons.

(5) A licensee shall arrange for the repair of any system identified in 333-116-0587(3) that is not operating properly as soon as possible.

(6) If the results of the checks required in 333-116-0587(4) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee shall retain a record of each check required by 333-116-0587(3) and 333-116-0587(4) and a copy of the procedures required by 333-116-0587(2) of this section.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0590

Radiation Surveys for Teletherapy Facilities

(1) Before medical use, after each installation of a teletherapy source and after making any change for which an amendment is required by OAR 333-116-0500, the licensee shall perform radiation surveys with an operable radiation measurement survey instrument calibrated in accordance with OAR 333-116-0170 to verify that:

(a) The maximum and average radiation levels at one meter from the teletherapy source with the source in the off position and the collimators set for a normal treatment field do not exceed 100 μ Sv (10 mrem) per hour and 20 μ Sv (2 mrem) per hour, respectively; and

(b) With the teletherapy source in the on position with the largest clinically available treatment field and with a scattering phantom in the primary beam of radiation, that:

(A) Radiation levels in restricted areas are not likely to cause personnel exposures in excess of the limits specified in OAR 333-120-0100 of these rules; and

(B) Radiation levels in unrestricted areas do not exceed the limits specified in OAR 333-120-0180 of these rules.

(2) If the results of the surveys required in section (1) of this rule indicate any radiation levels in excess of the respective limit specified in that paragraph, the licensee shall lock the control in the off position and not use the unit:

(a) Except as may be necessary to repair, replace or test the teletherapy unit, the teletherapy unit shielding or the treatment room shielding; or

(b) Until the licensee has received a specific exemption from the Agency.

(3) A licensee shall retain a record of the radiation measurements made following installation of a source for the duration of the license. The record shall include the date of the measurements, the reason the survey is required, the manufacturer's name, model number and serial number of the teletherapy unit, the source and the instrument used to measure radiation levels, each dose rate measured around the teletherapy source while in the off position and the average of all measurements, a plan of the areas surrounding the treatment room that were surveyed, the measured dose rate at several points in each area expressed in mrem (μ Sv) per hour, the calculated maximum level of radiation over a period of one week for each restricted and unrestricted area and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0600

Safety Checks and Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed 5 years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the Nuclear Regulatory Commission or an Agreement State.

(3) If the results of the checks required in section (1) of this rule indicate the malfunction of any system, the licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace or check the malfunctioning system.

(4) A licensee shall retain until inspection by the Agency a record of the facility checks following installation of a source. The record shall include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0605

Therapy-Related Computer Systems

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays;

(4) The accuracy of the software used to determine sealed source positions from radiographic images; and

(5) The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-116-0610

Modification of Teletherapy Unit or Room Before Beginning a Treatment Program

(1) If the survey required by 333-116-0590 indicates that any individual member of the public is likely to receive a dose in excess of the limits specified in 333-120-0180, before beginning the treatment program the licensee shall:

(a) Either equip the unit with stops or add additional radiation shielding to ensure compliance with 333-120-0180.

(b) Perform the survey required by 333-116-0590 again; and

(c) Include in the report required by 333-116-0620 the results of the initial survey, a description of the modification made to comply with 333-116-0610(1)(a), and the results of the second survey.

(2) As an alternative to the requirements set out in 333-116-0610(a), a licensee may request a license amendment under 333-120-0180(3) that authorizes radiation levels in unrestricted areas greater than those permitted by 333-120-0180(1) of this chapter. A licensee may not begin the treatment program until the license amendment has been issued.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0640

Radiation Safety Officer

Except as provided in OAR 333-116-0650, an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in this rule shall:

(1) Be certified by:

(a) American Board of Health Physics in Comprehensive Health Physics; or

(b) American Board of Radiology; or

(c) American Board of Nuclear Medicine; or

(d) American Board of Science in Nuclear Medicine; or

(e) Board of Pharmaceutical Specialties in Nuclear Pharmacy or Science; or

(f) American Board of Medical Physics in radiation oncology physics; or

(g) Royal College of Physicians and Surgeons of Canada in nuclear medicine; or

(h) American Osteopathic Board of Radiology; or

(i) American Osteopathic Board of Nuclear Medicine; or

(2) Has completed 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry; and

(f) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(3) Be an authorized user for those radioactive material uses that come within the Radiation Safety Officer's responsibilities.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0660

Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740 and 333-116-0750, the licensee shall require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology; or

(c) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(d) Nuclear Medicine by the American Osteopathic Board of Nuclear Medicine; or

(e) Nuclear Medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 40 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals and 20 hours of supervised clinical experience:

(a) To satisfy the basic instruction requirement, 40 hours of classroom and laboratory instruction shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiation biology; and

(E) Radiopharmaceutical chemistry.

(b) To satisfy the requirement for 20 hours of supervised clinical experience, training must be under the supervision of an authorized user at a medical institution and shall include:

(A) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations or contraindications;

(B) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(C) Administering dosages to patients and using syringe radiation shields;

(D) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(E) Patient followup; or

(3) Has successfully completed a six month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience and supervised clinical experience in all the topics identified in OAR 333-116-0660(2).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0670

Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740 or 333-116-0750, the licensee shall require the authorized user of a radiopharmaceutical, generator or reagent kit specified in OAR 333-116-0320 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology; or

(c) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(d) Nuclear Medicine by the American Osteopathic Board of Nuclear Medicine; or

(e) Nuclear Medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 200 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators and reagent kits, 500 hours of supervised work experience and 500 hours of supervised clinical experience:

(a) To satisfy the basic instruction requirement, 200 hours of classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiopharmaceutical chemistry; and

(E) Radiation biology.

(b) To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Ordering, receiving and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

(C) Calculating and safely preparing patient dosages;

(D) Using administrative controls to prevent the misadministration of radioactive material;

(E) Using emergency procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(F) Eluting technetium-99m from generator systems, assaying and testing the eluate for molybdenum-99 and alumina contamination and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

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(c) To satisfy the requirement for 500 hours of supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations or contraindications;

(B) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(C) Administering dosages to patients and using syringe radiation shields;

(D) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(E) Patient followup; or

(3) Has successfully completed a six month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience and supervised clinical experience in all the topics identified in OAR 333-116-0670(2).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0680

Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in OAR 333-116-0740, the licensee shall require the authorized user of a radiopharmaceutical listed in OAR 333-116-0360 for therapy to be a physician who:

(1) Is certified by:

(a) The American Board of Nuclear Medicine; or

(b) The American Board of Radiology in radiology or therapeutic radiology, or radiation oncology; or

(c) The American Osteopathic Board of Radiology after 1984; or

(d) Nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 80 hours of instruction in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals and has had supervised clinical experience:

(a) To satisfy the requirement for instruction, 80 hours of classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology;

(b) To satisfy the requirement for supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten individuals;

(B) Use of soluble phosphorus-32 for the treatment of ascites polycythemia vera, leukemia or bone metastases in three individuals;

(C) Use of iodine-131 for treatment of thyroid carcinoma in three individuals; and

(D) Use of colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in three individuals.

(E) Use of phosphorus-32, strontium-89, or samarium-153 for treatment of pain associated with bone metastases in three individuals.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0720

Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee shall require the authorized user of a sealed source specified in OAR 333-116-0480 in a remote afterloader unit, teletherapy unit or gamma stereotactic radiosurgery unit to be a physician who:

(1) Is certified in:

(a) Radiology, radiation oncology or therapeutic radiology by the American Board of Radiology; or

(b) Radiation oncology by the American Osteopathic Board of Radiology; or

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2) Is in the active practice of therapeutic radiology and has completed 200 hours of instruction in basic radioisotope techniques applicable to the use of a sealed source in a teletherapy unit, 500 hours of supervised work experience and a minimum of three years of supervised clinical experience:

(a) To satisfy the requirement for instruction, the classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology.

(b) To satisfy the requirement for supervised work experience, training shall be under the supervision of an authorized user at an institution and shall include:

(A) Review of the full calibration measurements and periodic spot checks;

(B) Preparing treatment plans and calculating treatment times;

(C) Using administrative controls to prevent misadministrations;

(D) Implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

(E) Checking and using survey meters.

(c) To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

(A) Examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment and any limitations or contraindications;

(B) Selecting the proper dose and how it is to be administered;

(C) Calculating the teletherapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation; and

(D) Post-administration followup and review of case histories.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0730

Training for Teletherapy or Brachytherapy Physicist

The licensee shall require the teletherapy physicist to:

(1) Be certified by the American Board of Radiology in:

(a) Therapeutic radiological physics; or

(b) Roentgen ray and gamma ray physics; or

(c) X-ray and radium physics; or

(d) Radiological physics; or

(2) Be certified by the American Board of Medical Physics in radiation oncology physics; or

(3) Hold a master's or doctor's degree in physics, biophysics, radiological physics or health physics and have completed one year of full time training in therapeutic radiological physics and also one year of full time work experience under the supervision of a teletherapy or brachytherapy physicist at a medical institution. To meet this requirement, the individual shall have performed the tasks listed in OAR 333-116-0200, 333-116-0570, 333-116-0580 and 333-116-0590 under the supervision of a teletherapy or brachytherapy physicist during the year of work experience.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0830

Accelerator Facility Requirements

(1) Accelerators shall meet all requirements of Division 109 of this Chapter. Shielded-room accelerators shall be equipped with interlocks and

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personnel control; self-shielded accelerators shall be shielded such that personnel access is prevented during operation.

(2) Non-ionizing radiation shall meet requirements of Division 112 of these rules.

(3) Target maintenance and repair, contamination control, and emergency actions shall be conducted pursuant to Division 120 of these rules.

(4) There shall be an Understanding of Transfer (UOT) when isotopes are transferred from one licensee or entity to another for processing, specifying at what point control is transferred to personnel handling radiochemical production or radiopharmacy operation.

(5) Radiation surveys shall be made prior to any accelerator operation or isotope production with a radiation survey instrument calibrated in accordance with requirements in OAR 333-116-0390. Periodic surveys shall be done throughout times of operation to ensure that radiation levels meet all applicable requirements in Division 120 (Radiation Protection Standards).

(6) Ventilation controls shall be implemented to ensure compliance with all applicable local, state, and federal requirements. Controls shall include monitoring of stacks and computer modeling of air emissions to confirm compliance with standards.

(7) Real-time (integrating) monitors shall be used to confirm requirements in OAR 333-120-0100, 333-120-0160, 333-120-0170, and 333-120-0180.

(8) Contamination wipes for radioactive material shall be made pursuant to requirements in OAR 333-116-0250;

(9) Dosimetry must address both gamma and beta doses in all areas of the facility. Licensees and registrants must monitor extremities to ensure compliance with OAR 333-120-0100. Bioassays, as defined in OAR 333-100-0005(16), are not required, but there must be evaluation of internal exposures, pursuant to OAR 333-120-0130, based on calculated releases and monitoring.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625 & 453.665

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0905

Training for Authorized Medical Physicist

The licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a speciality board whose certification process includes all of the training and experience requirements in paragraph (2) of this section and whose certification has been approved by the U.S. Nuclear Regulatory Commission; or

(2)(a) Holds a master's or doctor's degree in physics, biophysics, radiological physics, medical physics, or health physics, or an equivalent training program approved by the U.S. Nuclear Regulatory Commission, and has completed one year of full-time training in therapeutic radiological physics and an additional year of full-time practical experience under the supervision of a medical physicist at a medical institution that includes the tasks listed in OAR 333-116-0200, and 333-116-0480 through 333-116-0630 as applicable; and

(b) Has obtained a written certification, signed by a preceptor authorized medical physicist, that the requirements in paragraph (2)(a) in this section have been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently function as an authorized medical physicist; and,

(c) Following completion of the requirements in paragraph(2)(a) of this section, has demonstrated sufficient knowledge in radiation safety commensurate with the use requested by passing an examination given by an organization or entity approved by the U.S. Nuclear Regulatory Commission in accordance with appendix A of this Division.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0910

Training for an Authorized Nuclear Pharmacist

The licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified as a nuclear pharmacist by a speciality board whose certification process includes all of the requirements in paragraph (2) of this section and whose certification has been approved by the U.S. Nuclear Regulatory Commission; or

(2)(a) Has completed 700 hours in a structured educational program consisting of both:

(A) Didactic training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(B) Supervised practical experience in a nuclear pharmacy involving:

(i) Shipping, receiving, and performing related radiation surveys;

(ii) Using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(iii) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(iv) Using administrative controls to avoid misadministration s in the administration of radioactive material; and

(v) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the requirements of paragraph (2)(a) have been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently operate a nuclear pharmacy.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-116-0915

Training for Experienced Nuclear Pharmacists

A licensee may apply for and shall receive a license amendment identifying an experienced nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in OAR 333-116-0910(2)(a) before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement in 333-116-0910(2)(b) and recentness of training in 333-116-0760 to qualify as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635 & 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0020

Definitions

As used in this Division, the following definitions apply:

(1) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(2) "Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the "see-through" type.

(3) "Exclusive use" means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

NOTE: The term "exclusive use" is used interchangeably with the terms "sole use" or "full load" in other regulations, such as Title 49 of the Code of Federal Regulations.

(4) "Fissile material" means any special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only, are not included in this definition. Neither natural nor depleted uranium is fissile material.

NOTE: Agency jurisdiction is limited to special nuclear material in quantities not sufficient to form a critical mass as defined in Division 100 of these rules.

(5) "Fissile material package" means a fissile material packaging together with its fissile material contents.

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(6) "Low specific activity (LSA) material" means radioactive material that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(a) LSA-I.

(A) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

(B) Solid unirradiated natural uranium, depleted uranium, natural thorium, or their solid or liquid compounds or mixtures; or

(C) Radioactive material, other than fissile material, for which the A2 value is unlimited; or

(D) Mill tailings, contaminated earth, concrete, rubble, other bulk debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10-6 A2/g.

(b) LSA-II.

(A) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(B) Material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10-4 A2/g for solids and gases, and 10-5 A2/g for liquids.

(c) LSA-III. Solids (e.g., consolidated wastes, activated materials) in which:

(A) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

(B) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, would not exceed 1E-1 A2; and

(C) The average specific activity of the solid does not exceed 2E-3 A2 per gram.

(7) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates; or alpha emitters with a half-life of less than 10 days.

(8) "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as special form radioactive material.

(9) "Nuclear waste" means a quantity of source, byproduct or special nuclear material required to be in U.S. Nuclear Regulatory Commission approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

NOTE: The definition of nuclear waste in this Part is used in the same way as in 49 CFR 173.403.

(10) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 49 CFR Part 173 Subpart I. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(11) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(12) "Regulations of the U.S. Nuclear Regulatory Commission" means the regulations in 10 CFR 71.

(13) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch.); and

(c) It satisfies the test requirements specified by the Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31, 1996, and constructed prior to April 1, 1998, may continue to be used. A special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(14) "Specific activity" of a radionuclide means the radioactivity of a radionuclide per unit mass of that nuclide. The specific activity of a mate-

rial in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(15) "Surface contaminated object" (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(a) SCO-I: a solid object on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10-4 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10-5 microcurie/cm²) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1.0 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

(b) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 400 bequerel per square centimeter (Bq/cm²) (1E-2 microcurie per square centimeter) for beta, gamma and low toxicity alpha emitters or 40 bequerel per square centimeter (Bq/cm²) (1E-3 microcurie per square centimeter) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm²) (20 microcuries square centimeter) for beta, gamma and low toxicity alpha emitters, or 8E4 bequerel per square centimeter (Bq/cm²) (2 microcuries per square centimeter) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm²) (20 microcuries per square centimeter) for beta, gamma and low toxicity alpha emitters, or 8x10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

(16) "Transport index" means the dimensionless number, rounded up to the first decimal place, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package in millisievert (mSv) per hour multiplied by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter).

(17) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in 10 CFR Part 71 Appendix A or may be determined by procedures described in 10 CFR Part 71 Appendix A.

(18) "Type A package" means a packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding under normal conditions of transport as demonstrated by the tests set forth in 173.465 or 173.466, as appropriate.

(19) "Type B package" means a Type B packaging together with its radioactive contents.

NOTE: A type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in OAR 333-118-0035.

(20) "Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(21) "Type B quantity" means a quantity of radioactive material greater than Type A quantity.

NOTE: 10 CFR Part 71 Appendix A referred to or incorporated by reference in this rule is attached to this Division or available from the Health Division.

(22) "Uranium — natural, depleted, enriched"

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(a) "Natural uranium" means uranium isotopes with the naturally occurring distribution of uranium, isotopes (which is approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

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

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0040

Exemptions

(1) Common and contract carriers, freight forwarders, and warehouse workers that are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the U.S. Postal Service Manual Domestic Mail Manual, (DMM), Section C-023.9.0 are exempt from the rules in Divisions 102, 105, 113, 115, 116, 117, and 121 of this Chapter and the requirements for a license to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to OAR 333-118-0030 and other applicable requirements of these rules.

(2) Any licensee is exempt from the requirements of this Division to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than (0.002 microcurie per gram 70 Becquerels per gram (Bq/g)).

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0050

Transportation of Licensed Material

(1) Each licensee who transports licensed material outside the site of usage, as specified in the Agency license, or where transport is on public highways, or who delivers licensed material to a carrier for transport shall:

(a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation in 49 CFR 170-189, particularly the regulations of U.S. Department of transportation in the following areas:

(A) Packaging — 49 CFR Part 173: Subparts A and B and I.

(B) Marking and labeling — 49 CFR Part 172: Subpart D, §§ 172.400 through 172.407, §§ 172.436 through 172.440, and Subpart E.

(C) Placarding — 49 CFR Part 172: Subpart F, especially §§ 172.500 through 172.519, 172.556, and Appendices B and C.

(D) Accident reporting — 49 CFR Part 171: §§ 171.15 and 171.16.

(E) Shipping papers and emergency information — 49 CFR Part 172: Subparts C and G.

(F) Hazardous material employee training — 49 CFR Part 172: Subpart H.

(H) Hazardous material shipper/carrier registration — 49 CFR Part 107: Subpart G.

(b) The licensee also shall comply with applicable U.S. Department of Transportation regulations pertaining to the following modes of transportation:

(A) Rail — 49 CFR Part 174: Subparts A through D and K.

(B) Air — 49 CFR Part 175.

(C) Vessel — 49 CFR Part 176: Subparts A through F and M.

(D) Public highway — 49 CFR Part 177 and Parts 390 through 397.

(c) Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(2) If, for any reason, the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport and to the same extent as if the shipment were subject to the regulations.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0060

General Licenses for Carriers

(1) A general license is hereby issued to any common or contract carrier not exempt under OAR 333-118-0040 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

NOTE: Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the U.S. Department of Transportation or other agencies.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(3) Persons who transport radioactive material pursuant to the general licenses in 333-118-0060(1) or 333-118-0060(2) are exempt from the requirements of Divisions 111 and 120 of these rules to the extent that they transport radioactive material.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0070

General License: Nuclear Regulatory Commission-Approved Packages

(1) A general license is hereby issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission.

(2) This general license applies only to a licensee who:

(a) Has a copy of the specific license, certificate of compliance, or other approval by the Nuclear Regulatory Commission of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the license, certificate, or other approval by the Nuclear Regulatory Commission, as applicable, and the applicable requirements of Division 118;

(c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

(d) Has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(3) The general license in OAR 333-118-0070(1) applies only when the package approval authorizes use of the package under this general license.

(4) For previously approved Type B packages which are not designated as either B(U) or B(M) in the Certificate of Compliance, this general license is subject to additional restrictions in OAR 333-118-0080. For a Type B or fissile material package, the design of which was approved by Nuclear Regulatory Commission before April 1, 1996, the general license is subject to additional restrictions of OAR 333-118-0080.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0080

General License: Previously Approved Packages

(1) A Type B package previously approved by the U.S. Nuclear Regulatory Commission, but not designated as B(U) or B(M) in the Certificate of Compliance, may be used under the general license of OAR 333-118-0070 with the following additional limitations:

(a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. Nuclear Regulatory Commission regulations at 10 CFR 71.85(c); and

(b) The package may not be used for a shipment to a location outside the United States except when approved under special arrangement in accordance with 49 CFR 173.471. A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in U.S. Department of Transportation regulations at 49 CFR 173.403; and

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(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(2) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the Nuclear Regulatory Commission but without the designation “-85” in the identification number of the Nuclear Regulatory Commission certificate of compliance, may be used under the general license of 333-118-0070 with the following additional conditions:

(a) Fabrication of the package is satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with Nuclear Regulatory Commission regulations at 10 CFR 71.85(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval except approved under special arrangement in accordance with U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0090

General License: U.S. Department of Transportation Specification Container

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a specification container containing a fissile material or a Type B quantity of radioactive material as specified in 49 CFR Parts 173 and 178.

(2) This general license applies only to a licensee who has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(a) Has a copy of the specification;

(b) Complies with the terms and conditions of the specification and the applicable requirements of Division 118; and

(c) Has a quality assurance program required by OAR 333-118-0200.

(3) The general license in OAR 333-118-0090 is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States except by multilateral approval as defined in 49 CFR 173.403

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0100

General License: Use of Foreign Approved Package

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. Department of Transportation as meeting the applicable requirements of 49 CFR 171.12.

(2) This general license applies only to international shipments.

(3) This general license applies only to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Division.

(c) Has a quality assurance program approved by the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0110

General License: Fissile Material, Limited Quantity per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with division 333-0118.

(2) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(a) Up to 40 grams of uranium-235; or

(b) Up to 30 grams of uranium-233; or

(c) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A1 quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in 333-118-0110(2)(a), 333-118-0110(2)(b), and 333-118-0110(2)(c) does not exceed unity.

(3) Except as specified in 333-118-0110(3)(b), this general license applies only when all of the following requirements are met:

(a) A package containing fissile radionuclides is labeled with a transport index not less than the number given by the following equation:

Minimum Transport Index =

$(0.25x + 0.33y + 0.4z)$

where the package contains x grams of uranium-235, y grams of uranium-233, and z grams of the fissile radionuclides of plutonium;

(b) For a package in which the only fissile material is encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.025 times the number of grams of the fissile radionuclides of plutonium.

(c) In all cases, the transport index must be rounded up to one decimal place and shall not exceed 10.0.

(d) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in 333-118-0110(2), beryllium, graphite, or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1% of the fissile material mass.

(e) The licensee has a quality assurance program approved by the nuclear regulatory commission.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0120

General License: Fissile Material, Limited Moderator per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with Division 333-118.

(2) This general license applies only when all of the following requirements are met.

(a) The package contains no more than a Type A quantity of radioactive material.

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present.

(c) The total mass of graphite present does not exceed 7.7 times the total mass of uranium-235 plus plutonium.

(d) Substances having higher hydrogen density than water, for example certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping.

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235.

(f) The amount of uranium-235 is limited as follows:

(A) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following Table 1.

(B) If the fissile radionuclides are distributed uniformly, for example, they cannot form a lattice arrangement within the packaging, and the maximum amount of uranium-235 per package may not exceed the value given in Table 2.

(g) The transport index of each package based on criticality considerations is taken as 10 times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table 1 or 2 of this section as applicable. [Tables not included. See ED. NOTE.]

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

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0130

Fissile Material: Assumptions as to Unknown Properties of Fissile Material

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as

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if the unknown properties had credible values that would cause the maximum neutron multiplication.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0140

Preliminary Determinations

Prior to the first use of any packaging for the shipment of radioactive material:

(1) The licensee shall show that there are no defects that could significantly reduce the effectiveness of the packaging;

(2) Where the maximum normal operating pressure will exceed 35 kilopascals (five pounds per square inch (psi) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure to show that the system will maintain its structural integrity at that pressure;

(3) The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission; and

(4) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the U.S. Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0150

Routine Determinations

Prior to each shipment of licensed material, the licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except superficial defects such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) Any pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;

(8) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable.

(a) The level of non-fixed (removable) radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the removable contamination levels. Except as provided in OAR 333-118-0150(8)(b), the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, must not exceed the limits given in Table 3 below at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the removable contamination on the external surfaces of the package exceed 10 times the limits listed in Table 3.

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination at any time during transport must not exceed 10 times the levels prescribed in OAR 333-118-0150(8)(a). The levels at the beginning of transport must not exceed the levels in OAR 333-118-0150(8)(a);

(9) External radiation levels around the package and around the vehicle, if applicable, will not exceed 2 mSv/hr (200 millirem per hour) at any point on the external surface of the package at any time during the transportation. The transport index shall not exceed 10; [Table not included. See ED. NOTE.]

(10) For a package transported in exclusive use by rail, highway, or water, radiation levels external to the package may exceed the limits specified in OAR 333-118-0150(10) but shall not exceed any of the following:

(a) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 milliSieverts per hour (mSv/h) (1000 millirem per hour);

(A) The shipment is made in a closed transport vehicle,

(B) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(C) There are no loading or unloading operations between the beginning and end of the transportation.

(b) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier*, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

*NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier, the package cannot exceed 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at the surface.

(c) 0.1 milliSieverts per hour (mSv/h) (10 millirem per hour) at any point two (2) meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point two (2) meters from the vertical planes projected from the outer edges of the vehicle; and

(d) 0.02 milliSieverts per hour (mSv/h) (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with OAR 333-111-0005; and

(11) A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) in a nonexclusive use shipment or 185 degrees Fahrenheit (85 degrees Celsius) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

(12) A package may not incorporate a feature intended to allow continuous venting during transport.

(13) Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee.

NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirem per hour) at any accessible surface.

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

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0160

Air Transport of Plutonium

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Division or included indirectly by citation of the U.S. Department of Transportation regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 70 Bq/g (0.002 microcuries per gram) of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with OAR 333-118-0050; or

(4) The plutonium is shipped in a package specifically authorized (in the certificate of compliance issued by the Nuclear Regulatory Commission for that package) for the shipment of plutonium by air, and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the U.S. Department of Transportation regulations applicable to the air transport of plutonium.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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333-118-0170

Shipment Records

Each licensee shall maintain for a period of 3 years after shipment, or until inspected by the Agency, a record of each shipment of licensed material not exempt under OAR 333-118-0040, showing, where applicable:

- (1) Identification of the packaging by model and serial number;
- (2) Verification that the packaging, as shipped, had no significant defects;
- (3) Volume and identification of coolant;
- (4) Type and quantity of licensed material in each package, and the total quantity of each shipment;
- (5) Date of the shipment;
- (6) Name and address of the transferee;
- (7) Address to which the shipment was made; and
- (8) Results of the determinations required by OAR 333-118-0150.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0180

Reports

The licensee shall report to the Agency within 30 days:

- (1) Any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use; and
- (2) Details of any defects with safety significance in the Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence or
- (3) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0190

Advance Notification of Transport of Nuclear Waste

(1) Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state within or through which the waste will be transported.

NOTE: A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, Office of State, Local, and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Advance notification is required only when:

- (a) The nuclear waste is required to be in Type B packaging for transportation;
 - (b) The nuclear waste is being transported into, within, or through, a state en route to a disposal facility or to a collection point for transport to a disposal facility; and
 - (c) The quantity of licensed material in a single package exceeds any one of the following:
 - (A) 3000 times the A_1 value of the radionuclides as specified in Appendix A, Table A-1 for special form radioactive material;
 - (B) 3000 times the A_2 value of the radionuclides as specified in Appendix A, Table A-1 for normal form radioactive material;
 - (C) 1000 TBq (27,000 Ci)
- (3) Each advance notification required by 333-118-0190(1) shall contain the following information:
- (a) The name, address, and telephone number of the shipper, carrier and receiver of the shipment;
 - (b) A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d);
 - (c) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur;
 - (d) The 7-day period during which arrival of the shipment at state boundaries is estimated to occur;
 - (e) The destination of the shipment, and the 7-day period during which arrival of the shipment is estimated to occur; and
 - (f) A point of contact with a telephone number for current shipment information.

(4) The notification required by 333-118-0190(1) shall be made in writing to the office of each appropriate governor, or governor's designee, and to the Agency. A notification delivered by mail must be postmarked at least seven days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A notification delivered by

the messenger must reach the office of the governor, or governor's designee, at least four (4) days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for 3 years or until inspected by the agency.

(5) The licensee shall notify each appropriate governor, or governor's designee, and the Agency of any changes to schedule information provided pursuant to 333-118-0190(1). Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for 3 years a record of the name of the individual contacted.

(6) Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Agency. A copy of the notice shall be retained by the licensee for 3 years.

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

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0200

Quality Assurance Requirements

(1) Unless otherwise authorized by the agency, each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected.

(2) The licensee shall identify the material and components to be covered by the quality assurance program.

(3) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used.

(4) Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain approval by the Agency of its quality assurance program.

(5) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a package for shipment of radioactive material shall be maintained for a period of 3 years after shipment or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-118-0800

Referenced Materials

(1) This Division of Chapter 333 of the Oregon Administrative Rules incorporates by reference material originally published elsewhere. Certified copies of the complete text of incorporated materials referenced are available for public inspection during regular business hours at the Radiation Protection Services Office. Copies of referenced material will be provided at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from Radioactive Materials Program, Radiation Protection Services, 800 NE Oregon Street Suite 260, Portland, Oregon 97232.

(2) Material referenced in this Division does not include amendments to or revised editions of the material published later than the effective date of the relevant section.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0030

Administrative Responsibilities

(1) The registrant shall be responsible for directing the operation of the tanning facility which has been registered with the Agency. That individual, or individual's agent shall assure that the provisions of these rules are met in the operation of tanning devices.

(2) A tanning device which does not meet the provisions of these rules shall not be operated and may be tagged "Out of Service for Non-compliance with OAR 333-119 Requirements" by Agency inspectors. Devices tagged as non-compliant shall not be operated until written authorization is received by the registrant from the Agency.

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(3) The registrant shall assure that the tanning facility will comply with all applicable federal laws and regulations.

(4) In addition to the requirements of this Division, all registrants are subject to the applicable requirements of Divisions 100, 103 and 111 of these rules.

(5) The Agency Inspection Findings report and facility response letter(s) shall be conspicuously posted in public view until all items of non-compliance have been corrected and a written Agency release from this requirement is received by the registrant.

(6) The registrant shall post in a conspicuous place the Agency "Notice To The Public".

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.930 & 431.935

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0040

Construction and Operation of Tanning Facilities

Unless otherwise ordered or approved by the Agency, each tanning facility shall be constructed, operated and maintained to meet the following minimum requirements:

(1) Physical facilities:

(a) All tanning facilities shall be equipped with convenient toilet facilities and dressing rooms. Such toilet facilities shall include a water closet and handwashing sinks. Such toilet and dressing rooms shall be properly maintained, as well as meet all state and local codes.

(b) All areas of the tanning facility shall be ventilated with at least six air changes per hour or as required by local code.

(c) Tanning booth temperature shall be maintained below 100 degrees Fahrenheit (38 degrees Centigrade) during booth operation.

(d) The tanning device shall meet the National Fire Protection Association's National Electrical Code, or be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

(e) Except as otherwise noted by the Agency, each tanning facility shall be constructed, operated and maintained in accordance with applicable city, county and state codes.

(2) Cleaning and maintenance:

(a) All areas of the tanning facility, including tanning devices, equipment and apparatus, shall be maintained in a clean and sanitary manner by the facility operator and in accordance with manufacturer's instructions.

(b) The tanning device(s) and protective eyewear shall be cleaned with an approved sanitizer after each use by the facility operator. A listing of approved sanitizers is maintained by the Agency and is available upon request of registrants. This listing may change at any time due to updating of state or federal sanitation guidelines. The operator shall use a sanitizer that sanitizes to a safe level of microorganisms as required by these rules. A clean paper or cloth towel shall be used each time the tanning device is cleaned and sanitized. The sanitizer, as described in these rules, is one specifically manufactured for sanitizing ultravioletlightemitting equipment and protective eyewear, and that does not damage the acrylic lamp covers of the device. The Ultraviolet Light produced by the tanning device itself is not considered an adequate sanitizing agent.

(c) Protective eyewear and tanning devices shall be sanitized after each use with a sanitizing agent which is registered by EPA and approved by the Agency using the following procedures:

(A) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with a solution) containing at least 400 ppm (parts per million) of available quaternary ammonium compound at a temperature of at least 75 degrees Fahrenheit; or

(B) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing at least 100 ppm (parts per million) of available chlorine as a hypochlorite and at a temperature of at least 75 degrees Fahrenheit; or

(C) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing at least 25 ppm (parts per million) of available iodine and at a pH of which the efficacy has been demonstrated to be effective by the manufacturer and at temperature of at least 75 degrees Fahrenheit; or

(D) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing any other chemical sanitizing agent registered with the EPA or FDA, and specifically manufactured for use with protective eyewear and/or tanning devices that

will provide the equivalent bactericidal effect of a solution containing at least 100 ppm (parts per million) of available chlorine as a hypochlorite at temperature of at least 75 degrees Fahrenheit.

(d) A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution when the concentrate and water dilution is initially prepared and at least weekly thereafter to ensure sufficient strength of the sanitizing solution. If a suitable test kit is not available for an approved sanitizer, the laboratory analysis data shall be provided by the product manufacturer, and a copy be on file with the Agency. Written procedures at the facility using sanitizer shall include proper mixing and handling instructions to assure proper concentration of the sanitizer.

(e) Clean sanitary towels shall be provided to all patrons using tanning facilities.

(f) A hamper or receptacle must be provided for all soiled towels and linen.

(g) No pets or animals are permitted in tanning facilities other than seeing eye dogs or hearing assistance dogs.

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.930

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0080

Training of Personnel

(1) The registrant shall certify that all tanning device operators are adequately trained in the following:

(a) The requirements of this Division; and

(b) Procedures for correct operation of the tanning facility and tanning devices; and

(c) Recognition of injury or overexposure to Ultraviolet radiation; and

(d) The tanning device manufacturer's procedures for operation and maintenance of the tanning devices; and

(e) The determination of skin type of customers and appropriate determination of duration of exposure to registered tanning devices; and

(f) Emergency procedures to be followed in case of injury; and

(g) Potential photosensitizing foods, cosmetics, and medications.

(2) The registrant shall ensure that tanning devices are operated only while an adequately trained operator is present at the tanning facility.

(3) All currently registered tanning facilities in the State of Oregon must have completed the following staff training requirements within one (1) year of registering with the agency:

(a) At least one owner, manager or operator from each tanning facility with four or less tanning devices, shall successfully complete one of the vendor-provided formal training courses authorized by the Agency.

(b) At least two operators from each tanning facility with five or more tanning devices shall successfully complete one of the vendor provided formal training courses authorized by the Agency.

(c) Training of other full or part-time operators shall be by means of an Agency-authorized and vendor-provided training course, or by materials received by an owner or primary operator from an Agency-authorized and vendor-provided training course, or by an Agency-authorized correspondence course.

(4) Staff training shall be documented by the facility owner or operator and include date and time with subjects covered in the training session for all operators.

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.930

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0090

Protection of Consumers

The registrant shall establish and use a procedure manual that will aid in the protection of the consumer to excessive or unnecessary exposure to Ultraviolet Light. This manual shall include, but not be limited to, the following instructions:

(1) Only one consumer per tanning room at a time, or

(a) When two or more tanning devices are used in the same room, only those consumers using tanning devices should be present in the room, and

(b) In the case of a consumer using a tanning device who may need the aid or assistance from another person, that individual must also be provided with and wear protective eyewear.

(2) No consumer under the age of 18, without written parental consent, shall be allowed to use a tanning device. Written consent must be pro-

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vided on the premises in the presence of an owner/operator, with the parent's understanding of the potential risks involved in overexposure.

(3) A sign shall be posted in conspicuous view at or near the reception area with the following text: "PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE PARENT OR LEGAL GUARDIAN SIGN AUTHORIZATION TO TAN, IN THE PRESENCE OF A TANNING FACILITY OPERATOR. OAR 333-119-0090(2)."

(4) Each person using a tanning device shall be instructed by the operator on the maximum exposure time and proper exposure distance, as recommended by the manufacturer of the device. The operator shall also instruct the consumer as to the location and proper operation of the tanning device's emergency shut off switch.

(5) Infants and minors are not permitted to be in the tanning device room during exposure by parents or guardians.

(6) Tanning operators shall limit exposure time to the exposure time recommendation provided by the device manufacturer on the tanning device or in the device operating manual. The maximum exposure time recommended by the manufacturer of the device shall not be exceeded in any 24-hour period.

(7) Tanning operators shall keep a list of emergency contact numbers in view at each tanning facility. This list shall include the emergency contact numbers appropriate for the community where the facility is located. Example of emergency contacts:

- (a) Nearest hospital;
- (b) Nearest fire department;
- (c) Emergency medical services or emergency 911 service, if available;
- (d) Oregon Radiation Protection Services at (503) 731-4014.

(8) Tanning operators shall maintain a list of the common photosensitizing agents as provided by the Oregon Health Division, FDA, or other appropriate authorities, available for review by consumers.

(9) Tanning facilities are prohibited from controlling the use of tanning devices solely with token timer systems.

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0100

Equipment

(1) The registrant shall use only tanning devices manufactured in accordance with the specifications set forth in 21 CFR Part 1040, Section 1040.20, "Sunlamp Products and Ultraviolet Lamps Intended for Use in Sunlamp Products."

(2) Each sunlamp product or Ultraviolet Lamp used in these facilities shall not emit measurable Ultraviolet C radiation.

(3) Each Ultraviolet Lamp contained within the sunlamp product shall be shielded so as to not come into contact with the consumer. A transparent acrylic cover shall be used for this purpose.

(4) Tanning booths in which the consumer is in a standing position shall be provided with a handrail for the consumer to hold onto during operation of the booth.

(a) The construction of the booth shall be such that it will have the strength to withstand the stress of use and the impact of a falling person.

(b) Entry to stand-up booths shall be of rigid construction with doors which are non-latching and open outwardly.

(5) Each tanning device shall have, clearly marked, the appropriate position the consumer is to assume prior to operation.

(6) Each tanning device shall prominently display the following label or equivalent warning/information label:

DANGER - ULTRAVIOLET RADIATION.
FOLLOW INSTRUCTIONS CAREFULLY
DO NOT ENTER WITHOUT PROTECTIVE EYEWEAR

(7) Adequate means shall be provided to enable a consumer to summon assistance from the exposure position.

(8) All persons hired for servicing and repair of tanning devices shall be an Agency licensed service technician or State of Oregon licensed electrician.

(9) Original Equipment Manufacturer (OEM) replacement parts (or equivalent) shall be used, if available, to prevent UL/ETL delisting of tanning devices. All local, State of Oregon, and National Electrical Codes must be observed during service and repair actions.

(10) Defective or burned out tanning lamps or bulbs shall be replaced with a type intended for use in the device and shall be of the same Ultraviolet range (A or B) as the manufacturer specifies, and shall be the original lamp type as specified by the manufacturer, or certified as an equivalent lamp per 21 CFR 1040.20.

(11) If equivalent lamps are used instead of the Original Equipment Manufacturer (OEM) required lamps, a copy of the equivalency certification, provided by the lamp supplier, shall be maintained on file for review by Agency inspectors.

(12) Defective or burned out tanning lamps and tanning lamps which have been operated in a tanning device for the manufacturer's maximum rated lamp hour life, shall be disposed of in a safe and proper manner to prevent unauthorized and unsafe use as lighting devices. Used tanning lamps are prohibited from being resold for any purpose.

(13) If the Ultraviolet tanning device is not in an individual cubicle, then a suitable screen, curtain, or other shield shall be provided, maintained, and used to prevent unnecessary exposure to Ultraviolet radiation of persons not using the device.

(14) The facility operator shall ensure that consumers do not exceed the exposure time indicated by the manufacturer.

(15) Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040, Section 1040.20 (c)(2).

(a) The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time.

(b) Tanning device timers shall be controlled by a properly trained operator. A remote timer control system shall be used for this purpose.

(c) Each tanning device shall be equipped with an emergency shut-off mechanism to allow manual termination of the UV exposure by the consumer, as required by 21 CFR 1040.20(c)(3).

(16) Each timer must be functional and accurate to within $\pm 10\%$.

(17) The registrant shall ensure that the timer is checked annually for accuracy.

(18) All tanning devices shall be maintained to the minimum requirements of the manufacturer.

(19) Each tanning device shall be equipped with an hour meter to accurately determine lamp hour use and recording of maintenance service on each device.

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.655, 431.930 & 431.945
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-119-0120

Advertising

(1) No person or facility shall advertise the use of any Ultraviolet A or Ultraviolet B tanning device using wording such as "Safe", "Safe Tanning", "No Harmful Rays", "No Adverse Effect", or similar wording or concepts.

(2) No person, in any advertisement, shall refer to the fact that such person, or such person's facility, is registered with the Agency pursuant to the provisions of this Division, and no person shall state or imply that any activity under such registration has been approved by the Agency.

(3) No person or facility shall advertise or promote tanning packages labeled as "unlimited".

(4) Tanning packages shall include the following written tanning guidelines for all clients:

(a) Initial tanning sessions (three to five) are limited to intervals of at least 48 hours between sessions to allow adequate time for melanin activation and transit to occur prior to subsequent exposures. The manufacturer's recommended exposure schedule posted on tanning devices or listed in the operating manual for the tanning device shall be followed by tanning operators advising new clients during initial tanning sessions.

(b) After the initial (three to five) tanning exposures, tanning sessions are limited to one tanning session per 24-hour period (or one tanning session per 48 hours on tanning devices so labeled) with consumers being properly advised of the manufacturer's recommended exposure schedule posted on tanning devices or listed in the operating manual for the tanning device.

(c) Promotion of annual tanning packages shall include a written statement listing the total number of sessions allowed per person, per year (recommendations should generally not exceed two sessions per week and the maximum of 30-50 sessions per year as recommended by the International Radiation Protection Association (IRPA) and other authorities).

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

ADMINISTRATIVE RULES

333-120-0015

Definitions

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the Curie (Ci). The becquerel is equal to one disintegration per second (dps) and the Curie is equal to 3.7×10^{10} dps.

(3) "Adult" means an individual 18 or more years of age.

(4) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(5) "Airborne radioactivity area" means a room, enclosure, or area in which the airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 10 CFR 20 Appendix B; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours present in a week, and intake of 0.6 percent of the annual limit of intake (ALI) or 12 DAC hours.

(6) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B.

(7) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from source, byproduct, or special nuclear materials regulated by the Agency.

(8) "Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(9) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days, for Class W, Weeks, from 10 to 100 days, and for Class Y, Years, of greater than 100 days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms.

(10) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(11) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues ($H_{E,50} = \sum W_T H_{T,50}$).

(12) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(13) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(14) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(15) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of the license; or

(b) Release of the property under restricted conditions and termination of the license.

(16) "Deep-dose equivalent" (H_d), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm^2).

(17) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of 10 CFR 20 Appendix B.

(18) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(19) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(20) "Dose or radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in other paragraphs of 333-120-0015.

(21) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(22) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(23) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(24) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(25) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(26) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(27) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(28) "Eye dose equivalent" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm^2). (See "lens dose equivalent").

(29) "Generally applicable environmental radiation standards" means standards issued by the Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(30) "High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(31) "Individual" means any human being.

(32) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e. DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(33) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(34) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

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(35) "Lens dose equivalent (LDE)" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

(36) "Member of the public" means any individual except when that individual is receiving an occupational dose.

(37) "Minor" means an individual less than 18 years of age.

(38) "Monitoring (radiation monitoring, radiation protection monitoring)" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(39) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, "deterministic effect" is an equivalent term.

(40) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released, from voluntary participation in medical research programs, or as a member of the public.

(41) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(42) "Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released, or from voluntary participation in medical research programs.

(43) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(44) "Radiation" (ionizing radiation) means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio- or microwaves, or visible, infrared, or ultraviolet light.

(45) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(46) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(47) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site.

(48) "Restricted area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(49) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(50) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(51) "Shallow-dose equivalent" (H_G), which applies to the external exposure of the skin or an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²) averaged over an area of 1 square centimeter.

(52) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(53) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, "probabilistic effect" is an equivalent term.

(54) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(55) "Total Effective Dose Equivalent" (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(56) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee.

(57) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates.^{1/}

^{1/} At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.

(58) "Weighting factor" (w_T) for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

Organ Dose Weighting Factors

Organ or Tissue — w_T

Gonads — 0.25

Breast — 0.15

Red bone marrow — 0.12

Lung — 0.12

Thyroid — 0.03

Bone surfaces — 0.03

Remainder — 0.30^{a/}

Whole Body — 1.00^{b/}

^{a/} 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

^{b/} For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(59) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(60) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy.

(61) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year/12 months per year equals approximately 170 hours per month).

Stat. Auth.: ORS 453.605 - 453.807

Stat. Imp.: ORS 453.615, 453.625 & 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0017

Implementation.

(1) Any existing license or registration condition that is more restrictive than OAR 333-120 remains in force until there is an amendment or renewal of the license or registration.

(2) If a license or registration condition exempts a licensee or registrant from a provision of OAR 333-120 in effect on or before September 1, 2002, it also exempts the licensee or registrant from the corresponding provision of OAR 333-120.

(3) If a license or registration condition cites provisions of OAR 333-120 in effect prior to September 1, 2002, which do not correspond to any provisions of OAR 333-120, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

Stat. Auth.: ORS 453.605 - 453.807

Stat. Imp.: ORS 453.615, 453.625 & 453.635

ADMINISTRATIVE RULES

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0100

Occupational Dose Limits For Adults

(1) Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures under OAR 333-120-0150, to the following dose limits:

- (a) An annual limit, which is the more limiting of:
(A) The total effective dose equivalent being equal to 0.05 Sv (5 rem);

or

(B) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin, and to the extremities which are:

- (A) A lens dose equivalent of 0.15 Sv (15 rem), and
(B) A shallow-dose equivalent of 0.50 Sv (50 rem) to the skin or to any of the extremities.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, must be subtracted from the limits for planned special exposures, as defined in OAR 333-100-0005(97), that the individual may receive during the current year (OAR 333-120-0150(5)(a) and during the individual's lifetime (OAR 333-120-0150(5)(b)).

NOTE: A licensee or registrant may permit a radiation worker to receive more than 0.05 Sv (5 rem) per year TEDE or 0.5 Sv (50 rem) to the skin, extremities, or organ, or 0.15 Sv (15 rem) to the lens of the eye during a planned special exposure (PSE) only if: (a) there are no other alternatives available or practical; (b) the PSE is authorized in writing before it occurs; (c) the individuals who will be exposed are told the reason for the PSE, the dose they are expected to receive, the risks from that dose and the conditions under which they will be working (e.g. radiation or contamination levels), and how to keep their doses ALARA; (d) the licensee or registrant determines the worker's prior doses (lifetime history); (e) the total dose expected from the PSE plus any previous doses over the annual limit do not exceed the standard annual dose limits [0.05 Sv/yr (5 rem/yr) whole body, 0.5 Sv/yr (50 rem/yr) skin, extremities or organ, 0.15 Sv/yr (15 rem/yr) lens of eye], or five times the standard limits in the worker's lifetime; (f) the licensee or registrant maintains the appropriate records and files the appropriate reports; and (g) after the PSE, the licensee or registrant records the dose received and notifies the worker in writing of the dose received within 30 days after the PSE. The dose received from the PSE does not affect the worker's ability to receive the standard annual doses but is included in the worker's lifetime history and added to any future PSEs.

The assigned deep-dose equivalent and shallow-dose equivalent must be for the part of the body receiving the highest exposure:

(a) The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in 333-120-0210(1)(d) the effective dose equivalent for external radiation shall be determined as follows:

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation; or

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in D.201a the reported deep dose equivalent value multiplied by 0.3 shall be the effective dose equivalent for external radiation; or

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401 and may be used to determine the individual's dose (OAR 333-120-0650) and to demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity (see 10 CFR Part 20 footnote 3 of Appendix B to 20.1001 to 20.2401).

(6) When monitoring is required by OAR 333-120-0210 each licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person (OAR 333-120-0630(5)).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0110

Compliance with Requirements for Summation of External and Internal Doses

(1) If the licensee is required to monitor under OAR 333-120-0210(1) and (2), the licensee shall demonstrate compliance with the dose limits by summing external and internal doses. If the licensee is required to monitor only under OAR 333-120-0210(1) or only under OAR 333-120-0210(2), then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for summation of external and internal doses by meeting one of the conditions specified in 333-120-0110(2) and the conditions in 333-120-0110(3) and 333-120-0110(4).

NOTE: The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

(2) Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

- (a) The sum of the fractions of the inhalation ALI for each radionuclide, or
(b) The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or

(c) The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit.

NOTE: An organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, wT, and the committed dose equivalent, HT,50, per unit intake is greater than 10 percent of the maximum weighted value of HT,50 (i.e. wTHT,50) per unit intake for any organ or tissue.

(3) Intake by Oral Ingestion. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10 percent of the applicable oral ALI, the licensee shall account for this intake and include it in demonstrating compliance with the limits.

(4) Intake Through Wounds or Absorption Through Skin. The licensee shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be further evaluated.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0130

Determination of Internal Exposure

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee shall, when required under OAR 333-120-0210, take suitable and timely measurements of:

- (a) Concentrations of radioactive materials in air in work areas; or
(b) Quantities of radionuclides in the body; or
(c) Quantities of radionuclides excreted from the body; or
(d) Combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in OAR 333-120-0320 or the assessment of intake is based in bioassays, the licensee shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior or the material in an individual is known, the licensee may:

(a) Use that information to calculate the committed effective dose equivalent, and, if used, the licensee shall document that information in the individual's record; and

(b) Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (e.g. aerosol size distribution or density); and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of given radionuclide (see 10 CFR Part 20 Appendix B to 20.1001 to 20.2401) to the committed effective dose equivalent.

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(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in 333-120-0130(1), 333-120-0130(2) or 333-120-0130(3), the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by OAR 333-120-0710 or 333-120-0720, in order to permit the licensee to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours must be either:

(a) The sum of the ratios of the concentration to the appropriate DAC value (e.g. D, W, Y) from 10 CFR Part 20 Appendix B to 20.1001 to 20.2401 for each radionuclide in the mixture; or

(b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture must be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, licensees may disregard certain radionuclides in the mixture if:

(a) The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in OAR 333-120-0100 and in complying with the monitoring requirements in OAR 333-120-0210(2), and

(b) The concentration of any radionuclide disregarded is less than 10 percent of its DAC, and

(c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

(8) When determining the committed effective dose equivalent, the following information may be considered:

(a) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(b) When the ALI (and the associated DAC) is determined by the non-stochastic organ dose limit of 0.50 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) (the stochastic ALI) is listed in parentheses in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401. In this case, the licensee may, as a simplifying assumption, use the stochastic ALIs to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALIs, the licensee also must demonstrate that the limit in OAR 333-120-0100(1)(a)(B) is met.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0170

Dose to an Embryo/Fetus

(1) The licensee or registrant shall ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, as defined in OAR 333-100-0005(30), does not exceed 5 mSv (0.5 rem). Records shall be kept in accordance with OAR 333-120-0650.

NOTE: A woman is not a declared pregnant woman unless she says so in writing without being coerced. Unless a woman, who also is a radiation worker, has declared her pregnancy as required, she is to be treated as any other radiation worker. Pursuant to Title VII of the Civil Rights Act of 1964, as amended, no employer may restrict a fertile female's job because of concern for the health of the fetus that a woman might conceive. The court held that sex-specific fetal-protection policies are forbidden. Additionally, a female worker legally can declare pregnancy if she does not yet have documented medical proof. The document, "Instruction Concerning Prenatal Radiation Exposure", discusses declared pregnancy. It is available from Oregon Health Services, Radiation Protection Services Suite 260, 800 N.E. Oregon St., Portland, OR 97202, phone 503/731-4014.

(2) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman, as defined in OAR 333-100-0005(30), so as to satisfy the limit in 333-120-0170(1).

(3) The dose equivalent to an embryo/fetus shall be taken as the sum of:

(a) The deep-dose equivalent to the declared pregnant woman, as defined in OAR 333-100-0005(30); and

(b) The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman, as defined in OAR 333-100-0005(30).

(4) If the dose equivalent to the embryo/fetus is found to have exceeded 4.5 mSv (0.45 rem) by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with 333-120-0170(1) if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

NOTE: If a pregnant radiation worker declares in writing to the licensee that she is pregnant, the dose limit to the embryo/fetus is 5 mSv (0.5 rem) during the entire pregnancy. The dose that is controlled is the dose to the embryo/fetus, not the dose to the woman, although for external penetrating radiation, the two are virtually synonymous.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0180

Dose Limits for Individual Members of the Public

(1) Each licensee or registrant shall conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contribution from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 333-116-0260, from voluntary participation in medical research programs, and the licensee's disposal of radioactive material into sanitary sewerage in accordance with OAR 333-120-0520; and

(b) The dose in any unrestricted area from external sources does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) A licensee, registrant or applicant may apply for prior Agency authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). The licensee, registrant or applicant shall include the following information in this application:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in 333-120-0180(1); and

(b) The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose as low as is reasonably achievable.

(4) In addition to the requirements of this Division, a licensee or registrant subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190 shall comply with those standards.

(5) The Agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0190

Compliance with Dose Limits for Individual Members of the Public

(1) The licensee or registrant shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in OAR 333-120-0180.

(2) A licensee or registrant shall show compliance with the annual dose limit in OAR 333-120-0180 by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(b) Demonstrating that:

(A) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401; and

(B) If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

(3) Upon approval from the Agency, the licensee or registrant may adjust the effluent concentration values in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401 for members of the public, to take into

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account the actual physical and chemical characteristics of the effluents (e.g. aerosol size distribution, solubility, density, radioactive decay equilibrium, chemical form).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0200

General

(1) Each licensee or registrant shall make or cause to be made, surveys that:

(a) Are necessary for the licensee or registrant to comply with the rules in this Division; and

(b) Are reasonable under the circumstances to evaluate:

- (A) The magnitude and extent of radiation levels; and
- (B) The concentrations or quantities of radioactive material; and
- (C) The potential radiological hazards that could be present.

(2) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements (e.g. dose rate and effluent monitoring) are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in another applicable Division or a license condition.

(3) All personnel dosimeters (except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose and that are used by licensees or registrants to comply with OAR 333-120-0100, with other applicable provisions of this Division or with conditions specified in a license must be processed and evaluated by a dosimetry processor:

(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

(4) The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.625 & 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0210

Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant shall monitor exposures to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of this Division. As a minimum:

(1) Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in OAR 333-120-0100(1); and

(b) Minors likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of any of the applicable limits in Division OAR 333-120-0160 or 333-120-0170; and

(c) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem); and

(d) Individuals entering a high or very high radiation area.

(e) Individuals working with medical fluoroscopic equipment.

(A) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), shall be located under the protective apron at the waist.

(B) An individual monitoring device used for lens dose equivalent shall be located at the neck, or an unshielded location closer to the lens, outside the protective apron.

(C) When only 1 individual monitoring device is used to determine the effective dose equivalent for external radiation pursuant to 333-120-0100(3)(b) it shall be located at the neck outside the protective apron. When a second individual monitoring device is used, for the same purpose, it shall be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.

(2) Each licensee or registrant shall monitor (OAR 333-120-0130) the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI(s) in 10 CFR Part 20 Table 1, Columns 1 and 2, of Appendix B to 20.1001 to 20.2401; and

(b) Minors and declared pregnant women likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0215

Location of Individual Monitoring Devices

Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with 333-120-0210(1) wear individual monitoring devices as follows:

(1) An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);

(2) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), shall be located at the waist under any protective apron being worn by the woman;

(3) An individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with 333-120-0100(1)(b)(A), shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;

(4) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with 333-120-0100(1)(b)(B), shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.625 & 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0220

Control of Access to High Radiation Areas

(1) The licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:

(a) A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates;

(b) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

(c) Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by 333-120-0220(1) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

(3) A licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.

(4) The licensee or registrant shall establish the controls required by 333-120-0220(1) and 333-120-0220(3) in a way that does not prevent individuals from leaving a high radiation area.

(5) Control is not required for each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR) provided that:

(a) The packages do not remain in the area longer than 3 days; and

(b) The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.

(6) Control of entrance or access to rooms or other areas in hospitals is not required solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this Division and to operate within the ALARA provisions of the licensee's or registrant's radiation protection program.

ADMINISTRATIVE RULES

(7) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable Divisions of Chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0230

Control of Access to Very High Radiation Areas

(1) In addition to the requirements in OAR 333-120-0220, the licensee or registrant shall institute additional measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 500 rad (5 grays) or more in 1 hour at 1 meter from a radiation source or any surface through which the radiation penetrates.

(2) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0240

Control of Access to Very High Radiation Areas — Irradiators

This section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. It does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

(1) Each area in which there may exist radiation levels in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a sealed radioactive source that is used to irradiate materials must meet the following requirements.

(a) Each entrance or access point must be equipped with entry control devices which:

(A) Function automatically to prevent any individual from inadvertently entering the area when very high radiation levels exist; and

(B) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the sealed source, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(C) Prevent operation of the source if the source would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in 1 hour.

NOTE: This rule applies to radiation from accelerators, and byproduct, source, NARM, or special nuclear radioactive materials that are used in sealed sources in non-self-shielded irradiators. This rule does not apply to radioactive or x-ray sources that are used in teletherapy or medical accelerators, in radiography, or in completely self-shielded irradiators in which the source is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual. This rule also does not apply to sources from which the radiation is incidental to some other use.

(b) Additional control devices must be provided so that, upon failure of the entry control devices to function as required by 333-120-0240(1)(a):

(A) The radiation level within the area, from the sealed source, or radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.

(c) The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the radiation source's shield or shielded storage container:

(A) The radiation level from the radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee/registrant or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(d) When the shield for the stored source is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(e) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of 333-120-0240(1)(c) and 333-120-0240(d).

(f) Each area must be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source from being put into operation.

(g) Each area must be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the radiation source.

(h) Each area must be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source, the radiation level from the source in the area is below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour.

(i) The entry control devices required in 333-120-0240(1)(a) must have been tested for proper functioning. Records of required testing shall be maintained in accordance with OAR 333-120-0680.

(A) Testing must be conducted prior to initial operation with the source of radiation on any day (unless operations were continued uninterrupted from the previous day); and

(B) Testing must be conducted prior to resumption of operation of the source of radiation after any unintended interruption; and

(C) The licensee or registrant shall submit and adhere to a schedule for periodic tests of the entry control and warning systems.

(j) The licensee or registrant may not conduct operations, other than those necessary to place the source in safe condition or to effect repairs on controls, unless control devices are functioning properly.

(k) Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, must be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for processed materials must be equipped to detect and signal the presence of any loose radiation sources that are carried toward such an exit and to automatically prevent loose radiation sources from being carried out of the area.

(2) Persons holding licenses or registrations or applicants for licenses or registrations for radiation sources that are within the purview of 333-120-0240(1) and that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of 333-120-0240(1), such as those for the automatic control of radiation levels, may apply to the Agency for approval of the use of alternative safety measures. Any alternative safety measures must provide a degree of personnel protection at least equivalent to those specified in 333-120-0240(1). At least one of the alternative measures must include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such radiation sources are used.

(3) The entry control devices required by 333-120-0240(1) and 333-120-0240(2) must be established in such a way that no individual will be prevented from leaving the area.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.625, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

ADMINISTRATIVE RULES

333-120-0250

Security of Stored Material

(1) The licensee shall secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

(2) The registrant shall secure registered radiation machines from unauthorized removal.

(3) The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0320

Use of Individual Respiratory Protection Equipment

(1) If the licensee uses respiratory protection equipment to limit intakes pursuant to OAR 333-120-0310:

(a) The licensee shall use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA).

(b) The licensee may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(c) The licensee shall implement and maintain a respiratory protection program that includes:

(A) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures; and

(B) Surveys and bioassays, as appropriate, to evaluate actual intakes; and

(C) Testing of respirators for operability immediately prior to each use; and

(D) Written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

(E) Determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

(d) The licensee shall issue a written policy statement on respirator usage covering:

(A) The use of process or other engineering controls, instead of respirators; and

(B) The routine, nonroutine, and emergency use of respirators; and

(C) The periods of respirator use and relief from respirator use.

(e) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(f) The licensee shall use equipment within limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities (such as adequate skin protection) when needed.

(2) In estimating exposure of individuals to airborne radioactive materials, the licensee or registrant may make allowance for respiratory protection equipment used to limit intakes pursuant to OAR 333-120-0310, provided that the following conditions, in addition to those in 333-120-0320(1), are satisfied:

(a) The licensee selects respiratory protection equipment that provides a protection factor (10 CFR Part 20 Appendix A to 20.1001 to 20.2401) greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in 10 CFR Part 20 Table 1, Column 3 of Appendix B to 20.1001 to 20.2401. If the selection of a respiratory protection device with a protection factor greater than the peak concentration is inconsistent with the goal specified in OAR 333-120-0310 of keeping the total effective dose equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor only if such a selection would result in keeping the total effective dose equivalent ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concen-

tration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used; if the exposure is later found to be less than estimated, the corrected value may be used; and

(b) The licensee shall obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in 10 CFR Part 20 Appendix A to 20.1001 to 20.2401. The Agency may authorize a licensee to use higher protection factors on receipt of an application that:

(A) Describes the situation for which a need exists for higher protection factors; and

(B) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) The licensee shall use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

(4) The licensee shall notify the Agency, in writing, at least 30 days before the date that respiratory protection equipment is first used under the provisions of either 333-120-0320(1) or 333-120-0320(2).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0400

Caution Signs

(1) Standard radiation symbol: Unless otherwise authorized by the Agency, the symbol prescribed by this Division shall use the colors magenta, purple, or black on yellow background. The symbol prescribed by this Division is the three-bladed design: [Symbol not included. See ED. NOTE.]

(a) Cross-hatched area is to be magenta, or purple, or black; and

(b) The background is to be yellow.

(2) Exception To Color Requirements For Standard Radiation Symbol. Notwithstanding the requirements of 333-120-0400(1), licensees and registrants are authorized to label sources, source holders, or device components containing sources of licensed materials that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional Information On Signs and Labels. In addition to the contents of signs and labels prescribed in this Division, the licensee may provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

[ED NOTE: Symbol referenced is available from the agency.]

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0420

Exceptions to Posting Requirements

(1) A licensee is not required to post caution signs in areas or rooms containing radioactive materials for periods of less than 8 hours, if each of the following conditions is met:

(a) The materials are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to radiation or radioactive materials in excess of the limits established in this Division; and

(b) The area or room is subject to the licensee's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to OAR 333-120-0410 provided that:

(a) A patient being treated with a permanent implant or therapeutic radiopharmaceutical could be released from confinement pursuant to 333-116-0260 and 333-116-0265 of this Chapter; and

(b) There are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this Division and to operate within the ALARA provisions of the licensee's radiation protection program.

(3) A caution sign is not required to be posted in a room or area containing a sealed source, provided the radiation level at 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

ADMINISTRATIVE RULES

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0430

Labeling Containers

(1) The licensee shall ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label must also provide sufficient information (such as the radionuclide(s) present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment) to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) Each licensee shall, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

(3) Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0450

Procedures for Receiving and Opening Packages

(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 49 CFR 173.435 Table of A1 and A2 Values for Radionuclides, shall make arrangements to receive:

(a) The package when the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee shall:

(a) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form as defined in 333-118-0020;

(b) Monitor the external surfaces of a labeled package for radiation levels; and

NOTE: Labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee shall perform the monitoring required by 333-120-0450(2) as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than 3 hours from the beginning of the next working day if it is received after working hours.

(4) The licensee shall immediately notify the final delivery carrier and, by telephone and telegram, mail-gram, or facsimile, the Agency when:

(a) Removable radioactive surface contamination exceeds the limits of OAR 333-118-0150 Table 3;

(b) External radiation levels exceed the limits of OAR 333-118-0150(11).

(5) Each licensee shall:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees transferring special form sources in licensee-owned or licensee-operated vehicles to and from a work site are exempt from the contamination monitoring requirements of 333-120-0450(2), but are not exempt from the survey requirement in 333-120-0450(2) for measuring radiation levels, which is required to ensure that the source is still properly lodged in its shield.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0460

Testing for Leakage or Contamination of Sealed Sources

(1) The licensee in possession of any sealed source shall assure that:

(a) Each sealed source, except as specified in 333-120-0460(2) is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee; and

(b) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(c) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(d) For each sealed source that is required to be tested for leakage or contamination, at any other time there is reason to suspect that the sealed source might have been damaged or might be leaking, the licensee shall assure that the sealed source is tested for leakage or contamination before further use; and

(e) Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium-226, shall be capable of detecting the presence of 185 Bq (0.005 μ Ci) of radioactive material on a test sample. Test samples shall be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples are obtained when the source is in the "off" position; and

(f) The test for leakage for brachytherapy sources manufactured to contain radium-226 shall be capable of detecting an absolute leakage rate of 37 Bq (0.001 μ Ci) of radon-222 in a 24 hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time; and

(g) Tests for contamination from radium-226 daughters shall be taken on the interior surface of brachytherapy source storage containers and shall be capable of detecting the presence of 185 Bq (0.005 μ Ci) of a radium daughter which has a half-life greater than 4 days.

(2) A licensee need not perform test for leakage or contamination on the following sealed sources:

(a) Sealed sources containing only radioactive material with a half-life of less than 30 days; or

(b) Sealed sources containing only radioactive material as a gas; or

(c) Sealed sources containing 3.7 MBq (100 μ Ci) or less of beta or photon-emitting material or 370 kBq (10 μ Ci) or less of alpha-emitting material; or

(d) Sealed sources containing only hydrogen-3; or

(e) Seeds of iridium-192 encased in nylon ribbon; or

(f) Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall, however, test each such sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within 6 months before the date of use or transfer.

(3) Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services.

(4) Test results shall be kept in units of becquerel or microcurie and maintained for inspection by the Agency.

(5) The following shall be considered evidence that a sealed source is leaking:

(a) The presence of 185 Bq (0.005 μ Ci) or more of removable contamination on any test sample; or

(b) Leakage of 37 Bq (0.001 μ Ci) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium-226; or

(c) The presence of removable contamination resulting from the decay of 185 Bq (0.005 μ Ci) or more of radium-226.

(6) The licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Division.

(7) Reports of test results for leaking or contaminated sealed sources shall be made pursuant to OAR 333-120-0720(1)(e).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625 & 453.635

ADMINISTRATIVE RULES

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0520

Disposal by Release into Sanitary Sewerage

(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(a) The material is readily soluble (or is readily dispersible biological material) in water; and

(b) The quantity of licensed or other radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(c) If more than one radionuclide is released, the following conditions also must be satisfied:

(A) The licensee shall determine the fraction of the limit in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401 represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(B) The sum of the fractions for each radionuclide required by 333-120-0520(1)(c)(A) does not exceed unity; and

(d) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage system in a year does not exceed 185 GBq (5 Curies) of hydrogen-3, 37 GBq (1 Curie) of carbon-14, and 37 GBq (1 Curie) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material is not subject to the limitations contained in 333-120-0520(1).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.655

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0540

Disposal of Specific Wastes

(1) A licensee may dispose of the following licensed material as if it were not radioactive:

(a) 1.85 kBq (0.05 FCi), or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

(b) 1.85 kBq (0.05 FCi), or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

(2) A licensee may not dispose of tissue under 333-120-0540(1)(b) in a manner that would permit its use either as food for humans or as animal feed.

(3) The licensee shall maintain records in accordance with OAR 333-120-0670.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635, 453.655 & 453.665

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0550

Transfer for Disposal and Manifests

(1) The requirements 333-120-0550 and 10 CFR Part 20 Appendix G to 20.1001 to 20.2401 are designed to control transfers of low-level radioactive waste intended for disposal at a land disposal facility (as defined in 10 CFR Part 61), establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest as specified in 10 CFR Part 20 section I of Appendix G to 20.1001 to 20.2401.

(3) Each shipment manifest must include a certification by the waste generator as specified in 10 CFR Part 20 section II of Appendix G to 20.1001 to 20.2401.

(4) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in 10 CFR Part 20 section III of Appendix G to 20.1001 to 20.2401.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.655

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0560

Compliance with Environmental and Health Protection Regulations

Nothing in chapter 333 divisions 100 through 121 relieves the licensee from complying with other applicable Federal, State, and local regulations or rules governing any other toxic or hazardous properties of materials that may be disposed of under division 333-120.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0600

General Provisions

(1) Each licensee shall use the SI units Becquerel, Gray, Sievert and coulomb per kilogram, or the special units curie, rad, rem, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Division.

(2) The licensee shall make a clear distinction among the quantities entered on the records required by this Division (e.g. total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0610

Records of Radiation Protection Programs

(1) Each licensee shall maintain records of the radiation protection program, including:

(a) The provisions of the program; and

(b) Audits and other reviews of program content and implementation.

(2) The licensee shall retain the records required by 333-120-0610(1)(a) until the Agency terminates each pertinent license or registration requiring the record. The licensee shall retain the records required by 333-120-0610(1)(b) for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625 & 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0640

Records of Planned Special Exposures

(1) For each use of the provisions of OAR 333-120-0150 for planned special exposures, the licensee shall maintain records that describe:

(a) The exceptional circumstances requiring the use of a planned special exposure; and

(b) The name of the management official who authorized the planned special exposure and a copy of the signed authorization; and

(c) What actions were necessary; and

(d) Why the actions were necessary; and

(e) How doses were maintained ALARA; and

(f) What individual and collective doses were expected to result, and the doses actually received in the planned special exposure.

(2) The licensee shall retain the records until the Agency terminates each pertinent license or registration requiring these records.

(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records on Agency Form Y or equivalent, or shall make provision with the Agency for transfer to the Agency.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0650

Records of Individual Monitoring Results

(1) Recordkeeping Requirement. Each licensee shall maintain records of doses received by all individuals for whom monitoring was required pursuant to OAR 333-120-0210 and records of doses received during planned special exposures, accidents, and emergency conditions. These records must include, when applicable:

(a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities; and

(b) The estimated intake or body burden of radionuclides (OAR 333-120-0110); and

(c) The committed effective dose equivalent assigned to the intake or body burden of radionuclides; and

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(d) The specific information used to calculate the committed effective dose equivalent pursuant to OAR 333-120-0130(3); and

(e) The total effective dose equivalent when required by OAR 333-120-0110; and

(f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

NOTE: Assessments of dose equivalent and records made using units in effect before the licensee's adoption of this Division need not be changed.

(2) Recordkeeping Frequency: The licensee shall make entries of the records specified in 333-120-0650(1) at least annually.

(3) Recordkeeping Format. The licensee shall maintain the records specified in 333-120-0650(1) on Agency Form Z, in accordance with the instructions for Agency Form Z, or in clear and legible records containing all the information required by Agency Form Z.

(4) Privacy Protection. The records required under this rule are protected from public disclosure because of their personal privacy nature. These records are protected and if transferred to the Agency, are protected under ORS 192.

(5) The licensee shall maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman, as defined in OAR 333-100-0005(30). The declaration of pregnancy shall also be kept on file, but may be maintained separately from the dose records.

(6) The licensee shall retain each required form or record until the Agency authorizes disposition.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type (Social Security Number (SSN), Passport Number (PPN), Canadian Social Insurance Number (CSI), Work Permit Number (WPN), INDEX Identification Number (IND), or Other (OTH)); sex; date of birth; monitoring period; licensee name; license or registration number; is dose is official record or estimate; if dose is routine or planned special exposure; intake, list radionuclide, class, mode, total intake (Ci); external dose(s), DDE (Deep Dose Equivalent in rems), LDE (Lens Dose Equivalent in rems), SDE(WB) (Shallow Dose Equivalent Whole Body in rems), SED(ME) (Shallow Dose Equivalent Maximum Extremity in rems), CEDE (Committed Effective Dose Equivalent in rems), CDE (Committed Dose Equivalent in rems), TEDE (Total Effective Dose Equivalent in rems) and TODD (Total Organ Dose Equivalent in rems). [ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0660

Records of Dose to Individual Members of the Public

(1) Each licensee shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (OAR 333-120-0180).

(2) The licensee shall retain the records required by 333-120-0660(1) until the Agency terminates each pertinent licensee requiring the record.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type of number, such as SSN; sex; date of birth; monitoring period; licensee name; license or registration number; if dose is official record or estimate; if dose is routine or planned special exposure; intakes, list radionuclide, class, mode, and total intake (Ci); external dose(s), DDE, LDE, SDE(WB), SDE(ME), CEDE, CDE, TEDE and TODD; signature of monitored individual and date signed; certifying organization and signature.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0670

Records of Waste Disposal

(1) Each licensee shall maintain records of the disposal of licensed materials made under Divisions OAR 333-120-0510, 333-120-0520, 333-120-0530, 333-120-0540, 10 CFR Part 61, and disposal by burial in soil, including burials authorized before January 28, 1981.

(2) The licensee shall retain the records required by 333-120-0670(1) until the Agency terminates each pertinent license requiring the record.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635, 453.655 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0680

Records of Testing Entry Control Devices for Very High Radiation Areas

(1) Each licensee shall maintain records of tests made under OAR 333-120-0240(1)(i) on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

(2) The licensee shall retain the records required by 333-120-0680(1) for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0700

Reports of Theft or Loss of Licensed Material

(1) Telephone reports: Each licensee or registrant shall report by telephone to the Agency as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, any lost, stolen, or missing licensed or registered device, or licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401, under such circumstances that it appears to the licensee or registrant that an exposure could result to persons in unrestricted areas; or

(b) Within 30 days after the occurrence of any lost, stolen, or missing licensed or registered device, or licensed radioactive material, becomes known to the licensee or registrant, all licensed or registered material in a quantity greater than 10 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401 that is still missing at this time.

(2) Written Reports: Each licensee or registrant required to make a report under 333-120-0700(1) shall make a written report to the Agency, within 30 days after making the telephone report, setting forth the following information:

(a) A description of the device or licensed material involved, including kind, quantity, and chemical and physical form; and

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the device or licensed material involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the material; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of a device or licensed material; and

(g) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

(3) The licensee shall prepare any report filed with the Agency pursuant to 333-120-0700 so that names of individuals who may have received exposure to radiation are stated in a separate and detachable part of the report.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.750

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0710

Notification of Incidents

(1) Immediate notification: Notwithstanding any other requirements for notification, each licensee shall immediately report any event involving a device or licensed radioactive material possessed by the licensee that may have caused or threatens to cause any of the following conditions:

(a) An individual to receive:

(A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(B) An lens dose equivalent of 0.75 Sv (75 rem) or more; or

(C) A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rad) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational annual limit on intake (the provisions of 333-120-0710 do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures)

(2) Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report any event involving loss of control of a device or licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(a) An individual to receive in a period of 24 hours:

(A) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or

(B) An lens dose equivalent exceeding 0.15 Sv (15 rem); or

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(C) A shallow-dose equivalent to the skin or extremities exceeding 0.15 Sv (15 rem); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of 333-120-0710 do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(3) The licensee shall prepare any report filed with the Agency pursuant to 333-120-0710 so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Reports made by licensees in response to the requirements of 333-120-0710 must be made as follows:

(a) Licensees having an installed Emergency Notification System shall make the reports required by paragraphs (a) and (b) of 333-120-0710 to the NRC Operations Center in accordance with 10 CFR 50.72; and

(b) All other licensees shall make the reports required by paragraphs (a) and (b) of 333-120-0710 by telephone to the NRC Operations Center and by telegram, mail-gram, or facsimile to the Administrator of the appropriate NRC Regional Office listed in appendix D to part 20.1001-20.2401.

(5) The provisions of 333-120-0710 do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under OAR 333-120-0730.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.750

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

333-120-0720

Reports of Exposures, Radiation Levels, Leak Tests, and Concentrations of Radioactive Material Exceeding the Limits

(1) Reportable events: In addition to the notification required by OAR 333-120-0710, each licensee shall submit a written report within 30 days after learning of any of the following occurrences:

(a) Any incident for which notification is required by OAR 333-120-0710; or

(b) Doses in excess of any of the following:

- (A) The occupational dose limits for adults in OAR 333-120-0100; or
- (B) The occupational dose limits for a minor in OAR 333-120-0160;

or

(C) The limits for an embryo/fetus of a declared pregnant woman (as defined in OAR 333-100-0005(30)) in OAR 333-120-0170; or

(D) The limits for an individual member of the public in OAR 333-120-0180; or

(E) Any applicable limit in the license; or

(c) Levels of radiation or concentrations of radioactive material in:

(A) A restricted area in excess of any applicable limit in the license;

or

(B) An unrestricted area in excess of 10 times any applicable limit set forth in this Division or in the license (whether or not involving exposure of any individual in excess of the limits in OAR 333-120-0180); or

(d) For licensee subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(e) Leaking or contaminated sealed sources in excess of limits in OAR 333-120-0460, shall be reported within five days to the Agency describing the equipment involved, the test results and the corrective action taken.

(f) Erroneous overexposure dosimetry reports that resulted from non-personnel exposures;

(2) Contents of reports: Each report required by 333-120-0720(1) must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(a) Estimates of each individual's dose; and

(b) The levels of radiation and concentrations of radioactive material involved; and

(c) The cause of the elevated exposures, dose rates, or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license conditions; and

(e) For each individual exposed: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

Note: With respect to the limit for the embryo/fetus (OAR 333-120-0170) the identifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005(30).

(3) All licensees who make reports under 333-120-0720(1) shall submit the report in writing to the Agency.

(4) The Agency shall prohibit the removal or expungement of any permanent dosimetry report submitted to the licensee or registrant. Evaluated erroneous personnel dose record changes to licensee or registrant records shall be recorded only on Form Z and retained by the licensee or registrant.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.635 & 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

Adm. Order No.: PH 32-2004(Temp)

Filed with Sec. of State: 10-8-2004

Certified to be Effective: 10-8-04 thru 4-6-05

Notice Publication Date:

Rules Adopted: 333-048-0000

Subject: On October 5, 2004 the Center for Disease Control was notified that a key provider of influenza vaccine, Chiron Corporation, had its license suspended by the British regulatory agency, and that none of its vaccine would be available for distribution in the United States for the 2004-2005 influenza season. The available U.S. supply of all types of influenza vaccine will therefore be reduced by approximately one half in the United States. It appears that the shortage in Oregon may be particularly acute. There will not be adequate vaccine for all persons interested in vaccination. Because of the shortfall, the Center for Disease Control issued interim recommendations for influenza vaccination this season, which have been adopted by the State Public Health Officer and The Department of Human Services in the Oregon Influenza Education and Prioritization Plan. The plan directs health care providers to vaccinate individuals in high-risk categories and to forgo vaccinations for most healthy persons 2-64 years old. The plan also provides civil penalties for guideline violations, a procedure for notifying regulatory or licensing boards of violators and plans to mobilize resources to assist with vaccine distribution or reallocation.

Effective October 8, 2004 the Department of Human Services, Public Health Services, is adopting temporary Oregon Administrative Rule 333-048-0000, relating to the influenza vaccine education and prioritization plan.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-048-0000

Influenza Vaccine Education and Prioritization Plan

(1) The State Public Health Officer has determined that, due to an influenza vaccine shortage, adverse and avoidable health consequences from a preventable, acute communicable disease could affect identifiable categories of high-risk individuals in Oregon. Therefore assistance with prioritization and administration of vaccine is warranted to protect the health of these individuals.

(2) The State Public Health Officer and the Department of Human Services will immediately implement the 2004-2005 Oregon Vaccine Education and Prioritization Plan. A copy of which is attached hereto.

(3) The **2004-2005 Oregon Vaccine Education and Prioritization Plan** includes guidelines for health care providers, rules for imposition of civil penalties for knowing violations of the guidelines, and procedures for mobilizing resources to assist in vaccine distribution and for notifying regulatory boards and licensing authorities of repeated guideline violations.

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

Stat. Auth.: ORS 432, 433

Stats. Implemented: ORS 433.040

Hist.: PH 32-2004(Temp), f. & cert. ef. 10-8-04 thru 4-6-05

ADMINISTRATIVE RULES

Department of Human Services, Self-Sufficiency Programs Chapter 461

Adm. Order No.: SSP 21-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 461-025-0310, 461-025-0315, 461-115-0030, 461-175-0200, 461-180-0070, 461-190-0211, 461-190-0241

Rules Repealed: 461-190-0221

Subject: Rule 461-025-0310 is being amended to state that clients have a right to a hearing when a JOBS support service payment, pursuant to OAR 461-190-0211, is denied, reduced or closed.

Rule 461-025-0315 is being amended because The Department is adding language to this rule to specify that clients may receive an expedited hearing when a JOBS support service payment is denied, reduced or closed or a JOBS support service payment has not been issued in a timely manner.

Rule 461-115-0030 is being amended to clarify the date of request for JOBS support service payments.

Rule 461-175-0200 is being amended to make provisions for clients to receive notice when the Department is taking an adverse action against their JOBS support service payments or their request for such payments.

Rule 461-180-0070 is being amended to change policy regarding the effective date for issuing JOBS support service payments. The effective date for issuing a JOBS support service payment is the date in which a client meets all of the eligibility criteria for such payments as listed in rule 461-190-0211.

Rule 461-190-0211 is being amended as a result of HB 2696. The Department has developed standards for making payments and providing support services for the employment and self-sufficiency skills programs (JOBS). These standards describe the circumstances under which JOBS Program participants and other clients may and may not receive JOBS support service payments.

Rule 461-190-0221 is being repealed as a result of the implementation of HB 2696, which was passed by the Oregon Legislature during the 2003 Legislative Session and signed into law by Governor Ted Kulongoski.

Rule 461-190-0241 is being amended to clarify that clients may receive transitional services and benefits if they meet the criteria of OAR 461-190-0211.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-025-0310

Hearing Requests

(1) A claimant has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) The Department has not acted on a request or application for public assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for food stamps — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(4).

(c) The Department acts to deny, reduce, close, or suspend a *grant* of public assistance (see ORS 411.095), a *grant of aid* (see ORS 418.125), a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance (see ORS 414.055), child care benefits authorized under division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs, or food stamp benefits. When used in this subsection, *grant of public assistance* and *grant of aid* mean the *grant of cash* assistance calculated according to the client's need.

(d) The Department claims that an earlier public assistance payment was an overpayment, or that an earlier issuance of food stamps was an overissuance.

(e) The claimant claims that the Department previously underissued public assistance or food stamps and the Department denies the claim.

(f) The household disputes its current level of food stamp benefits.

(g) The filing group is aggrieved by any action of the Department that affects the participation of the filing group in the Food Stamp program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client's premium for the Oregon Health Plan.

(j) In the Assessment program, the Department denies payment for a basic living expense (see OAR 461-135-0475).

(k) The right to a hearing is provided for the TA-DVS program (see OAR 461-135-1235).

(1) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a *case plan* (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department's conciliation process (see OAR 461-190-0231).

(3) There is no right to a hearing to dispute a program requirement established by law. Examples are the closure of a program or a change to a payment standard.

(4) A request for hearing is complete:

(a) In public assistance programs, when the Department's Administrative Hearing Request form (form DHS 443) is completed and signed by the claimant or the claimant's representative and is received by the Department.

(b) In the Food Stamp program when:

(A) The Department receives the claimant's oral or written statement that he or she wishes to appeal a decision affecting the claimant's food stamp benefits to a higher authority; or

(B) The Department's Administrative Hearing Request form (form DHS 443) is completed and signed by the claimant or the claimant's representative and is received by the Department.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(5) In the event a request for hearing is not timely, the Department will determine whether the failure to timely file a request for hearing was beyond the reasonable control of the party and enter an order accordingly. The Department may refer an untimely request to the Panel for a hearing on the question of timeliness.

(6) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Panel for a hearing on the question of whether the claimant has the right to a contested case hearing.

(7) To be timely, a completed hearing request must be received by the Department not later than:

(a) The 45th day following the date of the decision notice in public assistance and medical programs.

(b) The 90th day following the date of the decision notice in the Food Stamp program.

(c) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(d) In a case described in section (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(8) In determining timeliness under section (7) of this rule, delay caused by circumstances beyond the control of the claimant is not counted.

(9) In computing the time periods provided by this rule, if the last day of the time period falls on a Saturday, Sunday, or legal holiday, the period is extended until the next working day.

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

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.095, 411.816 & 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04

461-025-0315

Expedited Hearings

(1) A claimant has the right to an expedited hearing if:

(a) The Department denies or fails to issue a timely decision on claimant's request for TA-DVS or emergency assistance;

(b) The claimant contests the form or amount of a TA-DVS or an emergency assistance payment;

(c) The claimant has the right to a hearing over a reduction, suspension, or closure and disagrees with the Department's decision to deny the continuation of cash, food stamp, or medical benefits pending a requested hearing;

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(d) The claimant's request for expedited food stamp service is denied, or the claimant is aggrieved by an action of the Department that affects the expedited participation of the household in the Food Stamp program; or

(e) In the JOBS program, the Department denies an application for a support service payment or a payment for a basic living expense authorized by OAR 461-190-0211, or the Department reduces or closes a support service payment authorized by OAR 461-190-0211, or the Department does not issue a JOBS support service payment within the time frames required under OAR 461-115-0190.

(2) Public Assistance programs: An expedited hearing is a telephone hearing held within five working days of the Department's receipt of the written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service or by certified mail. In the TANF program, if the claimant requests a face-to-face hearing, the hearing may be postponed or continued as necessary to accommodate the claimant. However, the hearing must be held not later than 21 days following the receipt by the Department of the request for hearing if the claimant lives within 100 miles of Salem, Oregon, and not later than 35 days in all other cases. The final order must be issued within three working days from the date the hearing closes.

(3) Food Stamp program: An expedited hearing is a telephone hearing held within five working days of the receipt of a verbal or written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service or by certified mail. Following the expedited hearing, a final order must be issued not later than the ninth working day after the hearing was requested.

Stat. Auth.: ORS 411.060 & 418.100

Stats. Implemented: ORS 411.095

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 21-1990(Temp), f. 8-28-90, cert. ef. 9-1-90; AFS 2-1991, f. 1-15-91, cert. ef. 2-1-91; AFS 4-1995, f. & ef. 2-1-95; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; 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 21-2004, f. & cert. ef. 10-1-04

461-115-0030

Initiating the Application Process; Not FS

(1) For all programs, the client or someone authorized to act on behalf of the client must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The *date of request* is one of the following:

(a) In the EA, ERDC-BAS, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the *date of request* is the day the request for benefits is received by the Department.

(b) In the GAM, MAA, MAF, OSIPM, and SAC programs, the *date of request* is the day the medical care began, if the actual request is made no later than the next working day. If the request is received later than the next working day, the date of request is the day the request is received by the Department.

(c) In the ERDC-SBG program, the *date of request* is the date the Department sends the client a notice of the right to apply, along with an application.

(d) In the OHP and REFM programs, the *date of request* is the earlier of the following dates:

(A) The date the completed written application is received by the Department.

(B) The date stamped on the OHP application by an OHP outreach worker, toll-free operator or Department employee, if the completed written application is received by the Department within 30 days thereafter.

(C) The date the client receives medical care if the date identified under paragraph (A) or (B) of this subsection is the next working day.

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04

461-175-0200

Notice Situations; General Information

(1) For all programs except OHP and the Assessment program, unless stated differently in a specific rule, the Department mails or otherwise provides the client with (sends) a decision notice as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical assistance, or a request for a support service payment in the JOBS program is denied.

(b) A timely continuing benefit decision notice is sent whenever benefits or support service payment authorized by OAR 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.

(2) A notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice, unless the delay resulted from the client requesting a hearing. If the notice is void, a new notice is sent to inform the financial group of a new date on which their benefits will be reduced or closed.

(3) A notice approving MAA, MAF, REF, REFM, or TANF benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.

(4) For EA, a basic decision notice is sent for all situations.

(5) For OHP:

(a) A basic decision notice is sent when benefits are approved or denied, when the premium amount changes, and when benefits are ended because the OHP certification period has ended.

(b) Unless otherwise provided for, a timely continuing benefit decision notice is sent whenever benefits are otherwise reduced or closed.

(6) For the Assessment program, a basic decision notice is sent when payment for basic living expenses is denied. No other notices are required for this program.

(7) No decision notice is required if:

(a) Benefits are ended because there is no living person in the benefit group.

(b) A hearing order upholds a Department decision, and notice was sent before the client requested the hearing.

(c) A request for a support service in the JOBS program is approved.

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.117, 411.816 & 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04

461-180-0070

Effective Dates; Initial Month Cash Benefits

(1) In the REF and TANF programs, the effective date for the initial month of cash benefits is as follows:

(a) For a client required to participate in the Assessment program, it is the later of the following:

(A) The day the Assessment program ends

(B) The 30th day following the date the client requests benefits, if the Department does not receive required verification until after the 30th day

(b) For a client not required to participate in the Assessment program (see OAR 461-135-0475), it is the day the client meets and verifies all eligibility requirements.

(c) In the TANF program, if the only eligible child is an unborn, it cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(d) For a provider-direct child care payment (see OAR 461-165-0190), it is the first of the month in which TANF benefits begin.

(e) For a JOBS support service payment, it is the date the client meets all eligibility requirements in OAR 461-190-0211.

(2) For GA clients, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(3) For OSIP clients, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The date the client requests benefits, if he or she was eligible as of that date.

(b) The date all eligibility requirements are met.

(4) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group. For benefit groups whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

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(5) In the ERDC-BAS and ERDC-SBG programs, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made, as long as:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For benefit groups that received TANF within the 30 days before applying for ERDC, the effective date is the first of the month following closure of their TANF benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04

461-190-0211

Standards for Support Service Payments

(1) The Department helps individuals comply with their case plans by providing payments for child care, housing, transportation, and other needs to make participation in required activities successful. These payments are provided for costs directly related to participation in activities, for costs necessary to obtain and retain a job, and for enhancing wages and benefits. In approving JOBS support service payments, the Department must consider lower-cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(2) Support service payments must be authorized in advance and are subject to the limitations of this rule. The following standards apply to support service payments.

(3) Subject to the limitations of state funding, JOBS payments for support service will be made available to an individual if all of the following are true:

(a) The individual is one of the following:

(A) A TANF applicant or recipient

(B) A recipient in the Assessment program

(C) A minor parent who has returned to the minor's parent's home in the last 40 days, if the move caused the client to become ineligible for TANF

(D) A TANF client participating in diagnosis, counseling, or treatment programs for substance abuse or mental health

(E) A non-citizen who is ineligible for TANF, who is legally able to work in the United States, and who has a child receiving TANF

(F) A person disqualified from the TANF program for failure to comply with the child-support related requirements of OAR 461-120-0340 and 461-120-0345

(G) A person eligible for transition benefits and services under OAR 461-190-0241

(H) A person at risk of qualifying for the TANF program described in section (6) of this rule

(I) A person currently receiving TA-DVS benefits

(J) A non-custodial parent of a child receiving TANF benefits, if both are residents of Oregon

(b) The individual has agreed to participate in a JOBS activity as specified in the individual's case plan.

(4) Denials and Reductions The Department may reduce, close, or deny in whole or in part an individual's request for a support service payment in the following circumstances:

(a) If the individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the client to comply with his or her case plan.

(b) If the purpose for the payment is not related to the individual's case plan.

(c) If the client disagrees with a support service payment offered or made by the Department as outlined in the client's case plan.

(5) Required Verification

(a) The Department may require the individual to provide verification of a need for the support service prior to approval and issuance of payment if verification is reasonably available.

(b) The Department may require the individual to provide verification of costs associated with a support service if verification is reasonably available.

(6) Diversion In addition to the individuals described in section (3) of this rule, an individual with a job who is at risk of qualifying for the TANF program may be eligible for payments necessary to retain the job if the individual is ineligible for TANF solely due to earned income. The support is limited to the minimum amount needed to retain the job. The total of payments made available under this section for basic living expenses (expenses for shelter, utilities, household supplies (other than food), and personal incidentals) may not exceed 200 percent of the TANF Adjusted Income Payment Standard for the client's benefit group (see OAR 461-155-0030(2)). The individual is eligible for the support service payment if:

(a) Loss of the job in question would result, within a month, in the individual having income less than the TANF Adjusted Income Payment Standard (see OAR 461-155-0030);

(b) Without the payments authorized by this section, the individual would lose the job, but with the payment the individual would not lose the job; and

(c) The individual completes a TANF application and provides needed verification so that the Department can determine whether the client meets all TANF eligibility requirements other than income.

(7) Child Care Payments for child care are authorized, as limited by OAR 461-160-0040, if necessary to enable the individual to participate in JOBS program activities. If authorized, payment for child care will be made for:

(a) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when children are in care less than 158 hours per month; and

(A) Appropriate care is not accessible to the individual at the hourly rate; or

(B) The individual is a teen parent using on-site care while attending education activities.

(b) The minimum hours necessary, including meal and commute time, for the individual to participate in JOBS activities or to obtain and maintain employment.

(8) Child care payments may be provided when individuals are not participating in activities of the JOBS program if necessary for them to retain their provider. Only the minimum amount necessary to maintain the child care slot with the provider may be covered as established in OAR 461-155-0150. Not more than 30 days between scheduled JOBS activities may be covered.

(9) Housing and Utilities In addition to payments for basic living expenses provided in OAR 461-135-0475, payments may be provided to secure or maintain housing and utilities in the following situations:

(a) To prevent an eviction or utility shut-off, to secure housing in order to find or maintain employment or to participate in activities listed in the individual's case plan. Payment is available when all the following are true:

(A) The individual cannot make a shelter or utility payment due to lack of assets.

(B) The lack of assets did not result from a JOBS or Child Support disqualification, a reduction due to an IPV recovery, overpayment recovery (other than administrative error), or failure by the individual to pay shelter or utility expenses when funds were reasonably available.

(C) The individual's case plan addresses how subsequent shelter or utility payments will be made.

(b) The shelter need results from domestic violence and all the following are true:

(A) The individual is not eligible for TA-DVS.

(B) The individual will be able to pay all subsequent shelter costs, either through the individual's own resources or through other resources available in the community.

(C) The individual's case plan addresses how subsequent shelter costs will be paid.

(c) For clients who are in the Assessment program or are applying for a payment under section (6) of this rule, the Department will make payments if the client meets the eligibility criteria in section (9) of this rule. A client who receives a TANF grant is expected to meet the housing and utility expenses out of the money received each month in the TANF grant.

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Therefore, for clients who receive a TANF grant, the Department may make payments on a case-by-case basis as appropriate if the client otherwise meets the JOBS support service payment eligibility criteria of this section.

(10) **Transportation** The Department will provide payments for transportation costs incurred in travel to and from JOBS activities. Payment is made only for the cost of public transportation or the cost of vehicle insurance, repairs, and fuel for a personally owned vehicle. The Department will not authorize payment for repair of a vehicle owned by an individual who is not in the TANF filing group. Payments are subject to the following considerations:

(a) Payments for public transportation are given priority over payments for a privately owned vehicle.

(b) Payment for a privately owned vehicle is provided if the client or driver has a valid license and either of the following is true:

(A) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(B) Public transportation is available but is more costly than the cost of car repair or fuel.

(11) **Other Payments** The Department will provide payments for other items that are directly related to participation in JOBS activities. Payments under this section may be authorized for:

(a) Reasonable accommodation of a client's disability.

(b) Costs necessary in obtaining and retaining a job or enhancing wages and benefits, such as:

(A) Clothing and grooming for participation in JOBS activities or job interviews.

(B) Moving expenses necessary to accept employment elsewhere.

(C) Books and supplies for education needs.

(D) Tools, bonding, and licensing required to accept or retain employment.

(12) **Students Receiving Financial Aid Authorization** for payments for students in vocational training who receive financial aid is subject to the following conditions:

(a) A student whose financial aid consists solely of student loans is not required to use any of that financial aid for support services.

(b) Support service payments are not authorized for services specifically covered by federal or state financial aid other than student loans.

(c) Students whose financial aid consists of a combination of loans and grants may be required to pay for support services from any grant money remaining after payment of tuition, fees solely related to the institution where the individual attends, books, and supplies (applying first the loan and then any grants) if the financial aid award letter specifically permits this use of funds.

Stat. Auth.: ORS 411.060

Stat. Implemented: ORS 411.060 & 418.100

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04

461-190-0241

Transition Services; JOBS

(1) A client who becomes ineligible for the TANF program or the Assessment program because of an increase in earned income is eligible for transition benefits and services for 12 months upon meeting the criteria in OAR 461-190-0211 for receiving support services in the JOBS program. For clients whose eligibility ends for reasons other than income from new employment, the benefits and services are limited to completing any JOBS activity in progress at the time program eligibility ends.

(2) The transition period begins on the date determined by the following:

(a) For clients participating in an OJT activity, the transition period begins:

(A) When TANF benefits end because of earned income, if there are three or fewer months left in the OJT contract.

(B) Three calendar months before the end of the OJT contract, if TANF benefits end because of the level of earned income when more than three months remain in the contract.

(b) For clients participating in a work supplementation activity, the transition period begins when the wage subsidy (grant diversion) to the employer ends.

(c) For all other clients, the transition period begins when TANF or Assessment program benefits end.

Stat. Auth.: ORS 411.060 & ORS 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 23-1991(Temp), f. 10-31-91, cert. ef. 11-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 25-1998, f. 12-28-95, cert. ef. 1-1-98; SSP 21-2004, f. & cert. ef. 10-1-04

Adm. Order No.: SSP 22-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 461-101-0010, 461-110-0370, 461-110-0410, 461-110-0610, 461-115-0050, 461-115-0190, 461-115-0705, 461-120-0510, 461-125-0370, 461-125-0510, 461-135-0301, 461-135-0405, 461-135-0834, 461-135-0847, 461-135-0875, 461-135-0990, 461-135-1070, 461-135-1120, 461-140-0210, 461-140-0296, 461-145-0001, 461-145-0410, 461-145-0540, 461-155-0190, 461-155-0225, 461-155-0360, 461-155-0630, 461-155-0660, 461-160-0015, 461-160-0030, 461-160-0055, 461-160-0420, 461-160-0430, 461-160-0540, 461-160-0580, 461-160-0610, 461-165-0060, 461-165-0100, 461-170-0120, 461-175-0010, 461-175-0030, 461-175-0250, 461-180-0065, 461-195-0511

Rules Repealed: 461-135-0720, 461-135-0721, 461-155-0110, 461-160-0080, 461-175-0330

Subject: Rules 461-101-0010, 461-110-0410, 461-110-0610, 461-120-0510, 461-135-0875, 461-135-0990, 461-145-0540, 461-155-0360, 461-160-0030, 461-160-0055, 461-160-0540, 461-160-0610, 461-165-0100, 461-170-0120, and 461-180-0065 are being amended and rules 461-135-0720, 461-135-0721, 461-155-0110, 461-160-0080 and 461-175-0330 are being repealed to remove all reference to the Oregon Supplemental Income Program Medical – Medically Needy (OSIPM-MN) program, because the program ended January 31, 2003.

Rules 461-110-0370, 461-155-0190 and 461-160-0430 are being amended to reflect the annual increase in the standards for the Food Stamp program as published by the Food and Nutrition Service.

Rule 461-110-0410 is also being amended to clarify who is in an OSIPM filing group when children are applying.

Rule 461-115-0050 is being amended to clarify that clients may change between certain medical programs without a new application.

Rule 461-115-0190 is being amended to clarify what exceptions are permitted for extending the time standards for medicaid determinations based on disability made by the state beyond 90 days from the date of application. Adopts language regarding timely determinations for Medicaid from section 435.911 of 42 CFR. Rule 461-115-0190 is also being amended to add application processing time frames for JOBS support service payments per rule 461-190-0211.

Rule 461-115-0705 is being amended to clarify that workers are to accept the client's statement when income verification is not available for determining OHP eligibility.

Rule 461-125-0370 is being amended to be in compliance with Section 3272.2 of the State Medicaid Manual which allows a claimant who is receiving Medicaid based on a disabling condition to continue receiving Medicaid provided the claimant has an active SSA administrative appeal of the denial.

Rule 461-125-0510 is being amended so clients with severe mental impairments are evaluated in the same manner as those with severe physical limitations with respect to the vocational rules used to determine eligibility for the General Assistance (GA) program.

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.

Rule 461-135-0405 is being amended to change the duration of protected ERDC eligibility for a child in a Head Start contracted slot.

Rule 461-135-0834 is being amended to include a reference to ORS 93.268, which became effective January 1, 2004.

Rule 461-135-0847 is being amended to remove a reference to "chapter 638, Oregon Laws 2003" and replacing it with a reference to "ORS 411.694."

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Rule 461-135-1070 is being amended to clarify that a client whose CAWEM eligibility is based on the OHP-OPU program is subject to OAR 461-135-1102, which closes the OHP-OPU program to new applicants on July 1, 2004.

Rule 461-135-1120 is being amended to provide that a client may request a modification to the Oregon Health Plan (OHP) premium requirement based on a disability under Title II of the Americans with Disabilities Act or Section 504 of the Rehabilitation Act.

Rule 461-140-0210 is being amended to require a penalty for a disqualifying transfer of resources when the transfer occurs not only prior to the date of application but also any time after the look back date, including while the client is a Medicaid recipient.

Rule 461-140-0296 is being amended to add the amount of the divisor for applications filed on or after October 1, 2004, and to specify that \$3,320 is the divisor to use for applications filed any time prior to October 1, 2000.

Rule 461-145-0001 is being amended to count adoption assistance payments as unearned income for the Food Stamp program.

Rule 461-145-0410 is being amended to count special diet or meal allowance as unearned income for the Food Stamp program.

Rule 461-155-0225 is amended to clarify the Oregon Health Plan (OHP) \$10,000 gross income standard that is applied when a principal of a business entity is a member of the OHP filing group.

Rule 461-155-0630 is being amended to allow payment of room and board for those who are residing in a residential care facility or assisted living facilities. The room and board payment is prorated from the date of admission through the end of the initial month. The amended rule permits a general fund payment if the recipient has insufficient funds to cover the amount due for the first month of admission.

Rule 461-155-0660 is being amended to limit the definition of who can qualify for a shelter allowance based on their disability. The allowance is based on higher shelter costs associated with their need for special accommodation such as ramps or handrails. The proposed rule will require the individual to demonstrate an identifiable cost in their shelter needs that increases their costs beyond the basic shelter expense allowed in the Medicaid program.

Rule 461-160-0015 is being amended to increase the resource limit from \$5,000 to \$10,000 for children applying for the Children's Health Insurance Program (OHP-CHP) of the Oregon Health Plan.

Rule 461-160-0420 is being amended to reflect the annual change in the Standard Utility Allowances for Food Stamp households. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan. Currently there are two utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with non-heating/cooling utility costs. With this amendment, the LUA will be used only when the household has at least two non-heating/cooling costs. A new utility allowance is being created for those households with only one utility non-heating/cooling cost.

Rule 461-160-0580 is being amended for clarification in two areas: that both spouse's resources are considered regardless of whether the couple lives together and that the Department considers available income first prior to allocating additional resources to generate income needed to reach a community spouse's monthly income allowance.

Rule 461-165-0060 is being amended to reflect current federal regulations regarding the amount of food stamp benefits a household of three-persons or greater may receive.

Rules 461-175-0010 and 461-175-0030 are being amended to make minor changes that are not intended to change them substantively. Rule 461-175-0010 is also being amended to explain what information is provided in a mass-change notice.

Rule 461-175-0250 is being amended to bring the rule more in line with the concept of mass-change notices required by the federal Food Stamp regulations.

Rule 461-195-0511 is being amended to clarify the Department may recover child care overpayments for which the provider is liable from future amounts due. Formerly, the rule appeared to limit the collection only to overpayments caused by provider error or the Department's use of information supplied by the provider.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-101-0010

Program Acronyms and Overview

(1) Acronyms are used when referring to each program (except Assessment and Repatriate). There is an acronym for each umbrella program (for instance, ERDC) and acronyms for each subprogram (for instance, ERDC-SBG).

(2) When no program acronym appears in a rule, that means it applies to all programs listed in this rule. If a rule does not apply to all programs, it uses program acronyms to identify which program(s) it applies to.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code (for instance, OSIP means OSIP-AB, OSIP-AD, and OSIP-OAA).

(4) ADC; Aid to Dependent Children. Financial aid to low-income families when children are deprived of parental support because of continued absence, death, incapacity, or unemployment. When used alone, ADC refers to all ADC programs. Use of the acronym, ADC, which stands for Aid to Dependent Children, and use of the phrase, Aid to Dependent Children, refer to the state's Temporary Assistance for Needy Families Program, and its acronym, TANF. The following codes are used for ADC subprograms:

(a) ADC-BAS; Aid to Dependent Children — Basic (includes eligibility based on continued absence, death, incapacity, or unemployment). ADC with deprivation based on unemployment is also denoted by ADC-BAS/UN.

(b) EA; Aid to Dependent Children — Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(5) ADCM; Aid to Dependent Children Medical. Medical aid to low-income families when children are deprived of parental support, as for ADC. Use of the acronym ADCM, which stands for Aid to Dependent Children Medical, and use of the phrase Aid to Dependent Children Medical refer to EXT, MAA, MAF, and SAC programs. When used alone, ADCM refers to all ADC-related medical programs. The following codes are used for ADCM subprograms:

(a) ADCM-BAS; Aid to Dependent Children Medical — Basic.

(b) ADCM-EXT; Aid to Dependent Children Medical — Extended. ADCM-EXT provides extended medical benefits to families after their ADC benefits end.

(c) ADCM-SAC; Aid to Dependent Children Medical — Substitute or Adoptive Care. ADCM-SAC gives medical coverage to children in substitute or adoptive care.

(6) The Assessment Program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to convey the message that TANF is primarily a self-sufficiency development program and to help individuals find employment or other alternatives before they become dependent on public assistance.

(7) BCCM; Breast and Cervical Cancer Medical program.

(8) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and status requirements.

(9) EI; Employment Initiative. Program established to provide assistance to clients who have a disability and who want to work.

(10) ERDC; Employment or Education-Related Day Care. Helps low-income families pay the cost of child care. When used alone, ERDC refers to all ERDC programs. The following codes are used for ERDC subprograms:

(a) ERDC-BAS; ERDC — Basic. Child care for working families.

(b) ERDC-SBG; ERDC — Student Block Grant. Child care for students.

(11) EXT; Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the Assessment Program, MAA, or MAF due to an increase in their child support or earned income.

(12) FS; Food Stamps. Helps low-income households maintain proper nutrition by giving them the means to purchase food.

ADMINISTRATIVE RULES

(13) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.

(14) GAM; General Assistance Medical. Medical assistance to clients who are eligible for the GA program but have not been found eligible for OSIPM benefits.

(15) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 1335) were repealed July 1, 2001.

(16) JOBS; Job Opportunities and Basic Skills. An employment program for REF, REFM, and TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(17) JOBS Plus. Provides subsidized jobs rather than FS or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for FS clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, FS clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

(a) ADC-PLS; Clients eligible for JOBS Plus based on TANF.

(b) FS-PLS; Clients eligible for JOBS Plus based on FS.

(c) NCP-PLS; Noncustodial parents of children receiving TANF.

(18) MAA; Medical Assistance Assumed. The Medical Assistance Assumed program provides medical assistance to people who are eligible for the Assessment Program or ongoing TANF benefits.

(19) MAF; Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(20) OFSET. The Oregon Food Stamp Employment Transition Program, which helps FS recipients find employment. This program is mandatory for some FS recipients.

(21) OHP; Oregon Health Plan. The Oregon Health Plan Program provides medical assistance to many low-income individuals and families. The program includes five categories of people who may qualify for benefits. The acronyms for these categories are:

(a) OHP-OPU; Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/noncategorical (HPN) client.

(b) OHP-OPC; Children. OHP coverage for children who qualify under the 100 percent income standard.

(c) OHP-OP6; Children Under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(d) OHP-OPP; Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(e) OHP-CHP; Persons Under 19. OHP coverage for persons under age 19 who qualify under the 185 percent income standard for medical assistance authorized by the Children's Health Insurance Program (CHIP) provision of the 1997 Balanced Budget Act.

(22) OSIP; Oregon Supplemental Income Program. Cash supplements to elderly and disabled individuals. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program — Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program — Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program — Old Age Assistance.

(23) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical — Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical — Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical — Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical — Independent Choices

(24) QMB; Qualified Medicare Beneficiaries. Additional medical coverage for Medicare recipients. When used alone, QMB refers to all QMB programs. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries — Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries — Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries — Special Medicare Beneficiary. Payment of all or a portion of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(25) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(26) REFM or REFM-BAS; Refugee Assistance Medical — Basic. Medical coverage for low-income refugees.

(27) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(28) SAC; Medical Coverage for Children in Substitute or Adoptive Care.

(29) Senior Prescription Drug Assistance Program; provides that people 65 years of age or older can purchase prescription drugs at the Medicaid price.

(30) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.

(31) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment. Cash assistance used to be known as ADC.

Stat. Auth.: ORS 411.060 & 411.816, 414.342

Stats. Implemented: ORS 411.060 & 411.816, 414.342

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-110-0370

Filing Group; FS

For the Food Stamp program, the filing group is composed as follows:

(1) From the household group (see OAR 461-110-0210), the following people are excluded:

(a) Residents of commercial boarding houses.

(b) Ineligible students, as defined in OAR 461-135-0570.

(c) The following people who are paying to have meals provided, if they apply for benefits for themselves alone, or if the meal provider chooses not to apply for benefits for them:

(A) A member of the household group who pays a reasonable amount for meals (lodger).

(B) Persons in foster care.

(2) A member of the household group in foster care is excludable from the filing group — at the option of the foster caregiver — even if provided otherwise in this rule.

(3) A parent whose child is in the same household may be in a different filing group only if the child has reached the age of 22 years.

ADMINISTRATIVE RULES

(4) A child under the age of 18 years must be in the same filing group with an adult in the child's household who exercises parental control over the child. For the purposes of this provision, parental control means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(5) Siblings in the same household group without their parent may be in separate filing groups if they purchase and prepare their food separately. If an adult sibling has parental control over a minor sibling, they must be in the same filing group.

(6) Spouses who are in the same household group must be in the same filing group.

(7) Members of a household group who pay other members of the household group for meals, but are not paying a reasonable amount for those meals, are in the same filing group with the other people in the household group. A reasonable amount is:

(a) An amount that equals or exceeds the Thrifty Food Plan for the person and anyone in that person's filing group, if more than two meals a day are provided; or

(b) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the person and anyone in that person's filing group, if two or fewer meals a day are provided.

(8) Members of a household group who purchase and prepare food together must be in the same filing group, except in the following situations:

(a) A live-in attendant and the attendant's minor children may choose not to be in the filing group with the people for whom they are providing services, even if they purchase and prepare food with those people, unless they are required by sections (3) through (6) of this rule to be in the same filing group.

(b) An elderly person and the person's spouse may form their own filing group, separate from anyone else with whom they purchase and prepare meals, if:

(A) The elderly person is unable to purchase and prepare food because of a disability; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(9) For residents of an alcohol or drug treatment and rehabilitation program:

(a) A parent living with his or her children, under the age of 22 years, comprise one filing group.

(b) For all other residents, each applicant is a separate filing group.

(10) For residents of a residential care facility for which an employee of the facility is the authorized representative, each applicant is a separate filing group. If an employee of the facility is not the authorized representative, sections (3) through (6) of this rule apply.

(11) For residents of a homeless or domestic violence shelter, a filing group consists of:

(a) Residents who choose to apply together; or

(b) Residents who form filing groups according to the criteria in sections (3) through (6) of this rule.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-110-0410

Filing Group; OSIP, OSIPM, QMB

(1) In the OSIP and OSIPM programs, when people live in standard living arrangements, the filing group consists of applicants who meet all nonfinancial eligibility requirements and the following applicants and household members, even if they do not meet nonfinancial eligibility requirements:

(a) The spouse of an applicant.

(b) The biological, adoptive, and stepparents of children under age 21 if the children are applying and are not assumed eligible.

(2) In the OSIP and OSIPM programs, when people live in nonstandard living arrangements, the filing group consists only of the person applying for benefits if the person meets all nonfinancial eligibility requirements. A person lives in a nonstandard living arrangement if the person lives in an adult foster care facility, an assisted living facility, a residential care facility, a nursing facility, or a specialized living facility or if the person receives in-home services.

(3) In the OSIP-EPD, OSIPM-EPD, and OSIPM-IC programs, the filing group consists only of the individual applying for or receiving benefits.

(4) In the QMB program, whether in standard or nonstandard living arrangements, the filing group consists of applicants who meet all nonfinancial eligibility requirements and the following household members, even if they do not meet nonfinancial eligibility requirements:

(a) The spouse of an applicant.

(b) The biological, adoptive, and step-parents of children under age 21, if the children are applying and are not assumed eligible.

(c) Children under age 21, if the parent wants to include the child in the need group.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04

461-110-0610

Need Group; Overview

The need group consists of the following people:

(1) The people whose basic and special needs are used in determining eligibility.

(2) In the ERDC, FS, GA, OHP, OSIP, QMB, REF, and TANF programs, the people whose basic and special needs are used in determining benefit level.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 22-2004, f. & cert. ef. 10-1-04

461-115-0050

When an Application Must Be Filed

This rule establishes when a client must file an application, or may amend an application already complete, as a prerequisite to receiving benefits.

(1) Except as provided in sections (3), (4), (5), (6), and (7) of this rule, a client wishing to apply for program benefits must submit a complete application on a form approved by the Department.

(2) An application is complete if the following requirements are met:

(a) All information necessary to determine the client's eligibility and benefit amount is provided on the application for all people in the filing group.

(b) The applicant, even if homeless, provides a mailing address.

(c) The application is signed. A person required but unable to sign the application may sign with a mark, witnessed by another person.

(d) The application is received by the Department.

(3) No new application is required for the EXT program.

(4) A new application is not required in the following situations:

(a) When a single application can be used both to determine a client is ineligible in the month of application and to determine the client is eligible the next month. This can be done when:

(A) Anticipated changes make the filing group eligible the second month; or

(B) For FS, the filing group provides verification between 30 and 60 days following the filing date, in accordance with OAR 461-180-0080.

(b) When the case is closed and reopened during the same calendar month.

(c) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(d) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950(7).

(5) A new application is required to add a newborn child to a benefit group according to the following requirements:

(a) For the REF and TANF programs:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

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(B) A new application is required if the child is not included on the application as “unborn.”

(b) For the EXT, MAA, MAF, OHP, and REFM programs, no application is required to add the child to its mother’s benefit group. An application is required to add the child to any other benefit group.

(c) For ERDC and FS, an application is not required to add the child to the benefit group.

(d) For all other programs, an application is required.

(6) A new application is required to add a person to a benefit group, other than a newborn child, according to the following requirements:

(a) In the ERDC and Food Stamp programs, a new application is not required.

(b) In the TANF program, a person may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all other programs, a new application is required.

(7) Clients whose TANF grant is closing may request ERDC orally or in writing.

(8) For all programs except EXT, FS, MAA, MAF, and OHP, clients may change between programs administered by the Department using the current application if the following conditions are met:

(a) The client makes a verbal or written request for the change;

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application; and

(c) The program change can be effected while the client is eligible for the first program.

(9) A client may change between EXT, MAA, MAF, and OHP using the client’s most recent medical application.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04

461-115-0190

Application Processing Time Frames; Not Assessment, FS, HSP or TA-DVS

(1) For all programs except Assessment, EA, FS, and TA-DVS and medical assistance programs based on disability, the Department determines eligibility and sends a decision notice not later than the 45th day after the *date of request*. The Department may extend the period for any of the following reasons:

(a) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the client has no control over the information.

(b) Other circumstances beyond the control of the client prevent the Department from making the decision within the 45-day period.

(c) The Department must determine whether a person who has applied for OSIP or OSIPM is blind or disabled. This exception to the 45-day requirement applies when this determination has not been made by the Social Security Administration (SSA) or has been made but is being appealed to SSA. The deadline is extended to the 90th day after the *date of request*.

(2) For EA, the Department determines eligibility within one working day of the date of application or as soon thereafter as verification of emergent need is completed. Verification of all other factors may be waived if it would delay the client’s receipt of assistance.

(3) For medical assistance programs based on a disability, the Department determines eligibility and sends a decision notice not later than the 90th day after the date of request. The Department may extend the period for any of the following reasons:

(a) The Department cannot reach a decision because the client or an examining physician or psychologist has not yet taken a required action.

(b) When there is an administrative or other emergency beyond the Department’s control.

(4) For support service payments in the JOBS program authorized by OAR 461-190-0211, the Department determines eligibility as follows:

(a) If the client is receiving a TANF grant — not later than the 30th day after the date of request.

(b) If the client is not receiving a TANF grant — in time to meet the need for which the request is made.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 22-2004, f. & cert. ef. 10-1-04

461-115-0705

Required Verification; OHP

This rule establishes verification requirements for the OHP program in addition to the requirements of OAR 461-115-0610.

(1) At initial application and at any other time it affects the client, the following must be verified:

(a) The requirement in OAR 461-120-0210 to have or apply for a social security account number.

(b) Alien status for applicants who indicate they are not U.S. citizens.

(c) The premium exemption allowed because a client is:

(A) A member of a federally recognized Indian tribe, band or group;

(B) An Eskimo, Aleut or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or

(C) A person eligible for benefits through an Indian Health Program.

(d) Income from the past three months and income already received in the budget month. If income cannot be verified, the client’s statement is accepted.

(2) At recertification, the following must be verified, except that if income cannot be verified, the client’s statement is accepted:

(a) Unearned income if it has changed since the last certification.

(b) Earned income from the three months prior to the budget month.

(3) A client enrolled full time in higher education must provide verification, at application and recertification, that the client meets the requirements of OAR 461-135-1110.

(4) The following must be verified when it is first reported or changed:

(a) Pregnancy of the client, which must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or like facility.

(b) Amount of the premium for cost-effective employer-sponsored health insurance.

(5) A client must provide verification to support a request for waiver of a premium arrearage (see OAR 461-135-1130).

(6) A client must provide verification for any eligibility requirement questioned by the Department.

Stat. Auth.: ORS 411.060, 414.042, 414.047

Stats. Implemented: ORS 411.060, 414.042, 414.047

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-120-0510

Age Requirements for Clients to Receive Benefits

(1) If the year of a person’s birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the EXT, MAA, MAF, OFSET, or TANF program:

(a) A child must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school full time, as determined by the school.

(b) A caretaker relative may be any age.

(3) To be eligible for the SAC program, the child must be under 21 years of age.

(4) To be eligible for payment of child care costs for the ERDC, OFSET, or TANF program, a child must be:

(a) Under 12 years of age for the ERDC program and under 13 years of age for the OFSET and TANF programs; or

(b) Under 18 years of age and:

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

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(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(5) To be eligible for the FS, OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, or REFM programs, a client may be any age.

(6) To be eligible for the REF program, a client must be 18 years of age or older or must be emancipated.

(7) To be eligible for the OSIP-AD (except OSIP-EPD) program, a client must be 18 years of age or older and under 65 years of age.

(8) To be eligible for the OHP program, a client must meet the age requirements in OAR 461-135-1100.

(9) To be eligible for OSIPM-AD (except OSIPM-EPD), a client must be:

(a) Eighteen years of age or older and under 65 years of age; or

(b) Receiving SSI, without regard to age.

(10) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(11) To be eligible for the QMB-DW program, a client must be under 65 years of age.

(12) To be eligible for OSIP-EPD and OSIPM-EPD, the client must be 18 years of age or older or be legally emancipated.

(13) To be eligible for the BCCM program, a woman must be under 65 years of age.

(14) To be eligible for the GA and GAM programs, a client must be:

(a) Eighteen years of age or older and less than 65 years of age; or

(b) Sixty-five years of age or older and must be a non-citizen who

meets the requirements of OAR 461-120-0125.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-125-0370

Disability as the Basis of Need; OSIP and OSIPM

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), a client meets the eligibility requirement to be disabled if:

(a) The client is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the client remains eligible for SSDI or SSI.

(b) The client was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the client meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. § 416.905.

(d) The Social Security Administration (SSA) has determined the client meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. § 416.905.

(2) If the Department finds the client eligible for OSIPM within 90 days following the date of request, the client remains eligible for OSIPM until SSA denies the disability claim in a final administrative decision.

(3) A disability determination made by SSA is binding on the Department except for the following situations (see 42 C.F.R. § 435.541(c)(4)):

(a) The client alleges a new medical condition;

(b) The client alleges that the condition has changed or deteriorated, it has been more than 12 months since SSA issued a denial, and the client is not currently appealing that denial; or

(c) SSA made the determination for a reason other than the client's medical condition.

(4) In the OSIP-EPD and OSIPM-EPD programs, disabled means having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determin-

ing eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled is accepted by the Department.

(b) If there is no currently effective SSA determination finding the individual disabled, the case is referred to the Department's central office for a disability determination using the standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-125-0510

Impairment Criteria; GA, GAM

(1) To be eligible for GA and GAM, an individual must meet one of the following criteria:

(a) Have a physical or mental impairment that meets or equals the listing of impairments found in 20 CFR 404, Subpart P, Appendix 1, in effect November 1, 2003, and can be expected to:

(A) Last for a continuous period of not less than 12 months from the date of request; or

(B) Result in death within 12 months from the date of request.

(b) Be 55 years of age or older and meet the following requirements:

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Prevent the individual from returning to any past relevant work for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(c) Be 55 years of age or older and have all of the following:

(A) A severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Less than a 12th grade education, as evidenced by the lack of a high school diploma or GED.

(C) A history of no past relevant work as defined in section (2) of this rule in the last 15 years.

(d) Be age 50 or older but not yet age 55: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be illiterate or unable to communicate in English.

(C) Be limited to light residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of "unskilled" or "none."

(e) Be age 50 or older but not yet age 55: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Have less than a High School education.

(C) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of "unskilled" or "none."

(f) Be age 45 or older but not yet age 50: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be illiterate or unable to communicate in English.

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(C) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of unskilled or none.

(2) As used in this rule:

(a) "Basic work activity" means any kind of work activity that averages at least eight hours a day for which income is received, regardless of the adequacy to meet the client's needs. Work performed against medical advice or at an activity center or sheltered workshop is not basic work activity.

(b) "Equaling" means the medical findings are at least equal in severity and duration to the listed findings. If the client's impairment is not listed, the Department considers the listed impairment most like the client's impairment to decide whether the client's impairment is medically equal to the listed impairment. If the client has more than one impairment, and none of them meets or equals a listed impairment, the Department reviews the symptoms, signs, and laboratory findings about the client's impairments to determine whether the combination of those impairments is medically equal to a listed impairment.

(c) "Light work" means work that requires lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds and requires occasional stooping. It also requires standing or walking for a total of approximately six hours of an eight-hour workday.

(d) "Past relevant work" means work that the individual has performed in the last 15 years and that constitutes substantial gainful activity as defined in 20 CFR 404.1574 and 404.1575, in effect November 1, 2003. Also, the past relevant work must have lasted long enough for the individual to learn the techniques, acquire the necessary information, and develop the facilities needed for average performance of the job situation.

(e) "Sedentary work" means work that requires lifting no more than 10 pounds at a time and occasionally lifting or carrying articles such as docket files, ledgers, and small tools. Although sitting is involved, a certain amount of walking and standing is often necessary in carrying out job duties. Periods of walking and standing should total no more than two hours of an eight-hour workday and sitting should total approximately six hours of an eight-hour workday. Most unskilled sedentary jobs require good use of the hands and fingers for repetitive hand finger actions.

(f) "Severe mental impairment" means a mental impairment that significantly limits the individual's ability to do basic work activity.

(g) "Severe physical impairment" means a physical impairment that significantly limits the individual's physical ability to do basic work activity.

(h) "Unskilled work" is work that requires little or no judgment to do simple duties that can be learned on the job within 30 days.

(3) An applicant is not eligible for GA or GAM if drug addiction or alcoholism is material to his or her disability.

(4) If the client is unable to do so, the Department will obtain medical evidence that documents a claim of physical or mental impairment.

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

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 21-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 24-1996(Temp), f. & cert. ef. 6-11-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 35-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 3-31-01; 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 4-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 15-2004(Temp), f. & cert. ef. 6-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

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; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0405

ERDC; Children in the Head Start Program

(1) The following provisions apply when an ERDC client's child receives child care through a Head Start agency:

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(2) The following provisions apply when an ERDC client's child receives child care under a contract between a Head Start agency and the Department:

(a) Once the Department makes a child care payment for the child under the contract, the child is presumed to meet the ERDC eligibility requirements until the next August 31.

(b) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(c) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0834

Delivery of Required Notices to the Estate Administration Unit

(1) A person required by ORS 93.268, 113.145, 114.525, or 128.266 to send notice to the Department of Human Services must send or deliver the notice to the Estate Administration Unit, Office of Financial Services, Department of Human Services.

(2) The mailing address for the Estate Administration Unit is: Estate Administration Unit, PO Box 14021, Salem OR 97309-5024

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 113.145, ORS 114.525, ORS 128.266

Hist.: AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0847

Forms; Request for Notice of Transfer or Encumbrance; Termination of Request for Notice of Transfer or Encumbrance; Notice of Transfer or Encumbrance

(1) The forms set forth in this rule are adopted in accordance with ORS 93.268, 205.246, and 411.692.

(2) Request for Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(3) Termination of Request for Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(4) Model Form — Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(5) These forms are available at <http://dhsforms.hr.state.or.us/forms/databases/findforms.htm>. At the Find a form window in the Form Number field, type in the four-digit form number and click on search.

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

Stat. Auth.: ORS 93.268, 205.246, 411.692

Stats. Implemented: ORS 93.268, 205.246, 411.692

Hist.: SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04

ADMINISTRATIVE RULES

461-135-0875

Specific Requirements; Retroactive Medical

(1) The following clients are evaluated for retroactive eligibility for medical assistance:

(a) Clients found eligible for the BCCM, MAA, MAF, OSIPM, QMB-DW, REFM, or SAC program.

(b) Clients found ineligible for the BCCM, MAA, MAF, OSIPM, or SAC program solely because they do not meet the citizenship requirements of OAR 461-120-0125. Clients eligible under this subsection are eligible only for CAWEM program benefits (see OAR 461-135-1070).

(c) Clients found eligible for QMB-BAS, who are evaluated for OSIPM retroactive eligibility.

(2) If eligible for medical assistance retroactively, the client's eligibility starts on the same date of the third month prior to the date the application was filed. Eligibility is determined separately for each calendar month that is part of the three-month period. Enumeration and a client's compliance with requirements of the child support or JOBS program are not considered in determining eligibility for the three-month period covered by this rule.

(3) In the BCCM program, a woman cannot be eligible prior to January 1, 2002.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 8-1993(Temp), f. & cert. ef. 4-26-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0990

Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

Clients in the EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM, REF, REFM, and SAC programs are reimbursed for their share of the premiums for employer-sponsored health insurance if:

(1) The insurance is provided through a member of the household group;

(2) The insurance covers a member of the benefit group;

(3) The insurance coverage is a comprehensive plan (that is, includes basic or major medical services) or is a fully capitated health plan (FCHP) or physicians care organization (PCO); and

(4) The premium is cost-effective (see OAR 461-155-0360).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-1070

Specific Requirements; Citizen/Alien-Waived Emergent Medical (CAWEM)

To be eligible for the CAWEM program, a client must be ineligible for BCCM, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC solely because he or she does not meet citizenship or alien status requirements. If the basis for CAWEM eligibility is the OHP-OPU program, eligibility for CAWEM is subject to OAR 461-135-1102. A client who is ineligible for OHP-CHP solely because he or she does not meet citizenship requirements, cannot be eligible for CAWEM. Benefits of the CAWEM program are limited to the services described in the administrative rules of the Department of Human Services in chapter 410 of the Oregon Administrative Rules.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2004(Temp), f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-1120

Premium Requirement; OHP-OPU

In the OHP-OPU program, a monthly premium must be paid when the benefit group includes at least one non-exempt (HPN) client (see OAR 461-135-1100) as follows:

(1) The following HPNs are exempt from the premium requirement:

(a) Members of a federally recognized Indian tribe, band, or group.

(b) Eskimos, Aleuts, and other Alaska natives enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act.

(c) Persons eligible for benefits through an Indian Health Program.

(d) Clients who are eligible for the CAWEM program (see OAR 461-135-1070).

(2) The amount of the premium is determined in accordance with OAR 461-155-0235.

(3) All non-exempt clients in the benefit group are responsible for payment of premiums.

(4) Once the amount of the premium is established, the amount will not change during the certification period unless:

(a) An HPN client becomes pregnant.

(b) A pregnant client becomes an HPN client following the end of her assumed eligibility period provided for in OAR 461-135-1100.

(c) An HPN client becomes eligible for another program (for example, GA, OSIP or TANF).

(d) An HPN client leaves the filing group.

(e) OHP cases are combined during their certification periods.

(f) An HPN client's exemption status changes.

(g) An HPN client is no longer a member of the benefit group.

(5) For premiums billed on or after July 1, 2003 and prior to February 1, 2004, a premium is considered paid on time when payment is received by the Oregon Health Plan billing office on or before the 20th day of the month after the benefit month for which the premium was billed. For premiums billed prior to July 1, 2003, a premium is considered paid on time when payment is received by the Oregon Health Plan billing office on or before the 25th day of the month after the benefit month for which the premium was billed. The day the payment arrives in the office's post office box is the date it is received.

(6) For premiums billed on or after February 1, 2004, a premium is considered paid on time when the payment is received by the Oregon Health Plan billing office on or before the 20th of the month for which the premium was billed. The day the payment arrives in the office's post office box is the date it is received. A premium not paid on time is past due. A client who does not pay a required premium on time is disqualified under OAR 461-135-1130.

(7) A client who has been determined eligible for the OHP-OPU program and is required to pay a premium may, at any time, request a reasonable modification of section (6) of this rule based on a disability under Title II of the Americans with Disabilities Act or Section 504 of the Rehabilitation Act. The following procedure is followed:

(a) A client with a past due premium may request a reasonable modification of section (6) to pay the premium late without penalty under 461-135-1130. Medical documentation must be submitted to the Department verifying a disability that specifically affects the client's ability to pay bills in a timely fashion. The Department may request additional documentation from the client.

(b) The Department will approve a request for reasonable modification of section (6) if medical documentation demonstrates that the client's disabling conditions directly impaired or prevented the client's ability to pay OHP premiums on time.

(c) A client with an approved request for reasonable modification of section (6) will be allowed to make the past due premium payments late as long as the client was otherwise eligible for the OHP-OPU program for the time period to which the past due payment applies. A disqualification imposed under OAR 461-135-1130 directly related to past due premiums for that period will be rescinded. All premiums must be paid before the client can establish a new certification period in the OHP-OPU program.

(d) An approved request for reasonable modification of section (6) does not apply to subsequent certification periods. Premium payments billed in subsequent certification periods need to be paid on time as required in sections (5) and (6) of this rule. Subsequent requests for reasonable modification of section (6) are allowed at any time and evaluated as described above based on the facts applicable to the time period covered by that request. The Department may request additional documentation from the client.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 19-2003(Temp), f. & cert. ef. 7-1-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 3-2004(Temp), f. & cert. ef. 2-19-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

ADMINISTRATIVE RULES

461-140-0210

Resource Transfer; General Information

(1) This and the following rules, through OAR 461-140-0300, regulate the effect of a transfer of a resource by a client. A member of a financial group is disqualified and the financial group is ineligible if the member transfers a resource during the periods of time listed in section (3) of this rule and if the transfer is made in whole or in part for the purpose of establishing eligibility for benefits. Except as otherwise provided in OAR 461-140-0242, transfers described in OAR 461-140-0220 are *not disqualifying*.

(2) For all programs except ERDC and OHP, clients in financial groups whose members transfer a resource after filing an application or within the time periods listed in section (3) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(3) A transfer of a resource may be *disqualifying* if it occurs:

(a) For the MAA, MAF, REF, REFM, SAC, and TANF programs, during the three years preceding the date of request.

(b) For the Food Stamp program, during the three months preceding the filing date or during a certification period.

(c) For the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) On or after the date that is 60 months prior to the date of application — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust established on or after October 1, 1993 (see OAR 461-145-0540(8)(c)).

(B) On or after the date that is 60 months prior to the date of application — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust established on or after October 1, 1993 (see OAR 461-145-0540(9)(a)).

(C) On or after the date that is 60 months prior to the date of application — when there is a change in circumstances that makes assets in an irrevocable trust established on or after October 1, 1993 unavailable to the client (see OAR 461-145-0540(9)(d)).

(D) On or after the date that is 36 months prior to the date of application — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust established on or after October 1, 1993 (see OAR 461-145-0540(9)(b) and (c)).

(E) On or after the date that is 36 months prior to the date of application — for other asset transfers made on or after October 1, 1993, without compensation equal to or greater than fair market value.

(4) The client may be required to present collateral evidence to corroborate the client's contention that a transfer was not made *for the purpose of establishing eligibility* for benefits.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060 & 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04

461-140-0296

Length of Disqualification Due to a Resource Transfer; GA, GAM, OSIP, OSIPM or QMB

(1) A GA, GAM, OSIP, OSIPM or QMB financial group containing a member disqualified due to the transfer of a resource is disqualified from receiving benefits if the group filed an application for benefits on or after October 1, 1998.

(2) The length of a disqualification period resulting from a transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) divided by the factor listed below in this section, rounded down to the next whole number. The first month of a disqualification period is the month the resource was transferred except as provided in section (3) of this rule. The factor used in the calculation is:

(a) For an application filed prior to October 1, 2000 — \$3,320.

(b) For an application filed on or after October 1, 2000 and prior to October 1, 2002 — \$3,750.

(c) For an application filed on or after October 1, 2002 and prior to October 1, 2004 — \$4,300.

(d) For an application filed on or after October 1, 2004 — \$4,700.

(3) If disqualification periods calculated in accordance with section (2) of this rule overlap, they are applied sequentially so that no two penalty periods overlap. For instance, suppose a transfer in January results in a disqualification of three months, and a transfer in February results in a disqualification of two months. The penalty period is applied so that it starts in January and runs through May for a total of five months.

(4) If a resource is owned by more than one person, by joint tenancy, tenancy in common or similar arrangement, the share of resource owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the resource.

(5) If an annuity is purchased that pays benefits beyond the life expectancy of the client, as determined by the annuity, a disqualification period will be assessed for the value of the annuity beyond the life expectancy of the annuitant.

(6) A single transfer of a resource may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-145-0001

Adoption Assistance

(1) Adoption assistance is financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(2) In all programs except ERDC and FS, adoption assistance is treated as follows:

(a) The portion of adoption assistance that is for the special needs of the child is excluded, including needs such as special diet, special clothing, counseling, and medical costs not covered under Title XIX.

(b) The rest of the adoption assistance is counted as unearned income.

(3) In the ERDC program, adoption assistance is excluded.

(4) In the Food Stamp program, adoption assistance is counted as unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.122

Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 24-2001, f. & cert. ef. 11-1-01; SSP 16-2004(Temp), f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-145-0410

Program Benefits

(1) Payments from GA, OSIP, REF, and TANF (including the 10 percent late processing fee discussed in OAR 461-165-0150) are treated as follows:

(a) In all programs except EA, ERDC, FS, and OHP:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(b) In the EA program, the payments are counted as unearned income, except for benefit groups whose emergent need is the result of domestic violence. For those benefit groups, the payment is excluded.

(c) In the ERDC program, the payments are counted as unearned income.

(d) In the FS program:

(A) TANF payments are treated as unearned income.

(B) OSIP payments are treated as unearned income.

(C) GA and REF payments are treated as unearned income.

(D) An amount received as a late processing payment is treated as lump-sum income.

(E) Payments made to correct an underpayment are treated as lump-sum income.

(F) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, shelter exceptions, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(e) In the OHP program:

(A) The payments are counted as unearned income if all the people included in the benefit group for the cash payment are also in the OHP financial group.

(B) A prorated share is counted as unearned income if any of the people in the cash payment are not included in the OHP financial group. A pro-

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rated share is determined by dividing the total payment by the number of people in the TANF benefit group.

(C) An *administrative error overpayment* (see OAR 461-195-0501(2)(a)) is excluded, and a payment made to correct an underpayment caused by the Department is excluded if the underpayment occurred prior to the budget period.

(2) TANF client incentive payments are treated as follows:

(a) In all programs except TANF, the monthly cooperation incentive special-need payment is counted as unearned income.

(b) Progress and outcome incentive payments received as cash are counted as lump-sum income. All other incentives are excluded.

(3) EA payments are treated as follows:

(a) In the ERDC and FS programs, payments made directly to the client are counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all other programs, the payments are excluded.

(4) Payments from the EXT, GAM, MAA, MAF, OHP, OSIP-IC, OSIPM, QMB, REFM, and SAC programs are excluded.

(5) Assessment Program payments are treated as follows:

(a) In all programs except FS, these payments are excluded.

(b) In the FS program, payments for basic living expenses, made directly to the client, are counted as unearned income. All other payments are excluded.

(6) ERDC payments and TANF child care payments are counted as follows:

(a) Provider-direct payments are counted as the provider's earned income.

(b) All client-direct payments are excluded.

(7) In all programs except EA, the value of a FS benefit is excluded.

In the EA program, it is counted as a resource when determining the filing group's emergency food needs.

(8) JOBS, JOBS Plus, and OFSET service payments are excluded.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.700, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 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 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-145-0540

Trusts

(1) Trust funds are money, securities, or similar property held by a person or institution for the benefit of another person.

(2) This section applies to all trust funds in the FS, MAA, MAF, OHP, REF, SAC, and TANF programs. It also applies to GA, GAM, OSIP, OSIPM, and QMB for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group for items covered by program benefits.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(3) In the ERDC program, all trust funds are excluded.

(4) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (11) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (9) of this rule.

(5) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

(a) The client.

(b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(8) If the trust is revocable, it is treated as follows:

(a) The total value of the trust is considered a resource available to the client.

(b) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(9) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(10) Notwithstanding the provisions above in this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:

(a) A trust containing the assets of a client determined disabled by SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

(A) The client's parent.

(B) The client's grandparent.

(C) The client's legal guardian or conservator.

(D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

(A) Personal-needs allowance.

(B) Community spouse monthly maintenance needs allowance.

(C) Medicare and other private medical insurance premiums.

(D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

(i) Trustee fees.

(ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax prepara-

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tion fees, future legal expenses, and income taxes attributable to trust income.

(iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical care costs that are not reimbursed by a third party. Contributions to reserves for personal liabilities including but not limited to child support, alimony, and property and income taxes. Contributions to reserves for the purchase of an irrevocable burial plan on a monthly basis and contributions to a reserve for home maintenance if the client's name remains on the title.

(F) Patient liability not to exceed the cost of waived services or nursing facility care.

(d) A trust containing the resources or income of a client who is disabled as defined by SSI criteria and created before the client reached age 65, meeting the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who are disabled.

(D) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid.

(1) In the GA, GAM, OSIP, OSIPM, and QMB programs, the provisions of this rule may be waived if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.700, 411.816 & 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-155-0190

Income and Payment Standards; FS

(1) The FS Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The FS Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-155-0225

Income Standard; OHP

(1) If a financial group contains a person with significant authority in a business entity — a "principal" as defined in OAR 461-140-0040 — the group is ineligible for the OHP program if the average monthly gross income of the business entity exceeds \$10,000. If the need group is not ineligible under this section, its eligibility is evaluated under section (2) of this rule.

(2) The countable income standards for OHP are as follows:

(a) The countable income standard for OHP-OPC and OHP-OPU is 100 percent of the 2004 federal poverty level. [Table not included. See ED. NOTE.]

(b) The countable income standard for OHP-OP6 is 133 percent of the 2004 federal poverty level. [Table not included. See ED. NOTE.]

(c) The countable income standard for OHP-OPP and OHP-CHP is 185 percent of the 2004 federal poverty level (see section (2)(a) of this rule). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.060, 411.070

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 2-2004(Temp), f. & cert. ef. 2-13-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-155-0360

Cost-Effective Health Insurance

(1) This rule applies to the following medical assistance programs — EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM, REFM, and SAC. It explains how to determine whether an employer-sponsored health insurance plan is cost effective for the purpose of applying OAR 461-120-0345.

(2) The first step in making the determination of cost effectiveness is to determine the number of people in the household group who are in a benefit group of any of the programs listed in section (1).

(3) Based on the number determined in section (2) of this rule, the maximum cost-effective premium is determined from the following tables: [Table not included. See ED. NOTE.]

(4) The insurance is cost effective if the employee's share of the premium is equal to or less than the amount determined in section (3) of this rule.

(5) If the health-insurance plan is cost effective, the Department will reimburse the actual amount of the premium, not to exceed the amount determined in section (3) of this rule.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-155-0630

Special Need; Community-Based Care

A client living in a residential care facility, a specialized living facility, an adult foster care facility, or an assisted living facility may receive a room-and-board payment limited to the month of admission, but only if the facility is licensed by the Department.

Stat. Auth.: ORS 411.060,

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; SSP 22-2004, f. & cert. ef. 10-1-04

461-155-0660

Special Need; Shelter Exceptions

(1) OSIP and OSIPM clients living in long-term care facilities, and GA and GAM clients, are not eligible for the standard shelter allowances. However, for OSIP and OSIPM clients who are receiving SSI or waived services, allow a special shelter allowance in addition to the payment for care if all the following are true:

(a) The client enters a hospital, state psychiatric institution, nursing home, AFC, ALF, RCF or SLF.

(b) There is no other way for the client to maintain their rental property or home while they receive medical care.

(c) The agency-approved medical authority believes the client can be cared for in their home within six months.

(d) The Division service worker finds the client's property fits the needs for the client's home care.

(e) Arrangements for suitable home care are within agency standards.

(2) If an exception is authorized for a client meeting the criteria in section (1) of this rule, allow actual costs for utilities and rent or mortgage costs.

(3) Clients living in the community and receiving SSI or waived services are eligible for a special payment above the standard shelter allowance based on the following criteria:

(a) Clients must provide evidence that the cost of their shelter, above the OSIP standard, is based on costs associated with accessibility by individuals with a disability.

(b) All clients, with the exception of clients with mortgage or home contract payments, must apply for HUD subsidized housing.

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(c) Once a client has met the criteria in sections (3)(a) and (b) of this rule, they will receive a shelter exception based on the difference between the OSIP shelter standard and the HUD standard or actual costs, whichever is less, specific to the client's living situation. This special need will be authorized only for the period of time prior to gaining HUD housing.

(d) Clients who refuse HUD housing will no longer be eligible for a shelter exception, unless the housing that is offered is not suitable related to accessibility by individuals with a disability. Clients must also take all the necessary actions to be maintained as active on the HUD lists.

(e) Clients with mortgages or home contracts must meet the criteria of section (3)(a) of this rule. They will receive a shelter exception based on the difference between the OSIP shelter standard and one-and-one-half times the HUD standard or actual costs, whichever is less, specific to the client's living situation.

(f) Clients who are residing with their spouse, including clients receiving services through the Spousal Pay program, excluding minor dependent children, must meet the criteria in sections (3)(a) and (b) of this rule and must have their shelter exception based on half of the total monthly cost of the home.

(g) Clients requiring live-in attendants may be eligible for a shelter exception if the cost of their shelter is higher because of the need for the live-in attendant.

(4) Costs associated with utilities may be added to the cost of rent or mortgage. Clients may use actual utility costs or they may use the OSIP utility standard in the calculation.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0015

Resource Limits

(1) In the MAA, MAF, REF, SAC, and TANF programs, the resource limit is:

(a) \$10,000 for need groups with at least one JOBS participant who is progressing in a case plan.

(b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.

(c) \$2,500 for all other need groups, including all TANF applicants.

(2) In the EA program, all countable resources must be used to meet the emergent need.

(3) In the ERDC, EXT, and REFM programs, there is no resource limit.

(4) In the FS program, the resource limit is:

(a) \$3,000 for need groups with at least one member who is elderly or disabled.

(b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.

(c) \$2,000 for all other need groups.

(5) In the OHP program:

(a) There is no resource limit for a person whose eligibility is determined under the OHP-OPC, OHP-OP6, or OHP-OPP programs.

(b) The resource limit for a person whose eligibility is determined under the OHP-OPU program is \$2,000.

(c) The resource limit for children whose eligibility is determined under the OHP-CHP program is \$10,000.

(6) In the GA, GAM, OSIP, and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461-135-0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 is the limit for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-145-0025 for funds that may be excluded as approved accounts).

(7) In the QMB program, the resource limit is \$4,000 for a one-person need group and \$6,000 for a need group containing two or more people.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS

10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0030

Overview of Costs

(1) Costs are bills incurred by the client, that the client has a legal responsibility to pay.

(2) The following costs are not allowed:

(a) A cost paid by someone outside the filing group through a reimbursement, vendor payment, or in-kind benefit.

(b) A cost that is paid by a person or company outside the financial group or that is written off by a medical facility. These are referred to as third-party payments.

(c) A cost for a service provided by someone in the filing group, such as child care provided by the father while the mother works.

(d) Costs used as an income deduction in one budget month or averaged over several months cannot be allowed again.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1990, f. & cert. ef. 2-16-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0055

Medical Costs That are Deductible

For FS clients who are elderly or disabled, and for clients in the GA, GAM, OSIP and OSIPM programs, medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and as follows:

(1) Health and hospitalization insurance premiums and coinsurance are deductible. In the FS and OSIPM programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(2) The cost of a medical service is deductible if it is:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the Food Stamp program, a medical necessity approved by the Department.

(3) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the FS program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for a person who was a member of the household group immediately prior to entering a hospital or a nursing home certified by the state.

(B) Services of an attendant, home health aid, housekeeper or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person FS benefit group if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog or Housekeeper Monkey) and their training, food and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0420

Shelter Cost; FS

(1) This rule explains how to calculate the client's shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-

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0430). The shelter cost is the sum of the client's cost of housing plus an allowance for utilities, if the client incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing:

(a) The following comprise the cost of housing if they are incurred with respect to the client's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the financial group's shelter, such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the need group is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The financial group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing: If the filing group shares housing costs with a person in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by a person outside the filing group cannot be ascertained, the cost is apportioned among the people contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities:

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless need group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling: A full standard utility allowance of \$287 is used if the household group is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A financial group who receives an energy assistance payment for the dwelling provided through the Low-Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A).

(B) Allowance without heating or cooling:

(i) A limited standard utility allowance of \$214 is used if the household group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in section (4)(a) of this rule.

(ii) A single standard utility allowance of \$36 is used if the household is not billed for heating or cooling costs but is billed for only one of the costs enumerated in section (4)(a) of this rule.

(5) Housing costs for a home not occupied by the household: Housing and utility costs with respect to a home not currently occupied by the household may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The financial group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the FS program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0430

Income Deductions; FS

(1) Deductions from income are subtracted from countable income in the following order to determine adjusted income for the Food Stamp program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as JOBS Plus wages or Work Supplementation wages.

(b) A standard deduction of \$134 per month for benefit groups of one, two, three, or four persons. A standard deduction of \$153 for a benefit group of five persons. A standard deduction of \$175 for benefit groups of six or more persons.

(c) A dependent care deduction not to exceed \$175 each month for each dependent, or \$200 each month for each child under age 2, for dependent care costs billed to a member of the financial group and not paid for through the OFSET program or any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the need group to:

(A) Accept or continue employment;

(B) Meet the requirements of a case plan (see OAR 461-190-0310 for a definition of case plan); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for the elderly and disabled clients in the need group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments a member of the household makes under a legal obligation to a child not a member of the household group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For FS clients required to pay room and board in nonstandard living arrangements (see OAR 461-110-0110(13)), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the client can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other clients, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the need group has no disabled or elderly member. The limit is \$388.

(2) If the client cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the client provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the initial month's benefits are recalculated using the deduction.

Stat. Auth.: ORS 411.816

Stat. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-00, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert.

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ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0540

Determining Financial Eligibility and Benefits; QMB and Non-SSI OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD) Living in the Community

(1) This rule is used to determine financial eligibility for QMB clients and for OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) clients who:

- (a) Live in the community;
- (b) Do not receive SSI; and
- (c) Do not receive Title XIX waived services.

(2) In the OSIP and OSIPM programs, a client is eligible if his or her adjusted income is less than the payment standard.

(3) In the OSIP program, the benefit is calculated by subtracting adjusted income from the payment standard for OSIP clients not receiving SSI benefits (see OAR 461-155-0250(3)). The remainder is the benefit amount.

(4) In the QMB program, a client is eligible if his or her adjusted income does not exceed the QMB income standard.

Stat. Auth.: ORS 411.060, 411.07 & 414.042

Stats. Implemented: ORS 411.060, 411.07 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0580

Excluded Resource; Community Spouse Provision On or After 10/1/89 (Except OSIP-EPD and OSIPM-EPD)

In the OSIP and OSIPM programs, this rule applies to an institutionalized spouse who began a continuous period of care on or after October 1, 1989.

(1) Whether the couple lives together or not, determine if the couple's resources make the institutionalized spouse eligible or ineligible for OSIPM as follows:

(a) Step 1: Determine what the couple's combined countable resources were at the beginning of the most recent continuous period of care. (The beginning of the continuous period of care is the first month of that continuous period.)

(A) Use OSIP policy to determine which of the couple's resources were countable resources. The rules used to determine whether a community spouse's resources are countable are the same rules used with respect to an OSIP or OSIPM applicant or recipient.

(B) Combine both spouses' countable resources.

(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.

(b) Step 2: Calculate one half of what the couple's combined countable resources were at the beginning of the continuous period of care. Treat the community spouse's half of the couple's combined resources as a constant amount when determining eligibility.

(c) Step 3: Determine the community spouse's resource allowance. The community spouse's resource allowance is the largest of the three following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care, but not more than \$92,760.

(B) \$18,552 (the state community-spouse resource allowance).

(C) A court-ordered community spouse resource allowance. In this rule, (OAR 461-160-0580(1)(c)(C) and (1)(f)(C)), the term court-ordered community spouse resource allowance means a court-ordered community spouse resource allowance that, in relation to the income generated, would raise the community spouse's income to a court-approved monthly maintenance needs allowance.

(d) Step 4: Determine what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. Use the procedure in Step 1.

(e) Step 5: Subtract the community spouse's resource allowance from the couple's current combined countable resources. The resources remaining are considered available to the institutionalized spouse.

(f) Step 6: Compare the remaining resources to the OSIP resource standard for one person. If the remaining resources are at or below the standard, the institutionalized spouse is eligible. If the remaining resources are above the standard, the institutionalized spouse is not eligible until the value of the couple's combined countable resources is reduced to the largest of the four following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care (but not more than \$92,760) plus the OSIP resource standard for one person.

(B) \$18,552 (the state community-spouse resource allowance), plus the OSIP resource standard for one person.

(C) A court-ordered community spouse resource allowance plus the OSIP resource standard for one person. (See section (1)(c)(C) of this rule for definition of court-ordered community spouse resource allowance.)

(D) After considering the income of the community spouse and the income available from the institutionalized spouse, an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. The amount described in this paragraph (D) is considered only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:

(i) The monthly income allowance computed in accordance with OAR 461-160-0620(5).

(ii) The difference between:

(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and

(II) The greater of the personal needs allowance and the applicable OSIP standard for the institutionalized spouse.

(2) Once eligibility has been established, resources equal to the community spouse's resource allowance (from section (1)(c) above) must be transferred to the community spouse if those resources are not already in that spouse's name. The institutionalized spouse must indicate his or her intent to transfer the resources and must complete the transfer to the community spouse within 90 days. This period may be extended for good cause. These resources are excluded during this period. After this period, resources owned by the institutionalized spouse but not transferred out of that spouse's name will be countable and used to determine ongoing eligibility.

Stat. Auth.: ORS 411.060, 411.700

Stats. Implemented: ORS 411.060, 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-160-0610

Client Liability for Clients in Long-term Care or Receiving Waived Services; OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD)

Clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who live in or entering a long-term care setting or who receive Title XIX waived services must, in order to remain eligible, make the payment required by this rule.

(1) Clients who receive SSI, or are deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)), are eligible for OSIP and OSIPM without having to make a payment.

(2) Clients who do not receive SSI, but whose countable income is under the countable income limit, may be eligible for OSIP and OSIPM. These clients must apply their adjusted income to the cost of their care or service. This is their client liability. If their adjusted income exceeds their cost of care or service, they must pay the full cost of care but have no additional liability.

Stat. Auth.: ORS 411.060, 411.07 & 414.042

Stats. Implemented: ORS 411.060, 411.07 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

461-165-0060

Prohibition Against Benefits in Amounts Less Than \$10

(1) In the REF and TANF programs, benefits are not issued if the monthly benefit is less than \$10. People who do not receive a cash payment because the monthly benefit is less than \$10 are eligible for medical benefits. The following are exceptions to the \$10 limitation:

(a) The \$10 limit does not apply to special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

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(b) The \$10 limit does not apply to dual-payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) The \$10 limit does not apply to wage supplements issued to JOBS Plus participants.

(2) In the FS program, a benefit group is not eligible for benefits in the initial month if the allotment is less than \$10.

(3) For ongoing months, FS benefits are issued as follows:

(a) An eligible one- or two-person benefit group receives a minimum monthly allotment of \$10.

(b) An eligible benefit group of three or more persons receives the calculated benefit except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-165-0100

Issuance Date of Benefit

(1) For all programs except EA and for FS benefits that are not part of staggered issuance:

(a) An authorized cash payment check is dated on the first day of the payment period or as soon as practicable thereafter.

(b) Checks and medical cards are mailed so they can be delivered to the client on the first day of each month except in the following cases:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) Cases in the monthly reporting system.

(C) Cases with no special needs or service coding; these cases receive the \$1.70 OSIP payment in advance for the benefit period, from the date of eligibility to the end of the calendar year.

(D) If the first day of the month falls on Sunday or a holiday, the check is mailed in time for the client to receive it on Saturday or the mail day preceding the holiday.

(E) Checks redirected to the branch office may be released during the last workday preceding a weekend or holiday.

(c) Benefits issued by EBT will be available on the first day of each month, except for the following:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) Cases in the monthly reporting system.

(C) Benefits held by the branch office.

(D) FS benefits sent through staggered issuance.

(2) EA clients must receive their checks, either direct or vendor, in time to meet their emergent needs.

(3) For FS benefits issued by EBT, benefits are staggered based on the last digit of the case number over the first nine calendar days of the month.

(4) For FS changes that could not be made in time to adjust the monthly allotment, a supplement is issued within 10 days of the date the change was reported.

(5) For OSIPM, a medical ID card is mailed on the first of each month to clients receiving Title XIX waived services who contribute to their services by paying their excess income into a maintenance trust and agency account. The client's medical card is not held until the payment is received. If payment is not received before the end of the payment month, consider QMB for the following month.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 22-2004, f. & cert. ef. 10-1-04

461-170-0120

Change Report Incomplete or Not Received

If the branch office does not receive a completed Monthly Change Report by the last day of the payment month, the following actions are taken:

(1) FS benefits are suspended for the payment month and:

(a) If no Monthly Change Report form is received for the month of suspension, the case is closed effective the end of the month of suspension.

(b) If a completed Monthly Change Report form is received for the month of suspension, it is used to determine eligibility and benefit level for the month following the month of suspension.

(2) For all other programs, the case is closed effective the end of the budget month.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 22-2004, f. & cert. ef. 10-1-04

461-175-0010

What a Decision Notice Must Include

(1) A *decision notice* is a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(2) A decision notice, other than a mass-change notice described in OAR 461-175-0250:

(a) Specifies the action the Department intends to take, the effective date of the action, and the date the notice is mailed.

(b) Specifies the reasons for the action.

(c) In the Food Stamp program only, provides the name and phone number of the Department staff person or identifies the office to contact for additional information.

(d) Informs the client of the extent to which the client has a right to a hearing before an impartial person.

(e) Specifies the method and deadline for requesting a hearing.

(f) Informs the client of the right to representation, including legal counsel, and the right to have witnesses testify on his or her behalf.

(g) Provides information about the availability of free legal help.

(h) Cites the rules that support the action.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; 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 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 22-2004, f. & cert. ef. 10-1-04

461-175-0030

Types of Decision Notices

(1) A basic decision notice is a decision notice as described in OAR 461-175-0010. It is mailed no later than the date of action given in the notice.

(2) A continuing benefit decision notice is a decision notice as described in OAR 461-175-0010. It informs the client of the right to continued benefits. It is mailed in time to be received by the date benefits are, or would be, received.

(3) A timely continuing benefit decision notice is a decision notice, as described in OAR 461-175-0010. It informs the client of the right to continued benefits. It is mailed no later than ten days before the effective date of action given in the notice.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 22-2004, f. & cert. ef. 10-1-04

461-175-0250

Notice Situation; Mass Changes

(1) A mass-change notice is a basic decision notice that informs the client of:

(a) The general nature of a change described in OAR 461-175-0250(2).

(b) Examples of how the change affects the client's benefits.

(c) The month in which the change will take place.

(d) The client's right to a hearing.

(e) The client's right to continue benefits and under what circumstances benefits will be continued pending a hearing.

(f) General information on whom to contact for additional information.

(g) The liability the client's household will incur for any overissued benefits if the hearing decision is adverse to the client.

(2) A mass-change notice may be used for the following purposes:

(a) To notify clients whose benefits are reduced or closed to reflect cost-of-living adjustments in benefits or other mass change under a program operated by a federal agency.

(b) To notify clients whose benefits are reduced or closed to reflect a change to payments in another program operated by the Department.

(3) No decision notice is required when the Department makes the following mass changes:

(a) In the Food Stamp program, an annual adjustment to income limits, the shelter deduction, or the standard deduction.

(b) An annual adjustment to a standard utility allowance in the Food Stamp program.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

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Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 22-2004, f. & cert. ef. 10-1-04

461-180-0065

Effective Dates; Ending Disqualifications

(1) The effective date for ending a JOBS disqualification or a disqualification related to diagnosis, counseling, or treatment for substance abuse or mental health is:

(a) The date the client meets the requirements for ending the JOBS disqualification (see OAR 461-130-0335); or

(b) The date the client meets the requirements for ending the disqualification for failure to comply with OAR 461-135-0085(1) (see OAR 461-135-0089).

(2) In the EXT, GAM, MAA, MAF, OHP, OSIPM, and SAC programs, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-sponsored health insurance is the date the client provides verification of enrollment during the open enrollment period.

(3) In the FS program, the effective date for ending an employment program disqualification is the date the client fulfills the requirements to end the disqualification or the first of the month following the minimum disqualification period, whichever occurs later (see OAR 461-180-0010 regarding the effective date for adding a person to an open case).

(4) For an IPV disqualification, the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.

(5) For all other disqualifications in the TANF program, the disqualification ends whenever the client agrees to cooperate.

(6) For other disqualifications in the Food Stamp program, the disqualification ends at the end of the disqualification period.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04

461-195-0511

Child Care Overpayments

This rule defines overpayments in the Department's child care programs and explains when clients and providers are liable for an overpayment.

(1) A *child care overpayment* is a payment for child care made by the Department to or on behalf of a client that is paid to an ineligible provider or exceeds the amount authorized by law for the care provided, except that it is not a *child care overpayment* in any of the following situations:

(a) A client fails to make a required report of a change in income during a reporting period, other than the changes covered in OAR 461-170-0015;

(b) The total due and paid to two or more providers exceeds the monthly limit the Department may pay on behalf of the client. The exception provided by this subsection does not apply if:

(A) Two or more providers are paid at the full-time rate; or

(B) One of the providers provides child care under a contract with the Department;

(c) The client unintentionally provides an inaccurate estimate of prospective income or other information.

(2) A child care payment made for care provided when a client was not engaged in an activity that made the client eligible for child care, for instance, an activity of the JOBS program (see OAR 461-190-0110 and following), or for care provided when the client was not eligible for child care benefits, is a client overpayment.

(3) A *child care overpayment* occurring after November 30, 1999, not caused by the client or the provider is collectible as follows:

(a) The provider is liable for a *provider overpayment* made on behalf of a client eligible for child care payments.

(b) The client is liable for an overpayment if the client was not eligible for the payment.

(4) A client is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. They are jointly and severally liable for an overpayment caused by both. In the case of an alleged *provider overpayment*, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(5) The Department may recover a *child care overpayment* for which a provider is liable by reducing up to 100 percent any future child care payments for which the provider bills the Department.

(6) The adult who cosigns an application with a minor provider applicant, as required by OAR 461-165-0180(3)(b)(C)(i), is responsible to repay an overpayment incurred by the minor provider.

Stat. Auth.: ORS 411.060, 418.100

Stats. Implemented: ORS 411.060, 411.122, 418.100

Hist.: AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04

Adm. Order No.: SSP 23-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 461-160-0030, 461-160-0055, 461-180-0050

Rules Suspended: 461-160-0030(T), 461-160-0055(T)

Subject: Rules 461-160-0030 and 461-160-0055 are being amended because the USDA is allowing FS households with the Medicare-Approved Drug Discount Card to use the pre-discount prescription expense as a medical deduction instead of the actual cost. These rules were originally filed as Temporary effective September 7, 2004, but due to a subsequent Permanent rule filing need to be filed as Temporary again to retain the September 7, 2004 changes.

Rule 461-180-0050 is being amended as part of the implementation of HB 2696, which calls for the Department to establish standards for JOBS support service payments. The Department is amending this rule to specify the effective date for closing a JOBS support service payment.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-160-0030

Overview of Costs

(1) Costs incurred by the client, that the client has a legal responsibility to pay, are deductible from income in accordance with the rules in this division of rules.

(2) The following costs are not deductible:

(a) A cost paid by someone outside the filing group through a reimbursement, vendor payment, or in-kind benefit, except that in the Food Stamp program, the pre-discount expense for prescription purchased through the use of a Medicare-approved drug discount card is deductible.

(b) A cost that is paid by a person or company outside the financial group or that is written off by a medical facility. These are referred to as third-party payments.

(c) The cost for a service provided by someone in the filing group, such as child care provided by the father while the mother works.

(d) A cost used as an income deduction in one budget month or averaged over several months cannot be used again.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1990, f. & cert. ef. 2-16-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04

461-160-0055

Medical Costs That are Deductible

For FS clients who are elderly or disabled, and for clients in the GA, GAM, OSIP and OSIPM programs, medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and as follows:

(1) Health and hospitalization insurance premiums and coinsurance are deductible. In the FS and OSIPM programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(2) The cost of a medical service is deductible if it is:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the Food Stamp program, a medical necessity approved by the Department.

(3) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, med-

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ical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the FS program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for a person who was a member of the household group immediately prior to entering a hospital or a nursing home certified by the state.

(B) Services of an attendant, home health aid, housekeeper or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person FS benefit group if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog or Housekeeper Monkey) and their training, food and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

(F) The actual, pre-discounted expense of a prescription purchased with a Medicare-approved drug discount card.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04

461-180-0050

Effective Dates; Suspending or Closing Benefits

This rule explains the effective date for closing or suspending benefits for the entire benefit group and the effective date for ending JOBS support service payments. The effective date is determined as follows:

(1) When prospective eligibility is used, the effective date for closing or suspending benefits is:

(a) For all cash and medical benefits for benefit groups in the MRS, the last day of the budget month.

(b) For cash and medical benefits for benefit groups not in MRS and for FS, the last day of the month in which the notice period ends.

(2) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.

(3) When prospective budgeting is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.

(4) When an absent parent enters an ongoing TANF household, or another change occurs that ends eligibility based on the incapacity or unemployment of a parent, the effective date for closing benefits is the last day of the month in which the 30-day period described in OAR 461-125-0255 ends.

(5) For a pregnant female receiving benefits of the EXT, MAA, MAF, OSIPM, or SAC program, the effective date for closing benefits is no earlier than the last day of the calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.

(6) In the OHP program, the effective date for closing benefits is:

(a) The last day of the month in which the benefit group becomes ineligible;

(b) The date the program ends; or

(c) For cases not covered by subsection (a) or (b) of this section, the last day of the certification period.

(7) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:

(a) The date the related JOBS activity is scheduled to end.

(b) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 18-2004, f. & cert. ef. 7-12-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04

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

Adm. Order No.: SPD 31-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Amended: 411-048-0000, 411-048-0010, 411-048-0020, 411-048-0030, 411-048-0040, 411-048-0050, 411-048-0060, 411-048-0070, 411-048-0080, 411-048-0100, 411-048-0120

Rules Repealed: 411-048-0110

Rules Ren. & Amended: 411-048-0090 to 411-048-0130

Subject: Chapter 411, Division 048, Contract RN Service rules have been permanently amended incorporating the following changes:

A) Updated the rule language to be consistent with current DHS standards and practices, including reference to HIPPA requirements;

B) Conformed to changes that were made to Oregon State Board of Nursing administrative rules, Chapter 851, Division 047;

C) Eliminated redundancies that were found throughout the division rules;

D) Conformed to changes that were made to Medicaid Requirements regarding records retention;

E) Included Developmental Disability clients as among those eligible for services providing they meet other eligibility criteria;

F) Updated compensations and billing guidelines with new billing process;

G) Amended and renumbered rule 411-048-0090 to rule 411-048-0130;

H) Repealed 411-048-0110; and

I) Provided for general housekeeping.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-048-0000

Purpose

The purpose of these rules is to establish Department of Human Services (DHS) standards and procedures for the Seniors and People with Disabilities (SPD), Contract Registered Nurse (Contract RN) Service. DHS contracts with individual registered nurses to provide services to elderly clients, adults with physical disabilities and persons with developmental disabilities who are eligible to receive Long Term Care Services per OAR 411-015-000-0100 and chapter 411, division 320. Clients in Personal Care Services per OAR chapter 411, division 034 are eligible for Contract RN Services if an SPD funded case manager authorizes the services. Contract RN services are provided in adult foster homes (AFH), children's foster homes serving children with developmental disabilities, residential care facilities (RCF), and in-home settings. Contract RN Services do not replace or substitute for nursing services required under rules for licensed facilities, or in situations where clients have access to licensed nursing services by the use of their support services brokerages.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDSL 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0010

Definitions

(1) "AAA" means an Area Agency on Aging (AAA) that is an established public agency within a planning and service area designated under Section 305 of the Older Americans Act and has responsibility for local administration of Department programs.

(2) "Abuse" means abandonment, financial exploitation, neglect (failure to provide basic care or services), physical, psychological (mental and/or verbal), or sexual abuse.

(3) "Care" means assistance with activities of daily living, medication management and delegated nursing tasks. Care also means services provided to maximize client independence, health and safety.

(4) "Care Provider" means any person (excluding licensed health professionals) who is responsible for providing care and services to the client at home, or in a foster home.

(5) "Case Manager" means a person employed by the Department or its contractors who ensures client eligibility, assessment, service planning, service implementation, and evaluation of the effectiveness of the services.

(6) "Central Office" means the Department of Human Services, Seniors and People with Disabilities Office of Licensing and Quality of Care.

(7) "Client" means an individual in the community for whom the Department pays for care and services and for whom case management services are provided per OAR 411-015-0000 through 0100, 309-048-0035 and 411-034-0000 through 0900.

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(8) "Contract RN Assessment" means the systematic collection of data about an individual client for the purpose of judging that person's health or illness status and actual or potential health care needs. Assessment involves collecting information about the whole person including the physical, psychological, social, cultural and spiritual aspects of the person. Assessment includes taking a nursing history and appraising the person's health or illness through interview, physical examination and information from family or significant others and pertinent information from the person's past health or medical record. The data collected during the assessment process provides the basis for the client's health care plan. The Contract RN assessment also addresses the environment as it relates to the health and safety of the client. In addition, the Contract RN assesses the ability of the care provider(s) to meet the client's health care needs.

(9) "Contract RN Manual" means the manual provided by the Department, which gives information and guidelines regarding the role and expectations for the SPD Contract RN.

(10) "Contract RN Service Policy and Procedure Manual" means the manual developed by the SPD Office of Licensing and Quality of Care, which outlines for the local offices and the Contract RNs the policies and procedures for the Contract RN Service.

(11) "Delegation" means that a registered nurse authorizes an unlicensed person to perform tasks of nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a client in a specific situation, evaluating the ability of the unlicensed persons, teaching the task, ensuring supervision of the unlicensed persons and re-evaluating the task at regular intervals. For the purpose of these rules, the unlicensed person or care provider performs tasks of nursing care under the registered nurse's delegated authority.

(12) "Department" means the Department of Human Services, Seniors and People with Disabilities, an organizational unit within the Department that focuses on the planning of services, policy development, and regulation of programs for persons who are: elderly, adults with physical disabilities, or persons with developmental disabilities.

(13) "Department Published Rate Schedule" means the communication tool issued by the Department to transmit rate changes to partners, subcontractors and stakeholders.

(14) "Documentation" means the written record of Contract RN services provided to, and for, the client.

(15) "Foster Home" means any DHS licensed or certified family home or other facility in which residential care is provided for compensation to five or fewer elderly persons, adults with physical disabilities, or persons with developmental disabilities who are not related to the provider by blood or marriage.

(16) "Local Office" means the entity under contract with the Department or a local health authority responsible for the planning and delivery of services for clients in a specific geographical area of the state.

(17) "Oregon State Board of Nursing (OSBN)" means the agency responsible for regulating nursing practice and education for the purpose of protecting the public's health, safety and well-being.

(18) "Specialty Providers" means health care providers such as home health, hospice, mental health, physicians, pharmacists and hospitals.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDSL 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0020

Contract Registered Nurse Services

The goals of the SPD Contract RN Service are to maintain clients at functional levels of wellness, minimize health risks, and maximize the strengths of the client and the care provider while promoting client autonomy and self management of healthcare.

(1) The Contract RN is an independent contractor, not an employee of the state or local office. All Contract RN contracts are issued and held by the Department.

(2) The contract RN provides assessment, health care planning, teaching, monitoring, and coordination of health-related functions for clients under the authorization of the local office case managers. The contract RN does not provide direct care to a client with acute care needs.

(3) The Contract RN service adheres to the practice of nursing governed by the OSBN Administrative Rules.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDSL 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0030

Minimum Qualifications for the Contract Registered Nurse

A Contract RN must have the following:

(1) A current, unencumbered, Oregon registered nurse license. The RN may not be a current participant in the OSBN Nurse Monitoring Program for substance abuse (OSBN OAR Division 046).

(2) Employment history, education, and professional references that demonstrate skills, knowledge, and experience in the following areas: client assessment, documentation of assessments and health care plans, teaching, and the ability to work independently.

(3) Five years' RN experience with one or more of the following groups of people: seniors, adults with physical disabilities, or people with developmental disabilities.

(4) One year of hospital or skilled nursing facility experience.

(5) Be available to work a minimum of 32 hours/month.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDSL 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0040

Provider Enrollment & Contracting

(1) In accordance with the SPD Contract RN Service Policy and Procedure Manual, a nurse requesting an SPD registered nurse contract must submit the following documents to the designated DHS entity:

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

(b) Certification of professional liability insurance;

(c) Certification of general liability insurance naming the State of Oregon, Department of Human Services as the additional insured; and

(d) Verification of automobile insurance.

(2) The Contract RN may not provide nursing services after the expiration date listed on the Oregon registered nurse license.

(3) The Contract RN must keep all insurance coverage current and submit copies of professional and general liability certificates of insurance renewals to the Central Office.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDSL 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0050

Responsibilities of the Contract RN

In accordance with the scope of practice as stated in the OSBN Administrative Rules and the SPD Contract RN Service Policy and Procedure Manual, the Contract RN is responsible for the following activities:

(1) Comprehensive Initial RN Assessment. The Contract RN performs a comprehensive initial assessment following the acceptance of the case manager's referral of a client for Contract RN services.

(2) Medication Review. The Contract RN reviews the client's medication regime, administration, and medication records (as applicable) at every client visit.

(3) RN/Client Health Care Plan. Based on the assessment of the client, the client's wishes, and the care provider's ability to care for the client, the Contract RN documents a health care plan. This plan is separate from the case manager care plan and the care plan that care providers are required to develop. The Contract RN reviews the health care plan and desired outcomes with the client, the care provider and the case manager.

(4) Visitation Plan. The Contract RN develops a proposed visitation plan based on the nursing assessment and identified health needs, client teaching needs, and the care provider's teaching needs. The visitation plan is the projected number and type of nursing services needed by the client during a six-month period. The proposed nursing visitation schedule is reviewed and authorized by the case manager on a biannual basis or more frequently as indicated by client condition. Should the case manager disagree with the proposed visitation plan, the local office manager must review the Contract RN's justification for continued nursing visits and make a final decision.

(5) Delegation. The Contract RN is responsible for delegation and documentation of tasks of nursing care as regulated by division 047 of the OSBN OARs. The Contract RN, alone, based on professional judgment and regulation, makes the determination to delegate or not delegate a task of nursing care, or rescind a delegation.

(6) Teaching. The Contract RN is responsible for teaching the client or care provider how to help meet the client's health care needs. The Contract RN is also responsible for following the OSBN OAR 851-047-0000 regarding the teaching of medication administration.

(7) Monitoring Visits and Update of the RN/Client Health Care Plan.
(a) The Contract RN makes monitoring visits to the client based on the health care plan and visitation plan, or as the client's condition changes.

(b) During the monitoring visit, the Contract RN updates the health care plan following any identified changes in the client status.

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(8) Reassessment. The Contract RN performs a reassessment and updates the health care plan when the client has experienced a significant change in condition.

(9) Coordination with Health and other Specialty Providers.

(a) If the Contract RN determines the client would benefit from the services of other health care or specialty providers, the Contract RN will contact the case manager and discuss arrangements for coordinating the services.

(b) Contract RNs must document any communication or change in services resulting from this coordination of health care services.

(c) The Contract RN must provide information and a health care plan to involved providers and specialists within confidentiality parameters.

(d) If a client's condition becomes unstable or a client becomes eligible for home health or hospice nursing, the physician and case manager should be contacted and a plan developed to transfer the care to another nursing program, or to coordinate care between nursing programs.

(10) Coordination with Local Offices.

(a) The Local offices will provide oversight of the Contract RN Service in accordance with the SPD Contract RN Service Policy and Procedure manual.

(b) The Contract RN and the case manager must maintain communication and coordination regarding the client according to time lines and procedures, as defined in the SPD Contract RN Service Policy and Procedure Manual.

(c) The Contract RN must immediately communicate abuse, neglect or life-threatening health and safety concerns to the local office protective service worker or case manager, according to local office policy.

(d) For critical issues other than health and safety, such as a change in the stability of a client's condition, the Contract RN must notify the case manager within one working day.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0060

Compliance with Department Policies

(1) Mandatory Reporting. While acting in an official capacity, Contract RNs are mandatory reporters and are required by law to report suspected or known abuse or neglect of the elderly (ORS 124.050-.095), adults with developmental disabilities or mental illness (ORS 430.735-.765), and people in nursing facilities (ORS 441.630-680). By law (ORS 419B.005-045), registered nurses must also report suspected or known abuse of children under the age of 18, 24 hours a day, seven days a week. In addition, under these rules the Contract RN is encouraged to report to the local office or police, any suspected abuse or neglect of any individuals in those groups the Department serves.

(2) Confidentiality. The Contract RN must adhere to the OSBN OAR confidentiality standards as well as the Federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0070

Documentation Requirements

(1) Documentation must be completed on designated DHS forms per the SPD Contract RN Service Policy and Procedure Manual.

(2) Documentation must reflect the nursing process and meet the standards of the Oregon State Board of Nursing and the requirements listed in the SPD Contract RN Service Policy and Procedure Manual.

(3) Documentation of services provided by a Contract RN is to be left at the client's place of residence by the Contract RN.

(4) Copies of all current documentation must be sent to the case manager prior to, or at the time of, submission of invoices. Documentation must support the services billed and adhere to the time frames set forth in the SPD Contract RN Service Policy and Procedure Manual.

(5) The Contract RN must maintain copies of all client related nursing documentation in the client's active nursing file. The file is retained by the nurse until the nurse no longer has a nurse-client relationship with the client, at which time the file is returned to the local office. As per Medicaid rules, the local office must retain the nursing files for a period of seven years.

(6) All Contract RN documentation related to client care provision is the property of DHS.

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

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0080

Education and Orientation Responsibilities

(1) The Contract RN must attend orientation sessions, as listed in the SPD Contract RN Service Policy and Procedure Manual.

(2) The Contract RN is expected to continue ongoing self-education to remain current in health and nursing-related issues.

(3) The Contract RN must attend staff meetings, client staffings and care coordination meetings in accordance with the SPD Contract RN Service Policy and Procedure Manual.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0100

SDA/AAA Responsibilities

The local offices will develop systems and protocols as defined in the Contract RN Service Policy and Procedure Manual. Systems and protocols must address the following:

(1) Contract RN recruitment and contract requests.

(2) Requesting contract terminations.

(3) Contract RN in-office orientation, and field orientation with an experienced Contract RN.

(4) Orientation for case managers regarding the Contract RN role and the services the Contract RN provides for clients.

(5) A case manager Contract RN referral and communication process.

(6) Case manager biannual (or more frequently as indicated) prior-authorization process for Contract RN services.

(7) Contract RN/staff meetings to ensure coordination between nursing and case management.

(8) Seven year retention of nursing files.

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

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0120

Compensation and Billing

(1) Contract RNs will be paid an hourly rate based on the current Department Published Rate Schedule.

(2) The Contract RN will request prior-authorizations from the case managers and submit claims for client services, utilizing billing codes per instructions in the Contract RN Service Policy and Procedure Manual.

(3) Contract RNs will submit invoices for orientations as outlined in the Contract RN Service Policy and Procedure Manual.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

411-048-0130

Contract RN Service Limitations

(1) Contract RN service is not provided if a client is:

(a) A resident of a nursing facility, assisted living facility, 24 hour DD group home, intermediate care facility for people with developmental disabilities, or enrolled in a Staley brokerage.

(b) In a program or residing in a setting where nursing is provided under contract with Seniors and People with Disabilities.

(c) A family member of the Contract RN.

(2) Exceptions to (1)(a) and (b) may be made by the Central Office.

(3) Contract RNs do not perform local office staff functions such as protective service investigations, pre-admission screenings, eligibility determinations, case manager assessment, or corrective action activities.

(4) Contract RN services cannot be provided as a substitute for other Medicaid or Medicare nursing services.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Hist.: SDDS 8-2002, f. 9-30-02, cert. ef. 10-1-02; Renumbered from 411-048-0090, SPD 31-2004, f. 9-30-04, cert. ef. 10-1-04

Department of Justice Chapter 137

Adm. Order No.: DOJ 12-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 137-055-1145, 137-055-3665

Rules Amended: 137-055-1060, 137-055-1140, 137-055-1160, 137-055-1360, 137-055-3060, 137-055-3200, 137-055-3300, 137-055-

ADMINISTRATIVE RULES

3360, 137-055-3410, 137-055-3440, 137-055-4120, 137-055-4560, 137-055-5120, 137-055-5220, 137-055-6020

Subject: An additional change to proposed OAR 137-055-1145, originally included in the division's January 15, 2004, notice of rule-making is being made to subsection (3) of the rule to reflect the process other agencies must use to obtain access to child support records. The proposed amendment to OAR 137-055-1060 is to remove the requirement of a cover letter with the application form. The change to OAR 137-055-1140 allows an employee to release case information to a local law enforcement agency under certain circumstances. The change to OAR 137-055-1160 is to clarify when a court has made a finding of a claim of risk. The proposed amendment to OAR 137-055-1360 clarifies to whom a court may disclose FPLS information to. The proposed amendment to OAR 137-055-3060 is to clarify that the administrator will not establish a case if the father is not located. The proposed amendment to OAR 137-055-3200 makes minor wording changes. The proposed amendment to OAR 137-055-3300 is to clarify that the administrator will initiate an action on a case 61 days after an obligor is released from incarceration. The proposed amendment to OAR 137-055-3360 is to clarify when an administrative order must be entered in the circuit court. The proposed amendment to OAR 137-055-3410 is to clarify when a child is with DHS or OYA a contingency order may be taken. The proposed amendment to OAR 137-055-3440 adds the word "last" to nonrequesting party. The proposed amendment to OAR 137-055-3665 is to clarify how the administrator will handle cases that have multiple obligees. The proposed amendment to OAR 137-055-4120 is to clarify that EPW is allowed when the child is in the custody of DHS. The proposed amendment to OAR 137-055-4560 adds the process of contesting a balance submitted to a consumer reporting agency at any time. The proposed amendment to OAR 137-055-5120 clarifies when the administrator will resume accounting functions. The proposed amendment to OAR 137-055-5220 adds the word "award" for clarification. The proposed amendment to OAR 137-055-6020 clarifies that the state tax refund intercept payment will be applied to assigned current support.

Rules Coordinator: Shawn Irish—(503) 986-6240

137-055-1060

Uniform Application for Child Support Enforcement Services

(1) The administrator will provide a standard application form to any person requesting child support enforcement services. Except for the application form, the form required under section (3) of this rule, and any statements necessary to respond to inquiries about these forms, no other written or oral statements concerning an applicant's qualification for services nor any contract for service shall be offered.

(2) The application form must:

(a) Contain a statement that the applicant is requesting child support enforcement services including enforcement of health provisions;

(b) Require the applicant's signature and date of application.

(3) The administrator will provide a supplemental form to applicants for child support enforcement services, which includes the following information:

(a) The applicant's rights and responsibilities;

(b) An explanation of enforcement activities for which fees are charged;

(c) Policies on cost recovery; and

(d) Policies on distribution of collections.

(4) The standardized application form, and the supplemental form must be readily available to the public in each Child Support Program (CSP) office:

(a) The administrator will provide the standardized application form, and the supplemental form, upon request to any individual who requests services in person;

(b) When a request for child support enforcement services is made in writing or by telephone, the administrator will send the individual the standardized application form and the supplemental form, within five working days from the date the request is made.

(5) The administrator shall accept an application as it is filed, on the day it is received.

(6) The administrator will create a case on the computerized system within two working days of receipt of the application providing circumstances beyond the control of the administrator do not occur.

(7) The administrator will provide the information required under section (3) of this rule:

(a) If the requesting individual or a beneficiary of such person is not receiving assistance in the form of TANF cash assistance, Medicaid, foster care or Oregon Youth Authority (OYA) services, along with the standard application form;

(b) If the individual or beneficiary of such person receives assistance in the form of TANF cash assistance, Medicaid, foster care or OYA services, within five working days of referral from the Department of Human Services (DHS) or the OYA.

(8) Once an application for child support enforcement services is accepted, if necessary for establishment and/or enforcement purposes, the administrator will solicit additional relevant information by means of a form approved by the CSP.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.080

Hist.: AFS 16-1994, f. 8-4-94, cert. ef. 12-1-94; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00. Renumbered from 461-195-0043; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1060; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-1140

Confidentiality of Records in the Child Support Program

(1)(a) As used in this rule, "employee" means a person employed by the Department of Justice (DOJ) or a district attorney office that provides Child Support Program (CSP) services;

(b) "Party" means any party to a support or paternity case or a party's attorney.

(2) For purposes of this rule, and subject to the limitations set forth in section (3) of this rule, the contents of a case record include, but are not limited to:

(a) The names of the obligor, beneficiary and obligee or other payee;

(b) The addresses of the obligor, beneficiary and obligee or other payee;

(c) The address of record and address of service of the obligee, beneficiary or obligor;

(d) The name and address of the obligor's employer;

(e) The social security numbers of the obligor, the obligee and beneficiaries;

(f) The record of all legal and collection actions taken on the case;

(g) The record of all accrual and billings, payments and distribution of payments;

(h) The narrative record; and

(i) The contents of any paper file maintained for purposes of establishment and/or enforcement of a child support order or for accounting purposes.

(3) Any data listed in section (2) of this rule or any other data that resides on the Child Support Enforcement Automated System (CSEAS) that is extracted from computer interfaces with other agencies' computer systems is not considered to be child support information until or unless the data is used for child support purposes. Until such data is used for child support purposes it is not subject to any exceptions to confidentiality and it may not be released to any other person or agency in any circumstance, except as provided in ORS 25.260(5) and as may be provided in other agency rule.

(4) Child support case related records, files, papers and communications are confidential and may not be disclosed or used for purposes other than those directly connected to the administration of the CSP except:

(a) Information may be shared as provided in ORS 25.260(5), OAR 137-055-1320 and 137-055-1360 and as may be provided in other agency rule;

(b) Information may be shared for purposes of any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of:

(A) Title IV-D of the Social Security Act, child support programs in Oregon and other states;

(B) Title IV-A of the Social Security Act, Temporary Assistance to Needy Families; or

(C) Title XIX of the Social Security Act, Medicaid programs;

(c) Information may be shared as required by state or federal statute or rule;

(d)(A) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the CSP. Information about a

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child support case may be shared with these elected officials and their staff in response to issues brought by constituents who are parties to the case;

(B) County commissioners exercise a constituent representative function in county government for county administered programs. District attorney offices that operate child support programs may respond to constituent issues brought by county commissioners of the same county if the constituent is a party in a case administered by that office. District attorneys are DOJ sub-recipients. CSP Administration may also respond to constituent issues brought by county commissioners on district attorney administered child support cases where the constituent is a party;

(C) Information disclosed under paragraphs (A) and (B) of this subsection is subject to the restrictions in section (6) of this rule;

(e) When a party requires the use of an interpreter in communicating with the administrator, information given to such an interpreter is not a violation of any provision of this rule; and

(f) A person who is the executor of the estate or personal representative of a deceased party is entitled to receive any information that the deceased party would have been entitled to receive.

(5)(a) The CSP may release information to a private industry council as provided in 42 USC 654a(f)(5).

(b) The information released under subsection (a) of this section may be provided to a private industry council only for the purpose of identifying and contacting noncustodial parents regarding participation of the noncustodial parents in welfare-to-work grants under 42 USC 603(a)(5).

(c) For the purposes of this section, "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to Title I of the Workforce Investment Act (29 USC 2801, et seq.). "Private industry council" includes workforce centers and one-stop career centers.

(6)(a) Information from a case record may be disclosed to a party in that case, except for the following personal information about the other party:

(A) The residence or mailing address of the other party if that other party is not the state;

(B) The social security number of the other party;

(C) The name, address and telephone number of the other party's employers;

(D) The telephone number of the other party;

(E) Income and asset information of the other party;

(F) Financial institution account information of the other party; and

(G) The driver's license number of the other party.

(b) Except for personal information described in subsection (a) of this section, information from a case record may be provided to a party via the CSP web page if appropriate personal identifiers, such as social security number, case number or date of birth are required to be provided in order to access such information.

(7) Notwithstanding the provisions of subsection (6)(a), an employee may disclose personal information described in paragraphs (6)(a)(A) through (6)(a)(G) to a party, if disclosure of the information is otherwise required by rule or statute.

(8) Any information from the case record, including any information derived from another agency, that was used for any calculations or determinations relevant to the legal action may be disclosed to a party. Where there is a finding of risk and order for nondisclosure of information pursuant to OAR 137-055-1160, all nondisclosable information must be redacted before documents are released.

(9) Requestors may be required to pay for the actual costs of staff time and materials to produce copies of case records before documents are released.

(10)(a) Information from case records may be disclosed to persons not a party to the child support case who are making contact with the CSP on behalf of a party, if the following conditions are met:

(A) The person who is not a party to the case provides the social security number of the party for whom they are making the inquiry or the child support case number;

(B) The person who is not a party to the case making the contact on behalf of the party is the current spouse or domestic partner of the party and residing with the party or a parent or legal guardian of the party; and

(C) The CSP determines that the person is making case inquiries on behalf of the party and disclosure of such information would normally be made to the party in reply to such an inquiry.

(b) Disclosure of information is limited to the specific inquiries made on behalf of the party and is subject to the restrictions in subsections (6)(a) and (b) of this rule.

(11) Except as provided in subsections (10)(a) and (b) of this rule, information from a case record may not be disclosed to a person who is not a party to the case unless:

(a) The party has granted written consent to release the information to the person; or

(b) The person has power of attorney for the party, the duration and scope of which authorizes release of information from a case record at the time that the person requests such information. The power of attorney remains in effect until a written request to withdraw the power of attorney is submitted by the party or by the person, unless otherwise noted on the power of attorney.

(12) A child support case account balance is derived from the child support judgment, which is public information, and from the record of payments, which is not. Therefore, the case balance is not public information, is confidential and may not be released to persons not a party except as otherwise provided in this rule.

(13) Information obtained from the Internal Revenue Service and/or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule, and may not be released for purposes other than those specified by those agencies.

(14) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source may be used for child support purposes only and may not be disclosed to parties or any other person or agency outside of the CSP. Information about the prosecution of child support related crimes initiated by the administrator may be released to parties in the child support case.

(15) Employees with access to computer records or records of any other nature available to them as employees may not access such records that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee may perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(16) When an employee receives information that gives reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1) the employee must make a report to the Department of Human Services as the agency that provides child welfare services and, if appropriate, to a law enforcement agency if abuse is discovered while providing program services.

(17) Employees who are subject to the Disciplinary Rules of the Oregon Code of Professional Responsibility must comply with those rules regarding mandatory reporting of child abuse. To the extent that those rules mandate a stricter standard than required by this rule, the Disciplinary Rules also apply.

(18) If an employee discloses or uses the contents of any child support records, files, papers or communications in violation of this rule, the employee is subject to progressive discipline, up to and including dismissal from employment.

(19) To ensure knowledge of the requirements of this rule, employees with access to computer records, or records of any other nature available to them as employees, are required annually to:

(a) Review this rule and the CSP Director's automated tutorial on confidentiality;

(b) Complete with 100 percent success the CSP Director's automated examination on confidentiality; and

(c) Sign a certificate acknowledging confidentiality requirements. The certificate must be in the form prescribed by the CSP Director.

(20)(a) For DOJ employees, each signed certificate must be forwarded to DOJ Human Resources, with a copy kept in the employee's local office drop file;

(b) For district attorney employees, each signed certificate must be kept in accordance with county personnel practices.

(21) Notwithstanding any other provision of this rule, an employee may release a party's name and address to a local law enforcement agency when necessary to prevent a criminal act that is likely to result in death or substantial bodily harm.

Stat. Auth.: ORS 25.260, 180.345

Stats. Implemented: ORS 25.260, 127.005, 411.320

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

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137-055-1145

Access to Child Support Records

(1) When information may be shared pursuant to ORS 25.260, this rule clarifies the type of information which may be accessed through automation or contact and who is authorized to access the information.

(2)(a) Information which may be accessed from the Child Support Enforcement Automated System (CSEAS) records by an agency administering programs under Title IV-A of the Social Security Act may include:

(A) Obligor name, social security number, date of birth, address and phone number;

(B) Obligee name, social security number, date of birth and address;

(C) Title IV-A case number;

(D) Whether the case carries identifiers indicating:

(i) There is a finding or determination of good cause under OAR 137-055-1090, 413-100-0830, 461-120-0350, 461-120-0360, 461-135-1200 or 461-135-1205;

(ii) There is an order for nondisclosure of information pursuant to OAR 137-055-1160; or

(iii) There is an address of record pursuant to OAR 137-055-1180;

(E) Obligor employer name, address, federal identification number and wages;

(F) Obligor unemployment compensation benefits;

(G) Obligor's gross quarterly compensation;

(H) The name(s) of any state(s) with a child support case or order;

(I) Child's name, date of birth and social security number;

(J) The date(s) and amount(s) of any support payment distributed and to whom or where it was distributed; and

(K) Any information which is not considered confidential, including but not limited to the child support case number, caseload assignment and Child Support Program (CSP) employee roster.

(b) Information which may be accessed from CSEAS records by an agency administering programs under Title XIX of the Social Security Act may include:

(A) Obligor name, social security number, date of birth, address and phone number;

(B) Obligee name, social security number, date of birth and address;

(C) Title IV-A case number;

(D) Whether the case carries identifiers indicating:

(i) There is a finding or determination of good cause under OAR 137-055-1090, 413-100-0830, 461-120-0350, 461-120-0360, 461-135-1200 or 461-135-1205;

(ii) There is an order for nondisclosure of information pursuant to OAR 137-055-1160; or

(iii) There is an address of record pursuant to OAR 137-055-1180;

(E) Obligor's employer name, address, federal identification number and wages;

(F) Obligor's unemployment compensation benefits;

(G) Obligor's gross quarterly compensation;

(H) The name(s) of any state(s) with a child support case or order;

(I) Child's name, date of birth and social security number;

(J) Whether health care coverage is ordered;

(K) Whether health care coverage is provided;

(L) Insurer name, address and health insurance policy number;

(M) The date(s) and amount(s) of any support payment made to the obligee; and

(N) Any information which is not considered confidential, including but not limited to the child support case number, caseload assignment and CSP employee roster.

(c) Information which may be accessed from CSEAS records by an agency administering programs under Title I, X, XIV or XVI of the Social Security Act, an agency administering the Food Stamp program, the State Employment Services Agency (including agencies which administer the unemployment compensation program), and agencies administering workers' compensation programs is limited to obligor name, social security number and address and employer name, address and federal identification number.

(A) Notwithstanding the provisions of subsection (2)(c), if an agency identified in that subsection receives a written consent to release information as provided in OAR 137-055-1140(11), the agency may have access to information that may be released to a party.

(B) In addition to the information listed in subsection (2)(c), the State Employment Services Agency (including agencies which administer the unemployment compensation program) may have access to the history of the obligor's employers' names, addresses and federal identification numbers.

(d) Information which may be accessed from CSEAS records by a private industry council, as defined in OAR 137-055-1140, is limited to obligor name, address, phone number and Title IV-A case number.

(3) An agency administering a program identified in section (2) of this rule may obtain access for its employees to CSEAS records by entering into an interagency agreement with the Child Support Program (CSP). Any agreement must include provisions under which the agency seeking access agrees to put into place a process that ensures:

(a) Each employee given access has read and understands the CSP rules and Division of Child Support conflict of interest policy;

(b) Each employee given access agrees to abide by the terms of the CSP rules and policy;

(c) Each employee given access agrees to access and use information only for the purposes for which access is allowed as described in this rule;

(d) Employees can identify and be screened from conflict of interest cases;

(e) The agency, on a regular basis, audits access by employees, including verification of the purpose for which information is accessed and provides the CSP with the results of the audit;

(f) Violations are reported to the CSP, including the steps taken by the agency to prevent future violation;

(g) Access is revoked as provided in section (4) of this rule; and

(h) Access rights are updated, including notifying the CSP when an employee terminates or is transferred.

(4) If an employee of an agency described in section (2) of this rule discloses or inappropriately uses the information covered by this rule:

(a) The CSP Director, after consulting with the employee's agency, will determine whether the disclosure or usage occurred or likely occurred; and

(b) The employee's access to information from CSEAS records will be revoked:

(A) Temporarily, if a determination by the CSP Director is pending; or

(B) Permanently, if a determination by the CSP Director is made that disclosure or usage occurred or likely occurred.

(c) The provisions of this section are in addition to any other penalty for disclosure or usage of confidential information imposed by the employee's agency or by any other provision of law.

(5) CSP staff may disclose case information to an employee of an agency described in subsection (2)(a) when:

(a) That agency's employee requests specific information from a branch office;

(b) The employee's agency has entered into an agreement as provided in section (3) of this rule; and

(c) The source of the information is not the Internal Revenue Service.

(6) CSP staff may disclose information to an employee of an agency described in subsection (2)(b) when:

(a) That agency's employee requests specific information from a branch office;

(b) The employee's agency has entered into an agreement as provided in section (3) of this rule; and

(c) The source of the information is not:

(A) The Internal Revenue Service;

(B) The National Directory of New Hires; or

(C) The Federal Case Registry.

(7) Information for which disclosure is allowed under section (5) or (6) of this rule may be accessed from CSEAS records if feasible.

Stat. Auth.: ORS 25.260, 180.345; ORS 180.380

Stats. Implemented: ORS 25.260

Hist.: DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-1160

Confidentiality — Finding of Risk and Order for Nondisclosure of Information

(1) Pursuant to ORS 25.020, unless there is a finding of risk and order for nondisclosure of information as defined in subsection (2)(b) of this rule, any judgment or administrative order establishing paternity or that includes a provision concerning support must contain each party's:

(a) Residence, mailing or contact address;

(b) Social security number;

(c) Telephone number;

(d) Driver's license number; and

(e) Employers' name, address and telephone number.

(2) For the purposes of this rule the following definitions apply:

(a) A claim of risk for nondisclosure of information means a claim by a party to a paternity or support case made to the administrator, an admin-

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istrative law judge or the court that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information;

(b) A finding of risk and order for nondisclosure of information means a finding by the administrator, an administrative law judge or the court, which may be made ex parte, that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information.

(3) A claim of risk for nondisclosure of information may be made to the administrator by a party at any time that a child support case is open. Forms for making a claim of risk for nondisclosure of information will be available from all child support offices and be made available to other community resources. At the initiation of any legal process that would result in a judgment or administrative order establishing paternity or including a provision concerning support, the administrator will provide parties an opportunity to make a claim of risk for nondisclosure of information.

(4) The administrator will make a finding of risk and order for nondisclosure of information when a party makes a written and signed claim of risk for nondisclosure of information pursuant to section (3) of this rule unless the party does not provide an address of record pursuant to section (6) of this rule.

(5) An administrative law judge will make a finding of risk and order for nondisclosure of information when a party makes a claim of risk for nondisclosure of information in a hearing unless the party does not provide an address of record pursuant to section (6) of this rule.

(6) A party who makes a claim of risk for nondisclosure of information must provide an address of record that is releasable to the other party in legal proceedings. The claim of risk for nondisclosure of information form provided to the party by the administrator must have a place in which to list an address of record. If a requesting party does not provide an address of record, a finding of risk and order for nondisclosure of information will not be made.

(7) When a finding of risk and order for nondisclosure of information has been made, the administrator must ensure that all pleadings, returns of service, orders or any other documents that would be sent to both parties or would be available as public information in a court file does not contain or must have deleted any of the identifying information specified in section (1) of this rule. Any document sent to the court that contains any of the information specified in section (1) of this rule must be in a sealed envelope with a cover sheet informing the court of the confidential nature of the contents.

(8) A finding of risk and order for nondisclosure of information will be documented on the child support case file and will remain in force until such time as a party who requested a claim of risk retracts the claim in writing.

(9) A party who requested a claim of risk may retract the claim on a form provided by the administrator. When a signed retraction form is received by the administrator, the administrator will enter, or will ask the court to enter, a finding and order terminating the order for nondisclosure of information.

(10) Any information previously protected under an order for nondisclosure of information will be subject to disclosure when the order for nondisclosure of information is terminated. The retraction form provided by the administrator will advise the requestor that previously protected information may be released to the other party(ies).

(11) In cases where the administrator is not involved in the preparation of the order, any claim of risk for nondisclosure of information pursuant to ORS 25.020 must be made to the court.

(12) Notwithstanding section (6) of this rule, where the court has made a finding of risk and order for nondisclosure of information and the case is receiving or subsequently receives child support services, the administrator will implement the court's finding pursuant to this rule. In such a case, if the party fails to provide an address of record within 30 days of a written request from the administrator, the administrator will use, in order of preference, the party's mailing, contact or residence address as the address of record. The written request from the administrator must advise the party that if no address of record is provided within 30 days, the administrator will use the party's mailing, contact or resident address as the address of record, and the new address of record may be released to the other party(ies).

Stat. Auth.: ORS 25.020, 180.320 - 360

Stats. Implemented: ORS 25.020

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03,

Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-1360

Access to FPLS for Parental Kidnapping, Child Custody or Visitation Purposes

(1) For the purposes of this rule, an authorized person is:

(a) Any agent or attorney of any state who has the duty or authority under the law of that state to enforce a child custody or visitation order;

(b) Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of such court;

(c) Any agent or attorney of the United States or of a state who has the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child. The unlawful taking or restraint of a child includes;

(A) Custodial interference as provided in ORS 163.245 and 163.257; or

(B) Any other State or Federal law with respect to the unlawful taking or restraint of a child.

(2) An authorized person as defined in section (1) of this rule, may request information to facilitate the discovery or location of a parent, legal guardian, or child. Information is limited to the most recent address and place of employment of the person sought.

(3) A request pursuant to this rule must be made in writing directly to Division of Child Support (DCS) and must contain:

(a) The purpose for which the information is requested;

(b) The full name, social security number (if known) and date of birth or approximate date of birth of the individual sought;

(c) The full name and date of birth and social security number of the person making the request;

(d) Whether the individual is or has been a member of the armed forces or is receiving any federal compensation or benefits, if known; and

(e) If the request is from the court, the signature of the judge or agent of the court.

(4) The request may be made on a form adopted by DCS and available from any DCS or District Attorney child support office.

(5) If FPLS does not return information due to a family violence indicator, as defined in OAR 137-055-1320, the authorized person may ask the court to determine, pursuant to 42 USC 653(b)(2)(B), whether disclosure of the information could be harmful to the parent, legal guardian or child sought.

(a) If the court concludes that disclosure of the information would not be harmful to the parent, legal guardian or child, DCS will re-submit the request along with the court's determination to FPLS.

(b) If the court concludes that disclosure of the information would be harmful to the parent, legal guardian or child, the request will be denied.

(6) The court may disclose FPLS information, to the extent necessary, to an authorized person to process and adjudicate an action for the establishment or enforcement of a child custody or visitation determination.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.265

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0281; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1360; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3060

Regarding the Initiation of Action Under ORS 416.400 to 416.470 to Establish Paternity When More than One Possible Father Has Been Named

(1) In any action to establish paternity initiated under ORS 416.400 to 416.470, when the mother of the child for whom paternity is being established states that the father of the child could be more than one man, the administrator may initiate action against those men who are named by the mother as possible fathers as provided for in this rule.

(2)(a) If mother is able to name one of the possible fathers as the most likely father based upon the date of conception, the physical characteristics the child shares with that man, or other factors, the administrator may initiate action against that man only.

(b) If the administrator is unable to locate the man identified by mother as the most likely father, the administrator will not proceed with establishment of paternity until the man is located.

(3) If mother cannot identify one of the men who may be the father as the most likely father, the administrator may gather additional information, including information from the mother and from any physician or other

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licensed health care provider of obstetrical care to mother, which may assist the mother in identifying the most likely father.

(4) If mother remains unable to identify one of the possible fathers as the most likely father, the administrator may initiate legal action against any one or more possible fathers, as named by the mother, upon whom the administrator can apparently effect personal service based on the information it has available.

(5) The administrator shall provide notice to any possible father described in this rule and served in an action to establish paternity that the mother of the child for whom the administrator seeks to establish paternity has named another man or men as a possible father unless that other man (or men) has been excluded by parentage tests.

(6) The administrator will enter no order establishing paternity with respect to a man who has not been named by mother as the most likely father unless the provisions of either subsection (a) or (b) of this section apply.

(a) The man has been subjected to parentage tests which have not excluded him as a possible father of the child in question; or,

(b) All other men named by mother as possible fathers have been excluded as possible fathers by parentage tests.

(7) Notwithstanding any other provision of this rule, its requirements do not apply when there is conclusive presumption of paternity pursuant to ORS 109.070 or when one of the possible fathers is entitled to reasonable notice under ORS 109.096.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 416.400 - 416.470

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1040; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3060; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3200

Pending Judicial Proceedings and Existing Support Orders

(1) Whenever the administrator seeks to establish or modify a support order, the administrator will first check the Oregon Judicial Information Network (OJIN) and the Child Support case records to determine if:

(a) There is any support proceeding involving the child(ren) pending in this state or any other jurisdiction; or

(b) There is a support order involving the child(ren) in this state or any other jurisdiction, other than the support obligation the administrator seeks to modify.

(2) If a judicial proceeding involving the support of the child(ren) is pending in this state, the administrator may proceed to establish or modify the support order if:

(a) It appears likely that a final judgment will not be entered without substantial delay; or

(b) The state's financial interests cannot be adequately protected without proceeding with the administrative action.

(3) If the administrator proceeds to establish or modify a support order, the administrator must file a notice in the pending judicial proceeding which includes the date of initiation of the administrative action, the action(s) being pursued, and the amount of any current or past support sought.

(4) If the administrator does not proceed to establish or modify a support order, the administrator must send notice to the requesting party and may file an affidavit of appearance in the pending proceeding.

(5) Notwithstanding the provisions of OAR 137-055-3360, if the pending proceeding is in this state, the administrator must file any judgment resulting from an action taken pursuant to section (2) in the county where the proceeding is pending under the pending circuit court case number.

(6) If a support proceeding is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Certify all matters under the notice to the court for consolidation in the court proceeding;

(b) Finalize any portion of the order and file it in the county where the proceeding is pending; or

(c) Withdraw the administrative proceeding.

(7) If a child support judgment is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Seek to set aside the provisions of the child support judgment and ask the court to enter a new order if:

(A) It was issued without prior notice to the issuing court, administrative law judge or administrator that another support proceeding involving the child was pending or another support judgment involving the child already existed; or

(B) It was issued without service on the administrator as required in ORS 107.087, 107.135, 107.431, 108.110, 109.103 and 109.125, when support rights are assigned to the state and the state's interests were not adequately protected.

(b) Proceed to establish an order for past support only for periods of time not addressed by the child support judgment; or

(c) Withdraw the administrative proceeding.

Stat. Auth.: ORS 25.287 & 416.422

Stats. Implemented: ORS 25.287, 108.110, 109.100, 109.103, 416.415, 416.422, 416.425, 416.440, 416.470, 419B.400 & 419C.590

Hist.: DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3300

Special Circumstances Regarding Incarcerated Obligor

(1) For purposes of establishing or modifying a support order, the following definitions apply:

(a) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order, and includes but is not limited to a youth correction facility.

(A) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental defect;

(B) "Correctional facility" includes alternative forms of confinement, such as house arrest or confinement, where an obligor is not permitted to seek or hold regular employment.

(b) "Incarcerated obligor" means a person who:

(A) Is or may become subject to an order establishing or modifying child support; and

(B) Is, or is expected to be, confined in a correctional facility for at least six consecutive months from the date of initiation of action to establish a support order, or from the date of a request to modify an existing order pursuant to this rule.

(2) For purposes of computing a monthly support obligation for an incarcerated obligor, all provisions of the Oregon child support guidelines, as set forth in OAR 137-050-0320 through 137-050-0490, will apply except as otherwise specified in this rule.

(3) The incarcerated obligor's income and assets are presumed available to the obligor, unless such income or assets are specifically restricted, assigned, or otherwise inaccessible pursuant to state or federal laws or rules regarding the income and assets of incarcerated obligors.

(4) If the incarcerated obligor has gross income less than \$200 per month, the administrator shall presume that the obligor has zero ability to pay support.

(5) If the provisions of section (4) of this rule apply, the administrator will not initiate an action to establish a support obligation if the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, until 61 days after the obligor's release from incarceration.

(6) The administrator will not initiate an action to modify a support obligation because of incarceration unless the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, and a party to the current order has requested a modification due to incarceration.

(7) An order entered pursuant to ORS 416.425 and this rule, that modifies a support order because of the incarceration of the obligor, is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration.

(a) An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration;

(b) Nothing in this rule precludes an obligor from requesting a modification based on a change of circumstances, pursuant to OAR 137-055-3420.

(8) The provisions of this rule do not apply to an obligor who is incarcerated because of nonpayment of support.

Stat. Auth.: ORS 416.455 & 180.345

Stats. Implemented: ORS 416.425

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0078; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3300; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3360

Entering of Administrative Orders in the Register of the Circuit Court

An administrative order under ORS 416.400 to 416.470 must be entered in accordance with the requirements of this rule:

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(1) If the administrative order establishes support or paternity and the child is not residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417), the order must be entered in the circuit court in the county in which the child, or either parent of the child, resides.

(2) If the administrative order establishes support or paternity and the child is residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417) or resides out of state, the order must be entered in the circuit court in the county in which the obligor resides.

(3) If the administrative order is one that modifies an underlying support order or if there is any previous Oregon order entered in circuit court, the order must be entered in the circuit court in the same county as the underlying support order.

(4) If there is a judicial proceeding pending at the time of finalizing an administrative order establishing support or paternity, the administrative order must be entered in the circuit court in the same county as the pending judicial proceeding and must be entered under the pending court case number.

(5) Notwithstanding any other provision of this rule, nothing in this rule precludes filing liens in other Oregon counties pursuant to ORS 18.320 or transferring judgments pursuant to ORS 25.100 or 107.449.

Stat. Auth.: ORS 180.345, 416.455

Stats. Implemented: ORS 416.440

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1091; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3360; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3410

Modification or Notice and Finding of Financial Responsibility

(1) When the administrator is providing services pursuant to ORS 25.080, the provisions of this rule apply in any case involving the same parties where an existing order:

- (a) Is silent regarding support;
- (b) Finds that the support obligation is zero;
- (c) Finds that support should be determined at a later date;
- (d) Finds that support should not be ordered;
- (e) Orders medical only; or
- (f) Terminates support.

(2) If the provisions of subsection (1)(a) apply, the administrator will issue a notice and finding of financial responsibility which includes past support.

(3) Except as provided in section (4), if the provisions of subsections (1)(b), (c), (d) or (e) apply, the administrator will issue a modification pursuant to ORS 107.135 or 416.425.

(4) If the provisions of subsections 1(b), (c), or (d) apply, and the child(ren) is in the care and custody of the Department of Human Services, or is a youth offender or other offender in the legal or physical custody of the Oregon Youth Authority, the administrator may issue a notice and finding of financial responsibility which is contingent upon the child(ren), youth offender or other offender residing in a state financed or supported residence, shelter or other facility or institution.

(a) If the child(ren) is over age 18, the provisions of OAR 137-055-3485 will apply.

(b) If the child(ren) goes out of state care before the order is finalized, the provisions of OAR 137-055-3290 will apply.

(5) If the provisions of subsection (1)(f) apply, the administrator will issue a notice and finding of financial responsibility which may include past support. The administrator may consider the circumstances underlying the termination of support in setting the amount of past support.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.080, 107.135, 416.415, 416.422 & 416.425

Hist.: DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3440

Effective Date of Modification Under ORS 416.425

(1) In any proceeding to modify a support order under ORS 416.425, the modification may be effective on or at any time after the last nonrequesting party is served with a motion to set aside, alter or modify the judgment.

(2) If a motion to set aside, alter or modify a judgment is served on more than one nonrequesting party, the modification may be effective on or at any time after the last nonrequesting party is served.

(3) For purposes of this rule nonrequesting party is an individual obligee or an obligor under the child support order.

(4) If an amended motion is initiated and served on the parties, the effective date may be the date the original motion was served on the last nonrequesting party.

(5) This rule applies to any modification finalized after January 5, 2004.

Stat. Auth.: ORS 107.135, ORS 180.345, ORS 416.455

Stats. Implemented: ORS 416.425

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1080; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3440; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3440; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-3665

Multiple Child Support Judgments – Multiple Obligees

(1) For the purposes of this rule, the provisions of OAR 137-055-3660 will apply to cases with multiple child support judgments, with the following exceptions:

(a) When the administrator finds that two or more child support judgments exist involving the same obligor, same child(ren) and multiple obligees for the same time period, the administrator may initiate a governing child support order, and reconcile arrears.

(b) When the administrator finds that two or more child support judgments exist involving the same obligor, and multiple obligees for the same time period but do not include all of the children, the administrator may initiate a governing child support order, and reconcile arrears to the extent possible.

(2) The obligee having physical custody of the child(ren) during the month in which arrears accrued will be allocated that month's arrears.

(3) The allocation in section (2) may be done on a pro rata basis, using the monthly support amount for each child, if there are multiple obligees for different children.

Stat. Auth.: ORS 416.448

Stats. Implemented: ORS 25.164, 25.167, 416.422

Hist.: DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-4120

Alternative Payment Method

(1)(a) If an exception to income withholding has been granted when support is accruing because the child(ren) is in the custody of DHS or OYA as provided in ORS 416.417, an alternative payment method may be any method of paying support allowable pursuant to OAR 137-055-5020, except:

(b) If the child(ren) is in the custody of DHS, electronic payment withdrawal (EPW) is not an allowable option.

(2) Except as provided in subsections (1)(a) and (b), for all cases receiving support enforcement services under ORS 25.080, the only alternative method of paying support to income withholding is through electronic payment withdrawal from the obligor's bank account as described in OAR 137-055-5020.

(3) The administrator may allow payment by EPW if:

(a) The obligor qualifies for an exception to income withholding as provided in OAR 137-055-4080 or 137-055-4110;

(b) The obligor submits a completed application for EPW;

(c) The obligee consents to payment by EPW; and

(d) The obligor continues to pay the amount due for current support each month until DCS activates the EPW payment method on the case.

(4) The administrator will not continue to forward a request for consent to the obligee if the obligee has failed to consent at any time within the previous six months.

(5) An alternative payment method will remain in effect:

(a) Regardless of any subsequent modifications to the child support order, provided the obligor pays off any arrears resulting from the modification within 30 days of when the administrator codes the modification onto the case record, unless a court orders otherwise.

(b) Until the case qualifies for initiated income withholding as provided in OAR 137-055-4100, including cases where the arrears result because the obligor's financial institution refuses to honor an EPW payment, when presented for payment by DCS, due to insufficient funds in the obligor's account.

Stat. Auth.: ORS 25.396, 25.427, 180.345

Stats. Implemented: ORS 25.396

Hist.: AFS 24-1991, f. 11-26-91, cert. ef. 12-1-91; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 30-1994, f. 12-29-95, cert. ef. 1-1-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0178; AFS 14-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4120; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04

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137-055-4560

Consumer Credit Reporting Agencies

(1) The Division of Child Support (DCS) may enter into agreements with consumer reporting agencies to disclose information under section (2) of this rule only to an entity that has furnished evidence satisfactory for DCS to determine that the entity is a consumer reporting agency as defined in ORS 25.650. Under these agreements, DCS will provide such agencies with the names of obligors who owe past due support and will indicate the specific amount each obligor owes. Under these agreements, DCS will provide such information:

(a) Whether or not the agency has requested information on any specific obligor; and

(b) On a recurring or periodic basis.

(2) Before issuing a periodic report to a consumer reporting agency with information on any obligor, the DCS must provide the obligor and obligee with advance notice of the intent to report the obligor's support balance to the consumer reporting agencies. The notice will be sent to the obligor's and obligee's last known address. The notice must:

(a) Indicate the balance to be reported to the consumer reporting agencies;

(b) Advise that the current balance will be reported to the consumer reporting agencies on a recurring basis without sending further notice to the obligor and obligee;

(c) Advise of the obligor's right to contest the action within 30 calendar days of the date of the notice.

(d) Explain the process for contesting and advise that objections must be in writing on the form provided with the notice;

(e) Advise that the only issues that may be contested are:

(A) Whether the obligor is the person who owes the support balance indicated by the case record; or

(B) Whether the support balance indicated in the notice is correct.

(3) If the obligor does not contest the action within the allowed 30-day period, DCS will release the information to the consumer reporting agencies.

(4) If the obligor contests the balance indicated in the notice the administrator will conduct an administrative review on the case and mail the results of the review to the obligor and obligee.

(5) Once the administrative review is complete, DCS will release the information to the consumer reporting agencies except as specified in section (12) of this rule.

(6) The obligor or obligee may contest the administrator's review and determination as provided in ORS 183.484.

(7) If the obligee contests the balance in the notice, the obligee may initiate an arrears establishment request pursuant to OAR 137-055-3240.

(8) If a court or agency of appropriate jurisdiction determines the balance owing is other than previously reported, DCS will send the court's or agency's findings to the consumer reporting agencies within 10 days after receiving a copy of the final order.

(9) If at any time an obligor contacts DCS in writing to state that the information that has been reported to the consumer reporting agency is incorrect, the administrator must, within 30 days of receiving notification of the dispute:

(a) Send notice to the agency and the obligee that the information is being disputed;

(b) Conduct an administrative review of the case; and

(c) Mail the results of the review to the obligor, obligee, and the consumer reporting agency.

(10) Notwithstanding section (9), the administrator will not conduct an administrative review of the reported information more than once in any calendar year, unless an obligor presents new supporting documentation, to the administrator, that information reported to the consumer reporting agency is incorrect.

(11) When consumer reporting agencies ask DCS for information regarding the balance an obligor owes on a support case, DCS may provide available information after complying with the requirements of sections (1) through (8) of this rule. DCS will not charge the requesting agency a fee for this information.

(12) DCS may refer to the consumer reporting agencies, the name and support balance of all obligors who meet the criteria of sections (1) or (11) of this rule unless:

(a) The obligor pays the support balance in full;

(b) The obligor is found to not be the person who owes the child support balance indicated by the case record; or

(c) The administrator determines that the obligor is not delinquent in the payment of support.

(13) When DCS has made a report to a consumer reporting agency under section (1) of this rule, DCS will promptly notify the consumer reporting agency when the case record shows that the obligor no longer owes past due support.

(14) If paternity has been established and a consumer report is needed for the purpose of establishing or modifying a child support order, the administrator may request that a consumer reporting agency provide a report. At least 10 days prior to making a request for such report, the administrator must notify the obligor or obligee whose report is requested, by certified mail, that the report will be requested.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.650

Hist.: AFS 79-1985(Temp), f. & ef. 12-26-85; AFS 22-1986, f. & ef. 3-4-86; AFS 12-1989, f. 3-27-89, cert. ef. 4-1-89; Renumbered from 461-035-0051; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0670; AFS 11-1990, f. 3-27-90, cert. ef. 4-1-90; AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 7-1996, f. 2-22-96, cert. ef. 4-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 18-2000, f. & cert. ef. 7-12-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0230; AFS 15-2002, f. 10-30-02, ef. 11-1-02; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4560; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4560; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-5120

Support for Child Attending School — Oregon Orders Entered on or After October 4, 1997

(1) The purpose of this rule is to define how the Division of Child Support (DCS) will apply the provisions of ORS 107.108, regarding support or maintenance for a child attending school, in performing its official billing, accrual, distribution, and record-keeping functions for ongoing support when:

(a) The most recent order or modification for support was entered on or after October 4, 1997; and

(b) The order or modification provides for support until the child is age 21 so long as the child is a child attending school in accordance with ORS 107.108.

(2) The terms used in this rule shall have the meanings set out in OAR 137-055-5110.

(3) DCS will perform its official billing, accrual, distribution, and record-keeping functions for each child on a support obligation who qualifies as a child attending school after attaining age 18, unless the child:

(a) has failed to comply with the provisions set out in section (4) of this rule and the administrator has received a written objection from the obligor; or

(b) has failed to provide written notification as provided in section (7) of this rule.

(4) Beginning with the first full term or semester after the child attains age 18, or the first full term or semester after a pre-October 4, 1997, order is modified to include post October 4, 1997, provisions as set out in ORS 107.108, whichever occurs later:

(a) The child must submit the completed Child Support Program (CSP) Child Attending School Compliance Form to the obligor and to the administrator. The completed compliance form must be received by the obligor and the administrator within 30 calendar days from the first official day of classes for each term or semester. If the 30th day falls on a state holiday, a Saturday, or a Sunday, the compliance form must be received by the next working day. For schools which do not have traditional terms or semesters, or have courses which last longer than six months, the administrator may require that a compliance form be submitted "quarterly" in addition to within 30 calendar days from the first day of class.

(b) The child must maintain the equivalent of a cumulative "C" grade average or better as defined by the current school or, if the child is still attending high school, or a high school equivalency course as provided in OAR 137-055-5110, the child may have either a cumulative "C" grade average or better or a "C" grade average or better for each term, semester or quarter after attaining age 18;

(c) The child must submit, to the obligor and to the administrator, copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled;

(d) If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the child may send the obligor's copy of the documents to the administrator for the administrator to forward to the obligor. The child must submit a copy of the documents to the CSP per the time periods set out in subsection (a) of this section. The administrator will redact the following information prior to sending a copy of documents to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

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- (C) Telephone number including the school telephone number;
- (D) Driver's license number;
- (E) Employer's name, address and telephone number; and
- (F) Name of registrar or school official.

(5) Notwithstanding the form requirement of subsection (4)(a) of this rule, as of the Fall term or semester of 2002, the child may submit to the obligor and to the administrator, within the time frames set out subsection (4)(a) of this rule, the CSP Child Attending School Compliance Form with only the portion of the form "TO BE COMPLETED BY STUDENT/CHILD ATTENDING SCHOOL" completed, but the child must attach:

- (a) An enrollment verification certificate from the school's contracted clearinghouse;
- (b) Documentation from the school verifying grades of at least a cumulative "C" grade point average (or equivalent) as set out in subsection (4)(b) of this rule, such as:

- (A) An official or unofficial transcript; or
- (B) A report card which indicates a cumulative grade point average;

and

- (c) Copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled.

(6) When a child is attending school and a "normal break" occurs between academic terms at the school, the obligor will continue to owe ongoing support and the DCS shall continue official accounting functions throughout such break if the case records show that the child intends to resume classes at the start of the first regular academic term following the break. The administrator may require the child to provide additional documentation if at least 120 days have passed since the end of the child's last term or semester.

(7) At least 30 days prior to the child's 18th birthday, the administrator will send written notification to the obligee, the child, and, if appropriate, the Oregon Youth Authority (OYA) that unless the obligee or the child sends written notification to the administrator prior to the child's 18th birthday that the child will continue to attend school, DCS will terminate official accounting functions effective the date the child attains age 18.

(8) Upon receipt of the written notification from the obligee or the child that the child will continue to attend school, the administrator will send the Child Attending School Compliance Requirements, along with a copy of the CSP Child Attending School Compliance Form, to the parties and the child. Such notice shall:

- (a) List all of the compliance requirements to continue to receive support as a child attending school;
- (b) Include objection information;
- (c) Advise the parties of their right to a change in circumstance modification in accordance with OAR 137-055-3420;
- (d) Include distribution information for distributing support directly to the child; and
- (e) Include information for the child to make a claim of risk for nondisclosure of information pursuant to ORS 25.020 and OAR 137-055-1160.

(9) DCS will distribute support directly to the child unless good cause is found to distribute support in some other manner. For purposes of this section "good cause" may include:

- (a) The child is in the care of the Oregon Youth Authority (OYA);
- (b) The child provides written authorization for distribution to the obligee; or
- (c) The court, administrative law judge or administrator orders otherwise.

(10) When there are multiple children for whom support is ordered, the amount paid directly to the child under section (9) of this rule will be a prorated share.

(11) If a child attending school is in the care of OYA, any and all reporting duties of the child as outlined in this rule will be the duty of OYA.

(12) DCS will terminate official accounting functions on the case when one of the following conditions occurs:

- (a) The obligee or child fails to provide written notification as required under section (7) of this rule;
- (b) The child has failed to comply with section (4) of this rule, and the obligor has submitted a written objection under section (15) of this rule;
- (c) During a normal school break, the child has failed to provide additional documentation as requested under section (6) of this rule;
- (d) The child sends written notice that the child no longer qualifies as a child attending school; or
- (e) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the administrator advis-

ing that an authorized representative of the school sent a written notice to the administrator that the child no longer qualifies as a child attending school.

(f) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the administrator advising that OYA has notified the administrator that the child is no longer in the care of the OYA.

(13) Once DCS terminates official accounting functions on the case, the official accounting functions cannot be resumed except as provided in section (16) of this rule.

(14) When the administrator receives written notification from the child or authorized representative of the school that the child no longer qualifies as a child attending school or notification from OYA that the child is no longer in the care of OYA, the DCS will terminate official accounting functions on the case for any such child effective the date the notice is received by the administrator.

(15) If an obligor submits a written objection asserting that the child no longer is attending school, the administrator will review the official records for compliance. The administrator will presume that the child's statutory reporting requirements as outlined in section (4) of this rule have been fulfilled if the administrator has record of a completed compliance form with any required documentation for the current or most recent, as appropriate, term or semester.

(a) If compliance has occurred according to case records, the administrator will send a copy of the proof of compliance to the obligor. If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the administrator will redact the following information prior to sending a copy to the obligor:

(A) Residence, mailing or contact address including the school name and address;

- (B) Social security number;
- (C) Telephone number including the school telephone number;
- (D) Driver's license number;
- (E) Employer's name, address and telephone number; and
- (F) Name of registrar or school official.

(b) If compliance has not occurred according to case records, DCS will terminate official accounting functions on the case for any such child effective the date the administrator receives the obligor's written objection and will notify all parties of this termination.

(16) Notwithstanding subsection (15)(b), up until the child attains the age of 21, as long as the child is still attending school, DCS will resume official accounting functions upon receipt of a written statement from the obligor that the obligor wishes to continue paying ongoing support for such child. If such verification occurs, DCS will inform all parties and resume its official accounting functions effective the payment due date following receipt of such verification. If the obligor later decides to stop paying ongoing support for such child, the obligor shall provide a written statement to the administrator and DCS will terminate official accounting functions on the case for any such child effective the date the administrator receives the obligor's written statement and will notify all parties of this termination.

(17) The administrator will honor the provisions of a court or administrative order to reinstate or terminate the duty of support to a "child attending school" under ORS 107.108.

(18) If the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the administrator will follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020, 180.345
Stats. Implemented: ORS 107.108

Hist.: AFS 21-1991, f. 10-23-91, cert. ef. 11-1-91; AFS 26-1991, f. 12-31-91, cert. ef. 1-1-92; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 18-1997(Temp), f. 9-23-97, cert. ef. 10-4-97; AFS 18-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0136; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5120; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-5220 Satisfaction of Support Awards

The purpose of this rule is to define how the Division of Child Support (DCS) will credit "satisfactions of support award" in certain circumstances. This rule must not be construed as limiting the authority of DCS to approve or credit a satisfaction of support award in other lawful circumstances not specified in this rule.

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(1) When support payment records are kept by the Division of Child Support (DCS) of the Department of Justice (DOJ), an obligee may satisfy amounts indicated on the case records as past due by filing a properly-completed "satisfaction of support award" form with the administrator, subject to approval by DCS under the provisions of this rule; or in accordance with OAR 137-055-5240.

(2) When current support or arrears are assigned to the State of Oregon or to another state, and the obligor is seeking credit for support payments not made through DCS:

(a) DCS and its attorneys have authority to approve and sign satisfactions.

(b) This authority may be exercised only when the obligee has signed a satisfaction of support award form which acknowledges that the support payment was received.

(3) DCS and its attorneys have authority to sign and approve satisfactions of support award for money paid through DCS as payment of assigned support.

(4) DCS will record, on the case record, all properly-completed satisfactions of support award not assigned, and all satisfactions ordered by a court or a hearing order, and all satisfactions for assigned support that are approved in accordance with this rule. DCS will also promptly forward the satisfaction form to the appropriate court administrator, together with a certificate stating the amount of support satisfaction entered on the case record.

(5) Except when satisfied and approved by DCS and its attorneys or by a court or hearing order, DCS will not enter a satisfaction on a case record for support that has been assigned to the State of Oregon or another state.

(6) When DCS rejects a satisfaction in part or in full as provided in (5) above, DCS will send written notice to the obligor and obligee, by regular mail to the most recent address of record. Such notice will indicate the reason for the rejection.

(7) All satisfactions must contain the following:

(a) The full names of both the obligor and the obligee;

(b) The name of the Oregon county where the support award was entered;

(c) The Oregon CSP support case number, or the circuit court case number;

(d) Either:

(A) The total dollar amount to be satisfied; or

(B) The period of time for which past due support is satisfied;

(e) A statement that the satisfaction is only for child support or spousal support;

(f) The signature of the obligee, except for those satisfactions approved under sections

(2) and (3) of this rule, where the obligee's signature is not required; and

(g) The date the form is signed.

(8) All signatures on "satisfactions of support award" must be notarized, except on court orders or on those satisfactions approved under sections (2) and (3) of this rule.

(9) Notwithstanding any other provision of this rule, DCS has the authority to file and execute a satisfaction, without the need to notarize such satisfaction, when all of the following are true:

(a) The obligor provides a sworn affidavit that the support award has been paid in full, and

(b) DCS certifies that it has a complete payment record for the support award and that the payment records shows no arrears. DCS will be considered to have a complete pay record if DCS has kept the pay record for the support judgment from the date of the first support payment required under the award, or if the obligee or the administrator established arrears for the time period when DCS did not keep the pay record on the case.

(10) When DCS receives a sworn affidavit under the provisions of subsection (9)(a) of this rule, DCS will examine its support records and determine if it has the authority under section (9) of this rule to execute and file a satisfaction of support award. DCS will promptly notify the obligor if DCS determines that it does not have authority to execute and file a satisfaction of support award. DCS will also determine if any amounts due for support were not assigned to the state. If DCS determines that any amounts were not assigned to the state, DCS will give notice to the obligee in the manner provided by ORS 25.085. The notice must inform the obligee that DCS will execute and file the satisfaction of support award unless DCS receives an objection and request for hearing within 30 days after the date of mailing the notice.

(11) If the obligee requests a hearing under section (10) of this rule, a contested case hearing will be conducted under ORS 183.310 to 183.502 before an administrative law judge.

Stat. Auth.: ORS 18.225, 180.345

Stats. Implemented: ORS 18.400, 25.020

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 26-1979(Temp), f. & ef. 8-16-79; AFS 22-1980, f. & ef. 4-3-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-005; AFS 17-1991, f. & cert. ef. 8-29-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 19-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96; AFS 28-1996, f. & cert. ef. 7-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0155; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5220; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04

137-055-6020

Application and Distribution of Support Payments

(1) For purposes of this rule, the following definitions apply:

(a) "Assistance" means cash assistance under Temporary Assistance for Needy Families (TANF) program, or foster care maintenance payments provided by the Department of Human Services (DHS), or cost of care provided by the Oregon Youth Authority (OYA).

(b) "Current support" is the monthly support amount ordered by a court or administrative process for the benefit of a child and/or a former spouse.

(c) "Family's conditionally-assigned arrears" is past-due support that accrues during non-assistance periods, and was not permanently assigned under pre-October 1997 assignments, which revert back to the family on either October 1, 2000, if the family terminates assistance prior to October 1, 2000, or on the date the family leaves the assistance program if on or after October 1, 2000. Family's conditionally-assigned arrears revert to state's temporarily-assigned arrears during periods that the family receives assistance.

(d) "Family's unassigned arrears" is past-due support which accrues after the family's most recent period of assistance, or at any time in the case where a family has never received assistance.

(e) "Family's unassigned arrears during assistance period" is past-due support which accumulates while a family receives assistance and exceeds the total amount of unreimbursed assistance paid to the family.

(f) "Future support" is an amount received which represents payment on current support for future months.

(g) "State's permanently-assigned arrears" is:

(A) Past-due support which accrues during the period the family receives assistance and past-due support which accrued before the family applied for assistance in pre-October 1997 assignments only; or

(B) Advance payments owed to the State of Oregon under OAR 137-055-6210.

(h) "State's temporarily-assigned arrears" is past-due support assigned to the state during assistance periods, but which accrued during non-assistance periods, and were not permanently assigned under pre-October 1997 assignments. As of October 1, 2000, state's temporarily-assigned arrears revert to family's conditionally-assigned arrears during periods that the family is not receiving assistance.

(i) "Unreimbursed assistance" means the cumulative amount of assistance paid to a family or on behalf of a child(ren) for all months which has not been recovered by assigned support collections. The total amount of unreimbursed assistance that may be recovered is limited by the total amount of the assigned support obligation.

(2) Whenever support payments are assigned to the state, the state share of the payments will be either:

(a) Distributed to DHS if funds were expended to provide foster care assistance to the family;

(b) Distributed to OYA if funds were expended by OYA to provide care to a member of the family; or

(c) Retained by the Department of Justice (DOJ) if funds were expended to provide TANF cash assistance to the family.

(3) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments will be distributed to the Tribe as provided in 42 USC 657.

(4) **Table 1** is included in this rule as an aid in understanding the arrears types defined in section (1) of this rule. [Table not included. See ED. NOTE.]

(5) DOJ will distribute support payments to the family within two business days after receipt if sufficient information identifying the payee is provided, except as follows:

(a) Support payments received as a result of tax refund intercepts will be distributed within thirty calendar days of receipt or, if applicable, within fifteen calendar days of an administrative review or hearing. If the state

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is notified by the Secretary of the U.S. Treasury (the Secretary) or the Oregon Department of Revenue (DOR) that an offset on a non-assistance case is from a refund based on a joint return, distribution may be delayed, up to a maximum of six months, until notified by the Secretary or DOR that the obligor's spouse has been paid their share of the refund.

(b) Support payments received from a garnishment, issued pursuant to ORS Chapter 18, will be held for 40 days if the garnishee is making a payment of other than wages or 120 days if the garnishee is making a payment of wages unless the obligor waives the right to make a challenge to a garnishment as set out in OAR 137-055-4520 or, if the obligor or any person who has an interest in the garnished property makes a challenge to garnishment, the support payment will be held pending the court decision;

(c) Support payments for future support, per section (19) of this rule; or

(d) Support payments for less than five dollars may be delayed until a future payment is received which increases the payment amount due the family to at least five dollars.

(e) When a check has been dishonored, future support payments paid by personal check from that payor may be held in accordance with OAR 137-055-6240;

(f) When an obligor contests an order to withhold, funds will be disbursed pursuant to OAR 137-055-4160(5).

(6) DOJ may send support payments designated for the obligee to another person or entity caring for the child(ren); however, prior to doing so, DOJ will require a notarized statement of authorization from the obligee or a court order requiring such distribution. DOJ will change the payee to a private collection agent that the obligee has retained for support enforcement services only in accordance with OAR 137-055-6025.

(7) Child support and spousal support have equal priority in the distribution of payments.

(8) For Oregon support orders or modifications entered on or after October 4, 1997, a prorated share (unless otherwise ordered) of current support payments received within the month due will be distributed directly to the child qualified as a child attending school per ORS 107.108 and OAR 137-055-5120. Any arrears resulting from unpaid current support is a judgment owing to the obligee as the judgment creditor.

(9) If the obligor has a current support obligation for multiple children on a single case, those children have different assistance status and the order does not indicate a specified amount per child, current support payments will be prorated based upon the number of children and their assistance status. Support payments in excess of current support for these cases will be distributed as provided in subsections (15)(b) through (e) of this rule. For example, the obligor has a current support obligation for three children of \$300 per month. One child is not receiving assistance, one child is receiving cash assistance under the TANF program, and foster care maintenance payments are being made on behalf of the third child. A \$300 current support payment would be allocated as follows:

(a) \$100 to the family on behalf of the child not receiving assistance;

(b) \$100 to DOJ on behalf of the child receiving cash assistance under the TANF program not to exceed the amount of unreimbursed assistance; and

(c) \$100 to DHS for the foster care maintenance payments being made on behalf of the third child.

(10) Notwithstanding any other provisions of this rule, support payments received on behalf of an obligor with an open bankruptcy case will be allocated and distributed as directed by the bankruptcy trustee, the obligor's bankruptcy plan and in accordance with federal bankruptcy law.

(11) DOJ will retain the fee charged by the Secretary for cases referred for Full Collection Services per OAR 137-055-4360 from any amount subsequently collected by the Secretary under this program. DOJ will credit the obligor's case for the full amount of collection and distribute the balance as provided in sections (13) through (15) as applicable.

(12) Within each arrears type in the sequence of payment distribution in sections (13) through (17) of this rule, DOJ will apply the support payment to the oldest debt in each arrears type.

(13) DOJ will distribute support payments received on behalf of a family who has never received assistance to the family, first toward current support, then toward support arrears, not to exceed the amount of arrears.

(14) DOJ will distribute support payments received on behalf of a family receiving assistance in the following sequence:

(a) Current support to the state, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(b) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(c) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(d) Family's unassigned arrears during assistance period unless the state is making foster care maintenance payments on behalf of the child(ren);

(e) If the state is making foster care maintenance payments on behalf of the child(ren), support payments in excess of unreimbursed assistance, up to the total support obligation owed, will be reported as excess and be paid to DHS to be used in the manner it determines will serve the best interests of the child(ren).

(15) DOJ will distribute support payments received on behalf of a family who formerly received assistance in the following sequence:

(a) Current support to the family;

(b) Family's unassigned arrears;

(c) Family's conditionally-assigned arrears;

(d) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;

(e) Family's unassigned arrears during assistance period.

(16) Notwithstanding any other provisions of this rule, DOJ will distribute support payments received from federal tax refund intercepts in the following sequence:

(a) Fee charged by the Secretary. Despite the fee, DOJ must credit the obligor's case for the full amount of collection. If any portion of the federal tax refund intercept payment will be applied to subsection (b), (c), or (d) of this section, the fee will be paid by DOJ;

(b) State's permanently-assigned arrears as defined in paragraph (1)(g)(A) of this rule, not to exceed the amount of unreimbursed assistance;

(c) State's permanently-assigned arrears as defined in paragraph (1)(g)(B) of this rule;

(d) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance;

(e) Family's conditionally-assigned arrears. However, federal tax refund intercepts applied to family's conditionally-assigned arrears must be retained by the state, not to exceed the amount of unreimbursed assistance;

(f) Family's unassigned arrears.

(17) Notwithstanding any other provisions of this rule, DOJ will distribute support payments received from state tax refund intercepts in the following sequence:

(a) Fee charged by the DOR. Despite the fee, DOJ must credit the obligor's case for the full amount of collection. If any portion of the state tax refund intercept payment will be applied to assigned current support or subsections (e), (f) or (g) of this section, the fee will be paid by DOJ;

(b) Current support;

(c) Family's unassigned arrears;

(d) Family's conditionally assigned arrears;

(e) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(f) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;

(g) Parentage testing fee.

(18) Any excess funds remaining after arrears are paid in full will be processed as provided in OAR 137-055-6260 unless the obligor has elected in writing to apply the credit balance toward future support as provided in section (19) of this rule.

(19) DOJ will distribute support payments representing future support on a monthly basis when each such payment actually becomes due in the future. No amounts may be applied to future months unless current support and all arrears have been paid in full.

(20) When an obligor has multiple support cases, the distribution sequence for each case is set out in sections (13) through (17), but DOJ will allocate support payments to each of the multiple cases as follows:

(a) When an income withholder remits a single payment that is a combined payment intended to comply with more than one income withholding order against the obligor, but the obligor's income is not sufficient for the withholder to fully comply with each order to withhold income issued pursuant to ORS chapter 25, DOJ will allocate the amount received as follows:

(A) If the amount is not sufficient to pay the current support due on all of the obligor's support cases for which an order to withhold is in effect, each withholding case will receive a proportionate share of the total amount withheld. For each case, DOJ will determine this amount by dividing the amount ordered as current monthly support on the case by the total com-

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bined amount ordered as current support on all of the obligor's support cases for which an order to withhold is in effect, and then multiplying the resulting percentage by the total amount withheld.

(B) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to fully comply with the order to withhold on all cases where arrears are owed, the amount received will be allocated as follows:

- (i) Current support to each withholding case;
- (ii) Equally to each withholding case where arrears are owed.

However, no case may receive more than the maximum allowable withholding amount for that case pursuant to ORS 25.414 or, as appropriate, under an expanded income withholding pursuant to ORS 25.387. Any remaining funds will be equally distributed to the obligor's other cases. No case may receive more than the total amount of current support and arrears owed on that case at the time this distribution is made.

(b) When support payments received from federal tax refund intercepts are not sufficient to pay the full arrears amount on each case certified for federal tax offset, DOJ will allocate the amount received as follows:

(A) If the total amount received is not sufficient to pay the state's permanently-assigned arrears on all of the obligor's certified cases, each certified case will receive an equal share. However, no case may receive more than the state's permanently-assigned arrears on that case.

(B) If the total amount is sufficient to pay the state's permanently-assigned arrears on all certified cases, but is not enough to pay in full all the state's temporarily-assigned arrears on all of the obligor's certified cases, the amount received will be allocated as follows:

- (i) State's permanently-assigned arrears to each certified case;
- (ii) An equal share of the remaining funds for each certified case.

However, no case may receive more than the state's temporarily-assigned arrears on that case.

(C) If the total amount is sufficient to pay the state's permanently assigned arrears and the state's temporarily-assigned arrears on all certified cases, but is not enough to pay in full the family's arrears on all of the obligor's certified cases, the amount received will be allocated as follows:

- (i) State's permanently-assigned arrears to each certified case;
- (ii) State's temporarily-assigned arrears to each certified case;
- (iii) An equal share of the remaining funds for each certified case.

However, no case may receive more than the total amount of arrears owed on that case at the time this distribution is made.

(c) When support payments received from state tax refund intercepts are not sufficient to pay the current support and full arrears amount on each case certified for state tax offset, DOJ will allocate the amount received as follows:

(A) If the total amount received is not sufficient to pay the current support due on all of the obligor's certified cases, each certified case will receive a proportionate share of the total amount received. For each case, DOJ will determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases certified for state tax offset, and then multiplying the resulting percentage by the total amount received.

(B) If the total amount received is sufficient to pay the current support due on all cases but is not sufficient to pay in full the family's arrears (both conditionally and unassigned arrears) on all of the obligor's certified cases, each certified case will be allocated an equal share. However, no case may receive more than the arrears amount due the family on that case at the time this distribution is made.

(C) If the total amount is sufficient to pay the family's arrears (both conditionally and unassigned arrears) on all certified cases, but is not enough to pay in full all the state's permanently-assigned arrears on all of the obligor's certified cases, the amount received will be allocated as follows:

- (i) Family's arrears (both conditionally and unassigned arrears) on all certified cases;
- (ii) An equal share of the remaining funds for each certified case toward state's permanently-assigned arrears. However, no case may receive more than the state's permanently-assigned arrears on that case.

(D) If the total amount received is sufficient to pay both the family's arrears and the state's permanently-assigned arrears, but not sufficient to pay the state's temporarily-assigned arrears on all of the obligor's certified cases, the amount received will be allocated as follows:

- (i) Family's arrears (both conditionally and unassigned arrears) on all certified cases;
- (ii) State's permanently-assigned arrears on all certified cases;

(iii) An equal share of the remaining funds toward state's temporarily-assigned arrears. However, no case may receive more than the state's temporarily-assigned arrears on that case.

(E) Any remaining funds may be applied toward parentage testing fee.

(d) DOJ will allocate support payments made by personal check, money order, or cash as provided in subsection (20)(g) of this rule unless the obligor designates in writing at the time of payment the amounts to be allocated to each case. DOJ will apply payments in excess of current support and arrears toward future support as provided in section (19) of this rule.

(e) DOJ will allocate support payments to one case, rather than proportionately, when:

(A) The support payment resulted from a garnishment, issued pursuant to ORS chapter 18, on a particular case; or

(B) The support payment resulted from the sale or disposition of a specific piece of property against which a court awarded a specific obligee a judgment lien for child support; or

(C) The support payment resulted from a contempt order in a particular case; or

(D) Any other judicial order that requires distribution to a particular case.

(f) When a single writ of garnishment is issued for two or more cases as provided in ORS 18.645, DOJ will allocate support payments only among the cases listed in the writ of garnishment and in the manner provided in subsection (20)(g) of this rule.

(g) DOJ will allocate all other support payments received as follows:

(A) If the total amount is not sufficient to pay the current support due on all of the obligor's support cases, each case will receive a proportionate share of the total amount received. For each case, DOJ will determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases, and then multiplying the resulting percentage by the total amount received.

(B) If the amount received is sufficient to pay the current support due on all cases, but is not enough to pay in full all cases where arrears are owed, the amount received will be allocated as follows:

- (i) Current support to each case;
- (ii) Equally to each case where arrears are owed. However, no case may receive more than the total amount of current support and arrears owed on that case at the time this distribution is made. Any remaining funds will be equally distributed to the obligor's other cases.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 25.020, 25.610, 180.345
Stats. Implemented: ORS 18.645, 25.020, 25.150, 25.414 & 25.610

Hist.: PWC 851(Temp), f. & ef. 8-11-77; Renumbered from 461-004-0518; AFS 3-1978, f. & ef. 1-6-78; AFS 88-1980, f. & ef. 12-10-80; AFS 23-1987(Temp), f. 6-19-87, ef. 7-1-87; AFS 60-1987, f. & ef. 11-4-87; AFS 31-1989, f. 6-6-89, cert. ef. 6-9-89; Renumbered from 461-035-0003; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0410; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0248; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6020; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04

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

Adm. Order No.: DMV 21-2004(Temp)

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04 thru 3-29-05

Notice Publication Date:

Rules Amended: 735-062-0020, 735-062-0030, 735-062-0090

Subject: OAR 735-062-0020 outlines acceptable proof of an applicant's age and identity when applying to DMV for an original, renewal or replacement driver permit, driver license or identification card. On January 1, 2004, DMV tightened the proof of age and identity requirements for national security purposes and to address the growing problem of identity theft and fraud by amending OAR 735-062-0020. DMV has determined that it is necessary to amend OAR 735-062-0020 to add more identity verification methods for persons applying for renewals and replacements, to clarify the type of documentation necessary when the person's name has changed, and to add more documents to the list of acceptable primary and secondary documents. DMV has determined these rule changes will assist

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DMV in the verification of age and identity when issuing a driver license, driver permit or identification card. The proposed amendments to OAR 735-062-0030 and 735-062-0090 are needed to correctly reflect references to the amended OAR 735-062-0020.

Rules Coordinator: Brenda Trump—(503) 945-5278

735-062-0020

Proof of Age and Identity Requirements

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require all applicants for driver permits, driver licenses, and identification cards to present to DMV documentary proof of the applicant's age and identity prior to the issuance of such driver permit, driver license, or identification card.

(2) Applicants for original driver permits, driver licenses, and identification cards must present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule; or

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule.

(3) Applicants for renewal of driver permits, driver licenses and identification cards must present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule;

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule;

(c) The renewal reminder notice mailed by DMV as required by ORS 807.140 and their current driver permit, driver license or identification card; or

(d) Two of the supplemental proofs of age and identity listed in section (12) of this rule, if:

(A) The applicant can correctly answer one or more questions about the applicant's motor vehicle record; and

(B) DMV verifies the applicant's identity through the duplicate photograph retained by DMV under ORS 807.115.

(4) Applicants for replacement driver permits, driver licenses and identification cards must comply with ORS 807.162 and also present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule;

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule; or

(c) Two of the supplemental proofs of age and identity listed in section (12) of this rule if:

(A) The applicant can correctly answer one or more questions about the applicant's motor vehicle record; and

(B) DMV verifies the applicant's identity through the duplicate photograph retained by DMV under ORS 807.115.

(5) Documents must be original or certified copies.

(6) Foreign birth certificates, passports and driver licenses will not be accepted as primary proof of age and identity unless they are either in English or contain an English translation within the same document. No separate translation document(s) will be accepted.

(7) Documents must be of different types and no two documents can be issued by the same government agency, department or consulate. For example, a U.S. birth certificate issued by a state agency and a social security card issued by the Social Security Administration are acceptable. A passport and a consulate card issued by the same consulate will not be accepted.

EXCEPTION: The Oregon digital photo on file and an Oregon driver permit, driver license or identification card will serve as two separate primary documents. For example, a person who has a valid Oregon driver permit and applies for an Oregon driver license could present the valid driver permit and the photo on file as sufficient proof of age and identity.

(8) Except as otherwise provided in this rule, DMV will accept the document up to one year after the expiration date shown on the document.

(9) For an original driver license, driver permit or identification card, if the applicant's true name has changed, at least one of the required proofs of age and identity must show the person's current true name. If a transaction includes a name change required under ORS 807.560 or 807.400, one of the required proofs of age and identity must show the applicant's name as shown in the applicant's DMV driving record, and one of the required proofs of age and identity must show the person's new true name.

(10) Primary proofs of age and identity include, but are not limited to:

(a) A U.S., Canadian or U.S. Territorial government issued birth certificate. For purposes of this subsection, DMV will not accept a hospital issued birth certificate, hospital card, birth registration or baptismal certificate.

(b) A U.S. Consular Report of Birth Abroad (FS-240).

(c) A Certification of Birth (DS-1350 or FS-545).

(d) U.S. Military documents including:

(A) Military or Armed Forces ID card;

(B) Military Common Access Card;

(C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1); and

(D) Request for Verification of Birth (DD372).

(e) Passport, accepted if not expired longer than five years from the expiration date.

(f) U.S. immigration or naturalization documents including:

(A) U.S. Citizen ID card (I-179 and I-197);

(B) Resident Alien card or Permanent Resident card (I-551);

(C) Temporary Resident ID card (I-688);

(D) Employment Authorization Document (I-688A, I-688B and I-766);

(E) Certificate of Citizenship (N560 and N561); or

(F) Certificate of Naturalization (N550, N570 and N578).

(g) Out-of-state, District of Columbia, U.S. Territorial government or Canadian driver license, instruction permit or identification card, that has the applicant's photo, unless hole-punched or marked as "Not Valid As ID", accepted if not expired longer than one year from the expiration date.

(h) Oregon driver license, instruction permit, or identification card that has the applicant's photo, accepted if not expired longer than five years from the expiration date.

(i) The applicant's duplicate photograph retained by DMV under ORS 807.115.

(j) Non-immigrant visa issued by the U.S. Department of State.

(k) U.S. Department of State driver license or Non-driver ID card.

(l) An Oregon Concealed Weapon Permit/Concealed Handgun License.

(m) A Confederated Tribes of Oregon Tribal ID card if:

(A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a persons' age and identity; and

(B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card.

(n) Social Security card.

(o) A Consulate ID card if:

(A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a persons' age and identity; and

(B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card.

(p) A letter verifying identity provided by an Oregon correction agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a persons' age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(q) A letter verifying identity provided by the U.S. Pretrial Services if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a persons' age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(r) A letter verifying identity provided by the Oregon Youth Authority Agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a persons' age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(11) Secondary proofs of age and identity include, but are not limited to:

(a) U.S. military discharge papers.

(b) An Oregon student body identification card, issued for the current school year or not more than one year old.

(c) An Oregon Job Corps identification card, issued for the current school year or not more than one year old.

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- (d) A W-2 or 1099 tax form for the current tax year.
- (e) Medicare card.
- (f) A court document issued by a court in the United States that shows the applicant is a party to the judicial proceeding and which contains court signatures and seals. Acceptable documents are:
 - (A) Gender and/or name change; and
 - (B) Adoption, guardianship, custody or child support.
- (g) A Permit to Reenter the U.S. (I-327).
- (h) Border Crossing cards (DSP-150, I-185, I-186 and I-586).
- (i) A Refugee Travel Document (I-571).
- (j) A birth certificate, driver license, military ID card, passport or voter card issued by a foreign government. A DMV employee may accept a foreign document that does not include English if the employee is able to understand the information in the document that relates to the person's identity and is satisfied the document was validly issued.
- (k) Social Security Card transmittal document (stub).
- (l) A benefits letter issued by the Social Security Administration, if dated within the last year.
- (m) Veterans' Universal Access Identification Card.
- (12) Supplemental proofs of age and identity include, but are not limited to:
 - (a) Vehicle title or registration document.
 - (b) Bound checkbook.
 - (c) Bank or credit card.
 - (d) Marriage license or divorce decree.
 - (e) A court document issued by a United States Bankruptcy court that shows the applicant is a party to a bankruptcy proceeding.
 - (f) Medical benefits card.
 - (g) Law enforcement identification card.
 - (h) Expired out-of-state driver license, instruction permit, or identification card, accepted if not expired longer than five years from the expiration date and not hole-punched or marked as "Not Valid As ID".
 - (i) Laminated Social Security Card.
 - (j) A letter issued by the Oregon Health Plan, if dated within the last year.
 - (k) Merchant Marine identification card.
 - (l) Checking or savings account statement, if dated within the last year.
 - (m) Birth registration card.
 - (n) Commercial Driver License medical card.
 - (o) Certified copy of school transcript.
 - (p) Oregon liquor control service or food handler permit.
 - (q) Pilot's license.
 - (r) U.S. Tribal identification card.
 - (s) Oregon voter registration card.
 - (t) Oregon professional license or identification card.
 - (u) Oregon Trail Card.
- (13) DMV will not accept a document as proof of identity or age if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of age or identity if the documents presented do not establish the applicant's age or identity to the satisfaction of DMV.

Stat. Auth.: ORS 184.616, 184.619, 807.050, 807.150 & 807.400
Stats. Implemented: ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230 & 807.280
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0016;
MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 7-2001, f. &
cert. ef. 3-7-01; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-
2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

735-062-0030

Proof of Residence Address

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) requires all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents include any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or duplicate driver permit, driver license, or identification card at a DMV field office to present to DMV at least one document showing the applicant's current residence address if the applicant is changing his or her address. Acceptable documents include any of the items listed in section (3) of this rule.

(3) Proof of residence address includes any of the following documents that show the applicant's current residence address:

- (a) Any one of the proofs of identity listed in OAR 735-062-0020(10) or (11).
- (b) Mortgage documents.
- (c) A statement from the parent, step-parent, or guardian of an applicant under 18 years of age attesting to the applicant's residence address. The parent, step-parent or guardian must reside at the same address as the applicant and sign a statement attesting to the applicant's residence address. In addition, the parent, step-parent, or guardian must present one acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.
- (d) A statement of the applicant's spouse. The spouse must reside at the same residence as applicant and sign a statement attesting to the applicant's residence address. In addition, the spouse must present one other acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.
- (e) Rental or lease agreement signed by the landlord and applicant and dated within one year of the application for the license, permit or identification card.
- (f) Utility hook-up order.
- (g) Payment booklet.
- (h) Canceled mail that is dated within 60 days of the application for the license, permit or identification card. The applicant must present both the envelope and the envelope's matching contents. DMV will accept canceled mail from the following sources:
 - (A) Credit card companies;
 - (B) U.S. Treasury;
 - (C) Social Security Administration;
 - (D) State or Federal Revenue Department;
 - (E) Oregon State government agencies;
 - (F) Utility companies;
 - (G) Financial institutions;
 - (H) Insurance companies; and
 - (I) Originators of out-of-state clearance letter.
- (i) Oregon vehicle title or registration documents.
- (j) Oregon voter registration card.
- (k) Selective Service card.
- (l) Medical or health card.
- (m) Educational institution transcript forms for the current school year.

(n) An unexpired professional license issued by an agency in the United States.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of Burnside Bridge." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

(6) An applicant who travels continuously may use a descriptive address of "continuous traveler". The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 807.050, 807.150 & 807.400

Stats. Implemented: ORS 807.110, 807.160, 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017;
DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-
2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04;
DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

735-062-0090

Renewal Driver Licenses and Identification Cards

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall renew the driver license of a person satisfying the requirements set forth in ORS 807.150.

(2) Persons applying for the renewal of a driver license or identification card must present to DMV proofs of age and/or identity as set forth in OAR 735-062-0020.

(3) Persons renewing a driver license or identification card that includes a change of residence address shall present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. (Current residence address is the residence address to be included on the license or identification card to be

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issued.) Such documentation shall not be required if the license or identification card is renewed by mail.

(4) Persons with a driver license that has been expired more than one year, and who want to restore their driving privilege, must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0000.

(5) An applicant for a renewal of a commercial driver license with a hazardous materials endorsement shall retake and pass the hazardous materials knowledge test and meet the requirements set forth in OAR 735-060-0170(3) to retain the hazardous materials endorsement on the commercial driver license.

(6) An applicant for a renewal of a commercial driver license must meet the requirements set forth in OAR 735-060-0170(3).

(7) DMV shall make an inquiry to the National Driver Register before processing a driver license renewal to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(8) DMV shall require the applicant to provide a clearance letter in compliance with OAR 735-062-0160. The clearance letter shall state the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register indicates the applicant's driving privileges are not fully valid.

(9) DMV shall not renew driving privileges of a person until his or her driving privileges are reinstated in all jurisdictions except as provided in OAR 735-064-0240.

(10) DMV shall not renew an Oregon driver license or permit if the applicant has a current, valid Oregon identification card. To become eligible, the person shall surrender the Oregon identification card before DMV may renew the Oregon driver license or permit. If the person's identification card is lost or the person no longer has the identification card in his or her possession, the person shall provide a statement attesting to this fact.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 807.040
Stats. Implemented: ORS 802.012, 802.540, 807.040 - 807.060, 807.100, 807.150 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0009; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05

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**Department of Transportation,
Highway Division
Chapter 734**

Adm. Order No.: HWD 6-2004
Filed with Sec. of State: 10-6-2004
Certified to be Effective: 10-6-04
Notice Publication Date: 9-1-04
Rules Adopted: 734-020-0011

Subject: This rule establishes the locations of speed zones on Oregon interstates that are different from the speeds established under ORS 810.180 and ORS 811.111. Pursuant to House Bill 2661 (2003), ODOT reviewed all segments of Oregon interstates to determine if speeds should be increased or decreased. This rule was approved by the Oregon Transportation Commission following consideration of the ODOT engineering study, an issues study prepared by Portland State University, recommendations of the Speed Zone Review Panel and public comments received at a series of public meetings and a public hearing. Additional information about the speed zone review is available at: <http://www.odot.state.or.us/traffic/freeway/speedstudy.htm>.

Rules Coordinator: Brenda Trump—(503) 945-5278

734-020-0011

Locations of Interstate Speed Limits other than 65 MPH

(1) All locations of mainline interstate highways not specifically listed in section (2) of this rule have speed limits of 65 MPH per ORS 811.111(1)(a). The speed limit for vehicles listed in ORS 811.111(1)(b) is 55 mph unless a lower speed is specified in section (2) of this rule.

(2) Under the provisions of ORS 810.180(3), the speed limits on the following sections of interstate highways are established as follows for all vehicles except as provided in section (1) of this rule:

- (a) Pacific Highway (I-5):
(A) Mile Post 0.00–11.00 — 55 MPH;
(B) Mile Post 27.00–30.85 — 55 MPH;
(C) Mile Post 73.18–73.95 (Southbound) — 55 MPH;
(D) Mile Post 107.83–108.85 (Northbound) — 50 MPH;

- (E) Mile Post 107.86–108.67 (Southbound) — 50 MPH;
(F) Mile Post 190.41–196.00 — 60 MPH;
(G) Mile Post 251.00–260.85 (Northbound) — 60 MPH;
(H) Mile Post 251.00–259.86 (Southbound) — 60 MPH;
(I) Mile Post 288.60–296.34 — 55 MPH;
(J) Mile Post 296.34–298.02 — 50 MPH;
(K) Mile Post 298.02–299.53 — 55 MPH;
(L) Mile Post 299.53–303.49 — 50 MPH;
(M) Mile Post 303.49–307.30 — 55 MPH;
(N) Mile Post 307.30–308.38 — 50 MPH.
(b) Columbia River Highway (I-84):
(A) Mile Post 0.00–0.84 — 50 MPH;
(B) Mile Post 0.84–9.94 — 55 MPH;
(C) Mile Post 9.94–18.25 — 60 MPH.
(c) Eugene-Springfield Highway (I-105):
(A) Mile Post 0.00–0.54 — 45 MPH;
(B) Mile Post 0.54–3.49 — 55 MPH.
(d) East Portland Freeway (I-205): Mile Post 6.00–26.60 — 55 MPH.
(e) Stadium Freeway (I-405): Mile Post 0.00–4.21 — 50 MPH.
Stat. Auth.: ORS 184.616, 184.619, 810.180 & 811.111
Stat. Implemented: ORS 810.180 & 811.111
Hist: HWD 6-2004, f. & cert. ef. 10-6-04

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**Department of Veterans' Affairs
Chapter 274**

Adm. Order No.: DVA 12-2004
Filed with Sec. of State: 9-22-2004
Certified to be Effective: 9-22-04
Notice Publication Date: 9-1-04
Rules Amended: 274-020-0341
Rules Repealed: 274-020-0341(T)
Subject: This rule replaces and supersedes the Temporary Rule 247-020-0341(T) filed on August 18, 2004, and effective August 19, 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 August 19, 2004, shall have the interest rate of 5.125 percent with an origination fee of 1.0 percent or 4.99 percent with an origination fee of 1.5 percent.

PLEASE NOTE: The interest rates on this Certificate and Order for Filing of the Permanent Administrative Rule are lower than those cited in the Notice of Proposed Rulemaking filed on August 12, 2004, due to changes in the market rate and is consistent with public comment.

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,

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1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee of 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows.

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(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:

ADMINISTRATIVE RULES

(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. (Temporary)
(ee) August 6, 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)
(ff) August 19, 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) 4.99 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. ef. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04; 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; DVA 9-2004(Temp), f. 8-5-04 cert. ef. 8-6-04 thru 10-4-04; DVA 10-2004(Temp), f. 8-18-04 cert. ef. 8-19-04 thru 10-4-04; DVA 12-2004, f. & cert. ef. 9-22-04

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Landscape Contractors Board Chapter 808

Adm. Order No.: LCB 5-2004
Filed with Sec. of State: 10-4-2004
Certified to be Effective: 10-4-04
Notice Publication Date: 9-1-04
Rules Adopted: 808-003-0220

Rules Amended: 808-001-0020, 808-003-0070, 808-003-0130

Rules Repealed: 808-001-0020(T)

Subject: 808-001-0020 - Allows charge for new brochure and DVD and allows charge for checks returned by bank

808-003-0070 - Clarifies applicants must wait two weeks after reviewing any section of the exam to retake any section of the exam

808-003-0130 - Allows waiver of fee for failure to show for a scheduled examination appointment for good cause

808-003-0220 - Allows licensee to voluntarily surrender license
Rules Coordinator: Kim Gladwill-Rowley—(503) 986-6570

808-001-0020

Charges for Documents; Refunds

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing.

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, Visa or Mastercard unless billing to such agencies is authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.

(3) The Board accepts Visa and Mastercard submitted in person or by mail, e-mail or fax. Any Visa or Mastercard that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by Visa or Mastercard that are rejected must be paid in full by a check or money order within ten days from notification of rejection.

(4) Charges for copies, documents, and services shall be as follows:

(a) For machine copies requested by other state agencies and by the general public, twenty-five cents per image;

(b) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.

(c) \$20 for certified copies of documents.

(d) \$100 for listing of individual landscape contractors and/or landscape businesses on CD or disk. Requests for searching or formatting the data will be billed as per subsection (e) of this rule. The Administrator may waive this charge for other public agencies.

(e) \$10 per half-hour unit or portion of a half-hour unit for research of records for each request from a person beginning with the 31st minute of research time;

(f) For both machine copies and documents, an additional amount set at the discretion of the Administrator for staff time required for search, handling, and copying.

(g) \$20 for duplicate tape recording of Board meetings.

(h) \$20 for duplicate tape recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.

(i) "Avoiding Landscaping Problems" brochure:

(A) First ten(10) copies are free;

(B) \$4.25 per 25 copies ordered. They must be ordered in multiples of 25.

(j) "You Get What You Pay For" DVD:

(A) First copy is free; and

(B) Additional copies are \$5.00 each.

(5) Refunds: All requests for refunds must be in writing.

(a) Except as set forth in subsection (b) of this section, application and licensing fees are non-refundable and nontransferable.

(b) When an applicant withdraws their renewal or fails to complete the renewal process the agency may retain a processing fee of \$20. When an applicant withdraws their application for a landscape business license or renewal or fails to complete the licensing process, the agency may retain a processing fee of \$50.

(6) If the agency receives payment of any fees or penalty by check and the check is returned to the agency by the bank, the payer of the fees will be assessed a charge of \$25 in addition to the required payment of the fees or penalty.

Stat. Auth.: ORS 183, 293.445 & 671

Stats. Implemented: ORS 183, 192.430, 293.445 & 671

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1988(Temp), f. 3-17-88, cert. ef. 4-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2004(Temp), f. & cert. ef. 6-11-04 thru 12-6-04; LCB 5-2004, f. & cert. ef. 10-4-04

808-003-0070

Exam Failure and Retake

(1) Applicants who attempt and fail any section of the exam must wait two weeks:

ADMINISTRATIVE RULES

- (a) Before retaking any section of the exam; and
 - (b) After reviewing any section of the exam.
- (2) After three unsuccessful attempts to pass any section of a written or computerized exam, an applicant may petition the agency for an oral exam.

Stat. Auth.: ORS 183 & 671
Stats. Implemented: ORS 671.570
Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0027; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 5-2004, f. & cert. ef. 10-4-04

808-003-0130

Fees

- (1) Initial license or renewal:
 - (a) Landscaping business, \$225.
 - (b) Landscape contractor, \$75.
- (2) Late penalty fee:
 - (a) Landscaping business, \$25.
 - (b) Landscape contractor, \$25.
- (3) Individual Landscape Contractor License Application fee: \$60.
- (4) Initial examination fee for any phase of license is:
 - (a) \$15 for first section of the exam; and
 - (b) \$10 for each additional section per exam sitting.
- (5) Exam retake fees for any section of the exam is:
 - (a) \$15 for first section of the exam; and
 - (b) \$10 for each additional section per exam sitting.
- (6) Exams sent to the DMV, additional processing and mailing fee:

\$12.

- (7) Examination, failure to show for a scheduled appointment:
 - (a) In Board office, \$20 without a 24 hour advance cancellation notice to the Board office.
 - (b) At Proctor Exam Site, forfeits full payment for that exam sitting.
- (8) If a landscape contractor license expires, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.
- (9) If a landscaping business license expires, and the landscaping business has continuously maintained its bond, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year. The reinstatement will be retroactive to the expiration date.
- (10) If a landscaping business license expires, and no bond has been in effect during the interim, and a new bond is issued, the amount to be paid for reinstatement equals the required fee for one year plus a late penalty fee. The reinstatement date will be the date the required fee and documentation are received in the agency office.

(11) Payments received after Board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

(12) The agency may waive the late fee if:

(a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(b) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(13) The agency may waive the failure to show for a scheduled examination appointment fee for good cause. Documentation may be required.

Stat. Auth.: ORS 183.310 - 183.545, 670.310 & 671.670

Stats. Implemented: ORS 671.650 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 5-2004, f. & cert. ef. 10-4-04

808-003-0220

Voluntary Surrender/Resignation of License

(1) A landscape contractor or landscape contracting business may resign and surrender the license issued under ORS 671, by submitting a written resignation, together with the original license card issued by the Board. The licensee's resignation shall be accepted by the Board only if the licensee acknowledges in writing that:

- (a) The license issued to the licensee must be returned to the Board; and

(b) After such resignation, in the event that the licensee wishes to reapply for a license to perform landscape contracting work, the licensee will be required to meet all requirements of ORS Chapter 671 and OAR chapter 808.

(c) All resignations are effective upon acceptance by the Board.

(2) If the licensee's license is the subject of a complaint filed with the Board or a Board investigation, or if disciplinary proceedings are pending against a licensee, the resignation by such licensee shall be deemed to be a revocation for misconduct in the event that the licensee applies for a license after such resignation is accepted by the Board. The Board may refuse to accept a resignation under this provision if the written resignation does not include a written acknowledgment by the resigning licensee of the following:

- (a) That the licensee is required to return the license card to the Board;
- (b) That the licensee has knowledge of any pending investigation or disciplinary proceedings and does not wish to contest or defend the matter;

(c) That the licensee understands that in the event the licensee submits a subsequent application to be licensed to perform landscape contracting work, the licensee shall not be entitled to a reconsideration or re-examination of the facts, complaints, or instances of misconduct upon which investigations or disciplinary proceedings were pending at the time of the resignation; and

(d) That upon any subsequent application to perform landscape contracting work, the licensee must meet all requirements of ORS Chapter 671 and OAR chapter 808.

(e) Unless otherwise ordered by the Board, any pending investigation or disciplinary proceeding shall be closed upon acceptance of the licensee's resignation.

(3) Requirements upon acceptance of resignation. Upon resignation, a former licensee is required to:

- (a) Surrender the license card to the Board; and
- (b) Take all reasonable steps to avoid foreseeable harm to any client.

(4) A licensee may voluntarily surrender a license only upon the express written consent of the Board. Such license will not be subject to renewal.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implements: ORS 671.525 & 671.565

Hist.: LCB 5-2004, f. & cert. ef. 10-4-04

Mortuary and Cemetery Board Chapter 830

Adm. Order No.: MCB 1-2004

Filed with Sec. of State: 9-30-2004

Certified to be Effective: 11-1-04

Notice Publication Date: 9-1-04

Rules Amended: 830-020-0040

Subject: These amended rules implement certain license fee increases and changes pertaining to the fees imposed for: funeral establishment, immediate disposition company, cemetery and crematory license renewal; licensed facility location change; initial licensed facility application; reciprocal funeral service practitioner license; reciprocal embalmer license; initial preneed salesperson application; certificate of removal registration; individual funeral service practitioner license renewal; individual embalmer license renewal; and, combination funeral service practitioner and embalmer license renewal.

Rules Coordinator: David Koach—(503) 731-4040, ext. 22

830-020-0040

License Fees

(1) Initial application fees:

(a) Funeral establishment, immediate disposition company, crematory or cemetery that performs more than five interments per year — \$150 (includes first principal) plus \$50 for each additional principal;

(b) Cemetery that performs five or fewer interments annually — \$100 (includes first principal) plus \$50 for each additional principal;

(c) Change of principal — \$50 per licensed facility;

(d) Apprentice funeral service practitioner or apprentice embalmer — \$50;

(e) Reciprocal funeral service practitioner or reciprocal embalmer — \$160;

(f) Intern Apprentice — \$25;

(g) Preneed Salesperson — \$150;

(h) Certificate of Removal Registration — \$30.

ADMINISTRATIVE RULES

- (2) Renewal application fees:
 - (a) Funeral establishment or immediate disposition company — \$350 per year, payable biennially;
 - (b) Crematory — \$100 per year plus \$2 per cremation performed during the two calendar years preceding the year in which the current license expires, payable biennially;
 - (c) Cemetery — \$4 per interment performed during the two calendar years preceding the year in which the current license expires up to a maximum of 150 interments or \$600 per year, payable biennially; (Cemeteries with ten or fewer interments biennially are not required to pay a renewal fee in accordance with ORS 692.275.)
 - (d) Funeral service practitioner — \$80 per year, payable biennially;
 - (e) Embalmer — \$80 per year, payable biennially;
 - (f) Combination funeral service practitioner/embalmer — \$160 per year, payable biennially;
 - (g) Apprentice funeral service practitioner — \$25 per year, payable annually;
 - (h) Apprentice embalmer — \$25 per year, payable annually;
 - (i) Preneed salesperson — \$25 per year, payable biennially.
- (3) Exam fees:
 - (a) Funeral service practitioner exam — \$100;
 - (b) Embalmer exam (written or practical) — \$130 to \$400 (depending on the cost to the Board).
- (4) License, certificate and registration reissue fees:
 - (a) Transfer of apprenticeship, replacement license, name change or manager change — \$25;
 - (b) Licensed facility location change — \$250.
- (5) Reinstatement of lapsed license, certificate or registration — \$50 each.
- (6) Funeral service practitioners, embalmers and preneed salespersons shall renew their licenses on even numbered years. Funeral establishments, immediate disposition companies, cemeteries, and crematoriums shall renew on odd numbered years.
- (7) Fees paid under this section are not refundable or transferable.

Stat. Auth.: ORS 692.160, 692.320, 97.931
Stats. Implemented: ORS 692.160, 97.931
Hist.: SMB 1-1984, f. & ef. 10-22-84; MCB 1-1985(Temp), f. & ef. 7-3-85; MCB 2-1985(Temp), f. & ef. 11-5-85; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0110; MCB 2-1989(Temp), f. 10-2-89, cert. ef. 11-1-89; MCB 3-1989, f. 12-4-89, cert. ef. 12-1-89; MCB 1-1992, f. & cert. ef. 2-11-92; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 3-1993, f. 10-28-93, cert. ef. 11-1-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2004, f. 9-30-04, cert. ef. 11-1-04

Office of Energy
Chapter 330

Adm. Order No.: DOE 5-2004
Filed with Sec. of State: 10-14-2004
Certified to be Effective: 11-1-04
Notice Publication Date: 9-1-04

Rules Amended: 330-060-0005, 330-060-0010, 330-060-0015, 330-060-0020, 330-060-0040, 330-060-0060, 330-060-0070, 330-060-0075, 330-060-0090, 330-060-0095, 330-061-0005, 330-061-0010, 330-061-0015, 330-061-0020, 330-061-0025, 330-061-0030, 330-061-0035, 330-061-0040, 330-061-0045, 330-061-0050, 330-061-0060

Rules Repealed: 330-060-0065

Subject: The purposes of the proposed rule changes are to:

1. Continue State Home Oil Weatherization (SHOW) program rebates for certain energy conservation measures, although rebates for certain measures may be reduced if applications for rebates are likely to exceed the funding allocated; and
2. Repeal the requirement for an on-site energy audit, while continuing to allow customers and contractors knowledgeable about energy efficiency to complete the energy audit.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-060-0005

Purpose

(1) OAR 330-060-0005 through 330-060-0095 describe qualifying energy conservation measures, the basis for the energy audit, prescribe how fuel oil dealers shall provide energy conservation services to their residential customers as required by ORS 469.673 through 469.679, and prescribe the standards for state financed 6.5 percent interest loans made under

Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991.

(2) These rules are effective November 1, 2004 or upon filing with the Secretary of State, whichever is later and shall apply to energy conservation measure rebate applications postmarked on or after the effective date of these rules.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.673

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-29-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0010

Definitions

As used in OAR 330-060-0005 through 330-060-0095, unless the context requires otherwise:

(1) "Administrator" — The Administrator of the Energy Office.

(2) "Annual Rate" — The yearly interest rate specified on the note. This is not the annual percentage rate, if any, disclosed to the applicant under the federal Truth in Lending Act.

(3) "ASHRAE" — American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(4) "Auditor" — The person who gathers information at the dwelling to complete a report recommending energy conservation measures consistent with the standards set in these rules and the energy conservation measures specifications.

(5) "Buffer Space" — An enclosed but unheated space such as a garage, porch, unheated basement, crawl space or attic, which abuts a heated space.

(6) "Commercial Energy Auditor" — A person who through training or experience has a general knowledge of heat transfer principles, construction practices, energy efficient operations and maintenance procedures, boiler and furnace efficiency improvements, infiltration controls, envelope weatherization, heating, ventilating and air conditioning systems, electric control systems, lighting systems, and solar and energy conservation measures.

(7) "Commercial Energy Audit" — The service provided by a commercial energy auditor to the owner of an apartment building which is centrally heated. It includes on-site data gathering, energy use analysis, and a report to the owner recommending energy conservation measures.

(8) "Cost-Effective" — The present value of energy saved over the life of an energy conservation measure is worth more than the measure's cost. However, the energy savings of a measure shall receive a ten percent "bonus".

(9) "Customer" — A residential customer or dwelling owner.

(10) "Dealer" — Fuel oil dealer or any person or organization which supplies fuel oil at retail for the heating of dwellings.

(11) "Dwelling" — Real or personal property in Oregon which is the principal residence of the owner or a tenant. "Dwelling" includes a mobile home as defined in ORS 446.003, a floating home as defined in ORS 488.705 and a single unit in an apartment building. "Dwelling" does not include a recreational vehicle as defined in ORS 446.003.

(12) "Dwelling Owner" — The person who has legal title to a dwelling, including the mortgagor under a mortgage, the trustor under a deed of trust, or a purchaser under a contract.

(13) "Energy Audit" means a written report completed to recommend energy conservation measures consistent with the standards set in these rules and the energy conservation measures specifications.

(14) "Energy Conservation Measures" — Items that are primarily designed to improve the energy efficiency of a dwelling:

(a) In the case of dwellings not receiving a commercial energy audit, these measures are limited to:

(A) Caulking, weatherstripping and other prescriptive actions to seal the heated space and ducts in a dwelling;

(B) Insulation of ceilings or attics to R-38 if achievable in areas with R-19 or less, including insulation installed on flat roofs (but excluding any fire or weatherproofing or roofing materials installed over the insulation) and associated ventilation;

(C) Insulation of outside walls to a nominal R-13 if achievable in areas where no insulation is present, of unfinished walls adjacent to unheated areas to R-21 if achievable in areas where no insulation is present, and of finished walls adjacent to unheated areas to R-11 if achievable in areas where no insulation is present;

(D) Insulation of floors over unheated spaces to at least R-25 if achievable in areas where no insulation is present, and materials to support the insulation and needed ground cover and ventilation;

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(E) Insulation and sealing of supply and return air ducts in unheated spaces to at least R-8 if achievable and no insulation is present and the ducts are in unheated areas;

(F) Insulation of water heaters, water pipes, or steam pipes in unheated spaces and for at least ten feet from the water heater in unheated areas to at least R-3 if achievable and no insulation is present;

(G) Vapor barrier materials;

(H) Double glazed windows (including sliding doors) with a U-value of at least 0.35 or lower replacing less energy efficient windows.

(I) Storm doors covering uninsulated exterior doors;

(J) Storm windows over single pane glass windows on an exception basis when double glazed windows are not a practical option;

(K) Insulated exterior doors with an U-value of at least 0.20.

(L) Replacement fuel oil burners, including electrical controls and combustion chamber improvements when needed, which increase combustion efficiency of oil furnaces or boilers. A replacement burner must have a tested steady state efficiency of at least 80 percent and be replacing a burner that is more than 10 years old or is in a heating systems with a tested steady state efficiency of 70 percent or less;

(M) Fuel oil furnaces or boilers with tested steady state efficiency of at least 81 percent replacing a fuel oil heating system that is more than 20 years old or has a steady-state efficiency of 70 percent or less or as otherwise authorized by the Energy Office;

(N) Programmable thermostats;

(O) Blower door tests and blower door assisted whole house air sealing or duct sealing performed by a contractor certified by the Energy Office's Residential Energy Tax Credit contractor certification program;

(P) Dehumidifiers; and

(Q) Exhaust fans and venting to provide spot ventilation in kitchens, bathrooms, utility rooms, or other areas where as the result of installing recommended energy conservation measures moisture problems could be created or worsened.

(b) In the case of centrally-heated apartment buildings receiving a commercial energy audit, measures shall be primarily designed to reduce fuel oil use. In addition to measures listed in subsection (a) of this section, the measures may include but not be limited to:

(A) Automatic energy control systems;

(B) Equipment, associated with such control systems, which is needed to run variable steam, hydraulic and ventilating systems;

(C) Furnace or boiler plant and distribution system modifications. This includes devices for modifying flue openings which will increase the efficiency of the heating system; or

(D) Lighting system improvements.

(15) "Energy Conservation Measures Specifications" — All energy conservation measures shall meet the installation provisions of the Energy Office's Energy Conservation Measure Specifications. All heating system improvements shall meet the steady state efficiency requirements of these rules. All blower door assisted whole house air sealing and duct sealing measures shall meet the specifications of the Energy Office's Residential Energy Tax Credit contractor certification program.

(16) "Energy Office" — The Office of Energy, of the State of Oregon.

(17) "Finance Charge" — The total of all interest, loan fees, and other charges related to the cost of obtaining credit. This includes any interest on any loan fees financed by the lender.

(18) "Fuel Oil" — Any petroleum product sold by a petroleum supplier for use as a residential heating fuel, including heating oil, propane, butane and kerosene.

(19) "Landlord" — A dwelling owner who rents his or her dwelling to a tenant.

(20) "Lender" — Any bank, mortgage company, trust company, savings and loan, or credit union having an office in Oregon.

(21) "Lighting system improvements" — Measures which will reduce energy use in the lighting system by at least 25% if recommended in the commercial energy audit.

(22) "Residential Customer" — A dwelling owner or tenant who is billed by a dealer for fuel oil received at the dwelling.

(23) "Space-Heating" — The heating of living space within a dwelling.

(24) "State Incentive" — The energy conservation measure rebate or any other state incentive which gives a customer a cash payment for an energy conservation measure.

(25) "Tenant" — A tenant as defined in ORS 91.100 or any other tenant.

(26) "Trade Ally" — means a contractor licensed in the State of Oregon to install energy conservation measures.

(27) "Unheated Space" — An area in a dwelling which is not connected to a heating system fueled by fuel oil or wood.

(28) "Wood Heating Resident" — A person whose primary space heating fuel is any form of wood, including sawdust:

(a) In the case of a dwelling which has an installed central electric or gas heating system the customer is eligible for rebate and loan financing under this program if not eligible for such financial assistance from the utility; or

(b) In the case of a dwelling which has baseboard or portable space heaters, the customer is eligible for rebate and loan financing under this program if not eligible for such financial assistance from the utility.

(c) In the case of a dwelling that has no installed heating system other than wood, the customer is eligible for rebate and loan financing under this program.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.673

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0015

Description of Residential Energy Conservation Program

As defined in ORS 469.673 through 469.679, each dealer shall establish an energy conservation services program and shall provide energy conservation information to customers and to the public. A dealer may rely upon the services contracted for by the Administrator pursuant to ORS 469.677, instead of presenting a separate program, or complete the energy audits as a trade ally, as provided in these rules.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.673

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0020

Reliance on the Statewide Fuel Oil Audit Program

(1) The Administrator shall contract for a statewide energy audit program to give the information, help and technical advice required of dealers by ORS 469.675.

(2) A dealer who relies on the statewide energy audit program may, however:

(a) Notify its customers about this program, including a toll-free number to request energy audits; or

(b) Act as a contact between its customers and the statewide energy audit program. Such a dealer may pass on its customers' requests for energy audits to the statewide energy audit contractor chosen by the Energy Office.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0040

Low-Interest Loans Through Lenders

(1) State financed 6.5 percent interest loans made under Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall meet the following standards:

(a) A loan shall be made only to a dwelling owner who is or who rents to a residential fuel oil customer or a wood heating resident;

(b) Only energy conservation measures recommended as cost-effective in the energy audit, recommended adjuncts to those measures, and any loan fee that is included in the body of the loan shall qualify for the loans;

(c) The maximum loan limit, including the loan fee, is \$5,000 for each eligible dwelling unit. If the dwelling owner is a corporation operating a non-profit home for the elderly, a loan shall not exceed \$2,000 per dwelling unit;

(d) A lender may charge, finance, and collect a nonrefundable front-end loan fee. Charging such a loan fee will not disqualify the loan for a tax credit under this section. The fee shall not exceed that charged by the lender for nonsubsidized loans made under like terms and conditions at the time the subject loan is made;

(e) There is no limit on the number of eligible dwelling units for which a dwelling owner may receive a loan;

(f) Loans shall not finance the following:

(A) Converting space heat equipment from oil or wood to another source of fuel;

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- (B) Space heating heat pumps;
- (C) Water heating heat pumps;
- (D) Wood-burning devices;

(E) Any measure that would benefit all or part of a non-residential commercial building unless the building has some residential living space. In the case of a commercial building which has some residential living space the following can qualify for a loan:

- (i) That part of the building used exclusively for residential; and
- (ii) In a centrally heated building, a prorated share of the cost of a heating system. This share shall be based on the percentage of residential to total square footage served by the heating system.

EXAMPLE: 1,000 square feet is commercial, 2,000 square feet is residential - 2/3 of the cost of an eligible heating system could qualify for the loan.

- (F) Solar equipment;

(G) Any materials used in building a new dwelling, additions to dwellings or remodeling which adds living space;

(H) That part of the cost of the measures for which the dwelling owner receives a state cash incentive.

(g) The costs of materials for "do-it-yourself" jobs may be included in the loan. No labor costs of such jobs shall qualify for the loan.

(2) In order to qualify for a loan, the dwelling owner must submit to the Energy Office written permission to inspect the job to verify that the measures have been installed.

(3) In applying for the loan, a dwelling owner shall present to the lender:

(a) For contractor-installed measures, at least one written bid itemizing measures to be included in the loan and their costs. The Energy Office may require that contractors use bid forms provided by the Energy Office; and

(b) For "do-it-yourself" measures, an itemized list of materials to be installed and their costs.

(4) Lenders may receive a state tax credit in accord with Section 28, Chapter 894, Oregon Laws 1981 as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991. This applies only to loans which:

(a) Are made to dwelling owners who are or who rent to residential fuel oil customers or wood heating residents and who:

(A) Have received an energy audit completed pursuant to these rules; and

(B) Give the lender a copy of:

- (i) The results of the energy audit;
- (ii) Certification on a form supplied by the Energy Office stating that the dwelling receives space heating from fuel oil or wood; and
- (iii) For a furnace or burner replacement, a certification from the contractor on a form supplied by the Energy Office that the heating system meets or exceeds the combustion efficiency standards set in these rules.

(iv) Written permission on a form supplied by and submitted to the Energy Office to inspect.

(b) Are subject to an annual rate not to exceed 6.5 percent;

(c) Have a term of ten years or less; and

(d) Finance those measures recommended in the energy audit.

(5) Lenders making weatherization loans under Section 28, Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall:

(a) Keep a copy of the customer's energy audit and the certification that the heating system meets or exceeds the combustion efficiency standards set in these rules, as well as the customer's loan application;

(b) Help the customer fill in a form, given to the customer during the energy audit, stating what measures will be included in the loan; and

(c) Return that form and the heating system certification to the Energy Office no later than one week after the loan is closed. (This is the lender's only reporting requirement to the Energy Office.)

(6) Eligibility of the lender for any tax credit under Section 28, Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall not be affected by any dwelling owner's failure to use the loan for qualifying measures.

(7) The borrower must complete installation of the measures financed within 90 days of receiving the loan funds.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.170

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0060

Oil Audit Standards: General Description of Oil-Heated Dwellings Energy Audit

(1) The energy audit shall provide a basis to determine which energy conservation measures are recommended as described in OAR 330-060-0010(14).

(2) The energy audit shall also provide information published by the Energy Office about no-cost/low-cost energy-saving practices, about energy conservation measures, and financial incentives available to help pay for the costs of installing those measures.

(3) The Administrator may approve the use of other audit methodologies, including allowing customers or trade allies to use a form developed by the Energy Office, if the Administrator determines that such alternate methodologies will provide the customer with results comparable to those achieved using the audit methodology prescribed by these rules.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0070

Oil Audit Standards: Calculation Procedures

(1) The energy savings from energy conservation measures shall be calculated by the Energy Office.

(2) The Energy Office may approve use of alternate energy savings calculations, if the calculations and the methodology supporting those calculations are submitted to the Energy Office for its review and approval.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0075

Oil Audit Standards: Calculation of Cost Effectiveness

(1) The cost-effectiveness of energy conservation measures shall be calculated by the Energy Office.

(2) The Energy Office may approve use of alternate cost-effectiveness calculations, if the calculations and the methodology supporting those calculations are submitted to the Energy Office for its review and approval.

(3) The measure is "cost-effective" if its cost is less than 110 percent of the present value of the cost of fuel oil saved over its assumed life cycle.

(4) The Energy Office must approve all measures that are presumed to be cost-effective. These measures may include items which alone may not save energy but are needed to make recommended energy measures work effectively.

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

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0090

Oil Audit Standards: Auditor Qualifications

The person performing the energy audit must be able to determine whether the applicable energy conservations measures meet the standards set forth in these rules and the specifications and to be able to effectively communicate recommendations to the customer.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-060-0095

Post-Installation Inspections

(1) The Energy Office may inspect energy conservation measures:

(a) The Energy Office may inspect energy conservation measures installed by customers receiving a cash payment or loan for those measures;

(b) The Energy Office may inspect installed measures at the customer's request if those measures qualify for a cash payment or loan;

(c) The Energy Office may require an inspection at the time of the audit if any energy conservation measures qualifying for the cash payment or loan were installed before the audit is completed.

(d) The Energy Office may require an inspection before disbursing cash payments.

(2) The inspection shall verify that:

(a) Measures included in the loan or other incentive were installed; and

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(b) Workmanship and materials meet industry standards. Installation standards and inspection forms shall be approved by the Energy Office. All measures installed shall meet the energy conservation measure specifications. Local codes shall prevail in all cases.

(3) The results of the inspection shall be promptly reported to:

- (a) The customer; and
- (b) The Energy Office.

(4) Inspectors shall have no financial or other interest in the firm that installed the measure(s) inspected.

(5) An inspector shall be a qualified auditor.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0005

Purpose

(1) OAR 330-061-0005 through 330-061-0050 prescribe how the Energy Office shall run a program providing energy conservation measure rebates. This program shall be known as the energy conservation measure rebate, a part of the State Home Oil Weatherization Program, run by the Energy Office. Operation of the oil energy conservation measure rebate depends on availability of funds.

(2) These rules are effective November 1, 2004 or upon filing with the Secretary of State, whichever is later and shall apply to energy conservation measure rebate applications postmarked on or after the effective date of these rules.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0010

Definitions

As used in OAR 330-061-0005 through 330-061-0050, unless the context requires otherwise:

(1) "Administrator" — The Administrator of the Energy Office.

(2) "AFUE" — Annual fuel utilization efficiency, as determined by the Gas Appliance and Manufacturers Association.

(3) "Annual Income" — The total expected gross income of a family from all sources for the 12-month period after applying to the Energy Office. The method used to figure the annual income shall be set by the Energy Office.

(4) "Applicant" — Any person applying for a rebate.

(5) "Community Action Agency" — An agency designated to receive federal low income weatherization funds on behalf of low income clients.

(6) "Contractor" — A person receiving payment for installing an energy conservation measure. If installation is performed by a subcontractor, then the subcontractor may fulfill requirements such as the warranty requirements.

(7) "Cost-Effective" has the meaning given in OAR 330-060-0010(8).

(8) "Dwelling" has the meaning given in OAR 330-060-0010(11).

(9) "Energy Audit" has the meaning given in OAR 330-060-0010(13).

(10) "Energy Conservation Measures" has the meaning given in OAR 330-060-0010(14).

(11) "Family" — All persons living together in a dwelling unit.

(12) "Fuel Oil" has the meaning given in OAR 330-060-0010(18).

(13) "Improvement Costs":

(a) The actual costs of an energy conservation measure;

(b) Any incidental cost necessary to ensure the quality of the energy conservation measure (for example, providing adequate ventilation in connection with attic insulation), but not including the cost of repairs; and

(c) If installed by contractor, the actual costs to the recipient;

(d) "Improvement costs" — Does not include the applicant's own labor.

(14) "Energy Office" — The Office of Energy, of the State of Oregon.

(15) "Lighting System Improvements" has the meaning given in OAR 330-060-0010(21).

(16) "Person" — An individual, corporation, partnership, joint venture or other entity.

(17) "Rebate" — A cash grant for energy conservation measures.

(18) "Recipient" — A person receiving a rebate under the energy conservation measure rebate program.

(19) "Space Heating" has the meaning given in OAR 330-060-0010(23).

(20) "Tenant" has the meaning given in OAR 330-060-0010(25).

(21) "Wood Heating Resident" has the meaning given in OAR 330-060-0010(28).

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1986, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 3-1988, f. & cert. ef. 5-24-89; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0015

Description of Oil Weatherization Rebate Program

The Energy Office offers rebates for cost-effective energy conservation measures. The rebates are subject to available funding on a first-come, first-served basis.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0020

Eligible Recipients

(1) An owner of, or tenant in, a dwelling who purchases and installs energy conservation measures in such building shall be eligible to receive a rebate. All buildings must be heated by fuel oil or wood as the primary source of space heat.

(2) Assistance on behalf of others. A third person may receive a rebate on behalf of any owner or tenant who would be eligible to receive a rebate, if such owner or tenant consents to the arrangement in writing. The third person shall comply with all requirements which would apply to the owner or tenant if he or she had received the rebate. The third person may receive the rebate in the form of a single grant in an amount equal to the sum of such grants which each owner or tenant could have received.

(3) Assistance through Community Action Agencies. Community Action Agencies may apply for a rebate on behalf of applicants who meet income guidelines for the U.S. Department of Energy's Low Income Weatherization Program.

(4) In the case of a commercial building which has some residential living space, the following can qualify for a rebate:

(a) That part of the building used exclusively for residential; and

(b) In a centrally heated building, a prorated share of the cost of a heating system upgrade. This share shall be based on the percentage of residential to total square footage served by the heating system.

EXAMPLE: 1,000 square feet is commercial, 2,000 square feet is residential — 2/3 of the cost could qualify for the rebate.

(5) Relationship to low-interest loan. An applicant may apply for a 6.5 percent weatherization loan under ORS 469.715 to cover that part of the weatherization job not paid for by the rebate. However, an applicant may not receive a 6.5 percent loan for the full amount of the weatherization job and a rebate for measures covered by the loan. If a loan is received for the full amount of the weatherization job, the rebate must be used to pay down the loan balance.

(6) Relationship to other publicly-subsidized loans. An applicant may apply for any other local, state or federal low-interest loan to cover costs of energy conservation measures not paid for by the rebate. However, an applicant may not receive a publicly-subsidized low-interest loan for energy conservation measure costs paid for by the rebate.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0025

Amount of Rebate

(1) The Energy Office shall annually allocate available rebate funding based on the following income categories and in the following dollar and percentage amounts:

(a) Households at or below eligibility levels for the U.S. Department of Energy's Low Income Weatherization Program may receive from a Community Action Agency administering the rebate program on behalf of the Energy Office a cash rebate for installing qualifying energy conservation measures, subject to the following limitations:

(A) A rebate for a fuel oil furnace or burner shall not exceed the lesser of 50% of the costs or \$150, unless the Office determines that rebate applications are likely to exceed the funding allocated in which case the

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Office may reduce the allowable rebate to not exceed \$100 for any applications received no sooner than 30 calendar days after that determination.

(B) A rebate for storm windows, storm doors, double pane windows, or double pane sliding doors shall not exceed the lesser of 50% of the costs or \$150, unless the Office determines that rebate applications are likely to exceed the funding allocated in which case the Office may reduce the allowable rebate to not exceed \$100 for any applications received no sooner than 30 calendar days after that determination.

(C) A rebate for insulated doors shall not exceed the lesser of 50% of the costs or \$150.

(D) A rebate for a blower-door test performed by a contractor certified by the Energy Office to assess the potential energy efficiency and other benefits from whole house air sealing and duct sealing shall not exceed the lesser of 100% of the costs or \$100.

(E) The rebate for all other energy conservation measures shall not exceed the lesser of 50% of the costs or \$1,000.

(F) The total rebate received by a household for energy conservation measures subject to these rules shall not exceed \$1,000.

(b) Any household may receive a cash rebate for installing qualifying energy conservation measures, subject to the following limitations:

(A) A rebate for a fuel oil furnace or burner shall not exceed the lesser of 25% of the costs or \$150, unless the Office determines that rebate applications are likely to exceed the funding allocated in which case the Office may reduce the allowable rebate to not exceed \$100 for any applications received no sooner than 30 calendar days after that determination.

(B) A rebate for storm windows, storm doors, double pane windows, or double pane sliding doors shall not exceed the lesser of 25% of the costs or \$150, unless the Office determines that rebate applications are likely to exceed the funding allocated in which case the Office may reduce the allowable rebate to not exceed \$100 for any applications received no sooner than 30 calendar days after that determination.

(C) A rebate for insulated doors shall not exceed the lesser of 25% of the costs or \$150.

(D) A rebate for a blower-door test performed by a contractor certified by the Energy Office to assess the potential energy efficiency and other benefits from whole house air sealing and duct sealing shall not exceed the lesser of 100% of the costs or \$100.

(E) The rebate for all other energy conservation measures shall not exceed the lesser of 25% of the costs or \$500.

(F) The total rebate received by a household for energy conservation measures subject to these rules shall not exceed \$500.

(2) The Energy Office may allocate additional funding for a pilot program to be used in lieu of a rebate to write-down the interest rate of a loan issued through or administered by a public agency to finance installation of qualifying energy conservation measures. The cost of the interest write-down may not exceed the rebate for which the household would otherwise have qualified.

(3) In some cases, a landlord may not wish to install energy conservation measures in all units within a building. To determine the building type, all dwelling units in the building must be counted. The rebate is only available for those units where energy conservation measures have been installed. All dwelling units sharing a common space conditioning system shall be considered part of the same residential building.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0030

Application Procedure

(1) Energy audit required prior to rebate payment:

(a) An applicant for a rebate must submit to the Energy Office a copy of an energy audit for the building or dwelling unit for which a rebate is requested before the rebate is provided;

(b) A rebate will only be provided for energy conservation measures listed in OAR 330-061-0010(10), subject to the limitations of OAR 330-061-0015 and 330-061-0025.

(2) Applicant certification. The applicant shall certify to the Energy Office that the applicant heats with fuel oil or wood, the application is for costs of qualifying energy conservation measures, the applicant will grant permission for an inspection of the installed measures within a reasonable time if requested by the Energy Office, and the applicant understands that the installed measures must comply with the program's energy conservation measure specifications and if the measures do not comply that the installation must be remedied or the rebate repaid.

(3) A tenant must get prior written consent from the owner of the building or dwelling unit to be eligible to apply for a rebate for the installation of energy conservation measures.

(4) A third party applying for assistance on behalf of any owner or tenant who would be eligible to receive a rebate must get written consent from the owner or tenant before receiving a rebate on the owner's or tenant's behalf.

(5) Contractor requirements:

(a) All contractors who install energy conservation measures receiving a rebate must be registered with the Oregon Construction Contractors Board. This requirement shall not apply to community action agencies acting as contractors;

(b) Contractors shall certify if requested by the Energy Office that neither they nor their suppliers (if any) are on the Consolidated List of debarred, suspended, and ineligible contractors prepared by the General Services Administration pursuant to the temporary rule published at 47 FR 43692 and any successor rule;

(c) Contractors shall certify that a new flame retention burner or fuel oil furnace for which a rebate is requested meets or exceeds the required steady state efficiency;

(d) Warranties:

(A) Basic Requirement:

(i) The contractor for the installation of energy conservation measures shall, in connection with such measures, warrant in writing that the recipient shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, design or installation) at a minimum be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts, materials or installation;

(ii) Any replacement parts or materials must be provided at the site of installation without charge for transportation and must be installed without charge by the contractor.

(B) Other law. This section shall not relieve a warrantor under this section from full compliance with federal and state laws applicable to warranties, except to the extent that such law is inconsistent with the requirements of this section.

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

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0035

Payment of Rebate

After receipt of all documents and certificates required by OAR 330-061-0030, the Energy Office shall issue a two-party check in the allowable rebate amount to the applicant and the applicant's designated contractor or supplier. The Energy Office may also, at its discretion, issue a two-party check to the applicant and another person (such as a landlord, Community Action Agency, or lending institution). If no contractor or supplier is involved, or if the applicant has receipts showing that the contractor has been paid in full, the Energy Office may issue a single-party check to the applicant. The Energy Office may also, at its discretion, issue a single-party check to the contractor. The Energy Office may issue checks to Community Action Agencies administering the rebate program on behalf of the Energy Office.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0040

Post-Installation Inspections

The Energy Office may conduct post-installation inspections as provided in OAR 330-060-0095.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0045

Penalties and Remedies

(1) Any person who knowingly makes any false statement or misrepresents any material fact with respect to any rebate provided by the Energy Office is subject under state law ORS 162.085 to a fine of not more than \$1,000, or imprisonment for not more than six months, or both, for each

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offense. Each false statement, material misrepresentation or failure to make a required disclosure or statement shall be a separate offense.

(2) Refusal by a rebate recipient to allow an inspection previously authorized in writing by the recipient, upon reasonable request by the Energy Office and at a reasonable time shall constitute grounds for the Energy Office to recover the full rebate amount from the recipient.

(3) Penalties in these sections are not exclusive. The penalties provided for in sections (1) and (2) of this rule shall be in addition to any civil or criminal fines or penalties applicable under law, including any applicable provisions of federal, state or local law.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0050

Retention of Records by Recipients

Recipients shall retain all records pertaining to the rebate application and the energy conservation measures for which the rebate was for a period of three years after the financial assistance is provided.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

330-061-0060

Applicability of Rules

These rules shall apply to all weatherization rebates.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469

Hist.: DOE 3-1987, f. & ef. 12-18-87; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04

Adm. Order No.: DOE 6-2004

Filed with Sec. of State: 10-14-2004

Certified to be Effective: 12-1-04

Notice Publication Date: 7-1-04

Rules Amended: 330-140-0010, 330-140-0020, 330-140-0030, 330-140-0040, 330-140-0050, 330-140-0060, 330-140-0070, 330-140-0080, 330-140-0090, 330-140-0100, 330-140-0110, 330-140-0120, 330-140-0130, 330-140-0140

Subject: The purpose of the proposed rule changes are to:

1. Change the name from the Oregon Office of Energy to the Oregon Department of Energy and fix typographical errors;
2. Revise the rules to reflect the correct starting date of the program;
3. Revise the rules to remove the requirement that the self-directing customer calculate and pay public purpose charges independent of the electric bill; and
4. Revise the rules to remove the annual reporting requirement associated with the monthly calculation and payment of the Public Purpose Charge.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-140-0010

Scope and Applicability of These Rules

(1) The rules contained in this division include the criteria and procedures by which a large retail electricity consumer with a site located within the State of Oregon, using more than one average megawatt in a calendar year (8,760,000 kilowatt hours/year), may become a self-directing consumer of a portion of its public purpose charges.

(2) The rules contained in this division apply to large retail electricity consumers of electric companies and electricity service suppliers, except that these rules do not apply to retail electricity consumers of an electric company serving less than 25,000 consumers in this state unless the electric company offers direct access to any of its large retail electricity consumers in this state or offers to sell electricity services available under direct access to more than one large retail electricity consumer of another electric utility.

(3) The rules contained in this division apply to large retail electricity consumers of consumer-owned utilities and electricity service suppliers, once the consumer-owned utility governing board has elected to allow open access to a class of customers for which that electricity consumer is a member. These rules only apply to the first three percent of public purpose

charges imposed upon retail electricity consumers by a consumer-owned utility.

(4) The rules contained in this division apply to a public purpose charge equal to 1 percent of the total revenue from the sale of electricity to large retail electricity consumers that are an aluminum plant whose electric company's service territory abuts the greatest percentage of the site of the aluminum plant that uses more than 100 average megawatts of electricity per year.

(5) Large retail electricity consumers eligible to become self-directing consumers shall not claim a credit against public purpose charges owed for new energy conservation or new renewable resource purchases until they are issued certificates for qualified expenditure under these rules.

(6) All information submitted to or collected by the Oregon Department of Energy or its agent under these rules shall be protected as business trade secrets to the extent permitted under the Public Records Act.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0020

Definitions as Used in This Division

(1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source with the same term of contract.

(2) "Certification of Qualified Expenditure for New Energy Conservation" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the cost of an installed energy conservation project is eligible to be claimed as a credit against public purposes charges owed by the large electricity consumer under these rules.

(3) "Certification of Qualified Expenditure for New Renewable Resources" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the contracted cost of new renewable resource purchases is eligible to be claimed as a credit against public purpose charges owed by the large electricity consumer under these rules.

(4) "Commission" means the Public Utility Commission of Oregon.

(5) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.

(6) "Declaration of Intent to Self-Direct Public Purposes Charges" means a request in writing from a large electricity consumer that requests the Oregon Department of Energy recognize the large electricity consumer as eligible to self-direct public purpose charges under these rules.

(7) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services, as determined by the Commission for an electric company or the governing body of a consumer-owned utility, directly from an entity other than the distribution utility.

(8) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.

(9) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.

(10) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(11) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.

(12) "Electric cooperative" means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.

(13) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.

(14) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(15) "Electricity services" means electricity distribution, transmission, generation or generation-related services.

(16) "Electricity service supplier" or "ESS" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier"

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does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(17) "Energy Conservation Project" means a capital investment in equipment that reduces the electric energy use or improves electric energy efficiency at a large electricity consumer's site or system at that site which has a simple payback of greater than one year and less than ten years. The simple payback shall be determined by using the eligible capital cost of the project divided by the first year electric energy cost savings.

(18) "Energy conservation project cost" means the costs of necessary features of an energy conservation project that include but are not limited to capital costs, administrative costs, general expenses, facility energy audits resulting in capital investment in an energy conservation project, design and engineering, shipping, materials, permits, installation, performance evaluation, and equipment operations training. The cost of a new energy conservation project may include large electricity consumer's cost of an energy analysis or study conducted by any public or private party, and any administrative costs paid.

(19) "Independent Energy Audit" means an evaluation by an independent auditor of all potential electricity using systems at an electric consumer's site that identifies in a written report the characteristics of electric energy use of those systems and all energy conservation projects for each of the electric energy using systems at the site.

(20) "Independent Energy Auditor" means a provider of energy systems audits that identify potential energy conservation projects for large electricity consumers that is not in the employ of the retail electricity consumer's company or any of its subsidiary or affiliate organizations except under contract as an independent service provider that is selected to provide independent audit service under these rules. An independent auditor may include a consumer-owned utility.

(21) "Independent certified public accountant" means a certified public accountant recognized by the State of Oregon, that is not in the employ of the retail electricity consumers company or any of its subsidiary or affiliate organizations except under contract as an independent service provider.

(22) "Large electricity consumer" means a nonresidential consumer that is a retail electricity consumer that has used more than one average megawatt of electricity (8,760,000 kWh/year) at any one site in the prior calendar year.

(23) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

(24) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.

(25) "New" as it refers to energy conservation, market transformation and low-income weatherization means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company, with the exception that "new energy conservation" also includes expenditures by large electricity consumers eligible for self-directing public purpose charges that meet the following conditions:

(a) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:

(A) the energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or

(B) the energy conservation measure did receive funding from an electric company conservation program and the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access or the date they request preliminary certification under these rules. A self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.

(b) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.

(26) "New renewable energy resource" means a renewable energy resource project or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before January 1, 2000. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before January 1, 2000.

(27) "Nonresidential consumer" means a retail electricity consumer that is not a residential consumer.

(28) "Oregon Department of Energy" means the Oregon Department of Energy, an agency of the State of Oregon, created under Oregon Revised Statute (ORS) 469.030.

(29) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

(30) "People's utility district" has the meaning given that term in ORS 261.010.

(31) "Precertification of new energy conservation projects" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed energy conservation project will be eligible for a certificate of qualified expenditure if it is installed as described in the retail electricity consumer's application for precertification.

(32) "Precertification of new renewable resource purchases" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed renewable resource purchase will be eligible for a certificate of qualified expenditure, if contracts of commitment to purchase are established as described in the retail electricity consumer's application for precertification.

(33) "Public purpose charge" is an amount equal to 3 percent of the total revenues billed to large consumers for electricity services, distribution, ancillary services, metering, billing, transition charges and other types of costs that were included in electric rates on or after March 1, 2002 by electric utilities offering direct access to their large electricity consumers, except for an aluminum plant that is a retail electricity consumer where the amount is equal to 1 percent of the total revenues billed.

(34) "Qualifying expenditures" means those expenditures for new energy conservation measures that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources.

(35) "Renewable energy resources" means:

(a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues;

(b) Dedicated energy crops available on a renewable basis;

(c) Landfill gas and digester gas; or

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(36) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting or operating equipment and includes all end users of electricity served through the distribution system of an electric utility on or after January 1, 2000, whether or not each end user purchases the electricity from the electric utility. Retail electricity consumers include any direct service industrial consumer that purchases electricity without distribution services from the electric utility.

(37) "Self-directing consumer" means a retail electricity consumer using more than one average megawatt of electricity at any one site for the twelve billing months preceding January 15 of each year or an aluminum plant using more than 100 average megawatts of electricity for the twelve billing months preceding January 15 of each year. Consumers in electric utility service territories qualify as self-directing if they have a certification of qualified expenditure from the Oregon Department of Energy for new energy conservation or new renewable energy resources.

(38) "Site" means:

(a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter; or

(b) a single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;

(B) Each building or structure included in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings or structures; and

(C) Land shall be considered contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.

(39) "Statement of Eligibility" means a written declaration by an authorized officer of a large electricity consumer's firm that it meets the definition of a large electricity consumer under these rules and that it

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intends to comply with the requirements contained in these rules for self-direction and reporting of public purpose charges for a given site.

(40) "System" means any individual process or series of equipment contributing to energy end use in a large electricity consumer's site. A system may include heating, ventilating and air conditioning, domestic hot water, lighting, or a specific industrial process such as air compression, refrigeration, shredding, forging, or other such specific process described by the large electricity consumer.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0030

Eligibility as a Self-Directing Consumer

(1) Oregon retail electricity consumers using more than one average megawatt of electricity at one site in the twelve billing months preceding January 15 of each year, beginning with 1999, may apply in writing to the Oregon Department of Energy to qualify to self-direct a portion of their public purpose charges starting October 1, 2001. Application must be made each year that an electricity consumer wants eligibility as a self-directing consumer.

(2) The request for eligibility as a self-directing consumer shall include a statement that electric energy consumption at the site is over one average megawatt for the twelve billing months preceding January 15 of the year preceding the date of request for initial or renewal of eligibility.

(3) The written request for eligibility as a self-directing consumer shall be on a form provided by Oregon Department of Energy and include but not be limited to the following: name of the Oregon business or organization as a customer of record for the customer's electric utility; description of the site; site street and mailing addresses; business or organization contact; calendar year for which electric energy consumption qualifies the business or organization; electric energy consumption at the site for the given calendar year; name of the electric distribution utility; name of electricity service supplier(s); account numbers at the site for the electric distribution utility and each energy service supplier; and electric meter numbers at the site. The written application for eligibility to self-direct public purpose charges and statement of eligibility shall be signed and dated by a representative of the business or organization authorized by the highest ranking officer of the business or organization.

(4) Retail electricity consumers requesting eligibility from the Oregon Department of Energy under this rule shall retain evidence of energy consumption from their energy service suppliers and distribution utility used to qualify for self-direction.

(5) Retail electricity consumers are eligible for self-direction for the one calendar year following the year for which the Oregon Department of Energy has based its approval of their request for eligibility, regardless of the electricity purchases at that site in the following calendar year.

(6) Retail electricity consumers that receive Oregon Department of Energy approval of the request for eligibility for self-direction for a specific site may submit applications for precertification of new energy conservation projects and new renewable energy resource purchases for that site.

(7) The Oregon Department of Energy may request documentation to determine the validity or accuracy of any request for eligibility to self-direct public purpose charges.

(8) The Oregon Department of Energy shall notify the large electricity consumer's electric distribution utility in writing that the large electricity consumer is recognized as eligible for self-direction within 30 days of receipt of the request.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0040

Precertification of New Energy Conservation Projects

(1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new energy conservation projects.

(2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification of new energy conservation project investments that have a simple payback of greater than one year and less than ten years on a form supplied by the Oregon Department of Energy. Information submitted on the form shall include but not be limited to: the name of the retail electricity consumer; a description of the site; a description of the electricity conservation project; detail of the costs of the electricity conservation project; estimated electricity savings from the project;

and calculations that support or demonstrate the electricity savings and simple payback of the project.

(3) The Oregon Department of Energy shall determine the eligible costs for the energy conservation project.

(4) Precertification of the cost eligible for credit and a description of the new energy conservation project shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0050

Precertification of New Renewable Resource Purchase

(1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new renewable resource purchases.

(2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification of new renewable resource purchases on a form supplied by the Oregon Department of Energy. Information submitted on the form shall include but not be limited to: the name of the electricity consumer; a description of the site; a description of the new renewable resource to be purchased; the electricity consumer's market price for electricity from conventional sources; costs of the new renewable resource; estimated electricity to be purchased from the new renewable resource; length of time of a proposed purchase agreement; method of certifying that the renewable energy resource purchased has not been duplicatively sold to other parties either in whole or part; and, any contract terms that would otherwise affect the cost or amount of new renewable resource purchased.

(3) The Oregon Department of Energy shall determine if the above-market cost of the proposed purchase of renewable resources, described in the application, are to be precertified as eligible self direction costs.

(4) Precertification of the cost eligible for a credit and a description of the new renewable resource purchase shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0060

Certification of Qualifying Expenditure for New Energy Conservation Projects

(1) Once the costs, or portion of the costs identified in the precertification as a component eligible for certification as an individual expense for a project, are expended, the retail electricity consumer may apply to the Oregon Department of Energy for a certificate of qualified expenditure on a form provided by the Office of Energy.

(2) Proof of amount paid must accompany the application for certificate of qualified expenditure.

(a) Proof of purchase for projects costing less than \$50,000 shall include receipts marked paid, canceled checks, contracts marked paid or other documentation of expenditure.

(b) Projects costing \$50,000 and more shall have an independent certified public accountant's statement of compilation of amount paid for the project.

(3) A certificate of qualified expenditure for all or part of the cost of precertified new energy conservation project(s) shall be approved or denied by the Oregon Department of Energy in writing within 30 days of the receipt of a complete application. A certificate of qualified expenditure may be issued for a portion of the cost of a new energy conservation project(s) that is an individual cost component or project phase defined in the preliminary certificate application and approved in the preliminary certificate.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0070

Certification of Qualifying Expenditure for New Renewable Resources

(1) Retail electricity consumers whose new renewable resource purchases have received precertification from the Oregon Department of Energy may apply for a certificate of qualified expenditure on a form provided by the Oregon Department of Energy.

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(2) A signed contract to purchase or receipt(s) for purchase of renewable resource certificates for new renewable energy describing the amount to be paid and the length of the agreement must accompany the application for certificate of qualified expenditure.

(3) Contracted costs of \$50,000 and more shall have an independent certified public accountant's statement of compilation of the amount and schedule of expenditure for the project.

(4) Certificate of qualified expenditure shall be approved or denied by the Oregon Department of Energy within 30 days of the receipt of a complete application.

(5) The certificate of qualified expenditure shall describe the term for which a contracted new renewable resource purchase is eligible for credit against public purposes charges owed.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0080

Claiming a Public Purpose Charge Credit

(1) Large electricity consumers who are eligible for direct access, starting with the date of direct access, may claim credits against public purposes charges owed.

(2) Credits claimed may not exceed the amount of cost documented on certificate(s) of qualifying expenditure for that self directing consumer's site. When qualifying expenditures are certified they may be claimed as follows:

(a) Credits in excess of the amount owed for a given month's conservation or renewable resource public purpose charges shall be available for future credit use (carried forward) for up to ten years but not past February 29, 2012.

(b) Credits in excess of the amount owed for a specific site may be applied to public purpose charges at other sites owned by the electricity consumer, its subsidiaries or affiliate firms in the same distribution utility service territory provided the site is also eligible as a self-direction consumer under these rules.

(3) The maximum credit against public purpose charges owed by a self-directing consumer shall not exceed the following:

(a) The maximum self-direction credit for sites in electric company service territories shall be 73.8 percent of the public purpose charge owed. Self-direction credit for the new energy conservation portion shall not exceed 56.7 percent of the public purpose charge owed and 17.1 percent for the new renewable resource purchase portion, or

(b) The maximum credit for sites in consumer owned electric service territory shall be 68 percent of the first 3 percent public purpose charges for new energy conservation. Any remaining amount, up to the maximum of the first 3 percent public purpose charge, is limited to the portion of the public purpose charge billed for new market transformation or above market costs of renewable resource purchase.

(c) The maximum credit for at an aluminum plant site shall be 68 percent of 1 percent of the total revenue from the sale of electricity to the retail electricity consumer for new energy conservation projects and 17.1 percent for new renewable resource purchases of 1 percent of the total revenue from the sale of electricity to the retail electricity consumer, where the electric companies service territory abuts the greatest percentage of the site of the aluminum plant that uses more than 100 average megawatts of electricity per year.

(4) Large electricity consumers, who have received recognition that their site is eligible for self-direction with a certificate of qualified expenditure for credit against public purpose charges issued by the Oregon Department of Energy, may request that their electric distribution utility or energy service supplier apply their credit against public purpose charges owed.

(5) To remain eligible to self-direct public purpose charges, large electricity consumers shall pay on a monthly basis any balance of public purpose charges owed to their electric distribution utility or energy service supplier.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0090

Exclusion from Payment of a Portion of the Public Purpose Charge

(1) Retail electricity consumers approved to become self-directing consumers by the Oregon Department of Energy may request exclusion from payment of a maximum of 54 percent of the public purpose charges

for energy conservation for a specific site. Oregon Department of Energy shall notify the retail electricity consumer's electric distribution utility of the request for exclusion from payment of a portion of public purpose charges.

(2) To be eligible for relief from payment of public purpose charges, an independent energy audit shall determine that all new energy conservation with a simple payback of one year or greater and ten years or less has been implemented at the site or that the cost of any uninstalled new energy conservation projects identified in the independent energy audit are paid first.

(3) The independent energy audit estimated cost for the new energy conservation measure must be paid as a public purpose charge up to the amount of the energy conservation portion of the retail electricity consumer's public purpose charges. The retail electricity consumer may only be relieved of public purposes costs above the auditor's estimated cost for the new energy conservation that the electricity consumer has chosen not to install up to the maximum stated under these rules.

(4) By the second annual anniversary of the date that the Oregon Department of Energy grants exclusion from payment of a portion of public purpose charges, the retail electricity consumer shall enter into an agreement to commence another independent energy audit.

(5) The large electricity consumer shall notify their electric distribution utility that a certificate of eligibility to be relieved of a portion of public purpose charges owed has been issued for that site prior to claiming any credit allowed under this rule against public purpose charges owed.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0100

Independent Audit Standards and Procedures

(1) An independent energy audit shall document or identify: annual electric energy consumption history for the site, major electricity energy using systems at the site, estimated segmentation of electric energy by end use and system type, industry standard benchmark performance for each electric energy using system at the site, site system performance relative to benchmarks, all installed electric energy conservation measures, all new electric energy conservation measure opportunities at the site by end use and/or system. Industry-established Industries of the Future roadmap technologies improving electric energy efficiency shall be evaluated for applicability at each site.

(2) A retail electricity consumer may contract with an independent energy auditor from a qualified list provided by the Oregon Department of Energy or an independent energy auditor of the retail electricity consumer's choice.

(3) The Oregon Department of Energy shall qualify the independent energy auditor selected by the retail electricity consumer within 30 days of a request in writing for auditor approval if either (a) or (b) below apply:

(a) They are from the qualified auditor list, or

(b) If the independent energy auditor is:

(A) Registered to do business in Oregon, and

(B) Has conducted comprehensive energy use and conservation analysis or facilities design in at least three facilities of similar type and size as the site, and

(C) A sample audit report from the selected independent energy auditor meets the approval of the Oregon Department of Energy for technical accuracy, thorough identification of new energy conservation investment by system or end use at the reported facility, and the report documents accurate cost estimates for new energy conservation investments, and

(D) Documentation or evidence supporting sections (A), (B) and (C) of this rule are submitted with the written request to approve the independent auditor.

(4) The Oregon Department of Energy shall develop a list of qualified independent energy auditors.

(5) Large electricity consumers may select an independent energy auditor from the list of qualified independent energy auditors. The Oregon Department of Energy may use the list when requested by a large electricity consumer to direct auditors to conduct an independent audit of the large retail electricity consumer's site.

(6) Selection of the independent energy auditor will be based on the auditor's experience auditing the type of facility, delivery date of the audit and cost.

(7) The large electricity consumer shall directly contract with the independent energy auditor for all costs of the audit. The contract between the large electricity consumer and the independent energy auditor shall pro-

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vide the Oregon Department of Energy open access to information on all aspects of the independent energy audit.

(8) Costs for independent energy audit services under this rule are not eligible for precertification as new energy conservation unless a portion of the audit defines design elements of a new energy conservation project installed by the large electricity consumer.

(9) A summary of findings shall be provided to the Oregon Department of Energy once on-site field work is complete and prior to the development of the audit report.

(10) An independent energy audit report, described under subsection 1 of this rule, shall be submitted by the large electricity consumer's independent energy auditor to the Oregon Department of Energy for review.

(11) A certificate of eligibility to be relieved of a portion of the public purpose charges, not to exceed 54 percent of the amount owed, shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete and approved independent energy audit report.

(12) The Oregon Department of Energy may require that all or part of the independent energy audit be reevaluated and rewritten by the independent energy auditor or the large electricity consumer at the large electricity consumer's expense if data, technical or engineering errors or omissions are identified.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0110

Reporting Self-Direction Credits and Public Purpose Amounts Collected or Paid

(1) Consumer-owned utilities providing open access to any customer class shall report annually to the Oregon Department of Energy the amount of public purpose charges collected from the consumer owned utility retail electricity consumers. The report shall be submitted no later than February 28 of each calendar year starting in the calendar year after the consumer owned utility governing board elects to provide open access for any class of its customers. Reports shall not include the self-direction public purpose charges allowed under these rules.

(2) The Oregon Department of Energy shall notify in writing large electricity consumers or consumer-owned utilities of errors in the amount of self-direction credit claimed, the amount of public purpose charges submitted to the consumer's electric utility, or other errors or omissions in reports. The notice shall recommend the corrections necessary for the large electricity consumer or the consumer-owned utility.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0120

Denial or Revocation of Eligibility to Participate as a Self-Direction Consumer

(1) The Director of the Oregon Department of Energy shall determine whether a large electricity consumer is eligible to participate or to continue to participate in part or at all under these rules based on the following:

(a) The large electricity consumer no longer qualifies for participation as a self-directing consumer under these rules, or

(b) The large electricity consumer fails to submit public purpose charges owed, or

(c) Changes in an energy conservation project or renewable resource purchase that are not communicated to the Oregon Department of Energy that make the project ineligible for self-direction credit, or

(d) Errors in fact or procedure under these rules go uncorrected after requests for correction are submitted to the large electricity consumer by the Oregon Department of Energy, or

(e) Any intentional commission of error or fraud in any application for participation under these rules, or

(f) It is determined by the Director of the Oregon Department of Energy that self-directing by that large electricity consumer or class of large electricity consumers cannot be accountably administrated.

(2) The Oregon Department of Energy shall notify the large electricity consumer in writing of the revocation or denial of the large electricity consumer's eligibility to participate under these rules and include:

(a) The conditions leading to the decision to deny or revoke eligibility of the large electricity consumer's right to self-direct public purpose charges, and

(b) The date that the retail electricity consumer is no longer eligible to apply for project precertification or certification of qualified expenditure, and

(c) The previously certified qualified expenditures that the retail electricity consumer may continue to claim as credits against public purpose charges owed.

(3) The large electricity consumer may appeal the decision to the Director of the Oregon Department of Energy in writing within 30 days of the postmarked date of the notice from the Oregon Department of Energy.

(4) The Director of the Oregon Department of Energy shall approve or deny any request to appeal a revocation or denial of eligibility to self-direct public purpose charges in writing within 30 days of the postmarked date of the appeal request.

(5) The Oregon Department of Energy shall notify the large electricity consumers electric distribution utility in writing, that is an electric company or consumer owned utility, of the revocation or denial of a large electricity consumer's eligibility to participate as a self direction consumer under these rules.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0130

Utility and Electricity Consumer Credits for Public Purpose Expenditures by their Energy Suppliers

(1) Utilities may apply to the Oregon Department of Energy to claim a credit for qualifying public purpose expenditures by their energy supplier for the market transformation activities of the Northwest Energy Efficiency Alliance under the Bonneville Power Administration residential subscription rate.

(2) Application for this credit must be made by March 1 of each calendar year to begin claiming credit by October 1 and shall document the contracted amount owed.

(3) The credit may be taken against the conservation portion of the electric distribution utility payment of collected public purpose charges as directed by Oregon Administrative Rule.

(4) The Oregon Department of Energy shall propose a credit amount to the Oregon Public Utility Commission by July 1, 2002. The credit amount shall be distributed as a reduction to public purpose charges owed equitably among all the electric distribution utility's residential ratepayers whose rates include a Northwest Energy Efficiency Alliance cost component.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

330-140-0140

Administrative Cost Recovery

(1) Large electricity consumers applying to be eligible as self-directing consumers shall pay actual cost of service incurred by the Oregon Department of Energy for services provided for establishing a self-direction account, reviewing request for self direction, and the electricity consumer's portion of the cost for any services or supplies for such administration.

(2) At the request of the self direction consumer or applicant for eligibility as a self directing consumer, the Oregon Department of Energy shall estimate the actual cost of the self directing site certification administrative services to be provided for that year. The estimate shall not exceed \$1,200 per site. The applicant shall submit payment of the estimated self-direction administrative cost of actual service provided annually with the request to become eligible or to continue as a self-direction consumer. The Oregon Department of Energy shall determine the actual cost of service provided at the end of that year and invoice the large electricity consumer for any balance owed. Any amount of estimated payment received that exceeds the actual cost of service shall be refunded to the large electricity consumer for that year being invoiced or offered as a credit against the estimated cost of actual services provided for the following year.

(3) At the request of the self-directing consumer, the Oregon Department of Energy shall estimate the actual cost of service for the self direction project certification to be provided for that year. The estimated actual cost of service provided shall not exceed 4 percent of the project cost. The self-directing consumer shall submit payment of the estimated actual cost of certification services to be provided for preliminary certification with all applications for precertification. An application for preliminary certification will not be considered complete without payment. The Oregon Department of Energy shall determine the actual cost of certifica-

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tion services at the end of that year and invoice the self-directing consumer for any balance owed. Any amount of estimated payment received that exceeds the actual cost of service for that year shall be refunded to the large electricity consumer for that year being invoiced or offered as a credit against the estimated cost of actual services provided for the following year.

Stat. Auth.: ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

Stats. Implemented: ORS 756.040 & 757.600 - 757.687

Hist.: DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01; DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

Oregon Department of Education Chapter 581

Adm. Order No.: ODE 31-2004

Filed with Sec. of State: 10-15-2004

Certified to be Effective: 10-15-04

Notice Publication Date: 5-1-04

Rules Amended: 581-053-0550

Subject: Type 20 Pupil Transporting Vehicle Standards - Industry changes have changed the weights and classifications on vehicles. First Aid course is nonexistent.

If you have a question regarding this rule, please contact Deborah Lincoln at (503) 378-3600, ext. 2664 or e-mail Deborah.Lincoln@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2664

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0550

Type 20 Pupil Transporting Vehicle Standards

(1) Definitions of terms used in this rule:

(a) "Type 20 vehicle": Type 20 vehicles shall have a capacity of not more than 20 passengers, shall have a gross vehicle weight rating of not more than 12,000 pounds, and are used to transport students to and from authorized school activities. These vehicles shall not be marked with the words "school bus" and shall be determined by class in accordance with provisions of ORS 820.150 and are not exempted by ORS 801.455;

(b) "Pupil transporting vehicle": A pupil transporting vehicle is defined by OAR 581-053-0002(1)(b);

(c) "Authorized official": An authorized official means a person designated by the local employer.

(2) Vehicles shall meet all minimum construction and equipment standards of a Type A school bus except for the following:

(a) Identification required by OAR 581-053-0517(16)(a) and (b). The words "School Bus" may not appear on a vehicle, which does not comply with all school bus requirements provided for in ORS 820.100 and 820.110. Activity vehicles may have fleet identification;

(b) Color required by OAR 581-053-0517(5). The vehicle may be painted school bus yellow if desired;

(c) Lights required by OAR 581-053-0517(21)(k). Only vehicles described in ORS 816.350(8) may be equipped with and display bus safety lights;

(d) Public address systems required by OAR 581-053-0517(30)(c).

(3) An annual inspection shall be completed for each vehicle (all applicable items on Form 581-2255), and certification of inspection and repair (Form 581-2256) shall be returned to the Oregon Department of Education in accordance with OAR 581-053-0008(1) and (2).

(4) District shall immediately notify the Department of Education if they have reason to believe any change in the driver(s)' criminal or driving record has occurred which could effect the person(s)' ability to meet the licensing provisions listed in OAR 581-053-0006(8).

(5) Driver requirements — Each driver shall:

(a) Be at least 18 years of age as required by ORS 820.190;

(b) Possess a valid driver license, or an Oregon commercial driver license with passenger endorsement, if vehicle capacity is 16 persons or greater, including the driver. The Oregon Department of Education may approve an out-of-state operator's license if it is consistent in provision with the required Oregon license;

(c) Complete emergency procedure and evacuation training;

(d) Complete training for proper vehicle pretrip inspection;

(e) Pass a driving and criminal records check by meeting current requirements of issuance for a school bus driver's license, as specified in OAR 581-053-0006(8).

(f) Possess or obtain within 120 days of original use request a valid first aid card; i.e., A valid first aid card must then be maintained at all times;

(g) Demonstrate necessary vehicle operational skills (in the vehicle to be used) to an authorized official through a behind-the-wheel test;

(h) Demonstrate to an authorized official, a knowledge of laws and regulations applicable to the vehicle being used;

(i) Complete accident reports as required of school bus drivers by OAR 581-053-0015(7)(y);

(j) Report to he/her employer(s) within 15 days, any conviction for driving or criminal offenses specified in OAR 581-053-0006(8) or any involvement in an accident as defined in OAR 581-053-0006(8)(c)(G)(i);

(k) Drivers who are transporting special education students should receive specialized training designed for this purpose;

(l) Be placed on an approved driver list maintained at the Oregon Department of Education. An authorized official shall provide signed certification that the driver has completed or shall complete all requirements prior to transporting passengers except for the first aid training provision which must be completed within 120 days as required by subsection (4)(f) of this rule. Approval upon failure to comply with any rule requirements or termination of employment from district submitting approval list;

(m) Not operate a vehicle with more passengers than the manufacturer's designed or equipped capacity;

(n) Instruct passengers to use seat belts at all times the vehicle is in motion;

(o) Maintain order in the vehicle at all times. The inside of the vehicle shall be kept clean;

(p) See that all doors on the vehicle are kept closed while the vehicle is in motion;

(q) Not permit anyone else to operate the vehicle except with the permission of authorized officials;

(r) Make certain that all aisles and passageways are kept clear;

(s) Make sure all rear doors (emergency exits) are unlocked during vehicle operation;

(t) Not use tobacco on the van and shall not permit passengers to use tobacco on the vehicle;

(u) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate a vehicle safely while on duty;

(v) Not consume any alcoholic beverage regardless of its alcoholic content or any drug likely to affect a person's ability to operate a vehicle safely while on duty or within eight hours before going on duty to operate or to have physical control of a pupil-transporting vehicle;

(w) Not permit signs of any kind to be attached to the vehicle except those specifically permitted by law or regulation;

(x) Not permit animals in the vehicle; however, guide dogs are allowed and assistance animals as well as guide/assistance animals in training that comply with OAR 581-053-0015(7)(j);

(y) Not permit firearms, other weapons, or potentially hazardous materials to be carried in the vehicle;

(z) Secure any article in the passenger compartment likely to cause injury to a passenger in the event of an accident;

(aa) Not fill the fuel tank while passengers are in the vehicle or while the motor is running;

(bb) Not leave the vehicle when passengers are aboard until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition;

(cc) Report as soon as possible to the proper official any deficiency or malfunction or any equipment or component of the vehicle;

(dd) Not alter routes unless approved by school authorities;

(ee) Shall inspect the following prior to each trip, unless the inspection is performed by other designated employees:

(A) Windshield and wipers;

(B) All outside lights;

(C) Service door, emergency door and buzzer;

(D) Tires and wheel lug nuts;

(E) Battery, belts, oil and coolant level;

(F) Horns;

(G) Brakes;

(H) Steering;

(I) Exhaust system;

(J) Emergency equipment; and

(K) See that lights, windshield and mirrors are clean.

(ff) Shall use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design.

(gg) Shall not tow a trailer with a gross vehicle weight rating of more than 3,000 lbs or longer than the towing vehicle.

(6) Driving hour limitations:

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(a) Except as provided by subsection (5)(b) of this rule a driver shall not drive any pupil transporting vehicle more than a total of ten hours during any consecutive 15-hour period. At the end of ten hours of driving or a fifteen hour period, whichever occurs first, the driver shall not again drive any pupil transporting vehicle until at least eight hours have elapsed;

(b) The driver of any pupil transporting vehicle, after driving a regular morning route transporting pupils from home to school, may again operate any pupil transporting vehicle, but not more than eight hours in a consecutive ten hour period or until 12 midnight, whichever occurs first, provided the driver has at least four hours free from actual operation of a pupil transporting vehicle following the end of the morning route. To qualify under this provision, the driver shall have been free from pupil transporting vehicle driving duties for at least eight consecutive hours prior to the regular morning route;

(c) A driver shall not drive more than three hours continuously without taking at least a 15-minute break from driving duties;

(d) Emergency extension of driving hours: In the event of an unforeseen emergency, e.g., mechanical breakdown, accident or adverse road conditions, a driver may complete the trip without being in violation of the provisions of this rule if such trip could have reasonably been completed as originally scheduled without violation of this rule.

Stat. Auth.: ORS 327.013 & ORS 820.100-820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 26-1986, f. 7-17-86, ef. 10-1-86; EB 45-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 31-2004, f. & cert. ef. 10-15-04

Adm. Order No.: ODE 32-2004

Filed with Sec. of State: 10-15-2004

Certified to be Effective: 10-15-04

Notice Publication Date: 5-1-04

Rules Amended: 581-053-0545

Subject: First Aid course

If you have questions regarding this rule, please contact Deborah Lincoln at (503) 378-3600, ext. 2664 or e-mail deborah.lincoln

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0545

Type 10 Pupil Transporting Vehicle Standards and Rules for Operation

(1) Definitions of terms used in this rule:

(a) "Type 10 vehicle": Type 10 vehicles shall have a capacity of not more than ten persons, shall have a gross vehicle weight rating of not more than 10,000 pounds and are used to transport students to and from school or authorized school activities. These vehicles shall not be marked with the words "School Bus" and shall be determined by class in accordance with provisions of ORS 820.150 and are not exempted by ORS 801.455 or 801.460;

(b) "Pupil transporting vehicle": A pupil transporting vehicle is defined by OAR 581-053-0002(1)(c);

(c) "Authorized official": An authorized official means a person designated by the local employer.

(2) Construction and equipment:

(a) Vehicle construction shall be according to manufacturers' standard for all vehicles having a capacity of ten or fewer persons including the driver. Capacity shall be based on each vehicle's manufacturer-designated seating capacity;

(b) Equipment shall be the manufacturers' standard plus:

(A) 24-unit first aid kit, in accordance with requirements set forth in OAR 581-053-0517(13)(e). Existing Type 10 vehicles in a fleet prior to June 1, 1986, may be equipped with the previously approved 16-unit first aid kit;

(B) U.L. approved five pound-2A.10BC fire extinguisher (plastic head not permissible), in accordance with OAR 581-053-0517(13)(d). Existing Type 10 vehicles in a fleet prior to June 1, 1986, may be equipped with the previously approved five pound-10 BC fire extinguisher;

(C) D.O.T. approved triangular disabled vehicle road reflectors, in accordance with OAR 581-053-0517(13)(b);

(D) A seat belt approved by the Oregon Division of Motor Vehicles, provided for each seating position;

(E) Any alterations or equipment necessary to accommodate special needs of handicapped children, in accordance with the applicable standards in OAR 581-053-0527.

(3) Annual vehicle inspection: An annual inspection shall be completed for each vehicle (all applicable items on Form 581-2255), and certi-

fication of inspection and repair (Form 581-2256) shall be returned to ODE in accordance with OAR 581-053-0008(1) and (2).

(4) Operating rules: Operating rules for Type 10 pupil transporting vehicles when used to transport students for authorized school activities and/or to and from school on an unscheduled, irregular basis:

(a) District requirements — Districts shall adopt and implement policies and procedures to assure adequate training for all Type 10 vehicle drivers, including:

(A) Emergency procedures and evacuation training;

(B) Vehicle pretrip inspection training; and

(C) Others as considered necessary.

(b) District shall immediately notify the Department of Education if they have reasons to believe any change in the driver(s)' criminal or driving records has occurred which could effect the person(s) ability to meet the licensing provisions listed in OAR 581-053-0006(8);

(c) Driver requirements — Each driver shall:

(A) Be at least 18 years of age as required by ORS 820.190;

(B) Possess a valid driver license or Oregon commercial driver license. The Oregon Department of Education may approve an out-of-state operator's license if consistent in provision with the required Oregon license;

(C) Possess or obtain within 120 days of original vehicle use request, a valid first aid card; i.e., an American Red Cross First Aid program requirements or an equivalent course that is consistent with US Department of Labor Occupational Safety & Health Administration Guidelines for First Aid Programs, Directive Number CPL 2-2.53 effective January 7, 1991. A valid first aid card must then be maintained at all times;

(D) Pass a driving and criminal records check by meeting requirements specified in OAR 581-053-0006(8);

(E) Receive emergency procedure and evacuation training, vehicle pretrip inspection training and all other training as determined necessary locally. Pretrip inspections may include:

(i) Windshield and wipers;

(ii) All outside lights;

(iii) Service door, emergency door and buzzer;

(iv) Tires and wheel lug nuts;

(v) Battery, belts, oil and coolant level;

(vi) Horns;

(vii) Brakes;

(viii) Steering;

(ix) Exhaust system;

(x) Emergency equipment; and

(xi) See that lights, windshield and mirrors are clean.

(F) Receive specialized training designed for special education transportation prior to transporting students with disabilities;

(G) Be judged by an authorized official as having the ability to operate the Type 10 vehicle safely and to perform related duties. Examples of related duties include, but are not limited to, handling stressful situations such as mechanical breakdowns, traffic accidents, and unruly students;

(H) Be placed on an approved driver list maintained at the Oregon department of Education. An authorized official shall provide a signed certification that the driver has completed or shall complete all requirements prior to transporting passengers, except for the first aid training provision which must be completed within 120 days as required by paragraph (5)(b)(C) of this rule. Approval expires on July 1 annually upon failure to comply with any rule requirements or termination of employment from district submitting approval list;

(I) Complete accident reports as required for school bus drivers by OAR 581-053-0015(7)(y);

(J) Report to his/her employer(s) within 15 days, any conviction for driving or criminal offenses specified in OAR 581-053-0006(8) or any involvement in an accident as defined in OAR 581-053-0006(8)(c)(G)(i);

(K) Not operate a vehicle with more passengers than the manufacturer's rated capacity;

(L) Instruct passengers to use seat belts at all times the vehicle is in motion;

(M) Maintain order in the vehicle at all times. The inside of the vehicle shall be kept clean;

(N) See that all doors on the vehicle are kept closed while the vehicle is in motion;

(O) Not permit anyone else to operate the vehicle except with the permission of authorized officials;

(P) Make certain that all aisles and passageways are kept clear;

(Q) Make sure all rear doors (emergency exits) are unlocked during vehicle operation;

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(R) Not use tobacco on the vehicle and shall not permit passengers to use tobacco on the vehicle;

(S) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate a vehicle safely while on duty;

(T) Not consume any alcoholic beverage regardless of its alcoholic content or any drug likely to affect a person's ability to operate a vehicle safely while on duty or within eight hours before going on duty to operate or to have physical control of a pupil-transporting vehicle;

(U) Not permit signs of any kind to be attached to the vehicle except those specifically permitted by law or regulation;

(V) Not permit animals in the vehicle; however, guide dogs are allowed when accompanying a blind or deaf person as are other assistance animals and guide/assistance animals in training that comply with OAR 581-053-0015(7)(j);

(W) Not permit firearms, other weapons, or potentially hazardous materials in the vehicle;

(X) Secure any article in the passenger compartment likely to cause injury to a passenger in the event of an accident;

(Y) Not fill the fuel tank while passengers are in the vehicle or while the motor is running;

(Z) Not leave the vehicle when passengers are aboard until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition;

(AA) Report as soon as possible to the proper official any deficiency or malfunction of any equipment or component of the vehicle;

(BB) Not alter routes unless approved by school authorities;

(CC) Shall use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design.

(d) Driving hour limitations:

(A) Except as provided by paragraph (5)(c)(B) of this rule, a driver shall not drive any pupil transporting vehicle more than a total of ten hours during any consecutive 15-hour period. At the end of ten hours of driving or a 15-hour period, whichever occurs first, the driver shall not again drive any pupil transporting vehicle until at least eight hours have elapsed;

(B) The driver of any pupil transporting vehicle, after driving a regular morning route transporting pupils from home to school, may again operate any pupil transporting vehicle, but not more than eight hours in a consecutive ten hour period or until 12 midnight, whichever occurs first, provided the driver has at least four hours free from actual operation of a pupil transporting vehicle following the end of the morning route. To qualify under this provision, the driver shall have been free from pupil transporting vehicle driving duties for at least eight consecutive hours prior to the regular morning route;

(C) A driver shall not drive more than three hours continuously without taking at least a 15-minute break from driving duties;

(D) Emergency extension of driving hours: In the event of an unforeseen emergency, e.g., mechanical breakdown, accident or adverse road conditions, a driver may complete the trip without being in violation of the provisions of this rule if such trip could have reasonably been completed as originally scheduled without violation of this rule.

(5) Operating rules for Type 10 pupil transporting vehicles when used for regularly scheduled student transportation to and from school:

(a) District requirements are the same as those listed in subsection (5)(a) of this rule when used to transport students for authorized activities and/or to and from school on an unscheduled, irregular basis;

(b) Driver requirements are the same as those listed in subsection (5)(b) of this rule, when used to transport students for authorized activities and/or to and from school on an unscheduled, irregular basis, plus the driver shall:

(A) Demonstrate necessary vehicle operational skills (in a vehicle to be used) to the authorized official through a behind-the-wheel test; and

(B) Demonstrate to an authorized official, a knowledge of laws and regulations applicable to the vehicle being used.

(c) Driver rules are the same as those listed in subsection (5)(b) of this rule, when used to transport students for authorized activities and/or to and from school on an unscheduled, irregular basis plus the following;

(d) Drivers shall inspect the following prior to each trip, unless the inspection is performed by other designated employees:

(A) Windshield and wipers;

(B) All outside lights;

(C) Service door, emergency door and buzzer;

(D) Tires and wheel lug nuts;

(E) Battery, belts, oil, and coolant level;

(F) Horns;

(G) Brakes;

(H) Steering;

(I) Exhaust system;

(J) Emergency equipment; and

(K) See that lights, windshield and mirrors are clean.

(e) Driving hour limitations are the same as those listed in subsection (5)(c) of this rule, when used to transport students for authorized activities and/or to and from school on an unscheduled, irregular basis.

(6) Occasional/emergency use provision — A person who does not currently meet the driver requirements for a Type 10 pupil transporting vehicle may be used on an occasional/emergency basis if such driver:

(a) Is judged competent by the local authorized official;

(b) Possesses a valid driver license or Oregon commercial driver license;

(c) Does not operate vehicles under this provision more than three times in any given fiscal year (July 1 to June 30); and

(d) Is not transporting students to and from school on regularly scheduled routes.

Stat. Auth.: ORS 327.013 & ORS 820.100–820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 26-1986, f. 7-17-86, ef. 10-1-86; EB 45-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 32-2004, f. & cert. ef. 10-15-04

Adm. Order No.: ODE 33-2004

Filed with Sec. of State: 10-15-2004

Certified to be Effective: 10-15-04

Notice Publication Date: 4-1-04

Rules Adopted: 581-001-0125

Subject: This rule clearly outlines the process by which the Oregon Department of Education will solicit and award intergovernmental agreements to school districts, education service districts, and community colleges.

If you have a question regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-001-0125

Administration of Intergovernmental Agreements

(1) For purposes of the rule:

(a) "Agreement to Agree" (ATA) is a written agreement between the Department and a public entity that contains contractual provisions, which can be used in certain future Intergovernmental Agreements between the parties through either incorporation by reference or attachment. Examples of an Agreement to Agree include, but are not limited to:

(A) A non-binding Price Agreement between the Department and a public entity under which the Department may issue purchase orders that create a binding agreement; and

(B) A document of understanding between the Department and a public entity, which identifies potential tasks or services the Department may request the public entity to perform, but are not specifically identified until the Department issues a purchase order or work order that creates a binding agreement.

(b) "Department" means the Oregon Department of Education.

(c) "Direct services" are services provided directly to children.

(d) "Local services" are those delivered within the boundaries of a school district, education service district, or community college district. Current examples include early intervention/early childhood, education of children in hospital programs, and educating children in long-term care or treatment programs.

(e) "Non-direct services" are all other services provided by school districts, education service districts, and community college districts that are not direct services.

(f) "Non-geographic services" are those delivered across more than one region but not across the entire state. Current examples include TESA and Early Intervention/Early Childhood Special Education.

(g) "Regional services" are those delivered within the four zones Education Service Districts they have established as the communications network. Current examples include educating children with disabilities in regional programs.

(h) "Request for Proposals" (RFP) is a solicitation document issued by the Department calling for proposals on specific activities.

(i) "Request for Qualifications" (RFQ) is a solicitation document issued by the Department to develop a list of pre-qualified service providers. Entities that successfully demonstrate they meet the qualifications will enter into Agreements to Agree.

ADMINISTRATIVE RULES

(j) "Statewide services" are those delivered around the entire state. Current examples include administering Student Leadership Centers and the Oregon Public Education Network (OPEN).

(2) By March 31 of each odd-numbered year, the Department will issue Requests for Qualifications for educational services mandated by federal statute or by state legislative direction. These RFQs will be issued to education service districts, school districts, and community college districts in specific areas of the state depending on whether the services to be provided are considered Local, Regional, Non-geographic, or Statewide.

(3) The Department will enter into Agreements to Agree with all entities that have submitted responses to Requests for Qualification that meet the criteria established for specific services.

(4) Not later than 30 days of the end of the legislative session, the Department will issue Requests for Proposals for services likely to be funded by the Oregon Legislative Assembly or the federal government in the upcoming biennium. These RFPs will be issued to entities that have entered into an Agreement to Agree with the Department.

(5) The specific criteria for each RFP will be developed by Department staff having expertise in the content area. Selection criteria will be included in the RFP.

(6) Responses to Requests for Proposals will be evaluated by a team of Department staff having expertise in the content area and expertise in the technical aspects of procurement. The team will score each proposal and retain all documentation of the process for future review.

(7) Following evaluation of proposals, the Department will award an intergovernmental agreement to the successful proposer.

(8) If the Department and the selected ESD/SD are unable to reach an agreement, the Department reserves the right to open the process for broader competition including non-governmental entities. All proposing entities will be required to comply with state and federal requirements.

(9) Any organization submitting a proposal has the right to protest the Department's decision in the manner and on the timeline indicated in each RFP. To resolve protests, the Department will follow the procedures outlined in OAR 137-030-0104(4) and (6).

(10) If unanticipated circumstances arise that are detrimental to the fulfillment of a contract's provisions, the Department reserves the right to choose a provider and negotiate an intergovernmental agreement outside of the process outlined above. Such situations may include, but are not limited to, unexpected termination of an agreement by the current provider or termination of an agreement by the Department where children's health or safety is at risk. Determination of whether such a situation exists will be determined by a Department Deputy Superintendent.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 33-2004, f. & cert. ef. 10-15-04

Oregon Economic and Community Development Department Chapter 123

Adm. Order No.: EDD 23-2004(Temp)
Filed with Sec. of State: 10-15-2004
Certified to be Effective: 10-15-04 thru 4-13-05
Notice Publication Date:
Rules Amended: 123-018-0055

Subject: This rule will implement ORS 285B.135, which allows the Department to deposit up to \$50,000 per financial institution to encourage a financial institution to participate in the Capital Access Program. The Department will provide a double match for all financial institutions that have less than \$100,000 in their loss reserve account as of August 31, 2004.

Rules Coordinator: Tawni Bean—(503) 986-0149

123-018-0055

Procedure for Enrollment of a Qualified Loan

(1) A Lender shall enroll a Qualified Loan under the Program:

(a) By notifying the Department in writing, on a form prescribed by the Department and thirty (30) days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Lender makes a Qualified Loan is the earlier of the date on which the Lender first disburses proceeds of the Qualified Loan to the Borrower, or the date on which the loan documents have been executed and the Lender has obligated itself to disburse proceeds of the loan, and

(b) By transmitting to the Department the Fees collected from the Lender and the Borrower in connection with the Qualified Loan. When the Loss Reserve Account is domiciled with the Lender, the deposit of Fees by

the Lender to the Loss Reserve Account, with written notification by the Lender to the Department confirming such deposit, shall be deemed the transmitting of Fees by the Lender to the Department and shall satisfy the requirements of this section.

(2) The Department shall, upon receipt of documentation and Fees from the Lender as described in OAR 123-013-0055(1), enroll the Qualified Loan if the Department is satisfied that the Qualified Loan is eligible. The Department shall notify the Lender of enrollment within ten business days from receipt of documentation and Fees, in such form as will be determined by the Department.

(3) When the requirements of OAR 123-018-0055(1)(b) are met, the Department shall also transfer from the Fund to the Loss Reserve Account an amount equal to the combined amount of Fees paid by the Borrower and the Lender; except when the Qualified Loan has been made to a Borrower (1) in a Distressed Area, or (2) beginning July 1, 2004, from a bank that has less than \$100,000 in their Loss Reserve Account as of August 31, 2004, or (3) for use in the evaluation of Brownsfields, the Department shall transfer from the Fund to the Loss Reserve Account an amount equal to two times the combined Fees paid by the Borrower and the Lender.

(4) The amounts transferred by the Department from the Fund to the Loss Reserve Account of one or more Lenders in connection with any one Borrower, or any group of Borrowers among which a Common Enterprise exists, shall not exceed \$35,000.

(5) Before or when making a Qualified Loan, a Lender may obtain from the Department a commitment that funds sufficient to meet the Department's contribution required in OAR 123-018-0055(3) are available in the Fund to transfer to the Loss Reserve Account when the Qualified Loan is enrolled. The commitment shall be binding on the Department for thirty (30) days after the date of the reservation if the Lender has complied with OAR 123-018-0055(1).

Stat. Auth.: ORS 285B.126
Stats. Implemented: ORS 285B.138 & OL 1997, Ch. 686
Hist.: EDD 3-1991, f. & cert. ef. 4-17-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 1-1994(Temp), f. & cert. ef. 1-11-94; EDD 9-1998, f. & cert. ef. 5-22-98; EDD 23-2004(Temp), f. & cert. ef. 10-15-04 thru 4-13-05

Oregon Liquor Control Commission Chapter 845

Adm. Order No.: OLCC 10-2004
Filed with Sec. of State: 10-15-2004
Certified to be Effective: 11-1-04
Notice Publication Date: 7-1-04
Rules Amended: 845-001-0005, 845-001-0007, 845-006-0365, 845-009-0010, 845-009-0015, 845-009-0020, 845-010-0920, 845-013-0001, 845-015-0115
Subject: These nine rules need minor housekeeping amendments. None of the amendments are substantive.
Rules Coordinator: Katie Hilton—(503) 872-5004

845-001-0005

Notice of Rulemaking

Prior to adoption, amendment or repeal of any permanent rule, the Commission shall give notice of the intended action:

(1) In the Secretary of State's bulletin referred to in ORS 183.360 at least 21 days prior to the effective date. If a hearing is scheduled after the original notice, the subsequent notice must appear in the bulletin at least 14 days before the date of the hearing.

(2) By mailing a copy of the notice to persons on the mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date. If a hearing is scheduled after the original notice, the subsequent notice must be mailed at least 21 days before the date of the hearing.

(3) By mailing or furnishing a copy of the notice to the Associated Press and all daily newspapers of general circulation published in the state.

(4) By mailing or furnishing a copy of the notice to associations or organizations having an interest in the subject matter.

(5) By mailing or furnishing a copy of the notice to the Capitol Press Room.

Stat. Auth.: ORS 471 including 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 183.335
Hist.: LCC 19-1980, f. 6-4-80, ef. 6-5-80; OLCC 6-1994, f. & cert. ef. 11-22-94; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

ADMINISTRATIVE RULES

845-001-0007

Attorney General's Model Rules of Procedure

The Commission adopts, by reference, the Attorney General's Model Rules of Procedure, effective January 15, 2004. The Commission's supplemental rules for contested cases are in Division 3 of this Chapter.

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

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

Stats. Implemented: ORS 183.341(1)

Hist.: LCC 10-1986, f. 6-4-86, ef. 7-1-86; OLCC 4-1989, f. 4-28-89, cert. ef. 7-1-89; OLCC 9-1992, f. 10-7-92, cert. ef. 12-1-92; OLCC 1-1994, f. & cert. ef. 5-2-94; OLCC 9-1995, f. 12-4-95, cert. ef. 1-1-96; OLCC 3-1999, f. 2-16-99, cert. ef. 3-1-99; OLCC 8-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-006-0365

Payment for Alcoholic Beverages; NSF Checks, Including Third Party Checks

(1) No retail licensee will pay for malt beverages, cider, or wines purchased from a wholesale licensee with an NSF check.

(2) A wholesale licensee must report any NSF check(s), including third party NSF checks, received during a calendar month to the Commission. The written report must include the trade name of the licensed premises, name of maker, amount of check, date wholesaler received check, date wholesaler was notified check was NSF, date wholesaler informed retailer of NSF check, and the date redeemed. The Commission must receive this report by the 20th day of the month following the month being reported. (Example: The Commission must receive the NSF check report for January by February 20.) Wholesale licensees must maintain a legible photocopy of the front and back of each NSF check at the licensed premises for two years.

(3) Any wholesale licensee who fails to make immediate and reasonable efforts to redeem an NSF check or who continues to accept checks from a retail licensee whose checks, including third party checks, are repeatedly returned, violates the prohibition against extending credit in ORS 471.398.

(4) No Full On-Premises Sales licensee will pay for distilled spirits purchased from or through the Commission with an NSF check.

(5) Any retail licensee who fails to immediately redeem an NSF check or who continues to give a wholesaler checks, including third party checks, that are repeatedly returned, violates the prohibition against accepting gratuities from wholesalers in ORS 471.398.

(6) As used in this rule:

(a) NSF check includes any check or other instrument that is not immediately paid upon presentation or that is later dishonored;

(b) Third-party check means a check or other negotiable instrument written by anyone other than the retailer.

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

Stats. Implemented: ORS 471.398

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-009-0010

Service Permit Requirements

(1) Who Needs a Service Permit. ORS 471.360 requires the following persons to have service permits:

(a) Any person who mixes, sells or serves alcoholic beverages for consumption on licensed premises;

(b) Any person who directly supervises persons who mix, sell or serve alcoholic beverages for consumption on licensed premises;

(c) The individual principals of a licensed corporation or partnership who mix, sell or serve alcoholic beverages for consumption on licensed premises or who directly supervise those who do;

(d) Any licensee's employee who delivers wine, cider, or malt beverages as OAR 845-005-0420, 845-005-0422, 845-006-0396, and 845-006-0398 allow.

(2) Exceptions. The following are exceptions to the service permit requirement:

(a) An individual named on the license as a licensee does not need a service permit;

(b) ORS 471.360 allows the Commission to waive the service permit requirement if the licensee's primary business is not the sale or service of alcoholic beverages or food. Under this authority, the Commission waives the service permit requirement for Public Passenger Carriers whose primary business is transportation (for example airlines, and most trains), and does not waive the requirement for Public Passenger Carriers whose primary business is touring (for example tour boats in Oregon waters more than 30 days per calendar year, and small excursion-type railroads). The Commission waives the service permit requirement for some temporary

licenses (see OAR 845-005-0440(9), Temporary Sales Licenses). Employees must, however, be at least 21 years old to sell or serve alcoholic beverages on these licensed premises.

(3) Authority to Sell and Serve Based on an Application:

(a) ORS 471.375 allows some service permit applicants to begin selling or serving alcoholic beverages after the applicant completes an official service permit application and an authorized person as defined by ORS 471.375 endorses and sends the application to the Commission;

(b) The authority to sell or serve alcoholic beverages based on an application does not apply to any applicant:

(A) Who has had a service permit denied or cancelled within the three years before the current application;

(B) Who has had a service permit denied because they failed to complete the required alcohol server education program. When the applicant completes an alcohol server education course and passes the exam, the applicant may then sell and serve alcoholic beverages;

(C) Whose service permit application meets the criteria in OAR 845-009-0005, Return of Applications;

(D) Whose service permit is currently suspended.

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

Stats. Implemented: ORS 471.360

Hist.: OLCC 2-1989, f. 3-1-89, cert. ef. 4-1-89; OLCC 3-1991, f. 3-1-91, cert. ef. 4-1-91; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 10-2001(Temp), f. 10-12-01, cert. ef. 11-1-01 thru 4-29-02; OLCC 5-2002, f. 4-12-02, cert. ef. 4-29-02; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-009-0015

Licensee and Authorized Person's Responsibility for Verifying Identification

(1) Before allowing anyone who is required to have a service permit to mix, sell or serve alcoholic beverages for on-premises consumption, a licensee must:

(a) Make sure the person has a valid service permit; and

(b) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description).

(2) If the person does not have a service permit but has filed an application with the Commission, the licensee must, before allowing the person to mix, sell or serve alcoholic beverages for on-premise consumption:

(a) Verify that the person has a pending application (for example, see a copy of the service permit application the person filed or call the person's former employer);

(b) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description); and

(c) Verify the person's age.

(3) If the person does not have a service permit or a pending application, the licensee must:

(a) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description);

(b) Verify the person's age; and

(c) Mail or personally deliver a completed service permit application, with the appropriate fee, to the Commission by the end of the first work day following the person's first work shift.

(4) If the person does not have a service permit or has a pending application, the licensee has a continuing duty to verify that the person has taken and passed a Server Education course, and that the person's service permit has been issued.

(5) All other persons authorized to indorse applications under ORS 471.375 must:

(a) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description);

(b) Verify the person's age; and

(c) Mail or personally deliver a completed service permit application, with the appropriate fee, to the Commission within 36 hours of indorsement. Holidays and weekends are not included in counting the 36 hours.

(6) If a company authorized by ORS 471.375(2)(b) fails to follow the standards of OAR 845-009-0015(5), OLCC will rescind the company's approval to indorse service permit applications.

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

Stats. Implemented: ORS 471.360(1), 471.365(2) and 471.375

Hist.: OLCC 3-1991, f. 3-1-91, cert. ef. 4-1-91; OLCC 10-2001(Temp), f. 10-12-01, cert. ef. 11-1-01 thru 4-29-02; OLCC 5-2002, f. 4-12-02, cert. ef. 4-29-02; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 20-2003, f. 11-24-03, cert. ef. 12-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

ADMINISTRATIVE RULES

845-009-0020

Service Permit Denial Criteria

(1) ORS 471.380(1)(a) and (d) allow the Commission to deny a service permit based on the applicant's habit of using alcohol or controlled substances to excess and on the applicant's law violation history. This rule describes how the Commission applies these statutory provisions.

(2) For this rule, references to a period of time mean a period of time ending on the date the Commission receives the application. For example, "within two years" means within two years of the date the Commission receives the application.

(3) To be qualified for good cause under this rule:

(a) An applicant must have had a drug addiction disability or alcohol addiction disability at the time of:

(A) Felony drug conviction(s) (OAR 845-009-0020(4));

(B) A felony conviction involving the commission of a violent crime where alcohol or controlled substances were involved (OAR 845-009-0020(5));

(C) Felony Driving While Suspended (DWS) conviction(s) resulting from Driving Under the Influence of Intoxicants (DUII) convictions or diversions (OAR 845-009-0020(6)); or

(D) DUII convictions or diversions which form the denial basis under OAR 845-009-0020(7) and (8); or

(b) The applicant was diagnosed as drug or alcohol addicted at the time of or as a result of the incidents described above.

(4) Felony Drug Conviction:

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within 12 months for possession of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions;

(B) A felony conviction within two years for manufacture, delivery or distribution of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions (except possession of a controlled substance).

(C) Two controlled substance felony convictions, one of which was within three years;

(D) Three or more controlled substance felony convictions, any one of which was within six years.

(b) The only good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed controlled substances within 24 months; and

(B) He/she has successfully completed a state certified drug treatment program or is actively involved in a state certified drug treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(5) Felony Involving the Commission of a Violent Crime:

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within two years for the commission of a violent crime where alcohol or controlled substances were involved;

(B) Two felony convictions for the commission of violent crimes, any one of which was within three years;

(C) Three felony convictions for the commission of violent crimes, any one of which was within six years;

(b) If the felony conviction(s) involving the commission of a violent crime in (5)(a)(A), (B), or (C) involved alcohol or controlled substances, good cause may apply. The only good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(c) "Violent crime" means crimes which cause, attempt to cause, or threaten physical injury or harm to another person. Examples are: Murder, rape, assault, sodomy, armed robbery.

(6) Felony Driving While Suspended (DWS) Convictions:

(a) The Commission will deny a service permit if the applicant has had:

(A) One felony DWS conviction within 12 months;

(B) Two felony DWS convictions, either one of which was within three years;

(C) Three felony DWS convictions, any one of which was within six years.

(b) If the convictions for DWS were the result of DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(7) Driving Under the Influence of Intoxicants (DUII)/Furnishing Alcohol to Minors/Liquor Law Violations:

(a) The Commission will deny a service permit if:

(A) Within three years the applicant has had two DUII convictions or one diversion and one conviction, any one of which was within 12 months;

(B) Within seven years the applicant has had a combination of three diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within 18 months;

(C) Within ten years the applicant has had a combination of four or more diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within three years.

(D) Within five years the applicant has had a liquor license or service permit canceled for liquor law violations. The Commission may grant the permit in less than five years if the violations did not involve threats to public safety or demonstrate that the applicant would be a poor compliance risk as an alcohol server.

(b) If applicant has DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in subsection (a)(A) through (C) above is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(8) Habit of Using to Excess. The Commission will deny a service permit if within ten years the applicant has had a combination of four or more diversions or convictions for DUII or felony drug related convictions or diversions, if the most recent conviction/diversion was within two years. The only good cause to overcome the criterion in this section is the applicant's sworn statement on a Commission-supplied form that:

(a) He/she has not used or consumed any alcohol or controlled substances within 24 months; and

(b) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified alcohol or drug treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(c) He/she has completed all parole or probation requirements.

(9) Pending Charges. If otherwise eligible, the Commission may grant a service permit to an applicant who has any drug/alcohol related charges pending on the date the Commission receives the application. The Commission will issue the permit with a restriction that the permittee must notify the Commission, in writing, of the disposition of the charge(s).

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

Stats. Implemented: ORS 471.380

Hist.: OLCC 1-1993, f. 1-27-93, cert. ef. 7-1-93; OLCC 6-1999(Temp), f. 4-23-99, cert. ef. 4-26-99 thru 10-22-99; OLCC 18-1999, f. 11-2-99, cert. ef. 11-3-99; OLCC 15-2003, f. 9-23-03 cert. ef. 11-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

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845-010-0920

Appellation of Origin

(1) An appellation of origin must appear on every wine brand label in direct conjunction with, and in lettering as conspicuous as, the wine's class or type designation. The lettering must be at least two millimeters in height.

(2) No person may sell or offer to sell a wine, claiming or implying a certain appellation of origin anywhere on its label, unless 100 percent of the grapes used in its production grew within the legal boundaries of that appellation of origin. If concentrated or unconcentrated pure grape juice is added to a wine anytime during its production, the appellation of origin used on the wine must include the sources of grapes used to produce both the base wine and the juice.

(3) Appellations of origin for wines identified in this rule are limited to:

(a) The names of Oregon counties;
(b) The names of "Viticultural Areas" located wholly or partially in Oregon;

(c) "Oregon";
(d) The names of other states of the United States;
(e) "American"; and
(f) The names of foreign countries.

(4) The following limitations apply to the use of certain appellations of origin listed in section (3) of this rule:

(a) A person may use the names of two or no more than three counties within Oregon as an appellation of origin, if the label shows the percentage of wine derived from each county, with a tolerance of plus or minus two percent;

(b) A person may use the name of a single state other than Oregon as an appellation of origin only if that state is adjacent to Oregon;

(c) A person may use the names of two or no more than three states as an appellation of origin if: the states are all contiguous; one of the states is Oregon; and the label shows the percentage of wine derived from each state, with a tolerance of plus or minus two percent;

(d) A person may use "Oregon" in conjunction with the name of an Oregon county as an appellation of origin. Both words must be in the same lettering size and style;

(e) A person may use the name of an Oregon county or the name of an approved viticultural area located wholly within the state of Oregon as an appellation of origin only for a wine produced and bottled in Oregon;

(f) A person may not use an appellation of origin listed in section (3) of this rule or use words that may be mistaken for an approved appellation of origin in a brand name, in a winery name, or in any other manner on a wine label unless the wine meets the requirements for use of that appellation of origin. An appellation of origin may appear, however, in a bottler's address, if the address is in less conspicuous lettering than the appellation of origin on the brand label. A winery may continue to use any brand name that it has used on its approved label since before January 1, 1977.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.730(1) & (5)
Stats. Implemented: ORS 471.340, ORS 471.345 & ORS 471.445
Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88; Renumbered from 845-010-0292; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-013-0001

Financial Assistance; Purpose, Limitation, Definitions and Record Keeping

(1) Purpose. ORS 471.398 and 471.400 generally prohibit manufacturers and wholesalers from giving services or things to retailers. The statute makes some exceptions to the general prohibition. OAR 845-013-0001 through 845-013-0090 define and explain the exceptions. The Commission's basis for its interpretations of point of sale material, items of nominal value and services of nominal value is that manufacturers and wholesalers may promote their products but may not promote a retailer's business or underwrite a retailer's business expenses.

(2) Definitions. As used in ORS 471.398, 471.400, and OAR 845-013-0001 through 845-013-0090:

(a) "Customize" means designing or modifying point of sale material or items of nominal value to promote a specific retail business;

(b) "Exterior" means on the outside of the business or clearly visible from the outside;

(c) "Manufacturer" includes brewery, distillery, winery, brew-pub and grower sales privilege licensees;

(d) "Retailer," "retail license," and "any licensee authorized to sell alcoholic liquor at retail" includes any officer, director, agent, employee or substantial stockholder of the licensed business;

(e) "Substantial stockholder" as used in subsection (2)(d) of this rule means a person who owns ten percent or more of any class of stock.

(3) General Limitations:

(a) Although Oregon law allows manufacturers and wholesalers to provide the items and services described in these rules, federal laws regarding wine may not. When the federal law is more strict, wine manufacturers and wholesalers must follow the federal law rather than Oregon law. Therefore, manufacturers and wholesalers should check with the Alcohol and Tobacco Tax and Trade Bureau (TTB) before applying these rules to their wine business;

(b) Manufacturers and wholesalers may give or loan the point of sale material (OAR 845-013-0050), items of nominal value (OAR 845-013-0060), and services of nominal value (OAR 845-013-0070) described in these rules:

(A) Only for the manufacturer's or wholesaler's alcoholic beverage products; and

(B) To all retailers without discrimination. Without discrimination means the manufacturer or wholesaler makes all allowable point of sale material, items of nominal value, and services of nominal value available to all the manufacturer's or wholesaler's retailers upon request subject to availability. The Commission will not consider it discrimination if a manufacturer or wholesaler gives allowable material, items or services based on the type of business or in proportion to the size of the account;

(c) In addition to the requirements of subsection (3)(b) of this rule, when manufacturers and wholesalers give the services of nominal value (OAR 845-013-0070) described in these rules, they must not alter or disturb another manufacturer's or wholesaler's alcoholic beverage products. This limitation does not apply when a retailer decides to rearrange all the alcoholic beverage products his/her business carries (a general reset). For a general reset, manufacturers and wholesalers may move each other's products as long as the retailer has notified all the manufacturers and wholesalers whose products are being moved and the retailer moves or helps move the products of any manufacturers or wholesalers who are not present;

(d) Manufacturers and wholesalers may not customize point of sale material (OAR 845-013-0050) or items of nominal value (OAR 845-013-0060). Despite this prohibition, a manufacturer or wholesaler may, on items of nominal value and interior point of sale material:

(A) Add the retailer's name or logo;

(B) Add the retailer's price for the advertised product(s); or

(C) Leave a blank space for the retailer to add only the retailer's price for the advertised product(s).

(4) Records. Manufacturers and wholesalers must keep accurate and complete records of any gratuities the manufacturer or wholesaler gives a retailer and of all activities described in OAR 845-013-0010 (Substantial Gratuities), any credit that OAR 845-013-0020(1)(a) and (b) allow and all exchanges and returns that OAR 845-013-0070 (Services of Nominal Value) allows. These records must include dates, times, amounts and names of all persons and premises involved; be kept for two years; and be available for Commission inspection.

(5) Retailer Purchase of Items/Services: A manufacturer or wholesaler may, for a reasonable fee, sell to a retailer items, labor, or services that ORS 471.398 prohibits. As used in this section, a reasonable fee for labor or service is one that covers at least the manufacturer's or wholesaler's cost; a reasonable fee for the item is at least the cost to the manufacturer or wholesaler who initially purchased or produced the item. The manufacturer or wholesaler and the retailer must keep a record of the sale.

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

Stats. Implemented: ORS 471.398

Hist.: OLCC 8-1987, f. 31-3-87, ef. 4-1-87; OLCC 7-1992, f. & cert. ef. 7-1-92; Renumbered from 845-010-0121; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-015-0115

Retail Sales Agent Eligibility

(1) A retail sales agent must be at least 21 years old. Retail sales agents must devote enough time to a retail liquor store to ensure its efficient operation and reasonable service to the public. A corporation or partnership cannot be a retail sales agent.

(2) A retail sales agent may not have a financial interest or business connection that ORS 471.710(3) or OAR 845-015-0118 prohibits.

(3) A retail sales agent cannot be a Commission licensee or an officer, director or substantial stockholder of a corporate licensee, except that:

(a) A non-exclusive retail sales agent may be an Off Premises Sales licensee;

(b) The Commission may appoint a licensee if the licensee is the only suitable applicant for appointment as retail sales agent in a very small town in a remote area. This retail liquor store must be non-exclusive and must be

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located in a part of the premises completely separated from the service or consumption of alcoholic beverages; or

(c) The Commission may appoint a retail licensee as a non-exclusive retail sales agent as part of a pilot project that will last no more than two years.

Stat. Auth.: ORS 471 including ORS 471.030, ORS 471.730(1) & (5)
Stats. Implemented: ORS 471.750(1)
Hist.: OLCC 19-1987, f. 6-10-87, ef. 7-1-87; OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 7-1999(Temp), f. 5-25-99, cert. ef. 6-1-99 thru 11-27-99; OLCC 19-1999, f. 11-2-99, cert. ef. 11-28-99; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0027; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

Adm. Order No.: OLCC 11-2004
Filed with Sec. of State: 10-15-2004
Certified to be Effective: 10-29-04
Notice Publication Date: 6-1-04
Rules Adopted: 845-015-0199

Subject: This is a new rule. The rule establishes a pilot program in which temporary retail sales agents would be appointed to operate retail sales agencies (liquor stores) which are physically located in retail grocery stores. The pilot program allows appointment of pilot agents for up to two years at a pilot agency. The pilot agencies will be operated like other retail sales agencies, with a few minor exceptions which are addressed in this rule. The purpose of the pilot program is to gather data on this retail model.

The Commission adopted a temporary rule on this subject, effective May 1, 2004 - October 28, 2004.

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 Oregon Liquor Control Commission (Commission) appoints temporary retail sales agents to operate Liquor Stores which are physically located within retail grocery stores. The purposes of the Pilot Program include obtaining data on the efficacy of such a retail operation for the benefit of the Legislative Assembly as it considers alternative liquor retailing models. The Commission will collect data on a variety of subjects, including but not limited to: economic viability (profitability) of the Pilot Program business model for the retail grocery store, the Pilot Program Agent, and the state of Oregon; public safety impacts on the community; and public response to the program.

(2) Definitions. The following definitions apply only to this rule:

(a) The Liquor Stores-Within-Grocery Stores Pilot Program is called the "Pilot Program".

(b) The temporary agent appointed to the pilot agency is called a "Pilot Program Retail Sales Agent", or "Pilot Program Agent".

(c) "Pilot Program Retail Sales Agent Agreement" or "Pilot Program Agreement" is the agreement between the Pilot Program Agent and the Oregon Liquor Control Commission.

(d) The location where the Commission appoints a temporary retail sales agent to operate a Liquor Store physically located within a retail grocery store is called a "Pilot Liquor Store".

(e) "Liquor Store" means a retail sales agency of the Oregon Liquor Control Commission.

(3) Number of Pilot Liquor Stores; Factors Considered when Siting Pilot Liquor Stores. The Pilot Program will consist of up to six new Pilot Liquor Stores located within retail grocery stores. The Commission will consider the following factors in determining the locations of Pilot Liquor Stores:

(a) Population growth trends in an area, including population fluctuations due to tourism, and the number of existing Liquor Stores in the area;

(b) Distance from existing Liquor Store(s);

(c) Sales volume of nearest existing Liquor Store;

(d) Convenience and accessibility for consumers;

(e) Size and characteristics of retail grocery store which will host the Pilot Liquor Store;

(f) Size of Pilot Liquor Store, including retail floor space and storage space;

(g) The ability of the Commission and the Pilot Program Agent to negotiate acceptable terms with the host retail grocery store.

(4) Length of Pilot Program Retail Sales Agent Agreements. Each Pilot Program Agent and the Commission will execute a Pilot Program Agent Agreement, the duration of which will not exceed two years from the

effective date of the Pilot Program Agent's initial appointment. Ninety days before the expiration of each Pilot Program Retail Sales Agent Agreement, the performance of the applicable Pilot Liquor Store will be evaluated. The Commission will evaluate performance consistent with section (9)(a)-(c) of this rule, the terms of the applicable Pilot Program Retail Sales Agent Agreement, and the Retail Operations Manual. A process to create a permanent Liquor Store at the applicable location will be initiated by the Commission if it determines the applicable Pilot Liquor Store is a success.

(5) 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 845-015-0193(1) & (2) Terminating an Agency Agreement;

(f) OAR 845-015-0196 Appointment of a Temporary Agent.

(6) The Retail Operations Manual, including any Pilot Program Appendix, and other relevant Commission policies will apply to the Pilot Program, unless otherwise provided in the Pilot Program Agreement.

(7) All personnel working in the Pilot Liquor Store must meet all the standards and requirements for liquor store clerks which are required by the Pilot Program Agreement and the Retail Operations Manual.

(8) 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 Agreement, including the Retail Operations Manual.

(9) Measuring Success of the Pilot Program. The Commission will evaluate the success of the Pilot Program as a business model within 90 days of the expiration of the last Pilot Program Agreement signed. Factors the Commission will consider in measuring the success of the Pilot Program include but are not limited to:

(a) Economic viability of the Pilot Program business model for Pilot Program Agents, retail grocery stores, and the Commission;

(b) Effects on the public safety of the surrounding community;

(c) Public response concerning sales of distilled spirits in retail grocery stores.

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; OLCC 11-2004, f. 10-15-04 cert. ef. 10-29-04

Adm. Order No.: OLCC 12-2004
Filed with Sec. of State: 10-15-2004
Certified to be Effective: 11-1-04
Notice Publication Date: 7-1-04
Rules Amended: 845-005-0326

Subject: This rule lists public interest or convenience reasons for refusing liquor licenses. Section (4)(a) of the rule establishes a refusal basis when the holder of a Full On-Premises Sales license requests the additional privilege of an Off-Premises Sales license. The Full On-Premises Sales license allows sale of beer, wine, alcoholic cider and distilled spirits by the glass. The Off-Premises Sales license allows package sales of sealed containers of beer, wine and cider.

The Commission amended the rule to eliminate the refusal basis in (4)(a) of the rule.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-005-0326 License Not Demanded by Public Interest or Convenience

ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. The following are some of the public interest or convenience reasons for which the Commission may deny a license unless the applicant shows good cause to overcome the criteria:

(1) Alcohol-Related Problems at Other Licensed Premises:

(a) The applicant has had repeated problems at another licensed location during the two years preceding this application or has had a license canceled or renewal refused because of problems with disturbances, lewd or unlawful activities or noise. These problems:

(A) Must occur on the licensed premises or be caused by patrons in the immediate vicinity of the licensed premises;

(B) Include, but are not limited to, obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol-related litter; trespassing on private property; and public urination; and

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(C) Must be related to the sale or service of alcohol under the exercise of the license privileges.

(b) Good cause to overcome this criterion is a showing by the applicant that the applicant will reasonably control all of the applicant's licensed premises to prevent problems described in paragraphs (1)(a)(A), (B), and (C) of this rule. Factors that affect this good cause determination may include, but are not limited to:

(A) Applicant is currently licensed at an outlet that has not had the problems described in paragraphs (1)(a)(A), (B), and (C) of this rule in the past year;

(B) Applicant successfully regained control of premises that had problems described in paragraphs (1)(a)(A), (B), and (C) of this rule;

(C) Applicant has a corrective plan that is likely to be effective;

(D) License conditions or restrictions would enable control of applicant's premises; and

(E) Applicant did not participate in the daily operation of the problem outlet, and there has not been a pattern of problems described in paragraphs (1)(a)(A), (B), and (C) of this rule at other outlets where applicant has been licensed.

(c) This criterion does not apply to renewal applications.

(2) Proximity to Facilities:

(a) The licensed premises:

(A) Will be located within 500 feet in urban or suburban areas or within 1,500 feet in a rural area of the boundary (measured property line to property line) of a licensed child care facility or elementary or secondary school; a church; a hospital, nursing care facility or convalescent care facility; a park or children-oriented recreational facility; and alcohol and other drug treatment or rehabilitation facility; and

(B) Will adversely impact the facility.

(b) Good cause to overcome this criterion includes, but is not limited to, a showing by the applicant that:

(A) The proposed operation is consistent with the zoning where the proposed premises will be located, is consistent with the general character of the area and the adverse impact will not unreasonably affect the facility; or

(B) The size of the proposed premises' community is so small that the proposed location is a reasonable location for the proposed operation.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(3) Problem Areas:

(a) The licensed premises will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. These problems need not be alcohol-related;

(b) Good cause to overcome this refusal basis includes, but is not limited to, a showing by the applicant that:

(A) Alcoholic beverage sale or service at the premises will not contribute to the problems, and

(B) The applicant has a willingness and ability to control the proposed premises and patrons' behavior near the licensed premises. When assessing the applicant's willingness and ability, the Commission will consider factors including but not limited to the applicant's relevant experience, and the applicant's reasonable and credible operating and security plans.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(4) Off-Premises Sales License: The applicant seeks an Off-Premises Sales license at an outlet that sells petroleum products and does not or will not maintain a wide variety of grocery items available for immediate sale. "Wide variety" means an inventory at a cost to the applicant of not less than \$5,000 of foods that satisfy the general public's ordinary eating habits and personal and household products. "Wide variety" does not include alcoholic beverages or tobacco products. It also does not include snack food items that exceed ten percent of the inventory's value.

(5) Licensed physician or other professional evaluations of the applicant or any on-premises manager's mental, emotional or physical condition that show incompetence or physical inability to manage the business the applicant wants licensed. ORS 471.313(4)(b) allows the Commission to deny a license if the applicant is incompetent or physically unable to manage the business the applicant wants licensed. These evaluations are some indicators of this incompetence or physical inability.

(6) There is a final order of a court or administrative agency in a criminal or civil proceeding finding that the applicant failed to comply with the liquor laws of this or any other state. ORS 471.313(4)(d) allows the Commission to deny a license if the applicant has violated liquor laws. These final orders are some but not the only indicators of liquor law violations.

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

Stats. Implemented: ORS 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2001, f. 12-18-01, cert. ef. 1-1-02; OLCC 12-2004, f. 10-15-04 cert. ef. 11-1-04

Oregon Public Employees Retirement System Chapter 459

Adm. Order No.: PERS 20-2004

Filed with Sec. of State: 9-22-2004

Certified to be Effective: 10-14-04

Notice Publication Date: 9-1-04

Rules Amended: 459-005-0210

Subject: This rule is being amended to allow PERS to accept all notarized documents via fax and to set forth requirements for faxing and e-mailing documents to PERS.

Rules Coordinator: David K. Martin—(503) 603-7713

459-005-0210

Transmittal of Reports and Documents

Except for the transmission of a remittance, a payment, a remittance advice or a payment advice as provided in OAR 459-005-0215, reports and documents sent to PERS shall be transmitted as follows:

(1) Unless otherwise provided for in this rule, reports or documents may be transmitted to PERS or the Deferred Compensation Program in person or by use of:

(a) The United States Postal Service (USPS);

(b) A private express carrier as defined in ORS 293.660(2);

(c) Telephonic facsimile communication (fax);

(d) Electronic mail through the Internet (e-mail) or;

(e) By use of the PERS web site on the Internet;

(f) Other sources approved by the Director for the transmission of reports or documents.

(2) The following original documents shall be accepted by PERS or the Deferred Compensation Program only if transmitted in person, by use of USPS or by private express carrier:

(a) Contracts and Agreements pertaining to the merger or integration of other retirement systems into PERS.

(b) Any request by a member for confidential information under provisions of ORS 192.502(11).

(c) Subpoenas, garnishments, summons, and other legal documents that require service on PERS. These documents will not be accepted unless they are served in accordance with applicable law.

(3) The following standards shall be observed when transmitting any report or document to PERS or the Deferred Compensation Program by fax or e-mail. Failure to comply with these standards shall result in the PERS or the Deferred Compensation Program not accepting the report or document:

(a) The quality of the original hard copy shall be clear and dark enough to transmit legibly.

(b) Any report or document requiring signature shall be signed prior to being transmitted.

(c) Any report or document transmitted shall be on forms furnished by PERS or the Deferred Compensation Program or substitute forms previously approved by PERS or the Deferred Compensation Program, respectively.

(d) Any PERS or Deferred Compensation Program report or form shall be completed as required in PERS instructions.

(e) The entire text of the report or document must be transmitted. Both sides of any two-sided PERS or Deferred Compensation Program form are to be transmitted.

(f) For a report or document that requires accompanying documentation, all components shall be transmitted together as one transmission.

(g) The first sheet of the transmission shall indicate the number of pages being transmitted, and shall contain a telephone number to call if there are problems with the transmission.

(h) Neither the original nor any additional copies of the facsimile filings should be filed with PERS.

(i) The sender shall maintain the original of the document with the original notarization or signature affixed, as well as proof of fax transmission.

(4) PERS or the Deferred Compensation Program may require the original, or a certified copy of the original, where a question of authenticity arises.

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(5) Only requests for information regarding PERS or the Deferred Compensation Program, not otherwise protected under provision of 192.502, may be transmitted by e-mail through the Internet.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - ORS 238.750
Hist.: PERS 6-1999, f. & cert. ef. 11-22-99; PERS 20-2004, f. 9-22-04 cert. ef. 10-14-04

Adm. Order No.: PERS 21-2004
Filed with Sec. of State: 9-22-2004
Certified to be Effective: 9-22-04
Notice Publication Date: 6-1-04
Rules Adopted: 459-080-0150

Subject: 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.

Rules Coordinator: David K. Martin—(503) 603-7713

459-080-0150

Employee Contributions into the IAP Account

(1) Definition. For the purposes of this rule: "Forfeiture account" means the account set up by PERS to administer overpayments of employee contributions.

(2) Employee contributions under the OPSRP Individual Account Program ("IAP") are required from all eligible employees who qualify as members, as established under OAR 459-080-0010, who:

(a) Are working in a position designated as a "qualifying position" as defined in OAR 459-070 0001(13); or

(b) Perform a total of 600 or more hours in a calendar year with one or more participating employers in one or more classes the participating employer has designated as a participating class.

(3) Contributions for current members.

(a) For a member who meets the standard set forth in section (2)(a) of this rule, contributions of six percent of the member's salary are required to be transmitted for all pay periods assigned under OAR 459-070-0100 from the date of hire, or January 1 of the current year, whichever is later.

(b) Once a member meets the standard set forth in section (2)(b) of this rule, retroactive contributions of six percent of the member's salary are required to be transmitted following the member's performance of 600 hours in the calendar year. Contributions are due for all pay periods assigned under OAR 459-070-0100 from the date of hire, or January 1 of the current year, whichever is later.

(4) Contributions for new employees.

(a) For an eligible employee who meets the standard set forth in section (2)(a) of this rule, contributions of six percent of the member's salary are required to be transmitted after the employee has established membership in the IAP as set forth under OAR 459-080-0010.

(b) Once an eligible employee meets the standard set forth in section (2)(b) of this rule, retroactive contributions of six percent of the member's salary are required to be transmitted from the date of membership in the IAP, as established under OAR 459-080-0010.

(5)(a) If contributions are submitted on behalf of an eligible employee who does not meet the standards set forth under section (2)(a) or (b) of this rule, the actual amount of those contributions will be returned after the end of the calendar year during which the pay period triggering those contributions ended.

(b) Any net earnings, losses, or administrative fees attributable to the returned contributions will be applied to the forfeiture account.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.330
Hist.: PERS 13-2004(Temp), f. 5-19-04, cert. ef. 6-21-04 thru 12-1-04; PERS 21-2004, f. & cert. ef. 9-22-04

Adm. Order No.: PERS 22-2004
Filed with Sec. of State: 9-22-2004
Certified to be Effective: 9-22-04
Notice Publication Date: 7-1-04
Rules Amended: 459-005-0250

Subject: House Bill 2401 became effective on January 1, 2004. This bill gives the PERS Board the authority to recover administrative costs incurred for various services PERS provides.

The proposed modifications to OAR 459-005-0250 add a new section relating to recovering costs incurred in processing full cost pur-

chases. This new section implements HB 2401's changes to ORS 238.157, ORS 238.162, and ORS 238.175, which relate to purchasing retirement credit for certain periods of military service, out-of-state teaching time, or disability, respectively. These statutes previously stated that a member must pay a lump sum representing the full cost of providing that credit; they now specify that this full cost includes any administrative costs incurred in processing the purchase.

Rules Coordinator: David K. Martin—(503) 603-7713

459-005-0250

Recovery of Administrative Costs

(1) Estimates. (a) Any active or inactive member within two years of eligibility for service retirement may request from PERS an estimate of retirement benefits ("estimate").

(b) Upon request, PERS shall provide a member with a maximum of two estimates in a calendar year at no cost.

(c) PERS shall charge a fee of \$60 for each estimate that exceeds the limit specified in subsection (b) of this rule.

(d) A fee charged under subsection (c) of this rule shall be paid in full prior to receipt of the requested estimate(s). Payment shall be made by check or money order payable to the Public Employees Retirement System.

(e) The provisions of this rule do not apply to current judge members during their term of office.

(2) Full cost purchases. If a member purchases retirement credit under ORS 238.157, 238.162, or 238.175, a fee of \$145 will be added to the cost of the purchase to cover the administrative costs incurred by PERS in processing the request.

Stat. Auth.: ORS 238.650, 238.610
Stat. Implemented: ORS 238.610, 238.157, 238.162 & 238.175
Hist.: PERS 22-2003, f. 12-15-03 cert. ef. 1-1-04; PERS 22-2004, f. & cert. ef. 9-22-04

Adm. Order No.: PERS 23-2004(Temp)

Filed with Sec. of State: 9-22-2004

Certified to be Effective: 9-22-04 thru 3-15-05

Notice Publication Date:

Rules Adopted: 459-080-0250

Subject: Retired members can direct that their IAP account balance be paid in installments. This rule establishes some parameters on those payments, such as minimum installment amounts, and addresses other issues such as rollover eligibility. A temporary rule is needed to administer the distribution of IAP benefits to retired members, now that systems are in place to allow those distributions to begin.

Rules Coordinator: David K. Martin—(503) 603-7713

459-080-0250

IAP Account Installments

(1) Definitions. "Payout Period" means the span of years over which the member elects to receive installment payments under section (2) of this rule.

(2) Upon retirement, a member of the individual account program who elects to receive the amounts in the member's employee and employer accounts in installments under ORS 238A.400(2) shall designate the number of years over which the installments are to be paid, selecting a period of 5, 10, 15, or 20 years. The member may also request that installments be made on a monthly, quarterly, or annual basis.

(3) Installments will be adjusted annually to reflect investment gains and losses on the unpaid balance. The member's unpaid balance, so adjusted, will be divided by the number of years left in the member's Payout Period to determine the amount to be paid to that member for the next year, which will then be paid over the monthly, quarterly, or annual basis selected by the member or as modified pursuant to section (3) of this rule.

(4) If a member requests monthly or quarterly installments under section (2) of this rule, but the amount of the installment would be less than \$200 as determined at the time of the initial request, the frequency of the installment payment will be extended from monthly to quarterly, or quarterly to annually, until the amount of the installment is at least \$200. If monthly or quarterly installments would not exceed \$200, the member will be paid annually.

(5) Notwithstanding the Payout Period selected by the member under section (2) of this rule, if the distribution is required to be for a shorter period to comply with the required minimum distribution requirements of 26 U.S.C.401(a)(9) and regulations implementing that section, as in effect

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August 29, 2003, the Payout Period will be adjusted to comply with those requirements.

(6) Members who elect a five year Payout Period or a lump sum payment may elect to directly roll over any portion of their IAP installment or lump sum payment to an eligible retirement plan, subject to the following limitations:

(a) Members will not be permitted to directly roll over any IAP installment payments if the total annual distribution from their IAP account is reasonably expected to total less than \$200.

(b) If members elect to have a portion of their IAP installment or lump sum payment paid directly to them and a portion directly rolled over, the portion to be rolled over cannot be less than \$500 or that portion will be paid directly to the member.

(7) Members who elect a 10, 15, or 20 year Payout Period cannot elect to have any portion of their installment payments rolled over.

(8) Members who are subject to the required minimum distribution requirements referenced in section (5) of this rule may have only the portion of their installment or lump sum payments rolled over that complies with required minimum distribution requirements.

Stat. Auth.: ORS 238A.400
Stats. Implemented: ORS 238A.400
Hist.: PERS 23-2003(Temp), f. & cert. ef. 9-22-04 thru 3-15-05

Oregon State Marine Board Chapter 250

Adm. Order No.: OSMB 5-2004

Filed with Sec. of State: 10-14-2004

Certified to be Effective: 10-14-04

Notice Publication Date: 8-1-04

Rules Amended: 250-019-0010, 250-019-0020, 250-019-0030, 250-019-0040, 250-019-0050, 250-019-0060

Subject: The periodic review of Marine Board Procedural Rules provides an opportunity for the public to comment on rules governing the adoption, amending and repealing of local and special rules. The Board invited comment on proposed housekeeping changes to remove "recreational" from rule language. The Statute delegating authority to the Marine Board speaks to "boating."

Rules Coordinator: Jill E. Andrick—(503) 373-1405, ext. 243

250-019-0010

Policy

(1) It is the policy of the State Marine Board to promote multiple use and enjoyment of waters of the state for a variety of boating activities. The Board recognizes and will uphold to the extent practicable the universal right of the public to navigate and use the waters of the state for boating.

(2) The Board is authorized to regulate through administrative rules boating in specific locations or on specific waterways in the interest of protecting public safety, property, water quality, fish and wildlife resources, or reducing excessive congestion and conflict between users, and promoting uniformity of laws pertaining to such use.

(3) The Board will seek to resolve problems arising from or between boating activities on a waterway by using a variety of management measures, including education, information, signing, voluntary restrictions and/or increased law enforcement of existing laws, before acting to restrict public use and enjoyment of boats.

(4) It is the policy of the Board to exercise its regulatory authority based upon sufficient information, public testimony or evidence that establishes a demonstrated need to enact administrative rules.

(5) The Board will seek the concurrence and recommendations of affected local jurisdictions and authorities before adopting regulations for local waterways.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

250-019-0020

Definitions

For the purposes of 250-019-0010 to 250-019-0090, the following definitions shall apply:

(1) "Board" means the State Marine Board.

(2) "Local jurisdiction or authority" includes cities, counties, park and recreation districts, port districts, state agencies, tribal councils, and agencies of the federal government.

(3) "Outfitter and guide" is used as defined in OAR 250-016-0001(5-7).

(4) "Procedural Rules" means procedures for rulemaking as outlined in OAR 250-001-0000, 250-001-0005 Model Rules of practice and Procedure, and 250-001-0030.

(5) "Boat" means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

(6) "Waters of this state" means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

250-019-0030

Statutory Authority

(1) The Board's authority to regulate boating through rulemaking is contained in Title 61, Chapter 830, Small Watercraft of Oregon Revised Statutes (ORS). General rulemaking authority is stated in 830.110 Powers and Duties of the Board, 830.175 Regulations for Specific Areas, and 830.195 Preventing User Conflicts.

(2) Additionally, 830.175(2) enables the governing bodies of political subdivisions of the state to apply to the Board for special regulations relating to the operation of boats on waters within the territorial limits of the political subdivision.

(3) State law (ORS 830.040) prohibits political subdivisions of the state from enacting or enforcing any laws contrary to the provisions of Chapter 830. This prohibition together with the provisions of 830.175(2) gives the Board exclusive authority to regulate boats and boating activities on the waters of the state.

(4) On federally navigable waterways and the territorial sea, the Board shares concurrent jurisdiction with the U.S. Coast Guard. Additionally, Oregon has entered into a Boating Offense Compact (ORS 830.080) with the states of Washington and Idaho establishing concurrent jurisdiction over boundary waters with these states.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

250-019-0040

Scope

(1) The Board may regulate watercraft on all waters of this state. The Board's primary interest lies in waterways where public access for boating is provided, available, allowed, or reasonably accomplishable and is commonly or frequently used by the general boating public.

(2) The Board will not normally regulate waters of this state which are surrounded exclusively by privately owned lands, are sufficiently small so as to preclude access or severely limit public boating use, or are inaccessible to the general boating public by ordinary and usual means.

(3) Restrictions on boats and boat operations adopted pursuant to this rule shall apply to all watercraft, including boats used for commercial activities, such as guided trips.

(4) Rules adopted by the Board to restrict watercraft and their operation pursuant to this Division, shall not apply to:

(a) Watercraft used for the law enforcement activities of authorized public safety agencies;

(b) Search and rescue activities conducted by or under the direction of these agencies; and

(c) Watercraft used for administrative or management functions performed by public agencies with jurisdiction over the subject waters or adjacent lands.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

250-019-0050

Existing Laws

Nothing in this division shall change, amend, or alter any duly established laws or rules contained in Title 61, Chapter 830 of the ORS or chapter 250 of Oregon Administrative Rules, except to add this division in its entirety.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

250-019-0060

Types or Methods of Regulations Used

(1) The Board's regulatory authority accorded by Title 61, includes, but is not limited to the following:

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- (a) Establishment of designated speeds;
- (b) Prohibition or the use of motorboats;
- (c) Designation of areas and times for testing racing motorboats; and
- (d) Designation of moorage areas.

(2) Historic regulatory actions by the Board have expanded this list to include administrative rule restrictions on:

- (a) Motor type and/or horsepower;
- (b) Type of watercraft allowed;
- (c) Direction of watercraft travel;
- (d) Time of day, day of week, or seasons of operation;
- (e) Wave and wake;
- (f) Anchoring;
- (g) Water-skiing;
- (h) Boat entry, and;
- (i) Equipment required to be carried on a boat or persons using a boat.

(3) In addition to the types and methods of regulations described above, the Board may restrict watercraft and/or their operation in other lawful ways.

(4) Restrictions on watercraft and/or their operation which are adopted by the Board under the procedures contained in this section may consist of permanent, temporary, or emergency administrative rules.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.175
Hist.: MB 11-1996, f. & cert. ef. 12-05-96; OSMB 5-2004, f. & cert. ef. 10-14-04

Adm. Order No.: OSMB 6-2004
Filed with Sec. of State: 10-14-2004

Certified to be Effective: 10-14-04

Notice Publication Date: 8-1-04

Rules Adopted: 250-025-0010, 250-025-0020

Subject: Administrative rule numbers can't be reused. If temporary rules are placed in the section for local boating rules they reduce the number of usable numbers for permanent rules. The Marine Board considered the merits of creating a division to accommodate any temporary rules adopted by the Board. This serves two purposes: it allows numbers in the chapter covering local rules to be optimally utilized, and it will make it easier for boat operators to immediately locate current temporary rules.

Rules Coordinator: Jill E. Andrick—(503) 373-1405, ext. 243

250-025-0010

Purpose

This division includes local and special temporary rules adopted to address immediate compelling needs where a failure to act promptly could result in serious prejudice to the safety of the boating public or significantly harm other public interests.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented:
Hist.: OSMB 6-2004, f. & cert. ef. 10-14-04

250-025-0020

Scope

This division contains temporary rules for boat operation in areas where a specific event such as waterway construction may necessitate special restrictions or may require established rules to be amended for a period of time. When the need is ongoing a permanent rule will be adopted and incorporated into the applicable Division of OAR 250.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented:
Hist.: OSMB 6-2004, f. & cert. ef. 10-14-04

Oregon University System Chapter 580

Adm. Order No.: OSSHE 8-2004

Filed with Sec. of State: 9-29-2004

Certified to be Effective: 9-29-04

Notice Publication Date: 9-1-04

Rules Adopted: 580-021-0041

Subject: OAR 580-021-0041 permits employees of the Oregon University System (OUS) transfer accumulated, unused sick leave balances to other state agencies, provided the hire date is within two years of separation of service from one of the institutions of the OUS.

Hiring entities considered to be "state agencies" for purpose of this rule are defined.

Rules Coordinator: Marcia M. Stuart—(541) 346-5795

580-021-0041

Transfer of Accumulated, Unused Sick Leave

(1) OUS academic and administrative unclassified staff may transfer unused accumulated leave balances between the OUS and state agencies, subject to sick leave transfer provisions in (3) and (4), and applicable collective bargaining agreements.

(2) For purposes of this rule, a "state agency" includes all state agencies in the executive, judicial, or legislative departments of the State of Oregon. Special government bodies, including community colleges, school districts, education service districts, are not considered state agencies for purposes of this rule. Local government public employers other than state agencies are likewise ineligible to transfer unused leave to or from the OUS.

(3) Assumption of Funding Liability. Hiring agencies and departments assume funding liability for sick leave transferred under the provisions of this rule.

(4) Sick Leave. The full amount of accumulated, unused sick leave available at the time an employee separates from service may be transferred to an OUS institution or state agency when the employee is hired. Unearned, advanced sick leave that results in a negative sick leave balance is neither transferred nor accepted by OUS institutions.

(a) Accumulated, unused state agency sick leave earned during employment with a state agency, including leave earned in classified service, may be transferred to the hiring OUS institution if the break in service does not exceed two years, subject to approval of the hiring institution.

(b) Accumulated, unused sick leave earned during employment with an OUS institution shall be transferred to the hiring state agency if the break in service does not exceed two years, subject to the rules of the state agency.

Stat Auth: ORS 351.070
Stats. Implemented:
Hist.: OSSHE 1-2004(Temp), f. & cert. ef. 4-6-04 thru 10-2-04; OSSHE 8-2004, f. & cert. ef. 9-29-04

Oregon Watershed Enhancement Board Chapter 695

Adm. Order No.: OWEB 3-2004

Filed with Sec. of State: 9-20-2004

Certified to be Effective: 9-20-04

Notice Publication Date: 6-1-04

Rules Adopted: 695-040-0010, 695-040-0020, 695-040-0030, 695-040-0040, 695-040-0050, 695-040-0060, 695-040-0070

Subject: The Oregon Watershed Enhancement Board has a watershed council support grant award program. The rules amend and establish the following for watershed council support grants: (1) eligibility criteria, (2) grant application requirements, (3) the criteria used to evaluate watershed council support grant applications, (4) the evaluation and funding recommendation process, and (5) the grant award conditions. The adopted rules provide the OWEB Board with a way to invest limited watershed council support funding more strategically.

Rules Coordinator: Bonnie King—(503) 986-0181

695-040-0010

Purpose

These rules guide the Oregon Watershed Enhancement Board in accepting, reviewing for merit and considering applications for funding watershed council support under the provisions of ORS 541.368, 541.370(1)(e), 541.384, and 541.388.

Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.368, 541.370(1)(e), 541.384 & 541.388
Hist.: OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0020

Definitions

(1) "Watershed Council Support" means a grant for the purpose of supporting the capacity of a watershed council or group of watershed councils to conduct the activities necessary for the watershed protection, enhancement, and restoration work of the council(s). This support may

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include coordinator salary and benefits, operating costs, risk management and accountability assurance, and fiscal grant management costs.

(2) "Council Coordinator" means the lead person or persons employed by or on behalf of a watershed council or a group of watershed councils to assist the council(s) in achieving the watershed protection, enhancement, and restoration objectives of the council(s). The activities carried out by a coordinator may include support to a council's board, coordination among sub-councils, development of projects, work with landowners, grant writing, fiscal management, work plan development, volunteer recruitment and supervision, communications, education, and outreach.

(3) "Hydrologic unit" means any geographic area drained by a river system, a reach of a river and its tributaries in that reach, a closed basin(s), or a group of streams forming a coastal drainage basin. Hydrologic units are divided into size classifications, or fields, as defined by USGS codes, where the first field, such as the Columbia Basin, is a region.

(4) "Umbrella Watershed Council" means a watershed organization that (a) provides support to and coordination for at least three watershed groups or councils, and has a coordinating council, shared staff and a single Watershed Council Support grant, or (b) provides service to a watershed area containing three or more 4th field hydrologic units.

(5) "Merit Category" means a classification of Watershed Council Support applicants by similar qualities, achievements, or abilities, as determined by an evaluation of the grant application submitted, based on the criteria described in OAR 695-040-0050. The distribution of applicants in each merit category, the available funding, and other factors as described in OAR 695-040-0060(4) will determine the grant funding level for individual applicants. Within merit categories there may be different funding levels.

Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.368, 541.370(1)(e), 541.384 & 541.388
Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0030

Eligibility Criteria

(1) A watershed council, or a group of watershed councils, is eligible to apply for Watershed Council Support if:

(a) The council serves a unique geographic area. A unique geographic area is one that is not or has not been located entirely or partially within the boundaries of another existing watershed council support grantee that has received council support funding from OWEB;

(A) In the situation where a watershed council has been awarded shared funding for watershed council support, but serves a watershed area that is not served by another watershed council, that council may be eligible to apply independently if it receives prior approval from the Board.

(b) Council membership reflects the balance of interests or is actively seeking a balance of interests in the affected watershed as defined in ORS 541.388(2); and,

(c) The council has been designated by a local government as provided by ORS 541.388. This eligibility criterion applies if the council formed after September 9, 1995.

(2) The following costs are eligible for funding through a watershed council support grant:

(a) Council Coordinator salary and benefits;

(b) Operating costs including, but not limited to, supplies and materials, utilities, rent, travel and per diem, printing, postage, facilitation, safety equipment, office equipment, and training;

(c) Risk management and accountability assurance costs including audit, tax preparation, risk management and insurance; and,

(d) Fiscal management of the council support grant award not to exceed 10% of direct costs.

Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.368, 541.370(1)(e), 541.384 & 541.388
Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0040

Application Requirements

(1) Applications for Watershed Council Support grants shall include information on the following:

(a) A scope of work as identified in OAR 695-040-0050(1);

(b) The organizational capacity of the watershed council(s);

(c) The past accomplishments of the watershed council(s);

(d) A description of the complexity of the watershed as described in OAR 695-040-0050(1)(f);

(e) A proposed biennial budget for the watershed council(s); and,

(f) Other information necessary to apply the merit-based criteria described in OAR 695-040-0050.

(2) Applications for Watershed Council Support must also comply with OWEB's generally applicable grant application requirements.

Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.368, 541.370(1)(e), 541.384 & 541.388
Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0050

Evaluation Criteria

(1) Applications for Watershed Council Support will be evaluated on a scope of work submitted by the applicant that:

(a) Demonstrates the extent to which the applicant is furthering the goals of the Oregon Plan for Salmon and Watersheds;

(b) Proposes measurable objectives and priorities for the upcoming biennium;

(c) Proposes council actions and outcomes for the upcoming biennium;

(d) Addresses how the council:

(A) Identifies and addresses the priority protection, restoration and enhancement needs of the watershed(s) served.

(B) Monitors and evaluates watershed conditions and functions and the efforts to improve watershed health, including the methods and data sources to be used.

(C) Encourages and tracks citizen participation in watershed projects and activities.

(D) Promotes and evaluates citizen learning about watershed science and key resource issues.

(E) Builds partnerships, organizational capacity, and council effectiveness.

(e) Identifies the council coordinator's role;

(f) Addresses the complexity of the watershed(s) including:

(A) Total population;

(B) Land use including total acres and a general characterization of land ownership within the watershed(s);

(C) Hydrologic units served;

(D) Total stream miles within the watershed and miles of stream on the Department of Environmental Quality's 303(d) list or in a completed Total Daily Maximum Load;

(E) The kind and number of species listed as Threatened or Endangered under the Endangered Species Act within the watershed;

(F) Total area of watershed jointly identified by Oregon Water Resources Department and Oregon Department of Fish and Wildlife as high priority for streamflow restoration;

(G) Municipal drinking water issues;

(H) Stormwater management issues; and,

(I) Groundwater areas with water quality and water quantity concerns, as identified by Oregon Water Resources Department and Department of Environmental Quality.

(g) Is reflected in the applicant's proposed budget.

(2) Watershed council support grant applications will also be evaluated based on the following factors:

(a) Whether the applicant has previously received a watershed council support grant from OWEB and the extent to which the watershed council(s) has made progress in accomplishing the goals of previous biennium's work plan, which reflects the level of council support funding received for that biennium.

(b) The extent to which the watershed council(s) takes a leadership role in achieving watershed restoration projects and activities within the watershed(s).

(c) The extent to which the watershed council(s) is following the currently accepted techniques of watershed management or is using innovative science-based watershed restoration techniques in addressing key watershed issues.

(d) How the watershed coordinator is supervised and evaluated and the role of the watershed council(s) in the supervision and evaluation of the coordinator.

(e) The organizational and fiscal administration capacity of the council and its fiscal agent, including employment, risk management, fiscal accountability, and decision-making.

(f) Whether the council(s) has or is seeking active participation of a diversity of interests in the watershed.

(g) Whether the council(s) has developed collaborative partnerships as shown by:

(A) Cooperative working relationships with local government, soil and water conservation districts, other watershed councils, landowners and other entities in the watershed.

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Oregon Youth Authority Chapter 416

(B) Sharing resources, staff, or project responsibilities with other entities.

(h) Whether the applicant has completed a watershed council self-evaluation, following an OWEB approved methodology, within the past 18 months and is implementing the results of the self-evaluation completed within the past 18 months.

(i) Whether the applicant has completed a watershed assessment(s), or is using an assessment(s) completed by others, consistent with the OWEB Assessment Manual.

(j) Whether the applicant has an action plan that identifies resource concerns, limiting factors, priorities, and the measures needed to address the issues identified.

(k) Whether the applicant has demonstrated how OWEB funds have been used to leverage other investments in the watershed(s).

(l) The age of the watershed council.

Stat. Auth.: ORS 541.396

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

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0060

Grant Evaluation Process

(1) Watershed council support applications will be reviewed and evaluated by a Council Support Advisory Committee.

(a) The Committee shall be appointed by the Director and be comprised of:

(A) At least two representatives from each of OWEB's regions. These regional representatives shall have technical knowledge of their region's watershed functions and values and watershed council needs; and

(B) At least three statewide representatives with expertise about watershed council roles and responsibilities under the Oregon Plan.

(b) OWEB regional program representatives may provide comments on the criteria identified in OAR 695-040-0050 to the Council Support Advisory Committee regarding watershed council support applications.

(2) The Council Support Advisory Committee will evaluate Watershed Council Support applications submitted and make merit category recommendations to the Director. The Committee will make its merit category recommendations based on the quality of response in the application to the evaluation criteria described in OAR 695-040-0050.

(3) Information provided by the applicant, the evaluation criteria in OAR 695-040-0050, the recommendation of the Council Support Advisory Committee, the recommendation of the Director, and the applicant's response to these recommendations will be used by the Board to determine an applicant's merit category placement and grant funding level.

(4) Individual watershed council support grant funding levels will be based on:

(a) An applicant's merit category.

(b) Whether the applicant is an umbrella watershed council as defined in OAR 695-040-0020(4).

(c) Whether the applicant is two or more watershed councils serving unique geographic areas in a single Watershed Council Support grant where the application demonstrates operational economies of scale over two separate grant applications.

(d) Available funding.

Stat. Auth.: ORS 541.396

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

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0070

Grant Agreement Conditions

The Watershed Council Support Grantee will be required:

(1) To complete a self-assessment as provided by the Board or a similar evaluation method approved by OWEB for each watershed council receiving support;

(2) To submit an annual report to OWEB and local government entities;

(3) To obtain insurance or bonding providing coverage for financial decisions and actions as identified by OWEB if the Grantee is its own fiscal agent, or if the Grantee's fiscal agent does not have such insurance or bonding; and,

(4) To assure that expenditures of OWEB funds are subject to an audit by an entity independent of the council or its fiscal agent.

Stat. Auth.: ORS 541.396

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

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

Adm. Order No.: OYA 10-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 9-1-04

Rules Adopted: 416-500-0000, 416-500-0010, 416-500-0020, 416-500-0030, 416-500-0040, 416-500-0050

Subject: This rule defines the standards for recreational activities provided by care providers to offenders in OYA custody on supervision status in the community.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-500-0000

Purpose

(1) Recreational activities provide offenders with opportunities to practice social skills; alleviate idleness and boredom; provide positive reinforcement; develop the concepts of cooperation and sportsmanship; and improve self-esteem, health, and physical conditioning.

(2) Recreational activities are an integral part of offender case planning.

(3) The OYA will work with substitute care providers who serve OYA offenders in community placements to ensure that offenders receive opportunities for recreational activities that are provided in relation to the offender's case plan in a manner that is safe for the community, participating offenders, and supervising staff.

(4) Substitute care providers will schedule and make available to offenders appropriate recreational and leisure time activities, both within the residential treatment program or foster home and in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0010

Definitions

(1) Recreation: Any play or leisure activity in which offenders participate, either structured or unstructured. Recreation activities are intended to refresh, offer sport, and/or pastime. Recreation is all those things that a person or group chooses to do in order to make leisure time more interesting, more enjoyable, and more personally satisfying. Purposeful recreational activities can be used to develop physical, cognitive, social, and emotional skills in juvenile settings. Such activities provide positive reinforcement and provide healthy pro-social alternatives to boredom and illegal behavior. Recreation develops concepts of cooperation and sportsmanship.

(2) Substitute care placements: Any of the out-of-home care and treatment programs authorized by the OYA to serve offenders in OYA custody, including contracted residential treatment programs and certified foster homes. Substitute care placements exclude the OYA's close custody facilities.

(3) Substitute care providers: Persons authorized by the OYA through contract or other written agreement to provide supervision and care for offenders on parole or probation status in the community. Such persons include, but are not limited to, contracted residential treatment providers and certified foster parents (including respite providers).

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0020

General Standards

(1) Court order establishes the OYA's authority as legal custodian or guardian of offenders committed to the legal custody of the OYA and placed on parole or probation status in substitute care placements, making the OYA responsible for their general care and supervision. As part of that authority, the OYA works in coordination with the substitute care provider to ensure appropriate substitute care and treatment is provided.

(a) Substitute care providers will comply with Department of Human Services (DHS) licensing standards, written contracts or agreements with the OYA or other agencies, and OYA policies that discuss the provision of recreational activities.

(b) Substitute care providers will develop written procedures that detail the process for risk assessment, activity planning and approval, according to the standards defined in these rules and OYA policy.

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(c) Substitute care providers will provide training to their staff to ensure compliance with the standards discussed in these rules and OYA policy.

(2) When planning a recreational activity, it is prudent for substitute care providers to check the level of insurance coverage for the planned recreational activity. In some instances, additional coverage may be required.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892
Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0030

Activity Planning

(1) Substitute care providers will plan, organize and supervise a variety of activities, in accordance with DHS licensing standards, and/or the provisions of contracts or other written agreements.

(2) The planned activity will be consistent with the offender's case plan.

(3) Prior to the activity, substitute care providers, the OYA, the offender, and the offender's parent/guardian, where applicable, will acknowledge the risk and approve the offender's participation.

(4) Substitute care providers will plan for emergency situations, including planning for participants' medical needs and response procedures if an emergency should occur.

(5) During the activity, substitute care providers will provide supervision appropriate to the type of activity, experience of the group, environment and conditions in which the activity takes place, experience level of staff, and the nature of the venue where the activity will occur.

(6) Substitute care providers and OYA staff will ensure that the risk assessment discusses activity restrictions detailed in these rules and OYA policy.

(7) At the conclusion of the approved activity, substitute care providers will review the risk assessment to determine any changes necessary to policies and procedures based on the outcomes noted from the activity.

(8) Any incident that occurs during any recreational activity will be shared with the OYA according to OYA policy.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892
Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0040

Risk Assessment

(1) All activities involve some level of risk. Prior to participation in recreational activities, OYA staff and the substitute care provider will engage in a process to assess the risk of the activity, introduce measures to control those risks, and inform persons about the risks. The risk assessment will include, at a minimum, the following components:

- (a) Description of the planned activity.
- (b) Purpose or goal of the activity.
- (c) Description, location, and timelines of the activity.
- (d) Identification of known or possible hazards and precautions and/or safety to offset those hazards.
- (e) Travel and lodging needs.
- (f) Emergency precautions, including a description of emergency gear that the substitute care provider will have on hand, and a communication plan.

(2) Substitute care providers will assess all activities in writing prior to the start of activity.

(a) This assessment will be completed by substitute care providers who have a comprehensive understanding of offender behaviors and the proposed activity.

(b) The results of the assessment will be shared with each offender's Parole/Probation Officer (PPO) and the parents/guardians of offenders within a reasonable amount of time prior to the activity to allow for each to review and give consent. The OYA will provide timely review of these requests and ensure that parent/guardian consent is acquired prior to the activity.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892
Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0050

Restrictions

- (1) Persons who transport offenders must:
 - (a) Have a valid driver's license and insurance; and
 - (b) Comply with the provisions of state law, including the use of seatbelts; and

(c) Be authorized by the OYA to provide the transportation. Persons who operate passenger vans designed to carry 12 passengers must have successfully completed an OYA-approved training course.

(2) Travel for recreational purposes outside of Oregon is not authorized. Exceptions may be made on a case-by-case basis. Prior authorization is required whenever travel is planned to another state as defined in 416-120-0010 (Exercise and Delegation of Guardian Authority). When such travel is authorized, the OYA will ensure that interstate compact agreements are in place prior to the date of travel.

(a) All requests for travel to another state for recreational purposes will be submitted to the Assistant Director, Field Operations, in a manner prescribed by OYA policy.

(b) Requests must be approved by the Director's Group prior to any out-of-state travel.

(3) Prior authorization from the Assistant Director, Field Operations, or designee, is required when foster parents request that an offender participate in a family vacation activity.

(4) The following activities are restricted, as follows.

(a) Offenders in substitute care placements are not permitted to participate in hunting activities. No exceptions will be made to this standard.

(b) Preventative safety measures in accordance with state law, local ordinances, and OYA rules and policies must be taken during certain activities.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, ORS 419C.558 & ORS 420A.010
Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

Adm. Order No.: OYA 11-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Repealed: 416-360-0000, 416-360-0010, 416-360-0020, 416-360-0030, 416-360-0040

Subject: Relevant topics from this rule division were moved to Division 330.

Rules Coordinator: Kimberly Walker—(503) 378-3864

Adm. Order No.: OYA 12-2004

Filed with Sec. of State: 10-1-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Adopted: 416-330-0020, 416-330-0030, 416-330-0040

Rules Amended: 416-330-0000, 416-330-0010

Subject: The adoption of three new rules will incorporate language from OAR Chapter 416, Division 360 regarding placement of minority youth, will provide definitions relevant to these new rules, and will address administration of substitute care placements. The purpose has been slightly revised to include language regarding minority youth and rule numbering has been changed in order to include the three new proposed rules.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-330-0000

Purpose

Offenders placed by the courts in OYA custody may be placed in substitute care as determined by the OYA in accordance with Oregon Revised Statutes, Oregon Administrative Rules, and OYA policies and procedures. The purpose of these rules is to define the OYA relationship with substitute care providers and ensure that the best interests of minority youth are met by requiring consideration of their racial and ethnic heritage when making out-of-home placements.

Stat. Auth.: ORS 421A.025
Stats. Implemented: ORS 420A.010 & 420A.014
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0010

Definitions

(1) Substitute care: Out-of-home residential placement in the community that provides 24-hour-a-day care and treatment, excluding a relative's home. Such placements include, but are not limited to foster care and contracted residential treatment programs.

(2) Extended family member: A person 18 years of age or older, including but not limited to a related or non-related foster parent, stepparent, grandparent or relative by blood or marriage, who has established emo-

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tional ties creating a child-parent relationship or an ongoing personal relationship with an offender, subject to OYA approval.

(3) **Minority:** Person(s) having origins in any Hispanic, Black, Asian, or Pacific Islander group. American Indians and Alaskan natives are included when these rules provide a higher standard of care or protection than are provided by the Indian Child Welfare Act (Public Law 95-068).

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010 & 420A.014
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0020

Administration

(1) No person or organization will provide substitute care services to an offender in OYA custody without:

(a) A current, valid license issued by the Oregon Department of Human Services (DHS), or other licensing body approved by the State of Oregon and the OYA that specifies the location of the program and the type of services the program is authorized to provide;

(b) A certificate of approval from the OYA; or

(c) A written contract or agreement with the OYA that defines services, population served, and roles and responsibilities.

(2) The OYA will have the right of entry, privilege of inspection, and access to staff and all records of work relating to offenders for the purpose of ensuring compliance with federal and state laws and rules, applicable contract/agreement language, and OYA policies and procedures.

(3) These programs will utilize staff and volunteers whose presence does not jeopardize the health, safety, or welfare of offenders.

(a) The provisions of OAR 416, division 800 also apply.

(b) Program staff and volunteers will be responsible, mature persons who demonstrate the knowledge and ability to care for offenders within the generally accepted professional standards of care.

(c) For foster care placements, the provisions of OAR 416, division 530 also apply.

(d) For licensed programs, the provisions of the licensing agency also apply.

(e) When staff and volunteers are required to maintain professional licenses or certificates in order to provide services to clients, the staff and volunteers will comply with any standards that are applicable to their licensed profession.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010 & 420A.014
Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0030

Placement decisions

(1) The OYA may consider placement options in the community for an offender when the following provisions apply.

(a) There is a legal basis for OYA custody through a court order.

(b) The offender is less than 18 years of age at the time of placement in OYA legal custody and services are first initiated. (Exception: Offenders committed to a close custody placement after age 19 and offenders transferred from the Department of Corrections.)

(c) The offender's behavior is medium to high risk for the offender, the offender's family, or the community but the offender can, without threat of harm to self or others, be managed in an available and appropriate substitute care resource.

(2) When an offender is being placed in a single family home, the OYA will place the offender using the following order of preference:

(a) Legal parent(s);

(b) Extended family member(s);

(c) Substitute care providers with knowledge and appreciation of the ethnic heritage of the offender if the offender is considered a minority.

(3) A determination not to follow the order of placement preference will be based on grounds that such placement is inappropriate and inconsistent with the best interests of the offender for one or more of the following reasons:

(a) An informed request of the parents or legal guardian that the order of preference not be followed;

(b) Extreme medical, physical or psychological needs of the offender;

(c) Unavailability of a family or person who meets both the placement standards and preference criteria;

(d) When protection of the community precludes following these placement preferences.

(4) When placement does not meet these placement preferences, the reasons must be documented in the offender's case file.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010 & 420A.014
Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0040

Consulting With Ethnic Community

(1) The OYA will seek and include advice from persons within the offender's ethnic group when making substitute care placement decisions if appropriate.

(2) The OYA may request a person(s) from the offender's ethnic group to act as a representative for purposes of advising the OYA on matters of racial and ethnic heritage when deciding upon a substitute care placement. The representative will:

(a) Assist in the identification and development of placement resources that meet the requirements of these rules for the placement of minority offenders;

(b) Assist the OYA in deciding upon an appropriate placement for the offender placed under these rules;

(c) Be subject to all confidentiality laws, rules and penalties as if they were an employee of the OYA;

(e) Participate in local screening committee meetings, upon request of the OYA.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010 & 420A.014
Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

Racing Commission
Chapter 462

Adm. Order No.: RC 4-2004

Filed with Sec. of State: 10-14-2004

Certified to be Effective: 10-14-04

Notice Publication Date: 8-1-04

Rules Adopted: 462-200-0640

Subject: Provides rule for new type of wager called 1-2-3 Pick N Pools.

Rules Coordinator: Carol N. Morgan—(503) 731-4052

462-200-0640

1-2-3 Pick N Pools

(1) The 1-2-3 Pick N requires the selection of the first, second or third-place finisher in any order, in each of a designated number of contests, which may or may not run consecutively, and may involve contests at multiple tracks as officially posted. One "point" will be awarded for each successful selection in each of the designated contests. The race meet licensee must obtain written approval from the commission concerning the scheduling of 1-2-3 Pick N contests, the designation of one of the methods prescribed in Part (3), the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved 1-2-3 Pick N format require prior approval from the commission.

(2) Contests selected for a 1-2-3 Pick N pool shall be comprised entirely of either horse races or greyhound races with a minimum of three starters, and shall not contain wagering interests combined as a "mutuel entry" or "mutuel field."

(3) The 1-2-3 Pick N pool shall be apportioned under one of the following methods:

(a) Method 1, 1-2-3 Pick N with Carryover: The net 1-2-3 Pick N pool and carryover, if any, shall be distributed as a single price pool to those who amass the maximum number of points achievable in the 1-2-3 Pick N contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who amass the greatest number of points in the 1-2-3 Pick N contests; and the remainder shall be added to the carryover.

(b) Method 2, 1-2-3 Pick N with Minor Pool: The race meet licensee shall determine the number of Minor Pools, with prior approval from the commission. The major share of the net 1-2-3 Pick N pool shall be distributed to those who amass the greatest number of points in the 1-2-3 Pick N contests, based upon the official order of finish. The minor share(s) of the net 1-2-3 Pick N pool shall be distributed to those who amass the next greatest number of points of 1-2-3 Pick N contests, based upon the official order of finish, and so on until the approved number of Minor Pools has been reached.

(4) If there is a dead heat for any position in any of the 1-2-3 Pick N contests, the 1-2-3 Pick N pool shall be distributed as a winning wager including each betting interest participating in the dead heat.

(5) Should a betting interest in any of the 1-2-3 Pick N contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host race meet licensee for the contest at the closing of wagering on that contest, shall be substituted for the scratched betting inter-

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est for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(6) The 1-2-3 Pick N pool shall be cancelled and all 1-2-3 Pick N wagers for the individual 1-2-3 Pick N pool shall be refunded if:

(a) At least two contests included as part of a 1-2-3 Pick N with 3 contests are cancelled or declared "no contest."

(b) At least three contests included as part of a 1-2-3 Pick N with 4, 5 or 6 contests are cancelled or declared "no contest."

(c) At least four contests included as part of a 1-2-3 Pick N with 7, 8 or 9 contests are cancelled or declared "no contest."

(d) 50% or more of the total contests included as part of a 1-2-3 Pick N with 10 or more contests are cancelled or declared "no contest."

(7) If at least one contest included as part of a 1-2-3 Pick N is cancelled or declared "no contest," but not more than the number described in subsection (6) of this rule, the net pool shall be distributed in accordance with subsection (3) of this rule. Such distribution shall include the portion ordinarily retained for the 1-2-3 Pick N carryover but not the carryover from previous performances.

(8) A written request for permission to distribute the 1-2-3 Pick N carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit derived, and the intended date and performance for the distribution.

(9) Should the 1-2-3 Pick N carryover be designated for distribution on a specified date and performance in which no one amasses the maximum number of points achievable in the 1-2-3 Pick N contests, the entire pool shall be distributed as a single price pool to those who amass the greatest number of points in the 1-2-3 Pick N contests. The 1-2-3 Pick N carryover shall be designated for distribution on a specified date and performance under any of the following circumstances:

(a) Upon written approval from the commission as provided in subsection (8) of this rule.

(b) Upon written approval from the commission when the 1-2-3 Pick N wager is discontinued.

(10) If, for any reason, the 1-2-3 Pick N carryover must be held over to the corresponding 1-2-3 Pick N of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The 1-2-3 Pick N carryover plus accrued interest shall then be added to the net 1-2-3 Pick N pool of the following meet on a date and performance so designated by the commission.

(11) With the written approval of the commission, the race meet licensee may contribute to the 1-2-3 Pick N carryover a sum of money.

(12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

(13) The race meet licensee may suspend previously-approved 1-2-3 Pick N wagering with the prior approval of the commission. Any carryover shall be distributed in accordance with subsection (8) of this rule, or held until the suspended 1-2-3 Pick N wagering is reinstated. A race meet licensee may request approval of a 1-2-3 Pick N wager or separate wagering pool for specific performances.

(14) Interpretation:

(a) 1-2-3 Pick N shall be considered a form of interstate simulcast wagering.

(b) In the event of any inconsistency between the provisions of this rule regarding 1-2-3 Pick N and the provisions of any other rule, the provisions of this rule shall control.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Hist.: RC 4-2004, f. & cert. ef. 10-14-04

Teacher Standards and Practices Commission
Chapter 584

Adm. Order No.: TSPC 9-2004(Temp)

Filed with Sec. of State: 9-20-2004

Certified to be Effective: 9-20-04 thru 3-9-05

Notice Publication Date:

Rules Suspended: 584-060-0210(T), 584-070-0130(T), 584-070-0410(T), 584-080-0171(T)

Subject: To suspend temporary administrative rules filed September 10, 2004. Allowed for issuance of Emergency Licenses to educators, School Counselors, School Psychologists, and Administrators when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-060-0210

Emergency Teaching License

(1) An Emergency Teaching License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency Teaching License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may consider the educator's progress in meeting previous licensure requirements.

(3) Unless expressly waived by the Executive Director, an Emergency Teaching License will not exceed one year.

(4) The Emergency Teaching License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127(4).

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120-143, 342.153, 342.165 & 342.223-342

Hist.: TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05 (Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05)

584-070-0130

Emergency School Counselor License

(1) An Emergency School Counselor License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency School Counselor License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may consider the educator's progress in meeting previous licensure requirements.

(3) Unless expressly waived by the Executive Director, an Emergency School Counselor License will not exceed one year.

(4) The Emergency School Counselor License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127(4).

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.342

Hist.: TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05; Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05

584-070-0410

Emergency School Psychologist License

(1) An Emergency School Psychologist License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency School Psychologist License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may consider the educator's progress in meeting previous licensure requirements.

(3) Unless expressly waived by the Executive Director, an Emergency School Psychologist License will not exceed one year.

(4) The Emergency School Psychologist License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127(4).

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.342

Hist.: TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05; Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05

584-080-0171

Emergency Administrator License

(1) An Emergency Administrator License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency Administrator License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may take into account efforts the educator has made on previous licenses to achieve full appropriate licensure.

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(3) Unless expressly waived by the Executive Director, an Emergency Administrator License generally will not exceed one year.

(4) The Emergency Administrator License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127(4).

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.342

Hist.: TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05; Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05

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101-005-0080	7-2-04	Amend	8-1-04	101-030-0020	7-2-04	Amend	8-1-04
101-005-0090	12-4-03	Adopt	1-1-04	101-030-0020	10-7-04	Amend	11-1-04
101-005-0090	7-2-04	Amend	8-1-04	101-030-0022	12-4-03	Adopt	1-1-04
101-005-0100	12-4-03	Adopt	1-1-04	101-030-0022	7-2-04	Amend	8-1-04
101-005-0100	7-2-04	Amend	8-1-04	101-030-0022	10-7-04	Amend	11-1-04
101-005-0110	12-4-03	Adopt	1-1-04	101-030-0025	7-2-04	Amend	8-1-04
101-005-0110	7-2-04	Amend	8-1-04	101-030-0025	10-7-04	Amend	11-1-04
101-005-0120	12-4-03	Adopt	1-1-04	101-030-0030	7-2-04	Amend	8-1-04
101-005-0120	7-2-04	Amend	8-1-04	101-030-0030	10-7-04	Amend	11-1-04
101-005-0130	12-4-03	Adopt	1-1-04	101-030-0035	7-2-04	Amend	8-1-04
101-005-0130	7-2-04	Amend	8-1-04	101-030-0040	12-4-03	Amend	1-1-04
101-005-0140	12-4-03	Adopt	1-1-04	101-030-0040	7-2-04	Amend	8-1-04
101-005-0140	7-2-04	Amend	8-1-04	101-030-0040	10-7-04	Amend	11-1-04
101-006-0010	12-4-03	Adopt	1-1-04	101-040-0005	12-4-03	Amend	1-1-04
101-006-0010	7-2-04	Amend	8-1-04	101-040-0005	7-2-04	Amend	8-1-04
101-006-0020	12-4-03	Adopt	1-1-04	101-040-0005	10-7-04	Amend	11-1-04
101-006-0020	7-2-04	Amend	8-1-04	101-040-0010	12-4-03	Amend	1-1-04
101-010-0005	12-4-03	Amend	1-1-04	101-040-0010	7-2-04	Amend	8-1-04
101-010-0005	7-2-04	Amend	8-1-04	101-040-0010	10-7-04	Amend	11-1-04
101-010-0005	10-7-04	Amend	11-1-04	101-040-0015	7-2-04	Amend	8-1-04
101-015-0005	7-2-04	Amend	8-1-04	101-040-0015	10-7-04	Amend	11-1-04
101-015-0005	10-7-04	Amend	11-1-04	101-040-0020	7-2-04	Amend	8-1-04
101-015-0010	7-2-04	Adopt	8-1-04	101-040-0020	10-7-04	Amend	11-1-04
101-020-0005	7-2-04	Amend	8-1-04	101-040-0025	12-4-03	Amend	1-1-04
101-020-0005	10-7-04	Amend	11-1-04	101-040-0025	7-2-04	Amend	8-1-04
101-020-0010	12-4-03	Amend	1-1-04	101-040-0025	10-7-04	Amend	11-1-04
101-020-0010	7-2-04	Amend	8-1-04	101-040-0030	12-4-03	Amend	1-1-04
101-020-0010	10-7-04	Amend	11-1-04	101-040-0030	7-2-04	Amend	8-1-04
101-020-0015	12-4-03	Amend	1-1-04	101-040-0030	10-7-04	Amend	11-1-04
101-020-0015	7-2-04	Amend	8-1-04	101-040-0035	12-4-03	Amend	1-1-04
101-020-0015	10-7-04	Amend	11-1-04	101-040-0035	7-2-04	Amend	8-1-04

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101-040-0040	7-2-04	Amend	8-1-04	123-006-0010	8-5-04	Repeal	9-1-04
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101-040-0045	12-4-03	Amend	1-1-04	123-006-0015	6-15-04	Amend(T)	7-1-04
101-040-0045	7-2-04	Amend	8-1-04	123-006-0015	8-5-04	Amend	9-1-04
101-040-0045	10-7-04	Amend	11-1-04	123-006-0020	6-15-04	Amend(T)	7-1-04
101-040-0050	12-4-03	Amend	1-1-04	123-006-0020	8-5-04	Amend	9-1-04
101-040-0050	7-2-04	Amend	8-1-04	123-006-0025	6-15-04	Amend(T)	7-1-04
101-040-0050	10-7-04	Amend	11-1-04	123-006-0025	8-5-04	Amend	9-1-04
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101-040-0055	10-7-04	Adopt	11-1-04	123-006-0051	12-23-03	Adopt(T)	2-1-04
101-040-0060	12-4-03	Repeal	1-1-04	123-018-0055	10-15-04	Amend(T)	11-1-04
101-040-0070	12-4-03	Repeal	1-1-04	123-020-0000	2-21-04	Adopt(T)	3-1-04
101-040-0080	12-4-03	Adopt	1-1-04	123-020-0005	2-21-04	Amend(T)	3-1-04
101-040-0080	7-2-04	Amend	8-1-04	123-020-0005	8-2-04	Am. & Ren.	9-1-04
101-040-0080	10-7-04	Amend	11-1-04	123-020-0010	2-21-04	Amend(T)	3-1-04
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101-050-0005	10-7-04	Amend	11-1-04	123-020-0015	2-21-04	Amend(T)	3-1-04
101-050-0010	12-4-03	Amend	1-1-04	123-020-0015	8-2-04	Am. & Ren.	9-1-04
101-050-0010	7-2-04	Amend	8-1-04	123-020-0020	2-21-04	Amend(T)	3-1-04
101-050-0010	10-7-04	Amend	11-1-04	123-020-0020	8-2-04	Am. & Ren.	9-1-04
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101-050-0015	7-2-04	Amend	8-1-04	123-020-0025	8-2-04	Am. & Ren.	9-1-04
101-050-0015	10-7-04	Amend	11-1-04	123-020-0030	2-21-04	Amend(T)	3-1-04
101-050-0020	7-2-04	Amend	8-1-04	123-020-0030	8-2-04	Am. & Ren.	9-1-04
101-050-0020	10-7-04	Amend	11-1-04	123-020-0035	2-21-04	Amend(T)	3-1-04
101-050-0025	12-4-03	Amend	1-1-04	123-020-0035	8-2-04	Am. & Ren.	9-1-04
101-050-0025	7-2-04	Amend	8-1-04	123-020-0040	2-21-04	Amend(T)	3-1-04
101-050-0025	10-7-04	Amend	11-1-04	123-020-0040	8-2-04	Am. & Ren.	9-1-04
101-050-0030	7-2-04	Amend	8-1-04	123-020-0050	2-21-04	Suspend	3-1-04
101-060-0005	7-2-04	Amend	8-1-04	123-020-0050	8-2-04	Repeal	9-1-04
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105-040-0050	3-15-04	Amend	4-1-04	123-023-0501	5-24-04	Am. & Ren.	7-1-04
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122-040-0060	12-30-03	Adopt	2-1-04	123-023-1700	5-24-04	Adopt	7-1-04
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122-070-0010	12-4-03	Amend	1-1-04	123-025-0005	2-3-04	Amend(T)	3-1-04
122-070-0030	12-4-03	Amend	1-1-04	123-025-0010	2-3-04	Amend(T)	3-1-04
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122-070-0070	12-4-03	Amend	1-1-04	123-025-0012	8-2-04	Adopt	9-1-04
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123-001-0750	7-27-04	Adopt	9-1-04	123-025-0017	8-2-04	Amend	9-1-04
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123-025-0023	8-2-04	Amend	9-1-04	123-042-0040	8-2-04	Amend	9-1-04
123-025-0025	2-3-04	Amend(T)	3-1-04	123-042-0050	2-3-04	Suspend	3-1-04
123-025-0025	8-2-04	Amend	9-1-04	123-042-0050	8-2-04	Repeal	9-1-04
123-025-0030	2-3-04	Amend(T)	3-1-04	123-042-0060	2-3-04	Suspend	3-1-04
123-025-0030	8-2-04	Amend	9-1-04	123-042-0060	8-2-04	Repeal	9-1-04
123-027-0035	2-3-04	Amend(T)	3-1-04	123-042-0070	2-3-04	Amend(T)	3-1-04
123-027-0040	2-3-04	Amend(T)	3-1-04	123-042-0070	8-2-04	Amend	9-1-04
123-027-0040	8-19-04	Amend	10-1-04	123-042-0075	2-3-04	Suspend	3-1-04
123-027-0050	2-3-04	Amend(T)	3-1-04	123-042-0075	8-2-04	Repeal	9-1-04
123-027-0050	8-19-04	Amend	10-1-04	123-042-0080	2-3-04	Amend(T)	3-1-04
123-027-0055	2-3-04	Adopt(T)	3-1-04	123-042-0080	8-2-04	Amend	9-1-04
123-027-0056	8-19-04	Adopt	10-1-04	123-042-0130	8-2-04	Repeal	9-1-04
123-027-0060	2-3-04	Amend(T)	3-1-04	123-042-0140	2-3-04	Suspend	3-1-04
123-027-0060	8-19-04	Amend	10-1-04	123-042-0140	8-2-04	Repeal	9-1-04
123-027-0070	2-3-04	Amend(T)	3-1-04	123-042-0150	2-3-04	Amend(T)	3-1-04
123-027-0070	8-19-04	Amend	10-1-04	123-042-0150	8-2-04	Amend	9-1-04
123-027-0080	2-3-04	Suspend	3-1-04	123-042-0160	2-3-04	Amend(T)	3-1-04
123-027-0080	8-19-04	Repeal	10-1-04	123-042-0160	8-2-04	Amend	9-1-04
123-027-0100	8-19-04	Am. & Ren.	10-1-04	123-042-0170	2-3-04	Suspend	3-1-04
123-027-0105	2-3-04	Adopt(T)	3-1-04	123-042-0170	8-2-04	Repeal	9-1-04
123-027-0110	8-19-04	Am. & Ren.	10-1-04	123-042-0180	2-3-04	Amend(T)	3-1-04
123-027-0155	2-3-04	Adopt(T)	3-1-04	123-042-0180	8-2-04	Amend	9-1-04
123-027-0156	8-19-04	Adopt	10-1-04	123-042-0190	2-3-04	Amend(T)	3-1-04
123-027-0160	2-3-04	Adopt(T)	3-1-04	123-042-0190	8-2-04	Amend	9-1-04
123-027-0161	8-19-04	Adopt	10-1-04	123-043-0035	3-22-04	Amend	5-1-04
123-027-0165	2-3-04	Adopt(T)	3-1-04	123-043-0045	3-22-04	Amend	5-1-04
123-027-0166	8-19-04	Adopt	10-1-04	123-043-0055	3-22-04	Amend	5-1-04
123-027-0170	2-3-04	Adopt(T)	3-1-04	123-043-0075	3-22-04	Amend	5-1-04
123-027-0171	8-19-04	Adopt	10-1-04	123-049-0005	2-3-04	Amend	3-1-04
123-027-0200	2-3-04	Adopt(T)	3-1-04	123-049-0010	2-3-04	Amend	3-1-04
123-027-0201	8-19-04	Adopt	10-1-04	123-049-0020	2-3-04	Amend	3-1-04
123-027-0210	2-3-04	Adopt(T)	3-1-04	123-049-0030	2-3-04	Amend	3-1-04
123-030-0004	2-3-04	Amend(T)	3-1-04	123-049-0040	2-3-04	Amend	3-1-04
123-030-0004	8-2-04	Amend	9-1-04	123-049-0050	2-3-04	Amend	3-1-04
123-030-0010	2-3-04	Amend(T)	3-1-04	123-049-0060	2-3-04	Adopt	3-1-04
123-030-0010	8-2-04	Amend	9-1-04	123-055-0100	2-3-04	Amend(T)	3-1-04
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123-035-0005	8-2-04	Adopt	9-1-04	123-055-0400	2-3-04	Amend(T)	3-1-04
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123-055-0525	8-2-04	Amend	9-1-04	125-125-0050	9-1-04	Adopt	8-1-04
123-055-0600	2-3-04	Amend(T)	3-1-04	125-125-0100	3-5-04	Adopt(T)	4-1-04
123-055-0600	8-2-04	Amend	9-1-04	125-125-0100	9-1-04	Adopt	8-1-04
123-055-0620	2-3-04	Amend(T)	3-1-04	125-125-0150	3-5-04	Adopt(T)	4-1-04
123-055-0620	8-2-04	Amend	9-1-04	125-125-0150	9-1-04	Adopt	8-1-04
123-055-0900	2-3-04	Amend(T)	3-1-04	125-125-0200	3-5-04	Adopt(T)	4-1-04
123-055-0900	8-2-04	Amend	9-1-04	125-125-0200	9-1-04	Adopt	8-1-04
123-057-0110	2-3-04	Amend(T)	3-1-04	125-125-0250	3-5-04	Adopt(T)	4-1-04
123-057-0110	8-2-04	Amend	9-1-04	125-125-0250	9-1-04	Adopt	8-1-04
123-057-0130	2-3-04	Amend(T)	3-1-04	125-125-0300	3-5-04	Adopt(T)	4-1-04
123-057-0130	8-2-04	Amend	9-1-04	125-125-0300	9-1-04	Adopt	8-1-04
123-057-0170	2-3-04	Amend(T)	3-1-04	125-125-0350	3-5-04	Adopt(T)	4-1-04
123-057-0170	8-2-04	Amend	9-1-04	125-125-0350	9-1-04	Adopt	8-1-04
123-057-0190	2-3-04	Amend(T)	3-1-04	125-125-0400	3-5-04	Adopt(T)	4-1-04
123-057-0190	8-2-04	Amend	9-1-04	125-125-0400	9-1-04	Adopt	8-1-04
123-057-0210	2-3-04	Amend(T)	3-1-04	125-125-0450	3-5-04	Adopt(T)	4-1-04
123-057-0210	8-2-04	Amend	9-1-04	125-125-0450	9-1-04	Adopt	8-1-04
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123-057-0310	8-2-04	Amend	9-1-04	137-003-0501	1-1-04	Amend	1-1-04
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123-057-0350	2-3-04	Amend(T)	3-1-04	137-003-0520	1-1-04	Amend	1-1-04
123-057-0350	8-2-04	Amend	9-1-04	137-003-0525	1-1-04	Amend	1-1-04
123-057-0410	2-3-04	Amend(T)	3-1-04	137-003-0528	1-1-04	Amend	1-1-04
123-057-0410	8-2-04	Amend	9-1-04	137-003-0530	1-1-04	Amend	1-1-04
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123-057-0430	8-2-04	Amend	9-1-04	137-003-0540	1-1-04	Amend	1-1-04
123-057-0450	2-3-04	Amend(T)	3-1-04	137-003-0545	1-1-04	Amend	1-1-04
123-057-0450	8-2-04	Amend	9-1-04	137-003-0555	1-1-04	Amend	1-1-04
123-057-0470	2-3-04	Amend(T)	3-1-04	137-003-0560	1-1-04	Amend	1-1-04
123-057-0470	8-2-04	Amend	9-1-04	137-003-0565	1-1-04	Amend	1-1-04
123-057-0510	2-3-04	Amend(T)	3-1-04	137-003-0570	1-1-04	Amend	1-1-04
123-057-0510	8-2-04	Amend	9-1-04	137-003-0572	1-1-04	Amend	1-1-04
123-057-0530	2-3-04	Amend(T)	3-1-04	137-003-0573	1-1-04	Amend	1-1-04
123-057-0530	8-2-04	Amend	9-1-04	137-003-0575	1-1-04	Amend	1-1-04
123-057-0710	2-3-04	Amend(T)	3-1-04	137-003-0580	1-1-04	Amend	1-1-04
123-057-0710	8-2-04	Amend	9-1-04	137-003-0585	1-1-04	Amend	1-1-04
123-068-0015	12-15-03	Adopt(T)	1-1-04	137-003-0590	1-1-04	Amend	1-1-04
123-068-0105	12-15-03	Adopt(T)	1-1-04	137-003-0595	1-1-04	Amend	1-1-04
123-068-0205	12-15-03	Adopt(T)	1-1-04	137-003-0600	1-1-04	Amend	1-1-04
123-068-0305	12-15-03	Adopt(T)	1-1-04	137-003-0605	1-1-04	Amend	1-1-04
123-145-0010	7-27-04	Am. & Ren.	9-1-04	137-003-0610	1-1-04	Amend	1-1-04
123-145-0020	7-27-04	Am. & Ren.	9-1-04	137-003-0615	1-1-04	Amend	1-1-04
123-145-0030	7-27-04	Am. & Ren.	9-1-04	137-003-0625	1-1-04	Amend	1-1-04
123-145-0040	7-27-04	Am. & Ren.	9-1-04	137-003-0630	1-1-04	Amend	1-1-04
123-145-0050	7-27-04	Am. & Ren.	9-1-04	137-003-0635	1-1-04	Amend	1-1-04
123-145-0060	7-27-04	Am. & Ren.	9-1-04	137-003-0640	1-1-04	Amend	1-1-04
123-145-0070	7-27-04	Am. & Ren.	9-1-04	137-003-0645	1-1-04	Amend	1-1-04
123-145-0080	7-27-04	Am. & Ren.	9-1-04	137-003-0650	1-1-04	Amend	1-1-04
123-145-0090	7-27-04	Am. & Ren.	9-1-04	137-003-0655	1-1-04	Amend	1-1-04
123-145-0700	7-27-04	Adopt	9-1-04	137-003-0660	1-1-04	Amend	1-1-04
123-145-1100	7-27-04	Adopt	9-1-04	137-003-0665	1-1-04	Amend	1-1-04
125-020-0610	3-26-04	Amend	5-1-04	137-003-0670	1-1-04	Amend	1-1-04

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137-003-0675	1-1-04	Amend	1-1-04	137-030-0135	3-1-05	Repeal	10-1-04
137-003-0690	1-1-04	Amend	1-1-04	137-030-0140	3-1-05	Repeal	10-1-04
137-003-0695	1-1-04	Amend	1-1-04	137-030-0145	3-1-05	Repeal	10-1-04
137-004-0800	12-9-03	Amend	1-1-04	137-030-0155	3-1-05	Repeal	10-1-04
137-008-0000	12-9-03	Amend	1-1-04	137-035-0000	3-1-05	Repeal	10-1-04
137-008-0010	12-9-03	Amend	1-1-04	137-035-0010	3-1-05	Repeal	10-1-04
137-008-0010	12-10-03	Amend(T)	1-1-04	137-035-0020	3-1-05	Repeal	10-1-04
137-025-0020	4-1-04	Amend	4-1-04	137-035-0030	3-1-05	Repeal	10-1-04
137-025-0020	5-19-04	Amend	7-1-04	137-035-0040	3-1-05	Repeal	10-1-04
137-025-0045	5-19-04	Adopt	7-1-04	137-035-0050	3-1-05	Repeal	10-1-04
137-025-0115	5-19-04	Adopt	7-1-04	137-035-0060	3-1-05	Repeal	10-1-04
137-025-0117	5-19-04	Adopt	7-1-04	137-035-0065	3-1-05	Repeal	10-1-04
137-025-0160	4-1-04	Amend	4-1-04	137-035-0070	3-1-05	Repeal	10-1-04
137-025-0160	5-19-04	Amend	7-1-04	137-035-0080	3-1-05	Repeal	10-1-04
137-025-0180	4-1-04	Amend	4-1-04	137-040-0000	3-1-05	Repeal	10-1-04
137-025-0180	5-19-04	Amend	7-1-04	137-040-0005	3-1-05	Repeal	10-1-04
137-025-0181	5-19-04	Adopt	7-1-04	137-040-0010	3-1-05	Repeal	10-1-04
137-025-0182	5-19-04	Adopt	7-1-04	137-040-0015	3-1-05	Repeal	10-1-04
137-025-0183	5-19-04	Adopt	7-1-04	137-040-0017	1-2-04	Amend	2-1-04
137-025-0184	5-19-04	Adopt	7-1-04	137-040-0017	3-1-05	Repeal	10-1-04
137-025-0186	5-19-04	Adopt	7-1-04	137-040-0020	3-1-05	Repeal	10-1-04
137-025-0188	5-19-04	Adopt	7-1-04	137-040-0021	3-1-05	Repeal	10-1-04
137-025-0189	5-19-04	Adopt	7-1-04	137-040-0025	3-1-05	Repeal	10-1-04
137-030-0000	3-1-05	Repeal	10-1-04	137-040-0030	3-1-05	Repeal	10-1-04
137-030-0005	3-1-05	Repeal	10-1-04	137-040-0031	3-1-05	Repeal	10-1-04
137-030-0006	3-1-05	Repeal	10-1-04	137-040-0035	3-1-05	Repeal	10-1-04
137-030-0008	3-1-05	Repeal	10-1-04	137-040-0045	3-1-05	Repeal	10-1-04
137-030-0010	3-1-05	Repeal	10-1-04	137-040-0500	1-2-04	Amend	2-1-04
137-030-0011	3-1-05	Repeal	10-1-04	137-040-0500	3-1-05	Repeal	10-1-04
137-030-0012	3-1-05	Repeal	10-1-04	137-040-0510	1-2-04	Amend	2-1-04
137-030-0013	3-1-05	Repeal	10-1-04	137-040-0510	3-1-05	Repeal	10-1-04
137-030-0014	3-1-05	Repeal	10-1-04	137-040-0520	1-2-04	Amend	2-1-04
137-030-0015	3-1-05	Repeal	10-1-04	137-040-0520	3-1-05	Repeal	10-1-04
137-030-0020	3-1-05	Repeal	10-1-04	137-040-0530	3-1-05	Repeal	10-1-04
137-030-0030	3-1-05	Repeal	10-1-04	137-040-0540	3-1-05	Repeal	10-1-04
137-030-0035	3-1-05	Repeal	10-1-04	137-040-0550	1-2-04	Amend	2-1-04
137-030-0040	3-1-05	Repeal	10-1-04	137-040-0550	3-1-05	Repeal	10-1-04
137-030-0050	3-1-05	Repeal	10-1-04	137-040-0560	1-2-04	Amend	2-1-04
137-030-0055	3-1-05	Repeal	10-1-04	137-040-0560	3-1-05	Repeal	10-1-04
137-030-0060	3-1-05	Repeal	10-1-04	137-040-0565	1-2-04	Adopt	2-1-04
137-030-0065	3-1-05	Repeal	10-1-04	137-040-0565	3-1-05	Repeal	10-1-04
137-030-0070	3-1-05	Repeal	10-1-04	137-040-0570	3-1-05	Repeal	10-1-04
137-030-0075	3-1-05	Repeal	10-1-04	137-040-0590	3-1-05	Repeal	10-1-04
137-030-0080	3-1-05	Repeal	10-1-04	137-045-0010	12-9-03	Amend	1-1-04
137-030-0085	3-1-05	Repeal	10-1-04	137-045-0015	12-9-03	Amend	1-1-04
137-030-0090	3-1-05	Repeal	10-1-04	137-045-0030	12-9-03	Amend	1-1-04
137-030-0095	3-1-05	Repeal	10-1-04	137-045-0035	12-9-03	Amend	1-1-04
137-030-0100	3-1-05	Repeal	10-1-04	137-045-0050	12-9-03	Amend	1-1-04
137-030-0102	3-1-05	Repeal	10-1-04	137-045-0055	12-9-03	Adopt	1-1-04
137-030-0104	3-1-05	Repeal	10-1-04	137-045-0060	12-9-03	Amend	1-1-04
137-030-0105	3-1-05	Repeal	10-1-04	137-045-0070	12-9-03	Amend	1-1-04
137-030-0110	3-1-05	Repeal	10-1-04	137-045-0080	12-9-03	Amend	1-1-04
137-030-0115	3-1-05	Repeal	10-1-04	137-045-0090	12-9-03	Amend	1-1-04
137-030-0120	3-1-05	Repeal	10-1-04	137-046-0100	3-1-05	Adopt	10-1-04
137-030-0125	3-1-05	Repeal	10-1-04	137-046-0110	3-1-05	Adopt	10-1-04
137-030-0130	3-1-05	Repeal	10-1-04	137-046-0120	3-1-05	Adopt	10-1-04

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137-049-0460	3-1-05	Adopt	10-1-04	137-055-3480	4-1-04	Amend	5-1-04
137-049-0470	3-1-05	Adopt	10-1-04	137-055-3485	7-1-04	Adopt	8-1-04
137-049-0490	3-1-05	Adopt	10-1-04	137-055-3490	1-5-04	Amend	2-1-04
137-049-0600	3-1-05	Adopt	10-1-04	137-055-3660	1-5-04	Adopt	2-1-04
137-049-0610	3-1-05	Adopt	10-1-04	137-055-3665	10-1-04	Adopt	11-1-04
137-049-0620	3-1-05	Adopt	10-1-04	137-055-4060	1-5-04	Amend	2-1-04
137-049-0630	3-1-05	Adopt	10-1-04	137-055-4080	1-5-04	Amend	2-1-04
137-049-0640	3-1-05	Adopt	10-1-04	137-055-4100	1-5-04	Amend	2-1-04
137-049-0650	3-1-05	Adopt	10-1-04	137-055-4110	1-5-04	Adopt	2-1-04
137-049-0660	3-1-05	Adopt	10-1-04	137-055-4120	1-5-04	Amend	2-1-04
137-049-0670	3-1-05	Adopt	10-1-04	137-055-4120	7-1-04	Amend	8-1-04
137-049-0680	3-1-05	Adopt	10-1-04	137-055-4120	10-1-04	Amend	11-1-04
137-049-0690	3-1-05	Adopt	10-1-04	137-055-4130	1-5-04	Amend	2-1-04
137-049-0800	3-1-05	Adopt	10-1-04	137-055-4140	1-5-04	Repeal	2-1-04
137-049-0810	3-1-05	Adopt	10-1-04	137-055-4160	1-5-04	Amend	2-1-04
137-049-0820	3-1-05	Adopt	10-1-04	137-055-4180	1-5-04	Amend	2-1-04
137-049-0830	3-1-05	Adopt	10-1-04	137-055-4200	1-5-04	Repeal	2-1-04
137-049-0840	3-1-05	Adopt	10-1-04	137-055-4220	1-5-04	Repeal	2-1-04
137-049-0850	3-1-05	Adopt	10-1-04	137-055-4240	1-5-04	Repeal	2-1-04
137-049-0860	3-1-05	Adopt	10-1-04	137-055-4260	1-5-04	Repeal	2-1-04
137-049-0870	3-1-05	Adopt	10-1-04	137-055-4280	1-5-04	Repeal	2-1-04
137-049-0880	3-1-05	Adopt	10-1-04	137-055-4440	1-5-04	Amend	2-1-04
137-049-0890	3-1-05	Adopt	10-1-04	137-055-4450	1-5-04	Adopt	2-1-04
137-049-0900	3-1-05	Adopt	10-1-04	137-055-4520	1-5-04	Amend	2-1-04
137-049-0910	3-1-05	Adopt	10-1-04	137-055-4560	10-1-04	Amend	11-1-04
137-055-1020	1-5-04	Amend	2-1-04	137-055-5020	1-5-04	Amend	2-1-04
137-055-1060	10-1-04	Amend	11-1-04	137-055-5025	1-5-04	Adopt	2-1-04
137-055-1070	7-1-04	Amend	8-1-04	137-055-5030	7-1-04	Adopt	8-1-04
137-055-1140	4-1-04	Amend	5-1-04	137-055-5040	1-5-04	Amend	2-1-04
137-055-1140	10-1-04	Amend	11-1-04	137-055-5040	7-1-04	Amend	8-1-04
137-055-1145	10-1-04	Adopt	11-1-04	137-055-5045	7-1-04	Adopt	8-1-04
137-055-1160	1-5-04	Amend	2-1-04	137-055-5110	1-5-04	Amend	2-1-04
137-055-1160	10-1-04	Amend	11-1-04	137-055-5110	7-1-04	Amend	8-1-04
137-055-1180	7-1-04	Amend	8-1-04	137-055-5120	10-1-04	Amend	11-1-04
137-055-1320	4-1-04	Amend	5-1-04	137-055-5220	1-5-04	Amend	2-1-04
137-055-1340	4-1-04	Repeal	5-1-04	137-055-5220	10-1-04	Amend	11-1-04
137-055-1360	4-1-04	Amend	5-1-04	137-055-5510	1-5-04	Adopt	2-1-04
137-055-1360	10-1-04	Amend	11-1-04	137-055-5510	7-1-04	Amend	8-1-04
137-055-1600	4-1-04	Amend	5-1-04	137-055-6020	1-5-04	Amend	2-1-04
137-055-2040	7-1-04	Amend	8-1-04	137-055-6020	7-1-04	Amend	8-1-04
137-055-2140	4-1-04	Amend	5-1-04	137-055-6020	10-1-04	Amend	11-1-04
137-055-3060	10-1-04	Amend	11-1-04	137-055-6025	1-5-04	Amend	2-1-04
137-055-3200	1-5-04	Adopt	2-1-04	137-055-6110	1-5-04	Amend	2-1-04
137-055-3200	10-1-04	Amend	11-1-04	137-055-6210	7-1-04	Adopt	8-1-04
137-055-3220	1-5-04	Amend	2-1-04	137-055-6220	7-1-04	Amend	8-1-04
137-055-3300	4-1-04	Amend	5-1-04	137-055-7180	7-1-04	Amend	8-1-04
137-055-3300	10-1-04	Amend	11-1-04	137-055-7190	7-1-04	Adopt	8-1-04
137-055-3360	1-5-04	Amend	2-1-04	137-060-0010	2-11-04	Repeal	3-1-04
137-055-3360	10-1-04	Amend	11-1-04	137-060-0011	2-11-04	Repeal	3-1-04
137-055-3400	1-5-04	Amend	2-1-04	137-060-0012	2-11-04	Repeal	3-1-04
137-055-3410	10-1-04	Amend	11-1-04	137-060-0013	2-11-04	Repeal	3-1-04
137-055-3420	1-5-04	Amend	2-1-04	137-060-0014	2-11-04	Repeal	3-1-04
137-055-3420	7-1-04	Amend	8-1-04	137-060-0015	2-11-04	Repeal	3-1-04
137-055-3430	7-1-04	Adopt	8-1-04	137-060-0016	2-11-04	Repeal	3-1-04
137-055-3440	1-5-04	Amend	2-1-04	137-060-0020	2-11-04	Repeal	3-1-04

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137-060-0022	2-11-04	Repeal	3-1-04	137-105-0001	5-25-04	Adopt	7-1-04
137-060-0023	2-11-04	Repeal	3-1-04	137-105-0010	5-25-04	Adopt	7-1-04
137-060-0024	2-11-04	Repeal	3-1-04	137-105-0020	5-25-04	Adopt	7-1-04
137-060-0025	2-11-04	Repeal	3-1-04	137-105-0030	5-25-04	Adopt	7-1-04
137-060-0026	2-11-04	Repeal	3-1-04	137-105-0040	5-25-04	Adopt	7-1-04
137-060-0030	2-11-04	Repeal	3-1-04	141-030-0010	1-1-04	Amend	1-1-04
137-060-0031	2-11-04	Repeal	3-1-04	141-030-0015	1-1-04	Amend	1-1-04
137-060-0032	2-11-04	Repeal	3-1-04	141-030-0025	1-1-04	Amend	1-1-04
137-060-0033	2-11-04	Repeal	3-1-04	141-030-0034	1-1-04	Amend	1-1-04
137-060-0034	2-11-04	Repeal	3-1-04	141-030-0035	1-1-04	Amend	1-1-04
137-060-0035	2-11-04	Repeal	3-1-04	141-030-0036	1-1-04	Amend	1-1-04
137-060-0036	2-11-04	Repeal	3-1-04	141-030-0037	1-1-04	Amend	1-1-04
137-060-0040	2-11-04	Repeal	3-1-04	141-030-0038	1-1-04	Repeal	1-1-04
137-060-0041	2-11-04	Repeal	3-1-04	141-030-0039	1-1-04	Am. & Ren.	1-1-04
137-060-0042	2-11-04	Repeal	3-1-04	141-030-0039	1-1-04	Amend	1-1-04
137-060-0043	2-11-04	Repeal	3-1-04	141-030-0040	1-1-04	Repeal	1-1-04
137-060-0044	2-11-04	Repeal	3-1-04	141-030-0045	1-1-04	Adopt	1-1-04
137-060-0045	2-11-04	Repeal	3-1-04	141-035-0005	1-1-04	Amend	1-1-04
137-060-0100	2-11-04	Adopt	3-1-04	141-035-0010	1-1-04	Repeal	1-1-04
137-060-0110	2-11-04	Adopt	3-1-04	141-035-0011	1-1-04	Adopt	1-1-04
137-060-0120	2-11-04	Adopt	3-1-04	141-035-0012	1-1-04	Adopt	1-1-04
137-060-0130	2-11-04	Adopt	3-1-04	141-035-0013	1-1-04	Amend	1-1-04
137-060-0140	2-11-04	Adopt	3-1-04	141-035-0015	1-1-04	Amend	1-1-04
137-060-0150	2-11-04	Adopt	3-1-04	141-035-0016	1-1-04	Adopt	1-1-04
137-060-0160	2-11-04	Adopt	3-1-04	141-035-0018	1-1-04	Adopt	1-1-04
137-060-0200	2-11-04	Adopt	3-1-04	141-035-0020	1-1-04	Amend	1-1-04
137-060-0210	2-11-04	Adopt	3-1-04	141-035-0025	1-1-04	Amend	1-1-04
137-060-0220	2-11-04	Adopt	3-1-04	141-035-0030	1-1-04	Amend	1-1-04
137-060-0230	2-11-04	Adopt	3-1-04	141-035-0035	1-1-04	Amend	1-1-04
137-060-0240	2-11-04	Adopt	3-1-04	141-035-0040	1-1-04	Amend	1-1-04
137-060-0250	2-11-04	Adopt	3-1-04	141-035-0045	1-1-04	Amend	1-1-04
137-060-0260	2-11-04	Adopt	3-1-04	141-035-0047	1-1-04	Amend	1-1-04
137-060-0300	2-11-04	Adopt	3-1-04	141-035-0048	1-1-04	Amend	1-1-04
137-060-0310	2-11-04	Adopt	3-1-04	141-035-0050	1-1-04	Amend	1-1-04
137-060-0320	2-11-04	Adopt	3-1-04	141-035-0055	1-1-04	Amend	1-1-04
137-060-0330	2-11-04	Adopt	3-1-04	141-035-0060	1-1-04	Amend	1-1-04
137-060-0340	2-11-04	Adopt	3-1-04	141-035-0065	1-1-04	Amend	1-1-04
137-060-0350	2-11-04	Adopt	3-1-04	141-035-0068	1-1-04	Adopt	1-1-04
137-060-0360	2-11-04	Adopt	3-1-04	141-035-0070	1-1-04	Amend	1-1-04
137-060-0400	2-11-04	Adopt	3-1-04	141-035-0075	1-1-04	Adopt	1-1-04
137-060-0410	2-11-04	Adopt	3-1-04	141-040-0005	1-1-04	Amend	1-1-04
137-060-0420	2-11-04	Adopt	3-1-04	141-040-0010	1-1-04	Amend	1-1-04
137-060-0430	2-11-04	Adopt	3-1-04	141-040-0020	1-1-04	Amend	1-1-04
137-060-0440	2-11-04	Adopt	3-1-04	141-040-0030	1-1-04	Amend	1-1-04
137-060-0450	2-11-04	Adopt	3-1-04	141-040-0035	1-1-04	Amend	1-1-04
137-084-0001	1-29-04	Adopt	3-1-04	141-040-0040	1-1-04	Amend	1-1-04
137-084-0005	1-29-04	Adopt	3-1-04	141-040-0200	1-1-04	Amend	1-1-04
137-084-0010	1-29-04	Adopt	3-1-04	141-040-0211	1-1-04	Amend	1-1-04
137-084-0020	1-29-04	Adopt	3-1-04	141-040-0212	1-1-04	Amend	1-1-04
137-084-0030	1-29-04	Adopt	3-1-04	141-040-0214	1-1-04	Amend	1-1-04
137-085-0001	2-1-04	Adopt(T)	3-1-04	141-040-0220	1-1-04	Amend	1-1-04
137-085-0010	2-1-04	Adopt(T)	3-1-04	141-045-0005	1-1-04	Amend	1-1-04
137-085-0020	2-1-04	Adopt(T)	3-1-04	141-045-0010	1-1-04	Amend	1-1-04
137-085-0030	2-1-04	Adopt(T)	3-1-04	141-045-0015	1-1-04	Amend	1-1-04
137-085-0040	2-1-04	Adopt(T)	3-1-04	141-045-0021	1-1-04	Amend	1-1-04

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141-045-0041	1-1-04	Amend	1-1-04	141-085-0085	5-21-04	Amend	7-1-04
141-045-0061	1-1-04	Amend	1-1-04	141-085-0090	5-21-04	Amend	7-1-04
141-045-0100	1-1-04	Amend	1-1-04	141-085-0095	5-21-04	Amend	7-1-04
141-045-0105	1-1-04	Amend	1-1-04	141-085-0096	11-26-03	Amend	1-1-04
141-045-0115	1-1-04	Amend	1-1-04	141-085-0096	5-21-04	Amend	7-1-04
141-045-0120	1-1-04	Amend	1-1-04	141-085-0115	11-26-03	Amend	1-1-04
141-045-0121	1-1-04	Amend	1-1-04	141-085-0115	5-21-04	Amend	7-1-04
141-045-0122	1-1-04	Amend	1-1-04	141-085-0121	11-26-03	Amend	1-1-04
141-045-0123	1-1-04	Amend	1-1-04	141-085-0121	5-21-04	Amend	7-1-04
141-045-0124	1-1-04	Amend	1-1-04	141-085-0126	11-26-03	Amend	1-1-04
141-045-0125	1-1-04	Amend	1-1-04	141-085-0126	5-21-04	Amend	7-1-04
141-045-0126	1-1-04	Amend	1-1-04	141-085-0131	11-26-03	Amend	1-1-04
141-045-0130	1-1-04	Amend	1-1-04	141-085-0131	5-21-04	Amend	7-1-04
141-045-0150	1-1-04	Amend	1-1-04	141-085-0136	5-21-04	Amend	7-1-04
141-045-0155	1-1-04	Amend	1-1-04	141-085-0141	11-26-03	Amend	1-1-04
141-045-0160	1-1-04	Amend	1-1-04	141-085-0141	5-21-04	Amend	7-1-04
141-045-0170	1-1-04	Amend	1-1-04	141-085-0146	11-26-03	Amend	1-1-04
141-045-0180	1-1-04	Amend	1-1-04	141-085-0146	5-21-04	Amend	7-1-04
141-045-0185	1-1-04	Amend	1-1-04	141-085-0151	11-26-03	Amend	1-1-04
141-084-0010	6-11-04	Repeal	7-1-04	141-085-0151	5-21-04	Amend	7-1-04
141-084-0020	6-11-04	Repeal	7-1-04	141-085-0156	11-26-03	Amend	1-1-04
141-084-0030	6-11-04	Repeal	7-1-04	141-085-0156	5-21-04	Amend	7-1-04
141-084-0040	6-11-04	Repeal	7-1-04	141-085-0161	11-26-03	Amend	1-1-04
141-084-0050	6-11-04	Repeal	7-1-04	141-085-0161	5-21-04	Amend	7-1-04
141-084-0060	6-11-04	Repeal	7-1-04	141-085-0166	5-21-04	Amend	7-1-04
141-084-0070	6-11-04	Repeal	7-1-04	141-085-0171	5-21-04	Amend	7-1-04
141-084-0080	6-11-04	Repeal	7-1-04	141-085-0176	11-26-03	Amend	1-1-04
141-084-0090	6-11-04	Repeal	7-1-04	141-085-0176	5-21-04	Amend	7-1-04
141-084-0100	6-11-04	Repeal	7-1-04	141-085-0240	5-21-04	Amend	7-1-04
141-085-0005	5-21-04	Amend	7-1-04	141-085-0244	5-21-04	Amend	7-1-04
141-085-0006	5-21-04	Amend	7-1-04	141-085-0248	5-21-04	Amend	7-1-04
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141-085-0020	5-21-04	Amend	7-1-04	141-085-0263	11-26-03	Amend	1-1-04
141-085-0022	5-21-04	Amend	7-1-04	141-085-0263	5-21-04	Amend	7-1-04
141-085-0023	5-21-04	Adopt	7-1-04	141-085-0264	5-21-04	Amend	7-1-04
141-085-0024	5-21-04	Amend	7-1-04	141-085-0266	5-21-04	Amend	7-1-04
141-085-0025	5-21-04	Amend	7-1-04	141-085-0400	5-21-04	Amend	7-1-04
141-085-0027	11-26-03	Amend	1-1-04	141-085-0406	5-21-04	Amend	7-1-04
141-085-0027	5-21-04	Amend	7-1-04	141-085-0410	11-26-03	Amend	1-1-04
141-085-0028	11-26-03	Amend	1-1-04	141-085-0410	5-21-04	Amend	7-1-04
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141-88-0020	6-11-04	Amend	7-1-04	141-89-0410	5-21-04	Amend	7-1-04
141-88-0035	6-11-04	Adopt	7-1-04	141-89-0415	5-21-04	Amend	7-1-04
141-88-0040	6-11-04	Adopt	7-1-04	141-89-0420	5-21-04	Amend	7-1-04
141-88-0050	6-11-04	Adopt	7-1-04	141-89-0430	5-21-04	Amend	7-1-04
141-88-0060	6-11-04	Adopt	7-1-04	141-89-0500	5-21-04	Amend	7-1-04
141-88-0070	6-11-04	Adopt	7-1-04	141-89-0505	5-21-04	Amend	7-1-04
141-88-0080	6-11-04	Adopt	7-1-04	141-89-0510	5-21-04	Amend	7-1-04
141-88-0090	6-11-04	Adopt	7-1-04	141-89-0515	5-21-04	Amend	7-1-04
141-88-0100	6-11-04	Adopt	7-1-04	141-89-0520	5-21-04	Amend	7-1-04
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141-88-0120	6-11-04	Adopt	7-1-04	141-89-0550	5-21-04	Adopt	7-1-04
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141-89-0150	5-21-04	Amend	7-1-04	141-090-0015	5-21-04	Amend	7-1-04
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141-89-0170	5-21-04	Amend	7-1-04	141-090-0025	5-21-04	Amend	7-1-04
141-89-0175	5-21-04	Amend	7-1-04	141-090-0030	11-26-03	Amend	1-1-04
141-89-0180	11-26-03	Amend	1-1-04	141-090-0030	5-21-04	Amend	7-1-04
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141-89-0185	5-21-04	Amend	7-1-04	141-090-0040	5-21-04	Amend	7-1-04
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141-89-0205	5-21-04	Amend	7-1-04	141-090-0055	5-21-04	Amend	7-1-04
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141-89-0255	5-21-04	Amend	7-1-04	150-118.010(2)	7-31-04	Adopt	9-1-04
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141-89-0275	5-21-04	Amend	7-1-04	150-118.010(7)	7-31-04	Adopt	9-1-04
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141-89-0290	5-21-04	Amend	7-1-04	150-137.302(7)	7-31-04	Adopt	9-1-04
141-89-0295	5-21-04	Amend	7-1-04	150-180.455	4-1-04	Adopt(T)	5-1-04
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150-294.311(30)	7-31-04	Amend	9-1-04	150-321.005	12-31-03	Amend	2-1-04
150-294.352(8)	7-31-04	Amend	9-1-04	150-321.045	12-31-03	Amend	2-1-04
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150-305.220(2)	12-31-03	Amend	2-1-04	150-321.267	7-31-04	Repeal	9-1-04
150-306.115	12-31-03	Amend	2-1-04	150-321.282(1)-(B)	7-31-04	Repeal	9-1-04
150-308.156(5)-(B)	12-31-03	Amend	2-1-04	150-321.282(1)-(C)	12-31-03	Repeal	2-1-04
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150-308.219	12-31-03	Amend	2-1-04	150-321.282(1)-(E)	12-31-03	Repeal	2-1-04
150-308.250	12-31-03	Amend	2-1-04	150-321.282(1)-(I)	12-31-03	Repeal	2-1-04
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150-312.040(1)(b)	12-31-03	Amend	2-1-04	150-321.352(7)	7-31-04	Repeal	9-1-04
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150-314.610(1)-(B)	12-31-03	Amend	2-1-04	150-321.379(2)-(A)	12-31-03	Repeal	2-1-04
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150-315.113	12-31-03	Adopt	2-1-04	150-321.430(3)-(C)	12-31-03	Repeal	2-1-04
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150-315.262	12-31-03	Amend	2-1-04	150-321.432-(A)	7-31-04	Repeal	9-1-04
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150-321.709(1)(b)	7-31-04	Adopt	9-1-04	150-OL 2003, Ch. 454,	12-31-03	Adopt	2-1-04
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177-045-0030	5-26-04	Amend	7-1-04	213-001-0005	1-1-04	Amend	2-1-04
177-045-0040	1-5-04	Amend(T)	2-1-04	213-003-0001	1-1-04	Amend	2-1-04
177-045-0040	5-26-04	Amend	7-1-04	213-005-0001	1-1-04	Amend	2-1-04

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213-005-0007	1-1-04	Amend	2-1-04	259-008-0025	12-22-03	Amend	2-1-04
213-011-0003	1-1-04	Amend	2-1-04	259-008-0025	4-23-04	Amend	6-1-04
213-017-0001	1-1-04	Amend	2-1-04	259-008-0030	4-23-04	Amend	6-1-04
213-017-0002	1-1-04	Amend	2-1-04	259-008-0060	1-20-04	Amend	3-1-04
213-017-0003	1-1-04	Amend	2-1-04	259-008-0060	4-23-04	Amend	6-1-04
213-017-0004	1-1-04	Amend	2-1-04	259-008-0066	4-23-04	Amend	6-1-04
213-017-0005	1-1-04	Amend	2-1-04	259-008-0067	4-23-04	Amend	6-1-04
213-017-0006	1-1-04	Amend	2-1-04	259-008-0068	1-16-04	Adopt	3-1-04
213-017-0007	1-1-04	Amend	2-1-04	259-008-0070	4-23-04	Amend	6-1-04
213-017-0008	1-1-04	Amend	2-1-04	259-009-0005	4-23-04	Amend	6-1-04
213-017-0009	1-1-04	Amend	2-1-04	259-009-0010	4-23-04	Amend	6-1-04
213-017-0010	1-1-04	Amend	2-1-04	259-009-0062	4-9-04	Amend(T)	5-1-04
213-017-0011	1-1-04	Amend	2-1-04	259-009-0062	4-23-04	Amend	6-1-04
213-018-0038	1-1-04	Amend	2-1-04	259-009-0065	4-23-04	Adopt	6-1-04
213-018-0047	1-1-04	Adopt	2-1-04	259-009-0067	4-23-04	Amend	6-1-04
213-018-0048	1-1-04	Adopt	2-1-04	259-009-0087	4-23-04	Amend	6-1-04
213-018-0050	1-1-04	Amend	2-1-04	259-012-0035	4-23-04	Amend	6-1-04
213-018-0090	1-1-04	Amend	2-1-04	259-045-0010	4-23-04	Repeal	6-1-04
213-019-0007	1-1-04	Amend	2-1-04	259-060-0020	4-23-04	Amend	6-1-04
213-019-0008	1-1-04	Amend	2-1-04	259-060-0300	4-23-04	Amend	6-1-04
213-019-0010	1-1-04	Amend	2-1-04	274-001-0000	4-16-04	Amend	6-1-04
213-019-0011	1-1-04	Amend	2-1-04	274-001-0005	4-16-04	Amend	6-1-04
250-010-0053	5-11-04	Adopt	6-1-04	274-020-0341	1-22-04	Amend(T)	3-1-04
250-019-0010	10-14-04	Amend	11-1-04	274-020-0341	3-26-04	Amend	5-1-04
250-019-0020	10-14-04	Amend	11-1-04	274-020-0341	4-8-04	Amend(T)	5-1-04
250-019-0030	10-14-04	Amend	11-1-04	274-020-0341	4-29-04	Amend(T)	6-1-04
250-019-0040	10-14-04	Amend	11-1-04	274-020-0341	5-11-04	Amend(T)	6-1-04
250-019-0050	10-14-04	Amend	11-1-04	274-020-0341	8-6-04	Amend(T)	9-1-04
250-019-0060	10-14-04	Amend	11-1-04	274-020-0341	8-19-04	Amend(T)	10-1-04
250-020-0033	7-15-04	Amend(T)	8-1-04	274-020-0341	9-22-04	Amend	11-1-04
250-020-0063	7-14-04	Amend	8-1-04	274-020-0341(T)	1-22-04	Suspend	3-1-04
250-020-0082	7-14-04	Amend	8-1-04	274-020-0341(T)	3-26-04	Repeal	5-1-04
250-020-0161	5-20-04	Amend(T)	7-1-04	274-020-0341(T)	4-29-04	Suspend	6-1-04
250-025-0010	10-14-04	Adopt	11-1-04	274-020-0341(T)	5-11-04	Suspend	6-1-04
250-025-0020	10-14-04	Adopt	11-1-04	274-020-0341(T)	8-6-04	Suspend	9-1-04
255-030-0025	5-14-04	Amend(T)	6-1-04	274-020-0341(T)	8-19-04	Suspend	10-1-04
255-032-0015	4-15-04	Amend(T)	5-1-04	274-020-0341(T)	9-22-04	Repeal	11-1-04
255-032-0015	6-14-04	Amend	7-1-04	274-020-0388	1-15-04	Amend(T)	2-1-04
255-060-0011	1-14-04	Amend(T)	2-1-04	274-020-0388	2-24-04	Amend	4-1-04
255-060-0011	6-14-04	Amend	7-1-04	274-020-0388(T)	2-24-04	Repeal	4-1-04
255-060-0014	6-14-04	Repeal	7-1-04	274-040-0015	12-31-03	Amend	2-1-04
255-070-0001	1-14-04	Amend	2-1-04	274-040-0015	8-25-04	Amend	10-1-04
255-075-0079	6-14-04	Amend(T)	7-1-04	274-040-0015(T)	12-31-03	Repeal	2-1-04
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255-080-0005	9-3-04	Amend(T)	10-1-04	274-040-0030(T)	12-31-03	Repeal	2-1-04
255-080-0011	9-3-04	Amend(T)	10-1-04	291-001-0020	12-12-03	Amend	1-1-04
257-070-0005	7-15-04	Amend(T)	8-1-04	291-001-0025	12-12-03	Amend	1-1-04
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259-008-0005	4-23-04	Amend	6-1-04	291-015-0005	8-9-04	Repeal	9-1-04
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291-015-0045	8-9-04	Repeal	9-1-04	291-086-0045	9-28-04	Amend(T)	11-1-04
291-015-0055	8-9-04	Repeal	9-1-04	291-086-0046	9-28-04	Adopt(T)	11-1-04
291-015-0100	8-9-04	Adopt	9-1-04	291-086-0047	9-28-04	Adopt(T)	11-1-04
291-015-0105	8-9-04	Adopt	9-1-04	291-086-0050	9-28-04	Amend(T)	11-1-04
291-015-0110	8-9-04	Adopt	9-1-04	291-086-0060	9-28-04	Adopt(T)	11-1-04
291-015-0115	8-9-04	Adopt	9-1-04	291-117-0005	7-19-04	Amend	9-1-04
291-015-0120	8-9-04	Adopt	9-1-04	291-117-0008	7-19-04	Amend	9-1-04
291-015-0125	8-9-04	Adopt	9-1-04	291-117-0010	7-19-04	Repeal	9-1-04
291-015-0130	8-9-04	Adopt	9-1-04	291-117-0020	1-20-04	Amend(T)	3-1-04
291-015-0135	8-9-04	Adopt	9-1-04	291-117-0020	7-19-04	Repeal	9-1-04
291-015-0140	8-9-04	Adopt	9-1-04	291-117-0030	7-19-04	Repeal	9-1-04
291-015-0145	8-9-04	Adopt	9-1-04	291-117-0040	7-19-04	Repeal	9-1-04
291-015-0150	8-9-04	Adopt	9-1-04	291-117-0050	7-19-04	Repeal	9-1-04
291-061-0051	9-28-04	Amend	11-1-04	291-117-0060	7-19-04	Repeal	9-1-04
291-061-0096	9-28-04	Amend	11-1-04	291-117-0070	7-19-04	Adopt	9-1-04
291-061-0100	9-28-04	Amend	11-1-04	291-117-0080	7-19-04	Adopt	9-1-04
291-061-0120	9-28-04	Amend	11-1-04	291-117-0090	7-19-04	Adopt	9-1-04
291-061-0125	9-28-04	Amend	11-1-04	291-117-0100	7-19-04	Adopt	9-1-04
291-061-0126	9-28-04	Adopt	11-1-04	291-117-0110	7-19-04	Adopt	9-1-04
291-061-0145	9-28-04	Amend	11-1-04	291-117-0120	7-19-04	Adopt	9-1-04
291-061-0200	9-28-04	Amend	11-1-04	291-117-0130	7-19-04	Adopt	9-1-04
291-062-0010	1-14-04	Suspend	2-1-04	291-117-0140	7-19-04	Adopt	9-1-04
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291-062-0030	1-14-04	Suspend	2-1-04	291-180-0060	8-11-04	Suspend	9-1-04
291-062-0030	7-12-04	Repeal	8-1-04	291-180-0065	8-11-04	Suspend	9-1-04
291-062-0040	1-14-04	Suspend	2-1-04	291-180-0070	8-11-04	Suspend	9-1-04
291-062-0040	7-12-04	Repeal	8-1-04	291-180-0071	8-11-04	Suspend	9-1-04
291-062-0050	1-14-04	Suspend	2-1-04	291-180-0072	8-11-04	Suspend	9-1-04
291-062-0050	7-12-04	Repeal	8-1-04	291-180-0073	8-11-04	Suspend	9-1-04
291-062-0060	1-14-04	Suspend	2-1-04	291-180-0075	8-11-04	Suspend	9-1-04
291-062-0060	7-12-04	Repeal	8-1-04	291-180-0080	8-11-04	Suspend	9-1-04
291-062-0070	1-14-04	Suspend	2-1-04	291-180-0085	8-11-04	Suspend	9-1-04
291-062-0070	7-12-04	Repeal	8-1-04	291-180-0090	8-11-04	Suspend	9-1-04
291-062-0080	1-14-04	Suspend	2-1-04	291-180-0095	8-11-04	Suspend	9-1-04
291-062-0080	7-12-04	Repeal	8-1-04	291-180-0101	8-11-04	Amend(T)	9-1-04
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291-062-0100	7-12-04	Adopt	8-1-04	291-180-0120	8-11-04	Amend(T)	9-1-04
291-062-0110	1-14-04	Adopt(T)	2-1-04	291-180-0130	8-11-04	Amend(T)	9-1-04
291-062-0110	7-12-04	Adopt	8-1-04	291-180-0140	8-11-04	Amend(T)	9-1-04
291-062-0120	1-14-04	Adopt(T)	2-1-04	291-180-0150	8-11-04	Amend(T)	9-1-04
291-062-0120	7-12-04	Adopt	8-1-04	291-180-0160	8-11-04	Amend(T)	9-1-04
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291-062-0140	1-14-04	Adopt(T)	2-1-04	291-180-0190	8-11-04	Amend(T)	9-1-04
291-062-0140	7-12-04	Adopt	8-1-04	291-180-0200	8-11-04	Amend(T)	9-1-04
291-062-0150	1-14-04	Adopt(T)	2-1-04	291-180-0210	8-11-04	Amend(T)	9-1-04
291-062-0150	7-12-04	Adopt	8-1-04	291-180-0220	8-11-04	Amend(T)	9-1-04
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291-180-0300	8-11-04	Amend(T)	9-1-04	309-041-0415	1-1-04	Repeal	2-1-04
291-180-0310	8-11-04	Amend(T)	9-1-04	309-041-0435	1-1-04	Repeal	2-1-04
291-180-0320	8-11-04	Amend(T)	9-1-04	309-041-0445	1-1-04	Repeal	2-1-04
291-180-0330	8-11-04	Amend(T)	9-1-04	309-041-0450	1-1-04	Repeal	2-1-04
291-180-0340	8-11-04	Amend(T)	9-1-04	309-041-0455	1-1-04	Repeal	2-1-04
291-180-0350	8-11-04	Amend(T)	9-1-04	309-041-0460	1-1-04	Repeal	2-1-04
291-180-0360	8-11-04	Amend(T)	9-1-04	309-041-0465	1-1-04	Repeal	2-1-04
291-180-0370	8-11-04	Amend(T)	9-1-04	309-041-0470	1-1-04	Repeal	2-1-04
291-180-0380	8-11-04	Amend(T)	9-1-04	309-041-0475	1-1-04	Repeal	2-1-04
291-180-0390	8-11-04	Amend(T)	9-1-04	309-041-0480	1-1-04	Repeal	2-1-04
291-180-0400	8-11-04	Amend(T)	9-1-04	309-041-1110	9-10-04	Repeal	10-1-04
291-180-0410	8-11-04	Amend(T)	9-1-04	309-041-1115	9-10-04	Repeal	10-1-04
291-180-0420	8-11-04	Amend(T)	9-1-04	309-041-1120	9-10-04	Repeal	10-1-04
291-180-0430	8-11-04	Amend(T)	9-1-04	309-041-1125	9-10-04	Repeal	10-1-04
291-180-0440	8-11-04	Amend(T)	9-1-04	309-041-1130	9-10-04	Repeal	10-1-04
291-180-0450	8-11-04	Amend(T)	9-1-04	309-041-1135	9-10-04	Repeal	10-1-04
291-180-0460	8-11-04	Amend(T)	9-1-04	309-041-1138	9-10-04	Repeal	10-1-04
291-180-0470	8-11-04	Amend(T)	9-1-04	309-041-1140	9-10-04	Repeal	10-1-04
291-180-0480	8-11-04	Amend(T)	9-1-04	309-041-1142	9-10-04	Repeal	10-1-04
291-180-0490	8-11-04	Amend(T)	9-1-04	309-041-1145	9-10-04	Repeal	10-1-04
291-180-0500	8-11-04	Amend(T)	9-1-04	309-041-1150	9-10-04	Repeal	10-1-04
291-180-0510	8-11-04	Amend(T)	9-1-04	309-041-1165	9-10-04	Repeal	10-1-04
291-180-0520	8-11-04	Amend(T)	9-1-04	309-041-1170	9-10-04	Repeal	10-1-04
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291-180-0540	8-11-04	Amend(T)	9-1-04	309-041-1760	12-28-03	Am. & Ren.	2-1-04
291-180-0550	8-11-04	Amend(T)	9-1-04	309-041-1770	12-28-03	Am. & Ren.	2-1-04
291-180-0560	8-11-04	Amend(T)	9-1-04	309-041-1780	12-28-03	Am. & Ren.	2-1-04
291-180-0570	8-11-04	Amend(T)	9-1-04	309-041-1790	12-28-03	Am. & Ren.	2-1-04
291-180-0580	8-11-04	Amend(T)	9-1-04	309-041-1800	12-28-03	Am. & Ren.	2-1-04
291-180-0590	8-11-04	Amend(T)	9-1-04	309-041-1810	12-28-03	Am. & Ren.	2-1-04
291-180-0600	8-11-04	Amend(T)	9-1-04	309-041-1820	12-28-03	Am. & Ren.	2-1-04
291-180-0610	8-11-04	Amend(T)	9-1-04	309-041-1830	12-28-03	Am. & Ren.	2-1-04
291-180-0620	8-11-04	Amend(T)	9-1-04	309-041-1840	12-28-03	Am. & Ren.	2-1-04
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309-018-0120	3-1-04	Repeal	4-1-04	309-041-1880	12-28-03	Am. & Ren.	2-1-04
309-018-0130	3-1-04	Repeal	4-1-04	309-041-1890	12-28-03	Am. & Ren.	2-1-04
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309-018-0150	3-1-04	Repeal	4-1-04	309-041-1910	12-28-03	Am. & Ren.	2-1-04
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309-018-0180	3-1-04	Repeal	4-1-04	309-041-2010	12-28-03	Am. & Ren.	2-1-04
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309-041-0315	1-1-04	Repeal	2-1-04	309-041-2060	12-28-03	Am. & Ren.	2-1-04
309-041-0320	1-1-04	Repeal	2-1-04	309-041-2070	12-28-03	Am. & Ren.	2-1-04
309-041-0325	9-10-04	Repeal	10-1-04	309-041-2080	12-28-03	Am. & Ren.	2-1-04
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309-041-0375	1-1-04	Repeal	2-1-04	309-041-2110	12-28-03	Am. & Ren.	2-1-04
309-041-0400	1-1-04	Repeal	2-1-04	309-041-2120	12-28-03	Am. & Ren.	2-1-04
309-041-0405	1-1-04	Repeal	2-1-04	309-041-2130	12-28-03	Am. & Ren.	2-1-04

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309-041-2150	12-28-03	Am. & Ren.	2-1-04	309-047-0133	12-28-03	Am. & Ren.	2-1-04
309-041-2160	12-28-03	Am. & Ren.	2-1-04	309-047-0135	12-28-03	Am. & Ren.	2-1-04
309-041-2170	12-28-03	Am. & Ren.	2-1-04	309-047-0140	12-28-03	Am. & Ren.	2-1-04
309-041-2180	12-28-03	Am. & Ren.	2-1-04	309-048-0000	1-1-04	Repeal	2-1-04
309-044-0100	12-11-03	Amend(T)	1-1-04	309-048-0005	1-1-04	Repeal	2-1-04
309-044-0100	6-1-04	Am. & Ren.	7-1-04	309-048-0010	1-1-04	Repeal	2-1-04
309-044-0110	12-11-03	Amend(T)	1-1-04	309-048-0015	1-1-04	Repeal	2-1-04
309-044-0110	6-1-04	Am. & Ren.	7-1-04	309-048-0020	1-1-04	Repeal	2-1-04
309-044-0120	12-11-03	Amend(T)	1-1-04	309-048-0025	1-1-04	Repeal	2-1-04
309-044-0120	6-1-04	Am. & Ren.	7-1-04	309-048-0030	1-1-04	Repeal	2-1-04
309-044-0130	12-11-03	Amend(T)	1-1-04	309-048-0035	1-1-04	Repeal	2-1-04
309-044-0130	6-1-04	Am. & Ren.	7-1-04	309-049-0030	1-1-04	Repeal	2-1-04
309-044-0140	12-11-03	Amend(T)	1-1-04	309-049-0035	1-1-04	Repeal	2-1-04
309-044-0140	6-1-04	Am. & Ren.	7-1-04	309-049-0040	1-1-04	Repeal	2-1-04
309-044-0150	12-11-03	Amend(T)	1-1-04	309-049-0045	1-1-04	Repeal	2-1-04
309-044-0150	6-1-04	Am. & Ren.	7-1-04	309-049-0050	1-1-04	Repeal	2-1-04
309-044-0160	12-11-03	Amend(T)	1-1-04	309-049-0055	1-1-04	Repeal	2-1-04
309-044-0160	6-1-04	Am. & Ren.	7-1-04	309-049-0060	1-1-04	Repeal	2-1-04
309-044-0170	12-11-03	Amend(T)	1-1-04	309-049-0065	1-1-04	Repeal	2-1-04
309-044-0170	6-1-04	Am. & Ren.	7-1-04	309-049-0070	1-1-04	Repeal	2-1-04
309-044-0180	12-11-03	Amend(T)	1-1-04	309-049-0075	1-1-04	Repeal	2-1-04
309-044-0180	6-1-04	Am. & Ren.	7-1-04	309-049-0080	1-1-04	Repeal	2-1-04
309-044-0190	12-11-03	Amend(T)	1-1-04	309-049-0085	1-1-04	Repeal	2-1-04
309-044-0190	6-1-04	Am. & Ren.	7-1-04	309-049-0090	1-1-04	Repeal	2-1-04
309-044-0200	12-11-03	Amend(T)	1-1-04	309-049-0095	1-1-04	Repeal	2-1-04
309-044-0200	6-1-04	Am. & Ren.	7-1-04	309-049-0100	1-1-04	Repeal	2-1-04
309-044-0210	12-11-03	Amend(T)	1-1-04	309-049-0105	1-1-04	Repeal	2-1-04
309-044-0210	6-1-04	Am. & Ren.	7-1-04	309-049-0110	1-1-04	Repeal	2-1-04
309-047-0000	12-28-03	Am. & Ren.	2-1-04	309-049-0115	1-1-04	Repeal	2-1-04
309-047-0005	12-28-03	Am. & Ren.	2-1-04	309-049-0120	1-1-04	Repeal	2-1-04
309-047-0010	12-28-03	Am. & Ren.	2-1-04	309-049-0130	1-1-04	Repeal	2-1-04
309-047-0015	12-28-03	Am. & Ren.	2-1-04	309-049-0135	1-1-04	Repeal	2-1-04
309-047-0018	12-28-03	Am. & Ren.	2-1-04	309-049-0140	1-1-04	Repeal	2-1-04
309-047-0020	8-1-04	Repeal	9-1-04	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	330-060-0005	11-1-04	Amend	11-1-04
309-047-0120	12-28-03	Am. & Ren.	2-1-04	330-060-0010	11-1-04	Amend	11-1-04
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330-060-0040	11-1-04	Amend	11-1-04	330-090-0150	1-21-04	Amend	3-1-04
330-060-0060	11-1-04	Amend	11-1-04	330-090-0150	7-1-04	Amend	8-1-04
330-060-0065	11-1-04	Repeal	11-1-04	330-140-0010	12-1-04	Amend	11-1-04
330-060-0070	11-1-04	Amend	11-1-04	330-140-0020	12-1-04	Amend	11-1-04
330-060-0075	11-1-04	Amend	11-1-04	330-140-0030	12-1-04	Amend	11-1-04
330-060-0090	11-1-04	Amend	11-1-04	330-140-0040	12-1-04	Amend	11-1-04
330-060-0095	11-1-04	Amend	11-1-04	330-140-0050	12-1-04	Amend	11-1-04
330-061-0005	11-1-04	Amend	11-1-04	330-140-0060	12-1-04	Amend	11-1-04
330-061-0010	11-1-04	Amend	11-1-04	330-140-0070	12-1-04	Amend	11-1-04
330-061-0015	11-1-04	Amend	11-1-04	330-140-0080	12-1-04	Amend	11-1-04
330-061-0020	11-1-04	Amend	11-1-04	330-140-0090	12-1-04	Amend	11-1-04
330-061-0025	11-1-04	Amend	11-1-04	330-140-0100	12-1-04	Amend	11-1-04
330-061-0030	11-1-04	Amend	11-1-04	330-140-0110	12-1-04	Amend	11-1-04
330-061-0035	11-1-04	Amend	11-1-04	330-140-0120	12-1-04	Amend	11-1-04
330-061-0040	11-1-04	Amend	11-1-04	330-140-0130	12-1-04	Amend	11-1-04
330-061-0045	11-1-04	Amend	11-1-04	330-140-0140	12-1-04	Amend	11-1-04
330-061-0050	11-1-04	Amend	11-1-04	331-001-0000	2-13-04	Adopt	3-1-04
330-061-0060	11-1-04	Amend	11-1-04	331-001-0010	2-13-04	Adopt	3-1-04
330-070-0010	1-21-04	Amend	3-1-04	331-001-0020	2-13-04	Adopt	3-1-04
330-070-0013	1-21-04	Amend	3-1-04	331-010-0000	2-13-04	Adopt	3-1-04
330-070-0014	1-21-04	Amend	3-1-04	331-010-0010	2-13-04	Adopt	3-1-04
330-070-0020	1-21-04	Amend	3-1-04	331-010-0020	2-13-04	Adopt	3-1-04
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330-070-0022	1-21-04	Amend	3-1-04	331-010-0040	2-13-04	Adopt	3-1-04
330-070-0024	1-21-04	Amend	3-1-04	331-020-0000	2-13-04	Adopt	3-1-04
330-070-0025	1-21-04	Amend	3-1-04	331-020-0010	2-13-04	Adopt	3-1-04
330-070-0026	1-21-04	Amend	3-1-04	331-020-0020	2-13-04	Adopt	3-1-04
330-070-0027	1-21-04	Amend	3-1-04	331-020-0030	2-13-04	Adopt	3-1-04
330-070-0040	1-21-04	Amend	3-1-04	331-020-0040	2-13-04	Adopt	3-1-04
330-070-0045	1-21-04	Amend	3-1-04	331-020-0050	2-13-04	Adopt	3-1-04
330-070-0048	1-21-04	Amend	3-1-04	331-020-0060	2-13-04	Adopt	3-1-04
330-070-0055	1-21-04	Amend	3-1-04	331-020-0070	2-13-04	Adopt	3-1-04
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330-070-0060	1-21-04	Amend	3-1-04	331-030-0010	2-13-04	Adopt	3-1-04
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330-070-0063	1-21-04	Amend	3-1-04	331-030-0030	2-13-04	Adopt	3-1-04
330-070-0064	1-21-04	Adopt	3-1-04	331-100-0000	7-1-04	Repeal	8-1-04
330-070-0070	1-21-04	Amend	3-1-04	331-100-0005	7-1-04	Repeal	8-1-04
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330-070-0073	8-2-04	Amend	9-1-04	331-100-0030	7-1-04	Repeal	8-1-04
330-070-0085	1-21-04	Amend	3-1-04	331-105-0000	7-1-04	Repeal	8-1-04
330-070-0089	1-21-04	Amend	3-1-04	331-105-0010	7-1-04	Repeal	8-1-04
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330-070-0097	1-21-04	Amend	3-1-04	331-105-0030	7-1-04	Amend	8-1-04
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330-090-0105	7-1-04	Amend	8-1-04	331-110-0010	7-1-04	Amend	8-1-04
330-090-0110	1-21-04	Amend	3-1-04	331-110-0055	7-1-04	Amend	8-1-04
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330-090-0120	7-1-04	Amend	8-1-04	331-115-0040	7-1-04	Repeal	8-1-04
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330-090-0135	1-21-04	Amend	3-1-04	331-115-0070	7-1-04	Repeal	8-1-04
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331-125-0010	7-1-04	Amend	8-1-04	331-400-0030	7-1-04	Repeal	8-1-04
331-125-0020	7-1-04	Amend	8-1-04	331-400-0040	7-1-04	Repeal	8-1-04
331-130-0000	7-1-04	Repeal	8-1-04	331-405-0000	7-1-04	Repeal	8-1-04
331-130-0010	7-1-04	Repeal	8-1-04	331-405-0010	7-1-04	Repeal	8-1-04
331-130-0020	7-1-04	Repeal	8-1-04	331-405-0020	7-1-04	Amend	8-1-04
331-135-0000	7-1-04	Amend	8-1-04	331-405-0030	7-1-04	Amend	8-1-04
331-135-0010	7-1-04	Repeal	8-1-04	331-405-0040	7-1-04	Repeal	8-1-04
331-135-0020	7-1-04	Repeal	8-1-04	331-405-0050	7-1-04	Repeal	8-1-04
331-135-0030	7-1-04	Repeal	8-1-04	331-410-0000	7-1-04	Amend	8-1-04
331-200-0000	7-1-04	Repeal	8-1-04	331-410-0005	7-1-04	Repeal	8-1-04
331-200-0010	7-1-04	Repeal	8-1-04	331-410-0010	7-1-04	Amend	8-1-04
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331-200-0030	7-1-04	Repeal	8-1-04	331-410-0030	7-1-04	Amend	8-1-04
331-205-0000	7-1-04	Repeal	8-1-04	331-410-0040	7-1-04	Amend	8-1-04
331-205-0010	7-1-04	Repeal	8-1-04	331-410-0050	7-1-04	Amend	8-1-04
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331-520-0050	7-1-04	Repeal	8-1-04	331-570-0010	7-1-04	Am. & Ren.	8-1-04
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331-520-0070	7-1-04	Amend	8-1-04	331-575-0010	7-1-04	Amend	8-1-04
331-525-0000	7-1-04	Amend	8-1-04	331-575-0020	7-1-04	Amend	8-1-04
331-525-0010	7-1-04	Repeal	8-1-04	331-575-0030	7-1-04	Amend	8-1-04
331-525-0020	7-1-04	Amend	8-1-04	331-575-0040	7-1-04	Amend	8-1-04
331-525-0030	7-1-04	Repeal	8-1-04	331-580-0000	7-1-04	Amend	8-1-04
331-525-0035	7-1-04	Adopt	8-1-04	331-580-0010	7-1-04	Amend	8-1-04
331-525-0038	7-1-04	Adopt	8-1-04	331-580-0020	7-1-04	Amend	8-1-04
331-525-0040	7-1-04	Amend	8-1-04	331-580-0030	7-1-04	Amend	8-1-04
331-525-0050	7-1-04	Repeal	8-1-04	331-585-0000	7-1-04	Amend	8-1-04
331-525-0055	7-1-04	Adopt	8-1-04	331-585-0010	7-1-04	Amend	8-1-04
331-525-0060	7-1-04	Adopt	8-1-04	331-585-0020	7-1-04	Amend	8-1-04
331-525-0065	7-1-04	Adopt	8-1-04	331-590-0000	7-1-04	Amend	8-1-04
331-530-0010	7-1-04	Am. & Ren.	8-1-04	331-590-0010	7-1-04	Repeal	8-1-04
331-530-0020	7-1-04	Adopt	8-1-04	331-590-0020	7-1-04	Amend	8-1-04
331-535-0000	7-1-04	Amend	8-1-04	331-630-0010	7-1-04	Adopt	8-1-04
331-535-0010	7-1-04	Amend	8-1-04	331-650-0000	7-1-04	Adopt	8-1-04
331-535-0020	7-1-04	Amend	8-1-04	331-700-0000	7-1-04	Repeal	8-1-04
331-535-0030	7-1-04	Amend	8-1-04	331-700-0010	7-1-04	Repeal	8-1-04
331-535-0050	7-1-04	Amend	8-1-04	331-705-0000	7-1-04	Repeal	8-1-04
331-535-0060	7-1-04	Amend	8-1-04	331-705-0010	7-1-04	Repeal	8-1-04
331-535-0070	7-1-04	Amend	8-1-04	331-705-0020	7-1-04	Repeal	8-1-04
331-535-0080	7-1-04	Amend	8-1-04	331-705-0030	7-1-04	Repeal	8-1-04
331-540-0000	7-1-04	Amend	8-1-04	331-705-0040	7-1-04	Repeal	8-1-04
331-540-0010	7-1-04	Amend	8-1-04	331-705-0050	7-1-04	Amend	8-1-04
331-540-0020	7-1-04	Amend	8-1-04	331-705-0060	7-1-04	Amend	8-1-04
331-545-0000	7-1-04	Amend	8-1-04	331-710-0000	7-1-04	Amend	8-1-04
331-545-0010	7-1-04	Repeal	8-1-04	331-710-0010	7-1-04	Amend	8-1-04
331-545-0020	7-1-04	Amend	8-1-04	331-710-0020	7-1-04	Amend	8-1-04
331-550-0000	7-1-04	Amend	8-1-04	331-710-0030	7-1-04	Amend	8-1-04
331-555-0000	7-1-04	Repeal	8-1-04	331-715-0000	7-1-04	Amend	8-1-04
331-555-0010	7-1-04	Amend	8-1-04	331-715-0010	7-1-04	Amend	8-1-04
331-555-0020	7-1-04	Am. & Ren.	8-1-04	331-715-0020	7-1-04	Repeal	8-1-04
331-555-0030	7-1-04	Amend	8-1-04	331-715-0030	7-1-04	Amend	8-1-04
331-555-0040	7-1-04	Amend	8-1-04	331-715-0040	7-1-04	Repeal	8-1-04
331-555-0050	7-1-04	Repeal	8-1-04	331-715-0050	7-1-04	Repeal	8-1-04
331-560-0000	7-1-04	Amend	8-1-04	331-720-0000	7-1-04	Amend	8-1-04
331-560-0010	7-1-04	Amend	8-1-04	331-720-0010	7-1-04	Amend	8-1-04
331-560-0020	7-1-04	Amend	8-1-04	331-720-0020	7-1-04	Amend	8-1-04
331-560-0030	7-1-04	Amend	8-1-04	331-725-0000	7-1-04	Repeal	8-1-04
331-560-0040	7-1-04	Amend	8-1-04	331-725-0010	7-1-04	Repeal	8-1-04
331-560-0050	7-1-04	Amend	8-1-04	331-725-0020	7-1-04	Amend	8-1-04
331-560-0060	7-1-04	Amend	8-1-04	331-730-0000	7-1-04	Repeal	8-1-04
331-565-0000	7-1-04	Amend	8-1-04	331-730-0010	7-1-04	Repeal	8-1-04
331-565-0010	7-1-04	Repeal	8-1-04	331-730-0020	7-1-04	Repeal	8-1-04
331-565-0020	7-1-04	Amend	8-1-04	331-730-0030	7-1-04	Repeal	8-1-04
331-565-0025	7-1-04	Adopt	8-1-04	331-730-0040	7-1-04	Repeal	8-1-04
331-565-0030	7-1-04	Amend	8-1-04	332-001-0000	7-1-04	Repeal	8-1-04
331-565-0040	7-1-04	Amend	8-1-04	332-001-0005	7-1-04	Repeal	8-1-04
331-565-0050	7-1-04	Repeal	8-1-04	332-001-0010	7-1-04	Repeal	8-1-04
331-565-0060	7-1-04	Amend	8-1-04	332-001-0020	7-1-04	Repeal	8-1-04
331-565-0070	7-1-04	Repeal	8-1-04	332-001-0030	7-1-04	Repeal	8-1-04

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332-015-0000	7-1-04	Amend	8-1-04	333-012-0065	4-9-04	Amend	5-1-04
332-015-0010	7-1-04	Amend	8-1-04	333-012-0067	4-9-04	Adopt	5-1-04
332-015-0030	7-1-04	Amend	8-1-04	333-012-0070	4-9-04	Amend	5-1-04
332-015-0040	7-1-04	Amend	8-1-04	333-013-0006	1-2-04	Repeal	2-1-04
332-015-0050	7-1-04	Amend	8-1-04	333-013-0026	1-2-04	Repeal	2-1-04
332-015-0060	7-1-04	Amend	8-1-04	333-015-0025	5-7-04	Amend(T)	6-1-04
332-015-0065	7-1-04	Amend	8-1-04	333-015-0025	8-19-04	Amend	10-1-04
332-015-0070	7-1-04	Amend	8-1-04	333-015-0025(T)	8-19-04	Repeal	10-1-04
332-020-0000	7-1-04	Amend	8-1-04	333-015-0030	5-7-04	Amend(T)	6-1-04
332-020-0010	7-1-04	Amend	8-1-04	333-015-0030	8-19-04	Amend	10-1-04
332-020-0015	7-1-04	Amend	8-1-04	333-015-0030(T)	8-19-04	Repeal	10-1-04
332-020-0020	7-1-04	Amend	8-1-04	333-015-0034	5-7-04	Amend(T)	6-1-04
332-025-0000	7-1-04	Repeal	8-1-04	333-015-0034	8-19-04	Amend	10-1-04
332-025-0010	7-1-04	Repeal	8-1-04	333-015-0034(T)	8-19-04	Repeal	10-1-04
332-025-0020	7-1-04	Amend	8-1-04	333-015-0035	5-7-04	Amend(T)	6-1-04
332-025-0021	7-1-04	Amend	8-1-04	333-015-0035	8-19-04	Amend	10-1-04
332-025-0022	7-1-04	Amend	8-1-04	333-015-0035(T)	8-19-04	Repeal	10-1-04
332-025-0030	7-1-04	Amend	8-1-04	333-015-0040	5-7-04	Amend(T)	6-1-04
332-025-0040	7-1-04	Amend	8-1-04	333-015-0040	8-19-04	Amend	10-1-04
332-025-0050	7-1-04	Amend	8-1-04	333-015-0040(T)	8-19-04	Repeal	10-1-04
332-030-0000	7-1-04	Amend	8-1-04	333-015-0045	5-7-04	Amend(T)	6-1-04
332-030-0010	7-1-04	Repeal	8-1-04	333-015-0045	8-19-04	Amend	10-1-04
332-030-0020	7-1-04	Repeal	8-1-04	333-015-0045(T)	8-19-04	Repeal	10-1-04
332-030-0030	7-1-04	Repeal	8-1-04	333-015-0050	5-7-04	Amend(T)	6-1-04
333-003-0010	7-16-04	Adopt	9-1-04	333-015-0050	8-19-04	Amend	10-1-04
333-003-0020	7-16-04	Adopt	9-1-04	333-015-0050(T)	8-19-04	Repeal	10-1-04
333-003-0030	7-16-04	Adopt	9-1-04	333-015-0055	5-7-04	Suspend	6-1-04
333-003-0040	7-16-04	Adopt	9-1-04	333-015-0055	8-19-04	Repeal	10-1-04
333-003-0050	7-16-04	Adopt	9-1-04	333-015-0060	5-7-04	Amend(T)	6-1-04
333-003-0060	7-16-04	Adopt	9-1-04	333-015-0060	8-19-04	Amend	10-1-04
333-003-0070	7-16-04	Adopt	9-1-04	333-015-0060(T)	8-19-04	Repeal	10-1-04
333-003-0080	7-16-04	Adopt	9-1-04	333-015-0065	5-7-04	Adopt(T)	6-1-04
333-003-0100	7-30-04	Adopt	9-1-04	333-015-0065	8-19-04	Adopt	10-1-04
333-003-0105	7-30-04	Adopt	9-1-04	333-015-0065(T)	8-19-04	Repeal	10-1-04
333-003-0110	7-30-04	Adopt	9-1-04	333-015-0070	5-7-04	Adopt(T)	6-1-04
333-003-0115	7-30-04	Adopt	9-1-04	333-015-0070	8-19-04	Adopt	10-1-04
333-003-0120	7-30-04	Adopt	9-1-04	333-015-0070(T)	8-19-04	Repeal	10-1-04
333-003-0125	7-30-04	Adopt	9-1-04	333-015-0075	5-7-04	Adopt(T)	6-1-04
333-003-0130	7-30-04	Adopt	9-1-04	333-015-0075	8-19-04	Adopt	10-1-04
333-003-0135	7-30-04	Adopt	9-1-04	333-015-0075(T)	8-19-04	Repeal	10-1-04
333-003-0140	7-30-04	Adopt	9-1-04	333-015-0080	5-7-04	Adopt(T)	6-1-04
333-005-0000	3-29-04	Adopt	5-1-04	333-015-0080	8-19-04	Adopt	10-1-04
333-005-0010	3-29-04	Adopt	5-1-04	333-015-0080(T)	8-19-04	Repeal	10-1-04
333-005-0020	3-29-04	Adopt	5-1-04	333-015-0085	5-7-04	Adopt(T)	6-1-04
333-005-0030	3-29-04	Adopt	5-1-04	333-015-0085	8-19-04	Adopt	10-1-04
333-005-0040	3-29-04	Adopt	5-1-04	333-015-0085(T)	8-19-04	Repeal	10-1-04
333-005-0050	3-29-04	Adopt	5-1-04	333-015-0090	5-7-04	Adopt(T)	6-1-04
333-005-0060	3-29-04	Adopt	5-1-04	333-015-0090	8-19-04	Adopt	10-1-04
333-008-0030	4-1-04	Amend(T)	5-1-04	333-015-0090(T)	8-19-04	Repeal	10-1-04
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333-012-0055	4-9-04	Amend	5-1-04	333-020-0130	12-16-03	Amend	2-1-04
333-012-0057	4-9-04	Amend	5-1-04	333-020-0135	12-16-03	Amend	2-1-04
333-012-0060	4-9-04	Amend	5-1-04	333-020-0140	12-16-03	Amend	2-1-04
333-012-0061	4-9-04	Adopt	5-1-04	333-020-0145	12-16-03	Amend	2-1-04

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333-020-0149	12-16-03	Adopt	2-1-04	333-025-0115(T)	3-23-04	Repeal	5-1-04
333-020-0150	12-16-03	Amend	2-1-04	333-025-0120	3-23-04	Adopt	5-1-04
333-020-0151	12-16-03	Adopt	2-1-04	333-025-0120(T)	3-23-04	Repeal	5-1-04
333-020-0153	12-16-03	Adopt	2-1-04	333-025-0125	3-23-04	Adopt	5-1-04
333-020-0155	12-16-03	Amend	2-1-04	333-025-0125(T)	3-23-04	Repeal	5-1-04
333-020-0160	12-16-03	Amend	2-1-04	333-025-0130	3-23-04	Adopt	5-1-04
333-020-0165	12-16-03	Amend	2-1-04	333-025-0130(T)	3-23-04	Repeal	5-1-04
333-024-0210	9-17-04	Amend(T)	11-1-04	333-025-0135(T)	3-23-04	Repeal	5-1-04
333-024-0215	9-17-04	Amend(T)	11-1-04	333-025-0140(T)	3-23-04	Repeal	5-1-04
333-024-0220	9-17-04	Amend(T)	11-1-04	333-025-0145(T)	3-23-04	Repeal	5-1-04
333-024-0225	9-17-04	Amend(T)	11-1-04	333-025-0150(T)	3-23-04	Repeal	5-1-04
333-024-0230	9-17-04	Amend(T)	11-1-04	333-025-0155(T)	3-23-04	Repeal	5-1-04
333-024-0231	9-17-04	Amend(T)	11-1-04	333-025-0160(T)	3-23-04	Repeal	5-1-04
333-024-0232	9-17-04	Amend(T)	11-1-04	333-029-0105	2-13-04	Amend(T)	3-1-04
333-024-0235	9-17-04	Amend(T)	11-1-04	333-029-0105	4-9-04	Amend	5-1-04
333-024-0240	9-17-04	Amend(T)	11-1-04	333-029-0105(T)	4-9-04	Repeal	5-1-04
333-024-0241	9-17-04	Adopt(T)	11-1-04	333-029-0110	2-13-04	Amend(T)	3-1-04
333-024-0500	3-23-04	Am. & Ren.	5-1-04	333-029-0110	4-9-04	Amend	5-1-04
333-024-0510	3-23-04	Am. & Ren.	5-1-04	333-029-0110(T)	4-9-04	Repeal	5-1-04
333-024-0520	3-23-04	Renumber	5-1-04	333-030-0095	2-13-04	Amend(T)	3-1-04
333-024-0530	3-23-04	Renumber	5-1-04	333-030-0095	4-9-04	Amend	5-1-04
333-024-0540	3-23-04	Am. & Ren.	5-1-04	333-030-0095(T)	4-9-04	Repeal	5-1-04
333-024-0550	3-23-04	Am. & Ren.	5-1-04	333-040-0135	4-9-04	Amend	5-1-04
333-024-0560	3-23-04	Repeal	5-1-04	333-040-0135(T)	4-9-04	Repeal	5-1-04
333-025-0000	7-1-04	Am. & Ren.	8-1-04	333-048-0000	10-8-04	Adopt(T)	11-1-04
333-025-0002	7-1-04	Am. & Ren.	8-1-04	333-054-0000	1-5-04	Amend	2-1-04
333-025-0002(5)-(9)	7-1-04	Am. & Ren.	8-1-04	333-054-0000(T)	1-5-04	Repeal	2-1-04
333-025-0004(1)-(10)	7-1-04	Am. & Ren.	8-1-04	333-054-0010	1-5-04	Amend	2-1-04
333-025-0004(11)-(13)	7-1-04	Am. & Ren.	8-1-04	333-054-0010(T)	1-5-04	Repeal	2-1-04
333-025-0005	7-1-04	Am. & Ren.	8-1-04	333-054-0020	1-5-04	Amend	2-1-04
333-025-0006	7-1-04	Am. & Ren.	8-1-04	333-054-0020(T)	1-5-04	Repeal	2-1-04
333-025-0007	7-1-04	Am. & Ren.	8-1-04	333-054-0030	1-5-04	Amend	2-1-04
333-025-0007(5)-(10)	7-1-04	Am. & Ren.	8-1-04	333-054-0030(T)	1-5-04	Repeal	2-1-04
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333-025-0009	7-1-04	Am. & Ren.	8-1-04	333-054-0040(T)	1-5-04	Repeal	2-1-04
333-025-0012	7-1-04	Am. & Ren.	8-1-04	333-054-0050	1-5-04	Amend	2-1-04
333-025-0014	7-1-04	Am. & Ren.	8-1-04	333-054-0050(T)	1-5-04	Repeal	2-1-04
333-025-0018	7-1-04	Repeal	8-1-04	333-054-0060	1-5-04	Amend	2-1-04
333-025-0027	7-1-04	Am. & Ren.	8-1-04	333-054-0060(T)	1-5-04	Repeal	2-1-04
333-025-0029	7-1-04	Am. & Ren.	8-1-04	333-054-0070	1-5-04	Amend	2-1-04
333-025-0030	7-1-04	Repeal	8-1-04	333-054-0070(T)	1-5-04	Repeal	2-1-04
333-025-0040	7-1-04	Am. & Ren.	8-1-04	333-054-0090	1-5-04	Repeal	2-1-04
333-025-0050	7-1-04	Am. & Ren.	8-1-04	333-054-0100	1-5-04	Adopt	2-1-04
333-025-0065	7-1-04	Am. & Ren.	8-1-04	333-054-0100(T)	1-5-04	Repeal	2-1-04
333-025-0070	7-1-04	Repeal	8-1-04	333-055-0015	3-23-04	Amend	5-1-04
333-025-0075	7-1-04	Am. & Ren.	8-1-04	333-055-0030	3-23-04	Amend	5-1-04
333-025-0080	7-1-04	Repeal	8-1-04	333-055-0035	3-23-04	Amend	5-1-04
333-025-0090	7-1-04	Repeal	8-1-04	333-061-0020	4-9-04	Amend(T)	5-1-04
333-025-0095	7-1-04	Repeal	8-1-04	333-061-0020	5-1-04	Amend	8-1-04
333-025-0100	3-23-04	Adopt	5-1-04	333-061-0020(T)	5-1-04	Repeal	8-1-04
333-025-0100(T)	3-23-04	Repeal	5-1-04	333-061-0025	4-9-04	Amend(T)	5-1-04
333-025-0105	3-23-04	Adopt	5-1-04	333-061-0025	5-1-04	Amend	8-1-04
333-025-0105(T)	3-23-04	Repeal	5-1-04	333-061-0025(T)	5-1-04	Repeal	8-1-04
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333-061-0057	5-1-04	Amend	8-1-04	333-061-0250	5-1-04	Amend	8-1-04
333-061-0057(T)	5-1-04	Repeal	8-1-04	333-061-0250(T)	5-1-04	Repeal	8-1-04
333-061-0058	4-9-04	Adopt(T)	5-1-04	333-061-0255	4-9-04	Suspend	5-1-04
333-061-0058	5-1-04	Adopt	8-1-04	333-061-0255	5-1-04	Repeal	8-1-04
333-061-0058(T)	5-1-04	Repeal	8-1-04	333-061-0260	4-9-04	Amend(T)	5-1-04
333-061-0060	4-9-04	Amend(T)	5-1-04	333-061-0260	5-1-04	Amend	8-1-04
333-061-0060	5-1-04	Amend	8-1-04	333-061-0260(T)	5-1-04	Repeal	8-1-04
333-061-0060(T)	5-1-04	Repeal	8-1-04	333-061-0265	4-9-04	Amend(T)	5-1-04
333-061-0061	4-9-04	Amend(T)	5-1-04	333-061-0265	5-1-04	Amend	8-1-04
333-061-0061	5-1-04	Amend	8-1-04	333-061-0265(T)	5-1-04	Repeal	8-1-04
333-061-0061(T)	5-1-04	Repeal	8-1-04	333-061-0270	4-9-04	Amend(T)	5-1-04
333-061-0064	4-9-04	Adopt(T)	5-1-04	333-061-0270	5-1-04	Amend	8-1-04
333-061-0064	5-1-04	Adopt	8-1-04	333-061-0270(T)	5-1-04	Repeal	8-1-04
333-061-0064(T)	5-1-04	Repeal	8-1-04	333-061-0272	4-9-04	Adopt(T)	5-1-04
333-061-0065	4-9-04	Amend(T)	5-1-04	333-061-0272	5-1-04	Adopt	8-1-04
333-061-0065	5-1-04	Amend	8-1-04	333-061-0272(T)	5-1-04	Repeal	8-1-04
333-061-0065(T)	5-1-04	Repeal	8-1-04	333-061-0290	4-9-04	Amend(T)	5-1-04
333-061-0085	4-9-04	Amend(T)	5-1-04	333-061-0290	5-1-04	Amend	8-1-04
333-061-0085	5-1-04	Amend	8-1-04	333-061-0290(T)	5-1-04	Repeal	8-1-04
333-061-0085(T)	5-1-04	Repeal	8-1-04	333-063-0005	7-1-04	Repeal	6-1-04
333-061-0087	4-9-04	Amend(T)	5-1-04	333-063-0010	7-1-04	Repeal	6-1-04
333-061-0087	5-1-04	Amend	8-1-04	333-063-0015	7-1-04	Repeal	6-1-04
333-061-0087(T)	5-1-04	Repeal	8-1-04	333-063-0020	7-1-04	Repeal	6-1-04
333-061-0090	4-9-04	Amend(T)	5-1-04	333-063-0025	7-1-04	Repeal	6-1-04
333-061-0090	5-1-04	Amend	8-1-04	333-063-0030	7-1-04	Repeal	6-1-04
333-061-0090(T)	5-1-04	Repeal	8-1-04	333-063-0035	7-1-04	Repeal	6-1-04
333-061-0205	4-9-04	Amend(T)	5-1-04	333-063-0040	7-1-04	Repeal	6-1-04
333-061-0205	5-1-04	Amend	8-1-04	333-063-0045	7-1-04	Repeal	6-1-04
333-061-0205(T)	5-1-04	Repeal	8-1-04	333-063-0050	7-1-04	Repeal	6-1-04
333-061-0210	4-9-04	Amend(T)	5-1-04	333-063-0055	7-1-04	Repeal	6-1-04
333-061-0210	5-1-04	Amend	8-1-04	333-063-0060	7-1-04	Repeal	6-1-04
333-061-0210(T)	5-1-04	Repeal	8-1-04	333-063-0065	7-1-04	Repeal	6-1-04
333-061-0215	4-9-04	Amend(T)	5-1-04	333-063-0070	7-1-04	Repeal	6-1-04
333-061-0215	5-1-04	Amend	8-1-04	333-063-0075	7-1-04	Repeal	6-1-04
333-061-0215(T)	5-1-04	Repeal	8-1-04	333-063-0085	7-1-04	Repeal	6-1-04
333-061-0220	4-9-04	Amend(T)	5-1-04	333-063-0090	7-1-04	Repeal	6-1-04
333-061-0220	5-1-04	Amend	8-1-04	333-063-0095	7-1-04	Repeal	6-1-04
333-061-0220(T)	5-1-04	Repeal	8-1-04	333-063-0100	7-1-04	Repeal	6-1-04
333-061-0225	4-9-04	Amend(T)	5-1-04	333-063-0105	7-1-04	Repeal	6-1-04
333-061-0225	5-1-04	Amend	8-1-04	333-063-0110	7-1-04	Repeal	6-1-04
333-061-0225(T)	5-1-04	Repeal	8-1-04	333-063-0115	7-1-04	Repeal	6-1-04
333-061-0228	4-9-04	Adopt(T)	5-1-04	333-063-0120	7-1-04	Repeal	6-1-04
333-061-0228	5-1-04	Adopt	8-1-04	333-063-0125	7-1-04	Repeal	6-1-04
333-061-0228(T)	5-1-04	Repeal	8-1-04	333-063-0130	7-1-04	Repeal	6-1-04
333-061-0230	4-9-04	Amend(T)	5-1-04	333-063-0135	7-1-04	Repeal	6-1-04
333-061-0230	5-1-04	Amend	8-1-04	333-063-0140	7-1-04	Repeal	6-1-04
333-061-0230(T)	5-1-04	Repeal	8-1-04	333-064-0005	12-8-03	Amend	1-1-04
333-061-0235	4-9-04	Amend(T)	5-1-04	333-064-0005(T)	12-8-03	Repeal	1-1-04
333-061-0235	5-1-04	Amend	8-1-04	333-064-0010	12-8-03	Amend	1-1-04
333-061-0235(T)	5-1-04	Repeal	8-1-04	333-064-0010(T)	12-8-03	Repeal	1-1-04
333-061-0240	4-9-04	Suspend	5-1-04	333-064-0015	12-8-03	Amend	1-1-04
333-061-0240	5-1-04	Repeal	8-1-04	333-064-0015(T)	12-8-03	Repeal	1-1-04
333-061-0245	4-9-04	Amend(T)	5-1-04	333-064-0025	12-8-03	Amend	1-1-04
333-061-0245	5-1-04	Amend	8-1-04	333-064-0025	7-1-04	Amend	8-1-04

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333-064-0030	12-8-03	Amend	1-1-04	333-102-0287	10-8-04	Suspend	11-1-04
333-064-0030(T)	12-8-03	Repeal	1-1-04	333-102-0290	10-8-04	Amend(T)	11-1-04
333-064-0035	12-8-03	Amend	1-1-04	333-102-0293	10-8-04	Amend(T)	11-1-04
333-064-0035(T)	12-8-03	Repeal	1-1-04	333-102-0295	10-8-04	Suspend	11-1-04
333-064-0040	12-8-03	Amend	1-1-04	333-102-0300	10-8-04	Amend(T)	11-1-04
333-064-0040(T)	12-8-03	Repeal	1-1-04	333-102-0305	10-8-04	Amend(T)	11-1-04
333-064-0060	12-8-03	Amend	1-1-04	333-102-0310	10-8-04	Amend(T)	11-1-04
333-064-0060(T)	12-8-03	Repeal	1-1-04	333-102-0315	10-8-04	Amend(T)	11-1-04
333-064-0065	12-8-03	Amend	1-1-04	333-102-0327	10-8-04	Amend(T)	11-1-04
333-064-0065(T)	12-8-03	Repeal	1-1-04	333-102-0330	10-8-04	Amend(T)	11-1-04
333-064-0070	12-8-03	Adopt	1-1-04	333-102-0335	10-8-04	Amend(T)	11-1-04
333-064-0070	7-1-04	Amend	8-1-04	333-102-0340	10-8-04	Amend(T)	11-1-04
333-064-0070(T)	12-8-03	Repeal	1-1-04	333-102-0350	10-8-04	Adopt(T)	11-1-04
333-100-0001	10-8-04	Amend(T)	11-1-04	333-102-0355	10-8-04	Adopt(T)	11-1-04
333-100-0005	10-8-04	Amend(T)	11-1-04	333-102-0360	10-8-04	Adopt(T)	11-1-04
333-100-0057	10-8-04	Adopt(T)	11-1-04	333-102-0365	10-8-04	Adopt(T)	11-1-04
333-100-0060	10-8-04	Amend(T)	11-1-04	333-103-0015	10-8-04	Amend(T)	11-1-04
333-100-0065	10-8-04	Amend(T)	11-1-04	333-105-0001	10-8-04	Amend(T)	11-1-04
333-100-0070	10-8-04	Amend(T)	11-1-04	333-105-0003	10-8-04	Adopt(T)	11-1-04
333-100-0080	10-8-04	Adopt(T)	11-1-04	333-105-0005	10-8-04	Amend(T)	11-1-04
333-101-0001	10-8-04	Amend(T)	11-1-04	333-105-0050	10-8-04	Adopt(T)	11-1-04
333-101-0003	10-8-04	Adopt(T)	11-1-04	333-105-0075	10-8-04	Adopt(T)	11-1-04
333-101-0010	10-8-04	Amend(T)	11-1-04	333-105-0101	10-8-04	Suspend	11-1-04
333-102-0001	10-8-04	Amend(T)	11-1-04	333-105-0105	10-8-04	Suspend	11-1-04
333-102-0005	10-8-04	Amend(T)	11-1-04	333-105-0110	10-8-04	Suspend	11-1-04
333-102-0010	10-8-04	Amend(T)	11-1-04	333-105-0115	10-8-04	Suspend	11-1-04
333-102-0015	10-8-04	Amend(T)	11-1-04	333-105-0120	10-8-04	Suspend	11-1-04
333-102-0020	10-8-04	Amend(T)	11-1-04	333-105-0125	10-8-04	Suspend	11-1-04
333-102-0025	10-8-04	Amend(T)	11-1-04	333-105-0130	10-8-04	Suspend	11-1-04
333-102-0030	10-8-04	Amend(T)	11-1-04	333-105-0135	10-8-04	Suspend	11-1-04
333-102-0035	10-8-04	Amend(T)	11-1-04	333-105-0140	10-8-04	Suspend	11-1-04
333-102-0040	10-8-04	Adopt(T)	11-1-04	333-105-0201	10-8-04	Suspend	11-1-04
333-102-0075	10-8-04	Amend(T)	11-1-04	333-105-0202	10-8-04	Suspend	11-1-04
333-102-0101	10-8-04	Amend(T)	11-1-04	333-105-0205	10-8-04	Suspend	11-1-04
333-102-0103	10-8-04	Amend(T)	11-1-04	333-105-0210	10-8-04	Suspend	11-1-04
333-102-0105	10-8-04	Amend(T)	11-1-04	333-105-0301	10-8-04	Suspend	11-1-04
333-102-0110	10-8-04	Amend(T)	11-1-04	333-105-0305	10-8-04	Suspend	11-1-04
333-102-0120	10-8-04	Amend(T)	11-1-04	333-105-0310	10-8-04	Suspend	11-1-04
333-102-0125	10-8-04	Amend(T)	11-1-04	333-105-0315	10-8-04	Suspend	11-1-04
333-102-0130	10-8-04	Amend(T)	11-1-04	333-105-0320	10-8-04	Suspend	11-1-04
333-102-0135	10-8-04	Amend(T)	11-1-04	333-105-0325	10-8-04	Suspend	11-1-04
333-102-0190	10-8-04	Adopt(T)	11-1-04	333-105-0330	10-8-04	Suspend	11-1-04
333-102-0200	10-8-04	Amend(T)	11-1-04	333-105-0335	10-8-04	Suspend	11-1-04
333-102-0203	10-8-04	Amend(T)	11-1-04	333-105-0420	10-8-04	Adopt(T)	11-1-04
333-102-0225	10-8-04	Suspend	11-1-04	333-105-0430	10-8-04	Adopt(T)	11-1-04
333-102-0235	10-8-04	Amend(T)	11-1-04	333-105-0440	10-8-04	Adopt(T)	11-1-04
333-102-0240	10-8-04	Suspend	11-1-04	333-105-0450	10-8-04	Adopt(T)	11-1-04
333-102-0245	10-8-04	Amend(T)	11-1-04	333-105-0460	10-8-04	Adopt(T)	11-1-04
333-102-0247	10-8-04	Adopt(T)	11-1-04	333-105-0470	10-8-04	Adopt(T)	11-1-04
333-102-0250	10-8-04	Amend(T)	11-1-04	333-105-0480	10-8-04	Adopt(T)	11-1-04
333-102-0255	10-8-04	Amend(T)	11-1-04	333-105-0490	10-8-04	Adopt(T)	11-1-04
333-102-0260	10-8-04	Amend(T)	11-1-04	333-105-0500	10-8-04	Adopt(T)	11-1-04
333-102-0265	10-8-04	Amend(T)	11-1-04	333-105-0510	10-8-04	Adopt(T)	11-1-04
333-102-0270	10-8-04	Amend(T)	11-1-04	333-105-0520	10-8-04	Adopt(T)	11-1-04
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333-116-0910	10-8-04	Adopt(T)	11-1-04	333-120-0660	10-8-04	Amend(T)	11-1-04
333-116-0915	10-8-04	Adopt(T)	11-1-04	333-120-0670	10-8-04	Amend(T)	11-1-04
333-118-0020	10-8-04	Amend(T)	11-1-04	333-120-0680	10-8-04	Amend(T)	11-1-04
333-118-0040	10-8-04	Amend(T)	11-1-04	333-120-0700	10-8-04	Amend(T)	11-1-04
333-118-0050	10-8-04	Amend(T)	11-1-04	333-120-0710	10-8-04	Amend(T)	11-1-04
333-118-0060	10-8-04	Amend(T)	11-1-04	333-120-0720	10-8-04	Amend(T)	11-1-04
333-118-0070	10-8-04	Amend(T)	11-1-04	333-150-0000	2-13-04	Amend(T)	3-1-04
333-118-0080	10-8-04	Amend(T)	11-1-04	333-150-0000	4-9-04	Amend	5-1-04
333-118-0090	10-8-04	Amend(T)	11-1-04	333-150-0000(T)	4-9-04	Repeal	5-1-04
333-118-0100	10-8-04	Amend(T)	11-1-04	333-157-0045	2-13-04	Amend(T)	3-1-04
333-118-0110	10-8-04	Amend(T)	11-1-04	333-157-0045	4-9-04	Amend	5-1-04
333-118-0120	10-8-04	Amend(T)	11-1-04	333-157-0045(T)	4-9-04	Repeal	5-1-04
333-118-0130	10-8-04	Amend(T)	11-1-04	333-157-0050	2-13-04	Suspend	3-1-04
333-118-0140	10-8-04	Amend(T)	11-1-04	333-157-0050	4-9-04	Repeal	5-1-04
333-118-0150	10-8-04	Amend(T)	11-1-04	333-157-0060	2-13-04	Suspend	3-1-04
333-118-0160	10-8-04	Amend(T)	11-1-04	333-157-0060	4-9-04	Repeal	5-1-04
333-118-0170	10-8-04	Amend(T)	11-1-04	333-157-0090	2-13-04	Suspend	3-1-04
333-118-0180	10-8-04	Amend(T)	11-1-04	333-157-0090	4-9-04	Repeal	5-1-04
333-118-0190	10-8-04	Amend(T)	11-1-04	333-162-0300	2-13-04	Amend(T)	3-1-04
333-118-0200	10-8-04	Amend(T)	11-1-04	333-162-0300	4-9-04	Amend	5-1-04
333-118-0800	10-8-04	Adopt(T)	11-1-04	333-162-0300(T)	4-9-04	Repeal	5-1-04
333-119-0030	10-8-04	Amend(T)	11-1-04	333-162-0930	2-13-04	Amend(T)	3-1-04
333-119-0040	10-8-04	Amend(T)	11-1-04	333-162-0930	4-9-04	Amend	5-1-04
333-119-0080	10-8-04	Amend(T)	11-1-04	333-162-0930(T)	4-9-04	Repeal	5-1-04
333-119-0090	10-8-04	Amend(T)	11-1-04	333-162-1005	2-13-04	Adopt(T)	3-1-04
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333-120-0100	10-8-04	Amend(T)	11-1-04	333-170-0010(T)	4-9-04	Repeal	5-1-04
333-120-0110	10-8-04	Amend(T)	11-1-04	333-170-0020	2-13-04	Amend(T)	3-1-04
333-120-0130	10-8-04	Amend(T)	11-1-04	333-170-0020	4-9-04	Amend	5-1-04
333-120-0170	10-8-04	Amend(T)	11-1-04	333-170-0020(T)	4-9-04	Repeal	5-1-04
333-120-0180	10-8-04	Amend(T)	11-1-04	333-170-0030	2-13-04	Amend(T)	3-1-04
333-120-0190	10-8-04	Amend(T)	11-1-04	333-170-0030	4-9-04	Amend	5-1-04
333-120-0200	10-8-04	Amend(T)	11-1-04	333-170-0030(T)	4-9-04	Repeal	5-1-04
333-120-0210	10-8-04	Amend(T)	11-1-04	333-170-0040	2-13-04	Amend(T)	3-1-04
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333-120-0220	10-8-04	Amend(T)	11-1-04	333-170-0040(T)	4-9-04	Repeal	5-1-04
333-120-0230	10-8-04	Amend(T)	11-1-04	333-170-0050	2-13-04	Amend(T)	3-1-04
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333-120-0320	10-8-04	Amend(T)	11-1-04	333-170-0060	2-13-04	Amend(T)	3-1-04
333-120-0400	10-8-04	Amend(T)	11-1-04	333-170-0060	4-9-04	Amend	5-1-04
333-120-0420	10-8-04	Amend(T)	11-1-04	333-170-0060(T)	4-9-04	Repeal	5-1-04
333-120-0430	10-8-04	Amend(T)	11-1-04	333-170-0070	2-13-04	Amend(T)	3-1-04
333-120-0450	10-8-04	Amend(T)	11-1-04	333-170-0070	4-9-04	Amend	5-1-04
333-120-0460	10-8-04	Amend(T)	11-1-04	333-170-0070(T)	4-9-04	Repeal	5-1-04
333-120-0520	10-8-04	Amend(T)	11-1-04	333-170-0080	2-13-04	Amend(T)	3-1-04
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333-120-0560	10-8-04	Amend(T)	11-1-04	333-170-0090	2-13-04	Amend(T)	3-1-04
333-120-0600	10-8-04	Amend(T)	11-1-04	333-170-0090	4-9-04	Amend	5-1-04
333-120-0610	10-8-04	Amend(T)	11-1-04	333-170-0090(T)	4-9-04	Repeal	5-1-04
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333-170-0120	2-13-04	Amend(T)	3-1-04	333-536-0040(T)	6-25-04	Repeal	8-1-04
333-170-0120	4-9-04	Amend	5-1-04	333-536-0045	2-6-04	Adopt(T)	3-1-04
333-170-0120(T)	4-9-04	Repeal	5-1-04	333-536-0045	6-25-04	Adopt	8-1-04
333-170-0130	2-13-04	Amend(T)	3-1-04	333-536-0045(T)	6-25-04	Repeal	8-1-04
333-170-0130	4-9-04	Amend	5-1-04	333-536-0050	2-6-04	Adopt(T)	3-1-04
333-170-0130(T)	4-9-04	Repeal	5-1-04	333-536-0050	6-25-04	Amend	8-1-04
333-175-0000	6-18-04	Repeal	8-1-04	333-536-0050(T)	6-25-04	Repeal	8-1-04
333-175-0001	6-18-04	Adopt	8-1-04	333-536-0055	2-6-04	Adopt(T)	3-1-04
333-175-0010	6-18-04	Repeal	8-1-04	333-536-0055	6-25-04	Adopt	8-1-04
333-175-0011	6-18-04	Adopt	8-1-04	333-536-0055(T)	6-25-04	Repeal	8-1-04
333-175-0020	6-18-04	Repeal	8-1-04	333-536-0060	2-6-04	Adopt(T)	3-1-04
333-175-0021	6-18-04	Adopt	8-1-04	333-536-0060	6-25-04	Adopt	8-1-04
333-175-0030	6-18-04	Repeal	8-1-04	333-536-0060(T)	6-25-04	Repeal	8-1-04
333-175-0031	6-18-04	Adopt	8-1-04	333-536-0065	2-6-04	Adopt(T)	3-1-04
333-175-0041	6-18-04	Adopt	8-1-04	333-536-0065	6-25-04	Adopt	8-1-04
333-175-0051	6-18-04	Adopt	8-1-04	333-536-0065(T)	6-25-04	Repeal	8-1-04
333-175-0061	6-18-04	Adopt	8-1-04	333-536-0070	2-6-04	Adopt(T)	3-1-04
333-175-0071	6-18-04	Adopt	8-1-04	333-536-0070	6-25-04	Adopt	8-1-04
333-175-0081	6-18-04	Adopt	8-1-04	333-536-0070(T)	6-25-04	Repeal	8-1-04
333-175-0091	6-18-04	Adopt	8-1-04	333-536-0075	2-6-04	Adopt(T)	3-1-04
333-175-0101	6-18-04	Adopt	8-1-04	333-536-0075	6-25-04	Adopt	8-1-04
333-175-0111	6-18-04	Adopt	8-1-04	333-536-0075(T)	6-25-04	Repeal	8-1-04
333-505-0007	2-6-04	Amend	3-1-04	333-536-0080	2-6-04	Adopt(T)	3-1-04
333-535-0040	3-17-04	Suspend	5-1-04	333-536-0080	6-25-04	Adopt	8-1-04
333-535-0040	5-26-04	Repeal	7-1-04	333-536-0080(T)	6-25-04	Repeal	8-1-04
333-535-0041	3-17-04	Adopt(T)	5-1-04	333-536-0085	2-6-04	Adopt(T)	3-1-04
333-535-0041	5-26-04	Adopt	7-1-04	333-536-0085	6-25-04	Adopt	8-1-04
333-535-0041(T)	5-26-04	Repeal	7-1-04	333-536-0085(T)	6-25-04	Repeal	8-1-04
333-535-0060	3-17-04	Repeal	5-1-04	333-536-0090	2-6-04	Adopt(T)	3-1-04
333-535-0061	3-17-04	Adopt	5-1-04	333-536-0090	6-25-04	Adopt	8-1-04
333-536-0000	2-6-04	Adopt(T)	3-1-04	333-536-0090(T)	6-25-04	Repeal	8-1-04
333-536-0000	6-25-04	Adopt	8-1-04	333-536-0095	2-6-04	Adopt(T)	3-1-04
333-536-0000(T)	6-25-04	Repeal	8-1-04	333-536-0095	6-25-04	Adopt	8-1-04
333-536-0005	2-6-04	Adopt(T)	3-1-04	333-536-0095(T)	6-25-04	Repeal	8-1-04
333-536-0005	6-25-04	Adopt	8-1-04	333-536-0100	2-6-04	Adopt(T)	3-1-04
333-536-0005(T)	6-25-04	Repeal	8-1-04	333-536-0100	6-25-04	Adopt	8-1-04
333-536-0010	2-6-04	Adopt(T)	3-1-04	333-536-0100(T)	6-25-04	Repeal	8-1-04
333-536-0010	6-25-04	Amend	8-1-04	333-550-0010	9-23-04	Amend	11-1-04
333-536-0010(T)	6-25-04	Repeal	8-1-04	333-560-0010	1-16-04	Amend	3-1-04
333-536-0015	2-6-04	Adopt(T)	3-1-04	333-560-0110	8-19-04	Amend	10-1-04
333-536-0015	6-25-04	Adopt	8-1-04	333-560-0120	8-19-04	Amend	10-1-04
333-536-0015(T)	6-25-04	Repeal	8-1-04	333-560-0140	9-23-04	Adopt	11-1-04
333-536-0020	2-6-04	Adopt(T)	3-1-04	333-560-0150	9-23-04	Adopt	11-1-04
333-536-0020	6-25-04	Adopt	8-1-04	333-590-0040	9-23-04	Amend	11-1-04
333-536-0020(T)	6-25-04	Repeal	8-1-04	333-635-0000	1-16-04	Repeal	3-1-04
333-536-0025	2-6-04	Adopt(T)	3-1-04	333-635-0010	1-16-04	Repeal	3-1-04
333-536-0025	6-25-04	Adopt	8-1-04	333-635-0020	1-16-04	Repeal	3-1-04
333-536-0025(T)	6-25-04	Repeal	8-1-04	333-635-0030	1-16-04	Repeal	3-1-04
333-536-0030	2-6-04	Adopt(T)	3-1-04	333-675-0000	3-11-04	Amend	4-1-04
333-536-0030	6-25-04	Adopt	8-1-04	333-675-0010	3-11-04	Am. & Ren.	4-1-04
333-536-0030(T)	6-25-04	Repeal	8-1-04	333-675-0020	3-11-04	Amend	4-1-04
333-536-0035	2-6-04	Adopt(T)	3-1-04	333-675-0030	3-11-04	Amend	4-1-04
333-536-0035	6-25-04	Adopt	8-1-04	333-675-0040	3-11-04	Amend	4-1-04
333-536-0035(T)	6-25-04	Repeal	8-1-04	334-010-0005	2-23-04	Amend	4-1-04

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334-010-0015	2-23-04	Amend	4-1-04	339-005-0000	6-3-04	Amend	7-1-04
334-010-0017	2-23-04	Amend	4-1-04	339-010-0023	6-3-04	Amend	7-1-04
334-010-0025	2-23-04	Amend	4-1-04	339-020-0030	6-3-04	Amend	7-1-04
334-010-0050	2-23-04	Amend	4-1-04	339-020-0050	6-3-04	Amend	7-1-04
334-010-0050	3-16-04	Amend(T)	5-1-04	340-011-0005	12-12-03	Amend	1-1-04
335-005-0015	5-26-04	Amend	7-1-04	340-011-0035	12-12-03	Am. & Ren.	1-1-04
335-005-0025	2-6-04	Amend	3-1-04	340-011-0097	12-12-03	Am. & Ren.	1-1-04
335-005-0025	5-26-04	Amend	7-1-04	340-011-0098	12-12-03	Am. & Ren.	1-1-04
335-010-0050	5-26-04	Adopt	7-1-04	340-011-0103	12-12-03	Am. & Ren.	1-1-04
335-010-0060	5-26-04	Adopt	7-1-04	340-011-0106	12-12-03	ReNUMBER	1-1-04
335-010-0070	5-26-04	Adopt	7-1-04	340-011-0107	12-12-03	Am. & Ren.	1-1-04
335-010-0080	5-26-04	Adopt	7-1-04	340-011-0122	12-12-03	ReNUMBER	1-1-04
335-070-0030	2-6-04	Amend	3-1-04	340-011-0124	12-12-03	Am. & Ren.	1-1-04
335-070-0030	5-26-04	Amend	7-1-04	340-011-0131	12-12-03	Am. & Ren.	1-1-04
335-070-0060	2-6-04	Amend	3-1-04	340-011-0132	12-12-03	Am. & Ren.	1-1-04
335-070-0060	5-26-04	Amend	7-1-04	340-011-0136	12-12-03	Am. & Ren.	1-1-04
335-095-0020	2-6-04	Amend	3-1-04	340-011-0520	12-12-03	Adopt	1-1-04
335-095-0020	5-26-04	Amend	7-1-04	340-011-0535	12-12-03	Adopt	1-1-04
335-095-0020	10-13-04	Amend(T)	11-1-04	340-011-0545	12-12-03	Adopt	1-1-04
335-095-0030	2-6-04	Amend	3-1-04	340-011-0550	12-12-03	Adopt	1-1-04
335-095-0030	5-26-04	Amend	7-1-04	340-011-0555	12-12-03	Adopt	1-1-04
337-020-0010	4-15-04	Adopt	5-1-04	340-011-0580	12-12-03	Adopt	1-1-04
337-021-0050	4-15-04	Repeal	5-1-04	340-011-0585	12-12-03	Adopt	1-1-04
338-001-0000	7-1-04	Repeal	8-1-04	340-016-0055	6-8-04	Amend(T)	7-1-04
338-001-0005	7-1-04	Repeal	8-1-04	340-016-0210	9-17-04	Adopt	11-1-04
338-001-0008	7-1-04	Repeal	8-1-04	340-016-0220	9-17-04	Adopt	11-1-04
338-001-0010	7-1-04	Repeal	8-1-04	340-016-0230	9-17-04	Adopt	11-1-04
338-001-0015	7-1-04	Repeal	8-1-04	340-016-0240	9-17-04	Adopt	11-1-04
338-005-0000	7-1-04	Repeal	8-1-04	340-016-0250	9-17-04	Adopt	11-1-04
338-005-0010	7-1-04	Repeal	8-1-04	340-016-0260	9-17-04	Adopt	11-1-04
338-005-0020	7-1-04	Amend	8-1-04	340-035-0035	6-11-04	Amend	7-1-04
338-005-0030	7-1-04	Amend	8-1-04	340-035-0110	6-11-04	Adopt	7-1-04
338-010-0015	3-1-04	Amend(T)	4-1-04	340-041-0001	12-9-03	Amend	1-1-04
338-010-0015	7-1-04	Amend	8-1-04	340-041-0002	12-9-03	Adopt	1-1-04
338-010-0017	7-1-04	Amend	8-1-04	340-041-0002	5-28-04	Amend	7-1-04
338-010-0025	3-1-04	Amend(T)	4-1-04	340-041-0004	12-9-03	Adopt	1-1-04
338-010-0025	7-1-04	Amend	8-1-04	340-041-0006	12-9-03	Repeal	1-1-04
338-010-0030	3-1-04	Amend(T)	4-1-04	340-041-0007	12-9-03	Adopt	1-1-04
338-010-0030	7-1-04	Amend	8-1-04	340-041-0009	12-9-03	Adopt	1-1-04
338-010-0033	7-1-04	Amend	8-1-04	340-041-0016	12-9-03	Adopt	1-1-04
338-010-0035	3-1-04	Amend(T)	4-1-04	340-041-0021	12-9-03	Adopt	1-1-04
338-010-0035	7-1-04	Amend	8-1-04	340-041-0026	12-9-03	Repeal	1-1-04
338-010-0038	7-1-04	Amend	8-1-04	340-041-0027	12-9-03	Am. & Ren.	1-1-04
338-010-0050	3-1-04	Amend(T)	4-1-04	340-041-0028	12-9-03	Adopt	1-1-04
338-010-0050	7-1-04	Amend	8-1-04	340-041-0031	12-9-03	Adopt	1-1-04
338-010-0060	7-1-04	Repeal	8-1-04	340-041-0032	12-9-03	Adopt	1-1-04
338-020-0000	7-1-04	Amend	8-1-04	340-041-0033	12-9-03	Adopt	1-1-04
338-020-0030	7-1-04	Amend	8-1-04	340-041-0033	5-28-04	Amend	7-1-04
338-020-0050	7-1-04	Amend	8-1-04	340-041-0034	12-9-03	Repeal	1-1-04
338-020-0060	7-1-04	Repeal	8-1-04	340-041-0036	12-9-03	Adopt	1-1-04
338-030-0000	7-1-04	Repeal	8-1-04	340-041-0046	12-9-03	Adopt	1-1-04
338-030-0010	7-1-04	Repeal	8-1-04	340-041-0053	12-9-03	Adopt	1-1-04
338-030-0020	7-1-04	Amend	8-1-04	340-041-0057	12-9-03	Adopt	1-1-04
338-030-0030	7-1-04	Repeal	8-1-04	340-041-0061	12-9-03	Adopt	1-1-04
338-030-0040	7-1-04	Repeal	8-1-04	340-041-0061	5-28-04	Amend	7-1-04

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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
340-041-0130	12-9-03	Adopt	1-1-04	340-041-0310	12-9-03	Adopt	1-1-04
340-041-0133	12-9-03	Adopt	1-1-04	340-041-0314	12-9-03	Adopt	1-1-04
340-041-0135	12-9-03	Adopt	1-1-04	340-041-0315	12-9-03	Adopt	1-1-04
340-041-0140	12-9-03	Adopt	1-1-04	340-041-0320	12-9-03	Adopt	1-1-04
340-041-0143	12-9-03	Adopt	1-1-04	340-041-0322	12-9-03	Repeal	1-1-04
340-041-0145	12-9-03	Adopt	1-1-04	340-041-0324	12-9-03	Adopt	1-1-04
340-041-0150	12-9-03	Am. & Ren.	1-1-04	340-041-0325	12-9-03	Repeal	1-1-04
340-041-0151	12-9-03	Adopt	1-1-04	340-041-0326	12-9-03	Adopt	1-1-04
340-041-0154	12-9-03	Adopt	1-1-04	340-041-0330	12-9-03	Adopt	1-1-04
340-041-0156	12-9-03	Adopt	1-1-04	340-041-0334	12-9-03	Adopt	1-1-04
340-041-0160	12-9-03	Adopt	1-1-04	340-041-0335	12-9-03	Repeal	1-1-04
340-041-0164	12-9-03	Adopt	1-1-04	340-041-0336	12-9-03	Adopt	1-1-04
340-041-0165	12-9-03	Adopt	1-1-04	340-041-0340	12-9-03	Adopt	1-1-04
340-041-0170	12-9-03	Adopt	1-1-04	340-041-0344	12-9-03	Adopt	1-1-04
340-041-0174	12-9-03	Adopt	1-1-04	340-041-0345	12-9-03	Adopt	1-1-04
340-041-0175	12-9-03	Adopt	1-1-04	340-041-0350	12-9-03	Adopt	1-1-04
340-041-0180	12-9-03	Adopt	1-1-04	340-041-0362	12-9-03	Repeal	1-1-04
340-041-0184	12-9-03	Adopt	1-1-04	340-041-0365	12-9-03	Repeal	1-1-04
340-041-0185	12-9-03	Adopt	1-1-04	340-041-0375	12-9-03	Repeal	1-1-04
340-041-0190	12-9-03	Adopt	1-1-04	340-041-0385	12-9-03	Repeal	1-1-04
340-041-0194	12-9-03	Adopt	1-1-04	340-041-0442	12-9-03	Repeal	1-1-04
340-041-0195	12-9-03	Adopt	1-1-04	340-041-0445	12-9-03	Repeal	1-1-04
340-041-0201	12-9-03	Adopt	1-1-04	340-041-0455	12-9-03	Repeal	1-1-04
340-041-0202	12-9-03	Repeal	1-1-04	340-041-0470	12-9-03	Repeal	1-1-04
340-041-0204	12-9-03	Adopt	1-1-04	340-041-0482	12-9-03	Repeal	1-1-04
340-041-0205	12-9-03	Repeal	1-1-04	340-041-0485	12-9-03	Repeal	1-1-04
340-041-0207	12-9-03	Adopt	1-1-04	340-041-0495	12-9-03	Repeal	1-1-04
340-041-0215	12-9-03	Repeal	1-1-04	340-041-0522	12-9-03	Repeal	1-1-04
340-041-0220	12-9-03	Adopt	1-1-04	340-041-0525	12-9-03	Repeal	1-1-04
340-041-0224	12-9-03	Adopt	1-1-04	340-041-0535	12-9-03	Repeal	1-1-04
340-041-0225	12-9-03	Adopt	1-1-04	340-041-0562	12-9-03	Repeal	1-1-04
340-041-0230	12-9-03	Adopt	1-1-04	340-041-0565	12-9-03	Repeal	1-1-04
340-041-0234	12-9-03	Adopt	1-1-04	340-041-0575	12-9-03	Repeal	1-1-04
340-041-0235	12-9-03	Adopt	1-1-04	340-041-0580	12-9-03	Repeal	1-1-04
340-041-0242	12-9-03	Repeal	1-1-04	340-041-0602	12-9-03	Repeal	1-1-04
340-041-0245	12-9-03	Repeal	1-1-04	340-041-0605	12-9-03	Repeal	1-1-04
340-041-0250	12-9-03	Adopt	1-1-04	340-041-0615	12-9-03	Repeal	1-1-04
340-041-0254	12-9-03	Adopt	1-1-04	340-041-0642	12-9-03	Repeal	1-1-04
340-041-0255	12-9-03	Repeal	1-1-04	340-041-0645	12-9-03	Repeal	1-1-04
340-041-0256	12-9-03	Adopt	1-1-04	340-041-0655	12-9-03	Repeal	1-1-04
340-041-0260	12-9-03	Adopt	1-1-04	340-041-0682	12-9-03	Repeal	1-1-04
340-041-0264	12-9-03	Adopt	1-1-04	340-041-0765	12-9-03	Repeal	1-1-04
340-041-0265	12-9-03	Adopt	1-1-04	340-041-0775	12-9-03	Repeal	1-1-04
340-041-0270	12-9-03	Repeal	1-1-04	340-041-0802	12-9-03	Repeal	1-1-04
340-041-0271	12-9-03	Adopt	1-1-04	340-041-0805	12-9-03	Repeal	1-1-04
340-041-0274	12-9-03	Adopt	1-1-04	340-041-0815	12-9-03	Repeal	1-1-04
340-041-0275	12-9-03	Adopt	1-1-04	340-041-0842	12-9-03	Repeal	1-1-04
340-041-0282	12-9-03	Repeal	1-1-04	340-041-0845	12-9-03	Repeal	1-1-04
340-041-0285	12-9-03	Repeal	1-1-04	340-041-0855	12-9-03	Repeal	1-1-04

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340-041-0885	12-9-03	Repeal	1-1-04	350-011-0006	6-1-04	Amend	6-1-04
340-041-0895	12-9-03	Repeal	1-1-04	350-012-0006	6-1-04	Amend	6-1-04
340-041-0922	12-9-03	Repeal	1-1-04	350-120-0010	4-1-04	Amend	4-1-04
340-041-0925	12-9-03	Repeal	1-1-04	350-120-0015	4-1-04	Adopt	4-1-04
340-041-0935	12-9-03	Repeal	1-1-04	350-120-0020	4-1-04	Amend	4-1-04
340-041-0962	12-9-03	Repeal	1-1-04	350-120-0025	4-1-04	Adopt	4-1-04
340-041-0965	12-9-03	Repeal	1-1-04	350-120-0030	4-1-04	Amend	4-1-04
340-041-0975	12-9-03	Repeal	1-1-04	350-120-0040	4-1-04	Amend	4-1-04
340-045-0010	8-3-04	Amend	9-1-04	350-120-0050	4-1-04	Adopt	4-1-04
340-045-0015	8-3-04	Amend	9-1-04	409-030-0000	9-24-04	Adopt	11-1-04
340-045-0070	8-3-04	Amend	9-1-04	409-030-0005	9-24-04	Adopt	11-1-04
340-045-0075	8-3-04	Amend	9-1-04	409-030-0010	9-24-04	Adopt	11-1-04
340-048-0005	4-15-04	Amend	5-1-04	409-030-0020	9-24-04	Adopt	11-1-04
340-048-0010	4-15-04	Amend	5-1-04	409-030-0030	9-24-04	Adopt	11-1-04
340-048-0015	4-15-04	Amend	5-1-04	409-030-0040	9-24-04	Adopt	11-1-04
340-048-0020	4-15-04	Amend	5-1-04	409-030-0050	9-24-04	Adopt	11-1-04
340-048-0024	4-15-04	Am. & Ren.	5-1-04	410-007-0000	3-1-04	Repeal	4-1-04
340-048-0025	4-15-04	Am. & Ren.	5-1-04	410-007-0010	3-1-04	Repeal	4-1-04
340-048-0025	4-15-04	Am. & Ren.	5-1-04	410-007-0020	3-1-04	Repeal	4-1-04
340-048-0027	4-15-04	Adopt	5-1-04	410-007-0030	3-1-04	Repeal	4-1-04
340-048-0030	4-15-04	Am. & Ren.	5-1-04	410-007-0040	3-1-04	Repeal	4-1-04
340-048-0035	4-15-04	Repeal	5-1-04	410-007-0050	3-1-04	Repeal	4-1-04
340-048-0037	4-15-04	Adopt	5-1-04	410-007-0060	3-1-04	Repeal	4-1-04
340-048-0040	4-15-04	Am. & Ren.	5-1-04	410-007-0070	3-1-04	Repeal	4-1-04
340-048-0200	4-15-04	Am. & Ren.	5-1-04	410-007-0080	3-1-04	Repeal	4-1-04
340-200-0040	12-12-03	Amend	1-1-04	410-007-0200	3-1-04	Adopt	4-1-04
340-200-0040	4-14-04	Amend	5-1-04	410-007-0210	3-1-04	Adopt	4-1-04
340-214-0400	12-12-03	Adopt	1-1-04	410-007-0210	10-1-04	Amend(T)	11-1-04
340-214-0410	12-12-03	Adopt	1-1-04	410-007-0220	3-1-04	Adopt	4-1-04
340-214-0420	12-12-03	Adopt	1-1-04	410-007-0220	10-1-04	Amend(T)	11-1-04
340-214-0430	12-12-03	Adopt	1-1-04	410-007-0230	3-1-04	Adopt	4-1-04
340-220-0030	7-29-04	Amend	9-1-04	410-007-0230	10-1-04	Amend(T)	11-1-04
340-220-0040	7-29-04	Amend	9-1-04	410-007-0240	3-1-04	Adopt	4-1-04
340-220-0050	7-29-04	Amend	9-1-04	410-007-0250	3-1-04	Adopt	4-1-04
340-224-0010	4-14-04	Amend	5-1-04	410-007-0260	3-1-04	Adopt	4-1-04
340-224-0030	4-14-04	Amend	5-1-04	410-007-0270	3-1-04	Adopt	4-1-04
340-224-0050	4-14-04	Amend	5-1-04	410-007-0270	10-1-04	Amend(T)	11-1-04
340-224-0070	4-14-04	Amend	5-1-04	410-007-0280	3-1-04	Adopt	4-1-04
340-224-0080	4-14-04	Amend	5-1-04	410-007-0290	3-1-04	Adopt	4-1-04
340-225-0020	4-14-04	Amend	5-1-04	410-007-0300	3-1-04	Adopt	4-1-04
340-225-0050	4-14-04	Amend	5-1-04	410-007-0310	3-1-04	Adopt	4-1-04
340-225-0090	4-14-04	Amend	5-1-04	410-007-0310	10-1-04	Amend(T)	11-1-04
340-228-0400	12-12-03	Adopt	1-1-04	410-007-0320	3-1-04	Adopt	4-1-04
340-228-0410	12-12-03	Adopt	1-1-04	410-007-0330	3-1-04	Adopt	4-1-04
340-228-0420	12-12-03	Adopt	1-1-04	410-007-0340	3-1-04	Adopt	4-1-04
340-228-0430	12-12-03	Adopt	1-1-04	410-007-0340	10-1-04	Amend(T)	11-1-04
340-228-0440	12-12-03	Adopt	1-1-04	410-007-0350	3-1-04	Adopt	4-1-04
340-228-0450	12-12-03	Adopt	1-1-04	410-007-0360	3-1-04	Adopt	4-1-04
340-228-0460	12-12-03	Adopt	1-1-04	410-007-0370	3-1-04	Adopt	4-1-04
340-228-0470	12-12-03	Adopt	1-1-04	410-007-0380	3-1-04	Adopt	4-1-04
340-228-0480	12-12-03	Adopt	1-1-04	410-009-0000	5-26-04	Repeal	7-1-04
340-228-0490	12-12-03	Adopt	1-1-04	410-009-0005	5-26-04	Repeal	7-1-04
340-228-0500	12-12-03	Adopt	1-1-04	410-009-0010	5-26-04	Repeal	7-1-04
340-228-0510	12-12-03	Adopt	1-1-04	410-009-0015	5-26-04	Repeal	7-1-04
340-228-0520	12-12-03	Adopt	1-1-04	410-009-0020	5-26-04	Repeal	7-1-04

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410-009-0030	5-26-04	Repeal	7-1-04	410-120-1390	6-1-04	Adopt(T)	7-1-04
410-009-0035	5-26-04	Repeal	7-1-04	410-120-1390	10-1-04	Amend	11-1-04
410-009-0040	5-26-04	Repeal	7-1-04	410-120-1520	4-1-04	Amend	4-1-04
410-050-0100	5-1-04	Adopt(T)	6-1-04	410-120-1540	4-1-04	Amend	4-1-04
410-050-0110	5-1-04	Adopt(T)	6-1-04	410-120-1570	4-1-04	Amend	4-1-04
410-050-0120	5-1-04	Adopt(T)	6-1-04	410-120-1960	10-1-04	Amend	10-1-04
410-050-0130	5-1-04	Adopt(T)	6-1-04	410-121-0000	4-1-04	Amend	4-1-04
410-050-0140	5-1-04	Adopt(T)	6-1-04	410-121-0021	12-1-03	Adopt	1-1-04
410-050-0150	5-1-04	Adopt(T)	6-1-04	410-121-0021	7-1-04	Amend	8-1-04
410-050-0160	5-1-04	Adopt(T)	6-1-04	410-121-0030	3-1-04	Amend	4-1-04
410-050-0170	5-1-04	Adopt(T)	6-1-04	410-121-0030	5-1-04	Amend	6-1-04
410-050-0180	5-1-04	Adopt(T)	6-1-04	410-121-0030	6-1-04	Amend	7-1-04
410-050-0190	5-1-04	Adopt(T)	6-1-04	410-121-0030	8-1-04	Amend	9-1-04
410-050-0200	5-1-04	Adopt(T)	6-1-04	410-121-0033	2-1-04	Adopt	3-1-04
410-050-0210	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-1-03	Amend	1-1-04
410-050-0220	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-15-03	Amend(T)	1-1-04
410-050-0230	5-1-04	Adopt(T)	6-1-04	410-121-0040	3-1-04	Amend	4-1-04
410-050-0240	5-1-04	Adopt(T)	6-1-04	410-121-0040	10-1-04	Amend	10-1-04
410-050-0250	5-1-04	Adopt(T)	6-1-04	410-121-0040	10-1-04	Amend	11-1-04
410-050-0400	6-15-04	Adopt(T)	7-1-04	410-121-0040(T)	3-1-04	Repeal	4-1-04
410-050-0410	6-15-04	Adopt(T)	7-1-04	410-121-0060	4-1-04	Amend	4-1-04
410-050-0420	6-15-04	Adopt(T)	7-1-04	410-121-0061	4-1-04	Amend	4-1-04
410-050-0430	6-15-04	Adopt(T)	7-1-04	410-121-0100	4-1-04	Amend	4-1-04
410-050-0440	6-15-04	Adopt(T)	7-1-04	410-121-0135	4-1-04	Amend	4-1-04
410-050-0450	6-15-04	Adopt(T)	7-1-04	410-121-0140	12-1-03	Amend	1-1-04
410-050-0460	6-15-04	Adopt(T)	7-1-04	410-121-0140	4-1-04	Amend	4-1-04
410-050-0470	6-15-04	Adopt(T)	7-1-04	410-121-0143	4-1-04	Amend	4-1-04
410-050-0480	6-15-04	Adopt(T)	7-1-04	410-121-0144	4-1-04	Amend	4-1-04
410-050-0490	6-15-04	Adopt(T)	7-1-04	410-121-0145	4-1-04	Amend	4-1-04
410-050-0500	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend	3-1-04
410-050-0510	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend(T)	4-1-04
410-050-0520	6-15-04	Adopt(T)	7-1-04	410-121-0147	4-1-04	Amend	4-1-04
410-050-0530	6-15-04	Adopt(T)	7-1-04	410-121-0148	4-1-04	Amend	4-1-04
410-050-0540	6-15-04	Adopt(T)	7-1-04	410-121-0150	4-1-04	Amend	4-1-04
410-050-0550	6-15-04	Adopt(T)	7-1-04	410-121-0154	4-1-04	Repeal	4-1-04
410-050-0560	6-15-04	Adopt(T)	7-1-04	410-121-0155	4-1-04	Amend	4-1-04
410-050-0570	6-15-04	Adopt(T)	7-1-04	410-121-0157	3-30-04	Amend	5-1-04
410-050-0580	6-15-04	Adopt(T)	7-1-04	410-121-0157	4-4-04	Amend(T)	3-1-04
410-050-0590	6-15-04	Adopt(T)	7-1-04	410-121-0157	5-14-04	Amend(T)	6-1-04
410-120-0000	10-1-04	Amend	10-1-04	410-121-0157	7-1-04	Amend	8-1-04
410-120-1140	10-1-04	Amend	10-1-04	410-121-0157	9-10-04	Amend(T)	10-1-04
410-120-1160	4-1-04	Amend	4-1-04	410-121-0157(T)	7-1-04	Repeal	8-1-04
410-120-1160	10-1-04	Amend	10-1-04	410-121-0160	3-15-04	Amend	3-1-04
410-120-1195	1-1-04	Amend	2-1-04	410-121-0160	3-15-04	Amend(T)	4-1-04
410-120-1200	4-1-04	Amend	4-1-04	410-121-0160	4-15-04	Amend	4-1-04
410-120-1210	8-1-04	Amend	9-1-04	410-121-0180	4-1-04	Repeal	4-1-04
410-120-1230	6-19-04	Amend(T)	7-1-04	410-121-0185	4-1-04	Amend	4-1-04
410-120-1230	8-1-04	Amend	9-1-04	410-121-0190	4-1-04	Amend	4-1-04
410-120-1260	10-1-04	Amend	10-1-04	410-121-0200	4-1-04	Amend	4-1-04
410-120-1280	4-1-04	Amend	4-1-04	410-121-0300	12-1-03	Amend(T)	1-1-04
410-120-1295	3-22-04	Amend	5-1-04	410-121-0300	2-1-04	Amend	3-1-04
410-120-1295	3-23-04	Amend(T)	5-1-04	410-121-0300	5-14-04	Amend(T)	6-1-04
410-120-1295	6-1-04	Amend	7-1-04	410-121-0300	7-1-04	Amend	8-1-04
410-120-1295	10-1-04	Amend(T)	11-1-04	410-121-0300(T)	7-1-04	Repeal	8-1-04
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410-121-0580	4-1-04	Amend	4-1-04	410-122-0300	7-1-04	Amend	8-1-04
410-121-0625	4-1-04	Amend	4-1-04	410-122-0320	7-1-04	Amend	8-1-04
410-122-0000	7-1-04	Amend	8-1-04	410-122-0325	7-1-04	Amend	8-1-04
410-122-0010	7-1-04	Adopt	8-1-04	410-122-0330	7-1-04	Amend	8-1-04
410-122-0010	10-1-04	Amend	10-1-04	410-122-0340	4-1-04	Amend	5-1-04
410-122-0020	7-1-04	Amend	8-1-04	410-122-0340	7-1-04	Amend	8-1-04
410-122-0030	4-1-04	Amend	5-1-04	410-122-0360	7-1-04	Amend	8-1-04
410-122-0030	7-1-04	Repeal	8-1-04	410-122-0365	4-1-04	Amend	5-1-04
410-122-0040	3-15-04	Amend	3-1-04	410-122-0365	7-1-04	Amend	8-1-04
410-122-0040	3-15-04	Amend(T)	4-1-04	410-122-0375	4-1-04	Amend	5-1-04
410-122-0040	4-1-04	Amend	5-1-04	410-122-0375	7-1-04	Amend	8-1-04
410-122-0040	5-1-04	Amend	5-1-04	410-122-0380	4-1-04	Amend	5-1-04
410-122-0040	7-1-04	Amend	8-1-04	410-122-0380	7-1-04	Amend	8-1-04
410-122-0055	8-1-04	Adopt	9-1-04	410-122-0400	7-1-04	Amend	8-1-04
410-122-0060	4-1-04	Amend	5-1-04	410-122-0420	7-1-04	Amend	8-1-04
410-122-0060	7-1-04	Repeal	8-1-04	410-122-0470	7-1-04	Amend	8-1-04
410-122-0080	4-1-04	Amend	5-1-04	410-122-0475	7-1-04	Amend	8-1-04
410-122-0080	7-1-04	Amend	8-1-04	410-122-0480	7-1-04	Amend	8-1-04
410-122-0080	8-1-04	Amend	9-1-04	410-122-0500	7-1-04	Amend	8-1-04
410-122-0085	8-1-04	Adopt	9-1-04	410-122-0510	7-1-04	Amend	8-1-04
410-122-0105	4-1-04	Repeal	5-1-04	410-122-0520	7-1-04	Amend	8-1-04
410-122-0120	4-1-04	Repeal	5-1-04	410-122-0525	4-1-04	Amend	5-1-04
410-122-0140	4-1-04	Repeal	5-1-04	410-122-0525	7-1-04	Amend	8-1-04
410-122-0180	4-1-04	Amend	5-1-04	410-122-0530	7-1-04	Amend	8-1-04
410-122-0180	7-1-04	Amend	8-1-04	410-122-0530	8-1-04	Amend	9-1-04
410-122-0182	7-1-04	Adopt	8-1-04	410-122-0540	4-1-04	Amend	5-1-04
410-122-0184	7-1-04	Adopt	8-1-04	410-122-0540	7-1-04	Amend	8-1-04
410-122-0186	7-1-04	Adopt	8-1-04	410-122-0560	4-1-04	Amend	5-1-04
410-122-0190	4-1-04	Amend	5-1-04	410-122-0560	7-1-04	Amend	8-1-04
410-122-0190	7-1-04	Amend	8-1-04	410-122-0580	4-1-04	Amend	5-1-04
410-122-0190	10-1-04	Amend	10-1-04	410-122-0580	7-1-04	Amend	8-1-04
410-122-0200	4-1-04	Amend	5-1-04	410-122-0590	7-1-04	Amend	8-1-04
410-122-0200	7-1-04	Amend	8-1-04	410-122-0600	7-1-04	Amend	8-1-04
410-122-0202	4-1-04	Amend	5-1-04	410-122-0620	4-1-04	Amend	5-1-04
410-122-0202	7-1-04	Amend	8-1-04	410-122-0620	7-1-04	Amend	8-1-04
410-122-0202	8-1-04	Amend	9-1-04	410-122-0625	4-1-04	Amend	5-1-04
410-122-0202	10-1-04	Amend	11-1-04	410-122-0625	7-1-04	Amend	8-1-04
410-122-0203	4-1-04	Amend	5-1-04	410-122-0630	7-1-04	Amend	8-1-04
410-122-0203	7-1-04	Amend	8-1-04	410-122-0640	7-1-04	Amend	8-1-04
410-122-0204	7-1-04	Amend	8-1-04	410-122-0660	4-1-04	Amend	5-1-04
410-122-0205	4-1-04	Amend	5-1-04	410-122-0660	7-1-04	Amend	8-1-04
410-122-0205	7-1-04	Amend	8-1-04	410-122-0678	7-1-04	Amend	8-1-04
410-122-0206	7-1-04	Amend	8-1-04	410-122-0680	7-1-04	Amend	8-1-04
410-122-0207	7-1-04	Amend	8-1-04	410-122-0700	4-1-04	Amend	5-1-04
410-122-0208	7-1-04	Amend	8-1-04	410-122-0700	7-1-04	Amend	8-1-04
410-122-0209	4-1-04	Amend	5-1-04	410-122-0720	7-1-04	Amend	8-1-04
410-122-0209	7-1-04	Amend	8-1-04	410-123-1060	8-1-04	Amend	9-1-04
410-122-0210	4-1-04	Amend	5-1-04	410-123-1085	8-1-04	Amend	9-1-04
410-122-0210	7-1-04	Amend	8-1-04	410-123-1240	10-1-04	Amend	10-1-04
410-122-0210	10-1-04	Amend	11-1-04	410-123-1260	10-1-04	Amend	10-1-04
410-122-0220	7-1-04	Amend	8-1-04	410-123-1490	10-1-04	Amend	10-1-04
410-122-0240	7-1-04	Amend	8-1-04	410-123-1670	8-1-04	Adopt	9-1-04
410-122-0250	7-1-04	Amend	8-1-04	410-124-0000	10-1-04	Amend(T)	10-1-04
410-122-0255	7-1-04	Amend	8-1-04	410-125-0000	10-1-04	Amend	10-1-04
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410-125-0041	10-1-04	Amend	10-1-04	410-127-0120	10-1-04	Repeal	10-1-04
410-125-0045	10-1-04	Amend	10-1-04	410-129-0080	12-1-03	Amend	1-1-04
410-125-0047	8-1-04	Adopt	9-1-04	410-129-0080	10-1-04	Amend	10-1-04
410-125-0047	9-1-04	Amend(T)	10-1-04	410-129-0100	4-1-04	Amend	4-1-04
410-125-0050	10-1-04	Amend	10-1-04	410-129-0100	10-1-04	Amend	10-1-04
410-125-0055	8-1-04	Repeal	9-1-04	410-129-0120	10-1-04	Repeal	10-1-04
410-125-0080	4-1-04	Amend	4-1-04	410-129-0140	10-1-04	Repeal	10-1-04
410-125-0080	8-1-04	Amend	9-1-04	410-129-0195	8-1-04	Amend	9-1-04
410-125-0085	10-1-04	Amend	10-1-04	410-129-0200	4-1-04	Amend	4-1-04
410-125-0100	10-1-04	Amend	10-1-04	410-129-0260	4-1-04	Amend	4-1-04
410-125-0101	10-1-04	Amend	10-1-04	410-130-0000	4-1-04	Amend	4-1-04
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410-125-0103	10-1-04	Amend	10-1-04	410-130-0163	8-1-04	Adopt	9-1-04
410-125-0115	3-15-04	Amend(T)	4-1-04	410-130-0165	10-1-04	Repeal	11-1-04
410-125-0115	5-1-04	Amend	6-1-04	410-130-0180	4-1-04	Amend	4-1-04
410-125-0115(T)	5-1-04	Repeal	6-1-04	410-130-0200	4-1-04	Amend	4-1-04
410-125-0120	10-1-04	Amend	10-1-04	410-130-0200	10-1-04	Amend	10-1-04
410-125-0121	3-15-04	Amend(T)	4-1-04	410-130-0220	4-1-04	Amend	4-1-04
410-125-0121	5-1-04	Amend	6-1-04	410-130-0220	10-1-04	Amend	10-1-04
410-125-0121(T)	5-1-04	Repeal	6-1-04	410-130-0240	4-1-04	Amend	4-1-04
410-125-0124	10-1-04	Amend	10-1-04	410-130-0240	10-1-04	Amend	10-1-04
410-125-0140	10-1-04	Amend	10-1-04	410-130-0245	10-1-04	Amend	10-1-04
410-125-0141	1-1-04	Amend	2-1-04	410-130-0255	4-1-04	Amend	4-1-04
410-125-0141	10-1-04	Amend(T)	11-1-04	410-130-0255	10-1-04	Amend	10-1-04
410-125-0150	10-1-04	Amend	10-1-04	410-130-0580	10-1-04	Amend	10-1-04
410-125-0165	10-1-04	Amend	10-1-04	410-130-0585	4-1-04	Amend	4-1-04
410-125-0181	1-1-04	Amend	2-1-04	410-130-0587	4-1-04	Amend	4-1-04
410-125-0181	3-15-04	Amend(T)	4-1-04	410-130-0595	10-1-04	Amend	10-1-04
410-125-0181	5-1-04	Amend	6-1-04	410-130-0680	4-1-04	Amend	4-1-04
410-125-0181(T)	5-1-04	Repeal	6-1-04	410-130-0700	4-1-04	Amend	4-1-04
410-125-0195	1-1-04	Amend	2-1-04	410-131-0120	10-1-04	Amend	10-1-04
410-125-0195	10-1-04	Amend(T)	11-1-04	410-131-0160	1-1-04	Amend	2-1-04
410-125-0220	10-1-04	Amend	10-1-04	410-131-0160	10-1-04	Amend	10-1-04
410-125-0225	4-1-04	Repeal	4-1-04	410-131-0200	10-1-04	Amend	10-1-04
410-125-0240	10-1-04	Repeal	10-1-04	410-131-0220	10-1-04	Repeal	10-1-04
410-125-0260	10-1-04	Repeal	10-1-04	410-131-0240	10-1-04	Repeal	10-1-04
410-125-0360	10-1-04	Amend	10-1-04	410-131-0275	8-1-04	Amend	9-1-04
410-125-0410	4-1-04	Amend	4-1-04	410-131-0280	4-1-04	Amend	4-1-04
410-125-0500	10-1-04	Repeal	10-1-04	410-131-0280	10-1-04	Amend	10-1-04
410-125-0580	10-1-04	Repeal	10-1-04	410-132-0055	8-1-04	Amend	9-1-04
410-125-0620	10-1-04	Amend	10-1-04	410-132-0100	1-1-04	Amend	2-1-04
410-125-0640	10-1-04	Amend	10-1-04	410-133-0090	12-15-03	Amend(T)	1-1-04
410-125-0641	10-1-04	Amend	10-1-04	410-133-0090	2-1-04	Amend	3-1-04
410-125-0680	10-1-04	Repeal	10-1-04	410-136-0040	10-1-04	Amend	10-1-04
410-125-0700	10-1-04	Repeal	10-1-04	410-136-0160	10-1-04	Amend	10-1-04
410-125-0720	10-1-04	Amend	10-1-04	410-136-0200	10-1-04	Amend	10-1-04
410-125-2000	4-1-04	Amend	4-1-04	410-136-0240	10-1-04	Amend	10-1-04
410-125-2000	10-1-04	Amend	10-1-04	410-136-0440	10-1-04	Amend	10-1-04
410-125-2020	10-1-04	Amend	10-1-04	410-136-0800	10-1-04	Amend	10-1-04
410-125-2030	10-1-04	Amend	10-1-04	410-138-0000	10-1-04	Amend	10-1-04
410-125-2040	10-1-04	Amend	10-1-04	410-138-0020	10-1-04	Amend	10-1-04
410-125-2060	10-1-04	Amend	10-1-04	410-138-0040	10-1-04	Amend	10-1-04
410-125-2080	10-1-04	Amend	10-1-04	410-138-0060	10-1-04	Amend	10-1-04
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410-138-0320	10-1-04	Amend	10-1-04	410-146-0080	8-1-04	Amend	9-1-04
410-138-0340	10-1-04	Amend	10-1-04	410-146-0120	10-1-04	Amend	10-1-04
410-138-0360	10-1-04	Amend	10-1-04	410-146-0380	8-1-04	Adopt	9-1-04
410-138-0380	10-1-04	Amend	10-1-04	410-146-0400	10-1-04	Adopt	10-1-04
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410-138-0540	10-1-04	Amend	10-1-04	410-147-0060	10-1-04	Amend	10-1-04
410-138-0560	10-1-04	Amend	10-1-04	410-147-0085	8-1-04	Amend	9-1-04
410-140-0060	10-1-04	Amend	10-1-04	410-147-0120	8-1-04	Amend	9-1-04
410-140-0080	10-1-04	Amend	10-1-04	410-147-0125	8-1-04	Adopt	9-1-04
410-140-0115	8-1-04	Amend	9-1-04	410-147-0140	10-1-04	Amend	10-1-04
410-140-0115	10-1-04	Amend	10-1-04	410-147-0200	10-1-04	Amend	10-1-04
410-140-0160	10-1-04	Amend	10-1-04	410-147-0220	10-1-04	Amend	10-1-04
410-140-0380	10-1-04	Amend	10-1-04	410-147-0320	10-1-04	Amend	10-1-04
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410-141-0000	8-1-04	Amend	9-1-04	410-147-0360	10-1-04	Amend	10-1-04
410-141-0080	6-1-04	Amend(T)	7-1-04	410-147-0610	10-1-04	Amend	10-1-04
410-141-0080	8-1-04	Amend	9-1-04	410-148-0000	4-1-04	Amend	4-1-04
410-141-0140	6-1-04	Amend(T)	7-1-04	410-148-0020	4-1-04	Amend	4-1-04
410-141-0140	8-1-04	Amend	9-1-04	410-148-0020	10-1-04	Amend	10-1-04
410-141-0260	6-1-04	Amend	7-1-04	410-148-0080	4-1-04	Amend	4-1-04
410-141-0261	6-1-04	Amend	7-1-04	410-148-0080	10-1-04	Amend	10-1-04
410-141-0262	6-1-04	Amend	7-1-04	410-148-0090	8-1-04	Amend	9-1-04
410-141-0263	6-1-04	Amend	7-1-04	410-148-0100	10-1-04	Amend	10-1-04
410-141-0264	6-1-04	Amend	7-1-04	410-148-0120	4-1-04	Amend	4-1-04
410-141-0265	6-1-04	Amend	7-1-04	410-148-0260	4-1-04	Amend	4-1-04
410-141-0266	6-1-04	Amend	7-1-04	410-148-0280	4-1-04	Amend	4-1-04
410-141-0280	6-1-04	Amend(T)	7-1-04	410-148-0300	4-1-04	Amend	4-1-04
410-141-0280	8-1-04	Amend	9-1-04	411-009-0000	3-1-04	Repeal	4-1-04
410-141-0300	6-1-04	Amend(T)	7-1-04	411-009-0005	3-1-04	Repeal	4-1-04
410-141-0300	8-1-04	Amend	9-1-04	411-009-0015	3-1-04	Repeal	4-1-04
410-141-0410	10-1-04	Amend	10-1-04	411-009-0021	3-1-04	Repeal	4-1-04
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410-141-0420	6-1-04	Amend	7-1-04	411-009-0050	3-1-04	Repeal	4-1-04
410-141-0420	6-1-04	Amend(T)	7-1-04	411-009-0060	3-1-04	Repeal	4-1-04
410-141-0420	8-1-04	Amend	9-1-04	411-009-0070	3-1-04	Repeal	4-1-04
410-141-0480	1-1-04	Amend	2-1-04	411-009-0080	3-1-04	Repeal	4-1-04
410-141-0480	6-1-04	Amend	7-1-04	411-009-0090	3-1-04	Repeal	4-1-04
410-141-0480	10-1-04	Amend	10-1-04	411-009-0100	3-1-04	Repeal	4-1-04
410-141-0500	1-1-04	Amend	2-1-04	411-009-0110	3-1-04	Repeal	4-1-04
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410-141-0520	8-1-04	Amend	9-1-04	411-015-0015	4-27-04	Amend	6-1-04
410-141-0520	10-1-04	Amend	10-1-04	411-015-0015	7-7-04	Amend(T)	8-1-04
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410-142-0300	10-1-04	Amend	10-1-04	411-015-0100	4-27-04	Amend	6-1-04
410-142-0300	10-1-04	Amend(T)	11-1-04	411-015-0100	8-6-04	Amend(T)	9-1-04
410-146-0000	10-1-04	Amend	10-1-04	411-027-0000	8-1-04	Amend(T)	9-1-04
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411-030-0033	6-7-04	Amend	7-1-04	411-055-0115	4-1-04	Amend	5-1-04
411-030-0040	12-11-03	Amend(T)	1-1-04	411-055-0121	4-1-04	Amend	5-1-04
411-030-0040	6-7-04	Amend	7-1-04	411-055-0131	4-1-04	Amend	5-1-04
411-030-0050	6-7-04	Amend	7-1-04	411-055-0141	4-1-04	Amend	5-1-04
411-030-0060	12-11-03	Amend(T)	1-1-04	411-055-0151	4-1-04	Amend	5-1-04
411-030-0060	6-7-04	Repeal	7-1-04	411-055-0151	8-1-04	Amend	9-1-04
411-030-0065	12-11-03	Amend(T)	1-1-04	411-055-0161	4-1-04	Amend	5-1-04
411-030-0065	6-7-04	Repeal	7-1-04	411-055-0170	4-1-04	Amend	5-1-04
411-030-0070	6-7-04	Amend	7-1-04	411-055-0180	4-1-04	Amend	5-1-04
411-030-0080	6-7-04	Amend	7-1-04	411-055-0190	4-1-04	Amend	5-1-04
411-031-0020	6-1-04	Adopt	7-1-04	411-055-0200	4-1-04	Amend	5-1-04
411-031-0030	6-1-04	Adopt	7-1-04	411-055-0210	4-1-04	Amend	5-1-04
411-031-0040	6-1-04	Adopt	7-1-04	411-055-0220	4-1-04	Amend	5-1-04
411-031-0050	6-1-04	Adopt	7-1-04	411-055-0230	4-1-04	Amend	5-1-04
411-032-0000	5-28-04	Amend	7-1-04	411-055-0240	4-1-04	Amend	5-1-04
411-032-0001	5-28-04	Amend	7-1-04	411-055-0250	4-1-04	Amend	5-1-04
411-032-0005	5-28-04	Amend	7-1-04	411-055-0260	4-1-04	Amend	5-1-04
411-032-0010	5-28-04	Amend	7-1-04	411-055-0270	4-1-04	Amend	5-1-04
411-032-0015	5-28-04	Amend	7-1-04	411-055-0280	4-1-04	Amend	5-1-04
411-032-0020	5-28-04	Amend	7-1-04	411-056-0005	2-4-04	Amend	3-1-04
411-032-0044	5-28-04	Amend	7-1-04	411-056-0007	2-4-04	Amend	3-1-04
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411-048-0030	10-1-04	Amend	11-1-04	411-056-0030	3-23-04	Amend(T)	5-1-04
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411-048-0070	10-1-04	Amend	11-1-04	411-070-0428	5-28-04	Amend(T)	7-1-04
411-048-0080	10-1-04	Amend	11-1-04	411-070-0440	5-28-04	Suspend	7-1-04
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411-055-0000	2-4-04	Amend	3-1-04	411-071-0005	9-1-04	Amend	10-1-04
411-055-0000	4-1-04	Amend	5-1-04	411-071-0010	9-1-04	Amend	10-1-04
411-055-0003	2-4-04	Amend	3-1-04	411-071-0015	9-1-04	Amend	10-1-04
411-055-0003	4-1-04	Amend	5-1-04	411-071-0020	9-1-04	Amend	10-1-04
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411-055-0024	4-1-04	Amend	5-1-04	411-071-0040	9-1-04	Amend	10-1-04
411-055-0029	4-1-04	Amend	5-1-04	411-071-0045	9-1-04	Amend	10-1-04
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411-055-0045	4-1-04	Amend	5-1-04	411-071-0065	9-1-04	Repeal	10-1-04
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411-055-0061	4-1-04	Amend	5-1-04	411-071-0075	9-1-04	Amend	10-1-04
411-055-0081	4-1-04	Amend	5-1-04	411-071-0080	9-1-04	Amend	10-1-04
411-055-0085	4-1-04	Amend	5-1-04	411-071-0085	9-1-04	Amend	10-1-04
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411-071-0105	9-1-04	Amend	10-1-04	411-320-0110	8-3-04	Amend	9-1-04
411-071-0110	9-1-04	Amend	10-1-04	411-320-0120	1-1-04	Adopt	2-1-04
411-071-0115	9-1-04	Amend	10-1-04	411-320-0120	8-3-04	Amend	9-1-04
411-085-0000	8-1-04	Amend	9-1-04	411-320-0130	1-1-04	Adopt	2-1-04
411-085-0005	8-1-04	Amend	9-1-04	411-320-0130	8-3-04	Amend	9-1-04
411-085-0010	8-1-04	Amend	9-1-04	411-320-0140	1-1-04	Adopt	2-1-04
411-085-0013	8-1-04	Amend	9-1-04	411-320-0140	8-3-04	Amend	9-1-04
411-085-0015	8-1-04	Amend	9-1-04	411-320-0150	1-1-04	Adopt	2-1-04
411-085-0020	8-1-04	Amend	9-1-04	411-320-0150	8-3-04	Amend	9-1-04
411-085-0025	8-1-04	Amend	9-1-04	411-320-0160	1-1-04	Adopt	2-1-04
411-085-0030	8-1-04	Amend	9-1-04	411-320-0160	8-3-04	Amend	9-1-04
411-085-0040	8-1-04	Amend	9-1-04	411-320-0170	1-1-04	Adopt	2-1-04
411-085-0050	8-1-04	Amend	9-1-04	411-320-0170	8-3-04	Amend	9-1-04
411-085-0060	8-1-04	Amend	9-1-04	411-320-0180	1-1-04	Adopt	2-1-04
411-085-0200	8-1-04	Amend	9-1-04	411-320-0190	1-1-04	Adopt	2-1-04
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411-085-0300	8-1-04	Amend	9-1-04	411-320-0200	8-3-04	Amend	9-1-04
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411-085-0340	8-1-04	Amend	9-1-04	411-325-0020	8-1-04	Amend	9-1-04
411-085-0350	8-1-04	Amend	9-1-04	411-325-0030	1-1-04	Adopt	2-1-04
411-085-0360	8-1-04	Amend	9-1-04	411-325-0030	8-1-04	Amend	9-1-04
411-085-0370	8-1-04	Amend	9-1-04	411-325-0040	1-1-04	Adopt	2-1-04
411-086-0100	8-1-04	Amend	9-1-04	411-325-0050	1-1-04	Adopt	2-1-04
411-086-0250	8-1-04	Amend	9-1-04	411-325-0060	1-1-04	Adopt	2-1-04
411-200-0010	3-24-04	Amend	5-1-04	411-325-0060	8-1-04	Amend	9-1-04
411-200-0010	6-23-04	Amend	8-1-04	411-325-0070	1-1-04	Adopt	2-1-04
411-300-0100	6-1-04	Amend	7-1-04	411-325-0080	1-1-04	Adopt	2-1-04
411-300-0110	12-11-03	Amend(T)	1-1-04	411-325-0080	8-1-04	Amend	9-1-04
411-300-0110	6-1-04	Amend	7-1-04	411-325-0090	1-1-04	Adopt	2-1-04
411-300-0170	6-1-04	Amend	7-1-04	411-325-0100	1-1-04	Adopt	2-1-04
411-300-0210	6-1-04	Amend	7-1-04	411-325-0100	8-1-04	Amend	9-1-04
411-300-0220	6-1-04	Amend	7-1-04	411-325-0110	1-1-04	Adopt	2-1-04
411-320-0010	1-1-04	Adopt	2-1-04	411-325-0120	1-1-04	Adopt	2-1-04
411-320-0010	8-3-04	Amend	9-1-04	411-325-0120	8-1-04	Amend	9-1-04
411-320-0020	1-1-04	Adopt	2-1-04	411-325-0130	1-1-04	Adopt	2-1-04
411-320-0020	8-3-04	Amend	9-1-04	411-325-0130	8-1-04	Amend	9-1-04
411-320-0030	1-1-04	Adopt	2-1-04	411-325-0140	1-1-04	Adopt	2-1-04
411-320-0030	8-3-04	Amend	9-1-04	411-325-0150	1-1-04	Adopt	2-1-04
411-320-0040	1-1-04	Adopt	2-1-04	411-325-0150	8-1-04	Amend	9-1-04
411-320-0040	8-3-04	Amend	9-1-04	411-325-0160	1-1-04	Adopt	2-1-04
411-320-0050	1-1-04	Adopt	2-1-04	411-325-0160	8-1-04	Amend	9-1-04
411-320-0050	8-3-04	Amend	9-1-04	411-325-0170	1-1-04	Adopt	2-1-04
411-320-0060	1-1-04	Adopt	2-1-04	411-325-0170	8-1-04	Amend	9-1-04
411-320-0060	8-3-04	Amend	9-1-04	411-325-0180	1-1-04	Adopt	2-1-04
411-320-0070	1-1-04	Adopt	2-1-04	411-325-0180	8-1-04	Amend	9-1-04
411-320-0070	8-3-04	Amend	9-1-04	411-325-0190	1-1-04	Adopt	2-1-04
411-320-0080	1-1-04	Adopt	2-1-04	411-325-0190	8-1-04	Amend	9-1-04
411-320-0080	8-3-04	Amend	9-1-04	411-325-0200	1-1-04	Adopt	2-1-04
411-320-0090	1-1-04	Adopt	2-1-04	411-325-0200	8-1-04	Amend	9-1-04
411-320-0090	8-3-04	Amend	9-1-04	411-325-0210	1-1-04	Adopt	2-1-04
411-320-0100	1-1-04	Adopt	2-1-04	411-325-0220	1-1-04	Adopt	2-1-04

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411-325-0230	1-1-04	Adopt	2-1-04	411-330-0120	12-28-03	Adopt	2-1-04
411-325-0240	1-1-04	Adopt	2-1-04	411-330-0130	12-28-03	Adopt	2-1-04
411-325-0250	1-1-04	Adopt	2-1-04	411-330-0140	12-28-03	Adopt	2-1-04
411-325-0250	8-1-04	Amend	9-1-04	411-330-0150	12-28-03	Adopt	2-1-04
411-325-0260	1-1-04	Adopt	2-1-04	411-330-0160	12-28-03	Adopt	2-1-04
411-325-0260	8-1-04	Amend	9-1-04	411-330-0170	12-28-03	Adopt	2-1-04
411-325-0270	1-1-04	Adopt	2-1-04	411-340-0130	4-30-04	Amend(T)	6-1-04
411-325-0270	8-1-04	Amend	9-1-04	411-999-0030	6-1-04	Adopt(T)	6-1-04
411-325-0280	1-1-04	Adopt	2-1-04	413-010-0700	1-1-04	Amend	2-1-04
411-325-0290	1-1-04	Adopt	2-1-04	413-010-0705	1-1-04	Amend	2-1-04
411-325-0290	8-1-04	Amend	9-1-04	413-010-0712	1-1-04	Amend	2-1-04
411-325-0300	1-1-04	Adopt	2-1-04	413-010-0714	1-1-04	Amend	2-1-04
411-325-0300	8-1-04	Amend	9-1-04	413-010-0715	1-1-04	Amend	2-1-04
411-325-0310	1-1-04	Adopt	2-1-04	413-010-0716	1-1-04	Amend	2-1-04
411-325-0310	8-1-04	Amend	9-1-04	413-010-0717	1-1-04	Amend	2-1-04
411-325-0320	1-1-04	Adopt	2-1-04	413-010-0718	1-1-04	Amend	2-1-04
411-325-0320	8-1-04	Amend	9-1-04	413-010-0719	1-1-04	Repeal	2-1-04
411-325-0330	1-1-04	Adopt	2-1-04	413-010-0720	1-1-04	Amend	2-1-04
411-325-0340	1-1-04	Adopt	2-1-04	413-010-0721	1-1-04	Amend	2-1-04
411-325-0340	8-1-04	Amend	9-1-04	413-010-0722	1-1-04	Amend	2-1-04
411-325-0350	1-1-04	Adopt	2-1-04	413-010-0723	1-1-04	Amend	2-1-04
411-325-0350	8-1-04	Amend	9-1-04	413-010-0732	1-1-04	Amend	2-1-04
411-325-0360	1-1-04	Adopt	2-1-04	413-010-0735	1-1-04	Amend	2-1-04
411-325-0360	8-1-04	Amend	9-1-04	413-010-0738	1-1-04	Amend	2-1-04
411-325-0370	1-1-04	Adopt	2-1-04	413-010-0740	1-1-04	Amend	2-1-04
411-325-0380	1-1-04	Adopt	2-1-04	413-010-0743	1-1-04	Amend	2-1-04
411-325-0390	1-1-04	Adopt	2-1-04	413-010-0745	1-1-04	Amend	2-1-04
411-325-0390	8-1-04	Amend	9-1-04	413-010-0746	1-1-04	Amend	2-1-04
411-325-0400	1-1-04	Adopt	2-1-04	413-010-0748	1-1-04	Adopt	2-1-04
411-325-0400	8-1-04	Amend	9-1-04	413-010-0748	10-1-04	Amend	11-1-04
411-325-0410	1-1-04	Adopt	2-1-04	413-010-0750	1-1-04	Amend	2-1-04
411-325-0410	8-1-04	Amend	9-1-04	413-015-0115	8-1-04	Amend	9-1-04
411-325-0420	1-1-04	Adopt	2-1-04	413-015-0200	8-1-04	Amend	9-1-04
411-325-0420	8-1-04	Amend	9-1-04	413-015-0205	8-1-04	Amend	9-1-04
411-325-0430	1-1-04	Adopt	2-1-04	413-015-0210	8-1-04	Amend	9-1-04
411-325-0430	8-1-04	Amend	9-1-04	413-015-0220	8-1-04	Amend	9-1-04
411-325-0440	1-1-04	Adopt	2-1-04	413-015-0305	8-1-04	Amend	9-1-04
411-325-0440	8-1-04	Amend	9-1-04	413-015-0400	8-1-04	Amend	9-1-04
411-325-0450	1-1-04	Adopt	2-1-04	413-015-0405	8-1-04	Amend	9-1-04
411-325-0450	8-1-04	Amend	9-1-04	413-015-0505	8-1-04	Amend	9-1-04
411-325-0460	1-1-04	Adopt	2-1-04	413-015-0510	8-1-04	Amend	9-1-04
411-325-0460	8-1-04	Amend	9-1-04	413-015-0700	8-1-04	Amend	9-1-04
411-325-0470	1-1-04	Adopt	2-1-04	413-015-0710	8-1-04	Amend	9-1-04
411-325-0470	8-1-04	Amend	9-1-04	413-015-0725	8-1-04	Amend	9-1-04
411-325-0480	1-1-04	Adopt	2-1-04	413-040-0200	1-1-04	Amend	2-1-04
411-330-0010	12-28-03	Adopt	2-1-04	413-040-0205	1-1-04	Adopt	2-1-04
411-330-0020	12-28-03	Adopt	2-1-04	413-040-0210	1-1-04	Amend	2-1-04
411-330-0030	12-28-03	Adopt	2-1-04	413-040-0215	1-1-04	Adopt	2-1-04
411-330-0040	12-28-03	Adopt	2-1-04	413-040-0220	1-1-04	Repeal	2-1-04
411-330-0050	12-28-03	Adopt	2-1-04	413-040-0230	1-1-04	Amend	2-1-04
411-330-0060	12-28-03	Adopt	2-1-04	413-040-0240	1-1-04	Amend	2-1-04
411-330-0070	12-28-03	Adopt	2-1-04	413-040-0250	1-1-04	Am. & Ren.	2-1-04
411-330-0080	12-28-03	Adopt	2-1-04	413-040-0260	1-1-04	Amend	2-1-04
411-330-0090	12-28-03	Adopt	2-1-04	413-040-0265	1-1-04	Adopt	2-1-04
411-330-0100	12-28-03	Adopt	2-1-04	413-040-0270	1-1-04	Amend	2-1-04
411-330-0110	12-28-03	Adopt	2-1-04	413-040-0280	1-1-04	Amend	2-1-04

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413-040-0300	1-1-04	Amend	2-1-04	413-080-0045	3-1-04	Adopt(T)	4-1-04
413-040-0310	1-1-04	Amend	2-1-04	413-080-0045	8-25-04	Adopt	10-1-04
413-040-0320	1-1-04	Amend	2-1-04	413-080-0045(T)	8-25-04	Repeal	10-1-04
413-040-0330	1-1-04	Amend	2-1-04	413-080-0050	3-1-04	Adopt(T)	4-1-04
413-050-0200	12-12-03	Amend	1-1-04	413-080-0050	8-25-04	Adopt	10-1-04
413-050-0210	12-12-03	Amend	1-1-04	413-080-0050(T)	8-25-04	Repeal	10-1-04
413-050-0220	12-12-03	Amend	1-1-04	413-080-0055	3-1-04	Adopt(T)	4-1-04
413-050-0230	12-12-03	Amend	1-1-04	413-080-0055	8-25-04	Adopt	10-1-04
413-050-0240	12-12-03	Amend	1-1-04	413-080-0055(T)	8-25-04	Repeal	10-1-04
413-050-0250	12-12-03	Amend	1-1-04	413-080-0060	3-1-04	Adopt(T)	4-1-04
413-050-0260	12-12-03	Amend	1-1-04	413-080-0060	8-25-04	Adopt	10-1-04
413-050-0270	12-12-03	Amend	1-1-04	413-080-0060(T)	8-25-04	Repeal	10-1-04
413-050-0280	12-12-03	Amend	1-1-04	413-090-0010	4-1-04	Amend	5-1-04
413-050-0290	12-12-03	Amend	1-1-04	413-090-0010(T)	4-1-04	Repeal	5-1-04
413-050-0300	12-12-03	Amend	1-1-04	413-090-0160	4-1-04	Amend	5-1-04
413-050-0510	7-1-04	Amend	8-1-04	413-090-0160(T)	4-1-04	Repeal	5-1-04
413-070-0500	1-1-04	Amend	2-1-04	413-100-0020	2-10-04	Amend	3-1-04
413-070-0505	1-1-04	Amend	2-1-04	413-100-0030	2-10-04	Amend	3-1-04
413-070-0510	1-1-04	Amend	2-1-04	413-100-0030(T)	2-10-04	Repeal	3-1-04
413-070-0515	1-1-04	Amend	2-1-04	413-100-0040	2-10-04	Amend	3-1-04
413-070-0517	1-1-04	Amend	2-1-04	413-100-0040(T)	2-10-04	Repeal	3-1-04
413-070-0900	4-1-04	Amend	5-1-04	413-100-0050	2-10-04	Amend	3-1-04
413-070-0905	4-1-04	Amend	5-1-04	413-100-0050(T)	2-10-04	Repeal	3-1-04
413-070-0915	1-1-04	Amend(T)	2-1-04	413-100-0070	2-10-04	Amend	3-1-04
413-070-0915	4-1-04	Amend	5-1-04	413-100-0070(T)	2-10-04	Repeal	3-1-04
413-070-0915(T)	4-1-04	Repeal	5-1-04	413-100-0080	2-10-04	Amend	3-1-04
413-070-0917	4-1-04	Amend	5-1-04	413-100-0080(T)	2-10-04	Repeal	3-1-04
413-070-0920	4-1-04	Amend	5-1-04	413-100-0110	2-10-04	Amend	3-1-04
413-070-0925	4-1-04	Amend	5-1-04	413-100-0110(T)	2-10-04	Repeal	3-1-04
413-070-0930	4-1-04	Amend	5-1-04	413-100-0130	2-10-04	Amend	3-1-04
413-070-0935	1-1-04	Amend(T)	2-1-04	413-100-0130(T)	2-10-04	Repeal	3-1-04
413-070-0935	4-1-04	Amend	5-1-04	413-100-0135	2-10-04	Amend	3-1-04
413-070-0935(T)	4-1-04	Repeal	5-1-04	413-100-0135(T)	2-10-04	Repeal	3-1-04
413-070-0937	1-1-04	Amend(T)	2-1-04	413-100-0150	2-10-04	Amend	3-1-04
413-070-0937	4-1-04	Amend	5-1-04	413-100-0150(T)	2-10-04	Repeal	3-1-04
413-070-0937(T)	4-1-04	Repeal	5-1-04	413-100-0160	2-10-04	Amend	3-1-04
413-070-0940	4-1-04	Amend	5-1-04	413-100-0160(T)	2-10-04	Repeal	3-1-04
413-070-0945	4-1-04	Amend	5-1-04	413-100-0240	2-10-04	Amend	3-1-04
413-070-0950	4-1-04	Amend	5-1-04	413-100-0240(T)	2-10-04	Repeal	3-1-04
413-070-0955	4-1-04	Amend	5-1-04	413-100-0276	2-10-04	Amend	3-1-04
413-070-0960	4-1-04	Amend	5-1-04	413-100-0276(T)	2-10-04	Repeal	3-1-04
413-070-0965	4-1-04	Amend	5-1-04	413-100-0290	2-10-04	Amend	3-1-04
413-070-0970	4-1-04	Amend	5-1-04	413-100-0290(T)	2-10-04	Repeal	3-1-04
413-070-0980	1-1-04	Amend(T)	2-1-04	413-100-0400	7-1-04	Amend	8-1-04
413-070-0980	4-1-04	Amend	5-1-04	413-100-0410	7-1-04	Amend	8-1-04
413-070-0980(T)	4-1-04	Repeal	5-1-04	413-100-0420	7-1-04	Amend	8-1-04
413-070-0981	1-1-04	Amend(T)	2-1-04	413-100-0430	7-1-04	Amend	8-1-04
413-070-0981	4-1-04	Amend	5-1-04	413-100-0440	7-1-04	Amend	8-1-04
413-070-0981(T)	1-1-04	Suspend	2-1-04	413-100-0450	7-1-04	Amend	8-1-04
413-070-0981(T)	4-1-04	Repeal	5-1-04	413-100-0460	7-1-04	Amend	8-1-04
413-070-0982	1-1-04	Adopt(T)	2-1-04	413-100-0480	7-1-04	Amend	8-1-04
413-070-0982	4-1-04	Adopt	5-1-04	413-100-0490	7-1-04	Amend	8-1-04
413-070-0982(T)	4-1-04	Repeal	5-1-04	413-100-0500	7-1-04	Amend	8-1-04
413-080-0040	3-1-04	Adopt(T)	4-1-04	413-100-0510	7-1-04	Amend	8-1-04
413-080-0040	8-25-04	Adopt	10-1-04	413-100-0520	7-1-04	Amend	8-1-04

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413-100-0540	7-1-04	Amend	8-1-04	413-330-0090	6-1-04	Amend	7-1-04
413-100-0550	7-1-04	Amend	8-1-04	413-330-0090(T)	6-1-04	Repeal	7-1-04
413-100-0560	7-1-04	Amend	8-1-04	413-330-0095	12-17-03	Amend(T)	2-1-04
413-100-0580	7-1-04	Amend	8-1-04	413-330-0095	6-1-04	Amend	7-1-04
413-100-0590	7-1-04	Amend	8-1-04	413-330-0095(T)	6-1-04	Repeal	7-1-04
413-100-0600	7-1-04	Amend	8-1-04	413-330-0097	12-17-03	Adopt(T)	2-1-04
413-100-0610	7-1-04	Amend	8-1-04	413-330-0097	6-1-04	Adopt	7-1-04
413-110-0000	1-1-04	Amend	2-1-04	413-330-0097(T)	6-1-04	Repeal	7-1-04
413-110-0010	1-1-04	Amend	2-1-04	413-330-0098	12-17-03	Adopt(T)	2-1-04
413-110-0020	1-1-04	Amend	2-1-04	413-330-0098	6-1-04	Adopt	7-1-04
413-110-0030	1-1-04	Amend	2-1-04	413-330-0098(T)	6-1-04	Repeal	7-1-04
413-110-0040	1-1-04	Amend	2-1-04	413-330-0900	1-1-04	Amend(T)	2-1-04
413-110-0100	1-1-04	Amend	2-1-04	413-330-0900	6-1-04	Amend	7-1-04
413-110-0110	1-1-04	Amend	2-1-04	413-330-0900(T)	6-1-04	Repeal	7-1-04
413-110-0120	1-1-04	Amend	2-1-04	413-330-0910	1-1-04	Amend(T)	2-1-04
413-110-0130	1-1-04	Amend	2-1-04	413-330-0910	6-1-04	Amend	7-1-04
413-110-0140	1-1-04	Amend	2-1-04	413-330-0910(T)	6-1-04	Repeal	7-1-04
413-110-0300	1-1-04	Amend	2-1-04	413-330-0920	1-1-04	Amend(T)	2-1-04
413-110-0310	1-1-04	Amend	2-1-04	413-330-0920	6-1-04	Amend	7-1-04
413-110-0320	1-1-04	Amend	2-1-04	413-330-0920(T)	6-1-04	Repeal	7-1-04
413-110-0330	1-1-04	Amend	2-1-04	413-330-0930	1-1-04	Amend(T)	2-1-04
413-110-0340	1-1-04	Amend	2-1-04	413-330-0930	6-1-04	Amend	7-1-04
413-110-0350	1-1-04	Amend	2-1-04	413-330-0930(T)	6-1-04	Repeal	7-1-04
413-110-0360	1-1-04	Amend	2-1-04	413-330-0940	1-1-04	Amend(T)	2-1-04
413-120-0100	4-1-04	Amend	5-1-04	413-330-0940	6-1-04	Amend	7-1-04
413-120-0105	4-1-04	Amend	5-1-04	413-330-0940(T)	6-1-04	Repeal	7-1-04
413-120-0115	11-25-03	Amend(T)	1-1-04	413-330-0950	1-1-04	Amend(T)	2-1-04
413-120-0115	4-1-04	Amend	5-1-04	413-330-0950	6-1-04	Amend	7-1-04
413-120-0115(T)	4-1-04	Repeal	5-1-04	413-330-0950(T)	6-1-04	Repeal	7-1-04
413-120-0150	4-1-04	Amend	5-1-04	413-330-0960	1-1-04	Suspend	2-1-04
413-120-0155	4-1-04	Amend	5-1-04	413-330-0960	6-1-04	Amend	7-1-04
413-120-0165	4-1-04	Amend	5-1-04	413-330-0960(T)	6-1-04	Repeal	7-1-04
413-120-0175	11-25-03	Amend(T)	1-1-04	413-330-0970	1-1-04	Amend(T)	2-1-04
413-120-0175	4-1-04	Amend	5-1-04	413-330-0970	6-1-04	Amend	7-1-04
413-120-0175(T)	4-1-04	Repeal	5-1-04	413-330-0970(T)	6-1-04	Repeal	7-1-04
413-120-0500	1-1-04	Amend	2-1-04	413-330-0980	1-1-04	Amend(T)	2-1-04
413-120-0510	1-1-04	Amend	2-1-04	413-330-0980	6-1-04	Amend	7-1-04
413-120-0520	1-1-04	Amend	2-1-04	413-330-0980(T)	6-1-04	Repeal	7-1-04
413-120-0530	1-1-04	Amend	2-1-04	413-330-0990	1-1-04	Amend(T)	2-1-04
413-120-0540	1-1-04	Amend	2-1-04	413-330-0990	6-1-04	Amend	7-1-04
413-120-0550	1-1-04	Adopt	2-1-04	413-330-0990(T)	6-1-04	Repeal	7-1-04
413-130-0125	11-19-03	Amend(T)	1-1-04	413-330-1000	1-1-04	Amend(T)	2-1-04
413-130-0125	4-1-04	Amend	5-1-04	413-330-1000	6-1-04	Amend	7-1-04
413-130-0125(T)	4-1-04	Repeal	5-1-04	413-330-1000(T)	6-1-04	Repeal	7-1-04
413-130-0127	4-1-04	Adopt	5-1-04	413-330-1010	1-1-04	Amend(T)	2-1-04
413-130-0127(T)	4-1-04	Repeal	5-1-04	413-330-1010	6-1-04	Amend	7-1-04
413-210-0800	1-9-04	Amend	2-1-04	413-330-1010(T)	6-1-04	Repeal	7-1-04
413-210-0806	1-9-04	Amend	2-1-04	414-001-0010	8-22-04	Adopt	10-1-04
413-210-0821	1-9-04	Amend	2-1-04	414-005-0000	8-1-04	Repeal	9-1-04
413-330-0085	12-17-03	Amend(T)	2-1-04	414-005-0010	8-1-04	Repeal	9-1-04
413-330-0085	6-1-04	Amend	7-1-04	414-005-0020	8-1-04	Repeal	9-1-04
413-330-0085(T)	6-1-04	Repeal	7-1-04	414-050-0000	8-1-04	Amend	9-1-04
413-330-0087	12-17-03	Amend(T)	2-1-04	414-050-0005	8-1-04	Amend	9-1-04
413-330-0087	6-1-04	Amend	7-1-04	414-050-0010	12-28-03	Adopt(T)	2-1-04
413-330-0087(T)	6-1-04	Repeal	7-1-04	414-050-0010	3-28-04	Adopt	5-1-04

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414-061-0010	12-7-03	Amend	1-1-04	414-600-0070	3-28-04	Repeal	5-1-04
414-061-0020	12-7-03	Amend	1-1-04	414-600-0080	12-7-03	Suspend	1-1-04
414-061-0030	12-7-03	Amend	1-1-04	414-600-0080	3-28-04	Repeal	5-1-04
414-061-0040	12-7-03	Amend	1-1-04	414-600-0090	12-7-03	Suspend	1-1-04
414-061-0050	12-7-03	Amend	1-1-04	414-600-0090	3-28-04	Repeal	5-1-04
414-061-0050	8-1-04	Amend	9-1-04	414-600-0100	12-7-03	Suspend	1-1-04
414-061-0060	12-7-03	Amend	1-1-04	414-600-0100	3-28-04	Repeal	5-1-04
414-061-0070	12-7-03	Amend	1-1-04	414-700-0000	12-7-03	Adopt	1-1-04
414-061-0080	12-7-03	Amend	1-1-04	414-700-0010	12-7-03	Adopt	1-1-04
414-061-0090	12-7-03	Amend	1-1-04	414-700-0020	12-7-03	Adopt	1-1-04
414-061-0100	12-7-03	Amend	1-1-04	414-700-0030	12-7-03	Adopt	1-1-04
414-061-0110	12-7-03	Amend	1-1-04	414-700-0040	12-7-03	Adopt	1-1-04
414-061-0120	12-7-03	Amend	1-1-04	414-700-0050	12-7-03	Adopt	1-1-04
414-150-0055	12-28-03	Amend	2-1-04	414-700-0060	12-7-03	Adopt	1-1-04
414-150-0080	12-28-03	Amend	2-1-04	414-700-0070	12-7-03	Adopt	1-1-04
414-150-0120	12-28-03	Amend	2-1-04	414-700-0080	12-7-03	Adopt	1-1-04
414-205-0000	12-28-03	Amend	2-1-04	414-700-0090	12-7-03	Adopt	1-1-04
414-205-0055	8-1-04	Amend	9-1-04	416-001-0000	7-8-04	Amend	8-1-04
414-300-0000	12-28-03	Amend	2-1-04	416-001-0005	7-8-04	Amend	8-1-04
414-300-0005	12-28-03	Amend	2-1-04	416-001-0015	7-8-04	Adopt	8-1-04
414-300-0010	12-28-03	Amend	2-1-04	416-001-0020	7-8-04	Adopt	8-1-04
414-300-0180	12-28-03	Amend	2-1-04	416-030-0000	5-14-04	Repeal	6-1-04
414-300-0190	12-28-03	Amend	2-1-04	416-030-0010	5-14-04	Repeal	6-1-04
414-300-0200	12-28-03	Amend	2-1-04	416-030-0020	5-14-04	Repeal	6-1-04
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414-300-0280	12-28-03	Amend	2-1-04	416-030-0040	5-14-04	Repeal	6-1-04
414-300-0360	12-28-03	Amend	2-1-04	416-030-0050	5-14-04	Repeal	6-1-04
414-350-0010	12-28-03	Amend	2-1-04	416-030-0060	5-14-04	Repeal	6-1-04
414-350-0010	12-28-03	Amend	2-1-04	416-030-0070	5-14-04	Repeal	6-1-04
414-350-0010	8-1-04	Amend	9-1-04	416-030-0080	5-14-04	Repeal	6-1-04
414-350-0020	12-28-03	Amend	2-1-04	416-030-0090	5-14-04	Repeal	6-1-04
414-350-0210	12-28-03	Amend	2-1-04	416-030-0100	5-14-04	Repeal	6-1-04
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414-500-0010	8-1-04	Amend	9-1-04	416-105-0010	5-14-04	Adopt	6-1-04
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414-500-0050	8-1-04	Amend	9-1-04	416-110-0000	5-14-04	Repeal	6-1-04
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414-600-0020	12-7-03	Suspend	1-1-04	416-150-0030	5-14-04	Amend	6-1-04
414-600-0020	3-28-04	Repeal	5-1-04	416-150-0040	5-14-04	Adopt	6-1-04
414-600-0030	12-7-03	Suspend	1-1-04	416-150-0050	5-14-04	Adopt	6-1-04
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414-600-0040	3-28-04	Repeal	5-1-04	416-180-0020	5-14-04	Amend	6-1-04
414-600-0050	12-7-03	Suspend	1-1-04	416-180-0030	5-14-04	Amend	6-1-04
414-600-0050	3-28-04	Repeal	5-1-04	416-180-0040	5-14-04	Amend	6-1-04
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416-330-0030	10-1-04	Adopt	11-1-04	436-001-0105	4-1-04	Repeal	4-1-04
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416-360-0010	10-1-04	Repeal	11-1-04	436-001-0135	4-1-04	Repeal	4-1-04
416-360-0020	10-1-04	Repeal	11-1-04	436-001-0140	4-1-04	Repeal	4-1-04
416-360-0030	10-1-04	Repeal	11-1-04	436-001-0150	4-1-04	Amend	4-1-04
416-360-0040	10-1-04	Repeal	11-1-04	436-001-0155	4-1-04	Amend	4-1-04
416-400-0010	7-30-04	Repeal	9-1-04	436-001-0160	4-1-04	Amend	4-1-04
416-440-0000	7-30-04	Repeal	9-1-04	436-001-0170	4-1-04	Amend	4-1-04
416-440-0010	5-14-04	Repeal	6-1-04	436-001-0171	4-1-04	Repeal	4-1-04
416-440-0030	5-14-04	Repeal	6-1-04	436-001-0175	4-1-04	Repeal	4-1-04
416-450-0000	7-30-04	Amend	9-1-04	436-001-0185	4-1-04	Amend	4-1-04
416-450-0010	7-30-04	Amend	9-1-04	436-001-0191	4-1-04	Repeal	4-1-04
416-450-0040	7-30-04	Amend	9-1-04	436-001-0195	4-1-04	Repeal	4-1-04
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416-500-0010	10-1-04	Adopt	11-1-04	436-001-0226	4-1-04	Amend	4-1-04
416-500-0020	10-1-04	Adopt	11-1-04	436-001-0231	4-1-04	Repeal	4-1-04
416-500-0030	10-1-04	Adopt	11-1-04	436-001-0240	4-1-04	Amend	4-1-04
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423-005-0015	9-15-04	Amend	10-1-04	436-001-0285	4-1-04	Repeal	4-1-04
423-005-0020	9-15-04	Amend	10-1-04	436-001-0295	4-1-04	Repeal	4-1-04
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436-010-0210	4-1-04	Amend	4-1-04	436-030-0034(T)	2-29-04	Repeal	4-1-04
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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	436-035-0500	7-15-04	Amend(T)	8-1-04
436-030-0003	2-29-04	Amend	4-1-04	436-045-0008	1-1-04	Amend	1-1-04
436-030-0003(T)	2-29-04	Repeal	4-1-04	436-050-0003	1-1-04	Amend	1-1-04
436-030-0005	1-1-04	Amend(T)	1-1-04	436-050-0005	1-1-04	Amend	1-1-04
436-030-0005	2-29-04	Amend	4-1-04	436-050-0006	1-1-04	Amend	1-1-04
436-030-0005(T)	2-29-04	Repeal	4-1-04	436-050-0008	1-1-04	Amend	1-1-04
436-030-0007	1-1-04	Amend(T)	1-1-04	436-050-0020	1-1-04	Repeal	1-1-04
436-030-0007	2-29-04	Amend	4-1-04	436-050-0040	1-1-04	Amend	1-1-04
436-030-0007(T)	2-29-04	Repeal	4-1-04	436-050-0050	1-1-04	Amend	1-1-04
436-030-0009	1-1-04	Amend(T)	1-1-04	436-050-0055	1-1-04	Amend	1-1-04
436-030-0009	2-29-04	Amend	4-1-04	436-050-0060	1-1-04	Amend	1-1-04
436-030-0009(T)	2-29-04	Repeal	4-1-04	436-050-0080	1-1-04	Amend	1-1-04
436-030-0010	1-1-04	Amend(T)	1-1-04	436-050-0090	1-1-04	Amend	1-1-04
436-030-0010	2-29-04	Amend	4-1-04	436-050-0100	1-1-04	Amend	1-1-04
436-030-0010(T)	2-29-04	Repeal	4-1-04	436-050-0110	1-1-04	Amend	1-1-04
436-030-0015	2-29-04	Amend	4-1-04	436-050-0120	1-1-04	Amend	1-1-04
436-030-0017	2-29-04	Amend	4-1-04	436-050-0150	1-1-04	Amend	1-1-04
436-030-0020	2-29-04	Amend	4-1-04	436-050-0150(T)	1-1-04	Repeal	1-1-04

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436-050-0160(T)	1-1-04	Repeal	1-1-04	436-060-0200	2-29-04	Amend	4-1-04
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	436-105-0003	8-1-04	Amend	8-1-04
436-060-0008	1-1-04	Amend	1-1-04	436-105-0003(T)	8-1-04	Repeal	8-1-04
436-060-0008	2-29-04	Amend	4-1-04	436-105-0500	4-1-04	Amend(T)	5-1-04
436-060-0009	2-29-04	Amend	4-1-04	436-105-0500	8-1-04	Amend	8-1-04
436-060-0010	1-1-04	Amend(T)	1-1-04	436-105-0500(T)	8-1-04	Repeal	8-1-04
436-060-0010	2-29-04	Amend	4-1-04	436-105-0540	4-1-04	Amend(T)	5-1-04
436-060-0010(T)	1-1-04	Suspend	1-1-04	436-105-0540	8-1-04	Amend	8-1-04
436-060-0015	2-29-04	Amend	4-1-04	436-105-0540(T)	8-1-04	Repeal	8-1-04
436-060-0017	2-29-04	Amend	4-1-04	436-105-0570	8-1-04	Repeal	8-1-04
436-060-0019	1-1-04	Amend(T)	1-1-04	436-120-0003	4-1-04	Amend	4-1-04
436-060-0019	2-29-04	Amend	4-1-04	436-120-0004	4-1-04	Amend	4-1-04
436-060-0019(T)	1-1-04	Suspend	1-1-04	436-120-0008	1-1-04	Amend(T)	1-1-04
436-060-0020	1-1-04	Amend(T)	1-1-04	436-120-0008	4-1-04	Amend	4-1-04
436-060-0020	2-29-04	Amend	4-1-04	436-120-0320	4-1-04	Amend	4-1-04
436-060-0025	2-29-04	Amend	4-1-04	436-120-0340	4-1-04	Amend	4-1-04
436-060-0030	1-1-04	Amend(T)	1-1-04	436-120-0350	4-1-04	Amend	4-1-04
436-060-0030	2-29-04	Amend	4-1-04	436-120-0360	4-1-04	Amend	4-1-04
436-060-0035	1-1-04	Amend(T)	1-1-04	436-120-0410	4-1-04	Amend	4-1-04
436-060-0035	2-29-04	Amend	4-1-04	436-120-0500	4-1-04	Amend	4-1-04
436-060-0035(T)	1-1-04	Suspend	1-1-04	436-120-0710	4-1-04	Amend	4-1-04
436-060-0040	2-29-04	Amend	4-1-04	436-120-0720	4-1-04	Amend	4-1-04
436-060-0060	2-29-04	Amend	4-1-04	436-120-0830	4-1-04	Amend	4-1-04
436-060-0095	1-1-04	Amend(T)	1-1-04	436-120-0840	4-1-04	Amend	4-1-04
436-060-0095	2-29-04	Amend	4-1-04	436-120-0920	4-1-04	Repeal	4-1-04
436-060-0105	1-1-04	Amend(T)	1-1-04	436-150-0008	1-1-04	Amend	1-1-04
436-060-0105	2-29-04	Amend	4-1-04	436-160-0003	1-1-04	Amend	1-1-04
436-060-0135	2-29-04	Amend	4-1-04	436-160-0310	1-1-04	Amend	1-1-04
436-060-0140	1-1-04	Amend(T)	1-1-04	436-160-0320	1-1-04	Amend	1-1-04
436-060-0140	2-29-04	Amend	4-1-04	436-160-0340	1-1-04	Amend	1-1-04
436-060-0147	2-29-04	Amend	4-1-04	436-160-0350	1-1-04	Amend	1-1-04
436-060-0150	1-1-04	Amend(T)	1-1-04	436-160-0360	1-1-04	Amend	1-1-04
436-060-0150	2-29-04	Amend	4-1-04	437-001-0015	11-26-03	Amend	1-1-04
436-060-0180	2-29-04	Amend	4-1-04	437-001-0096	11-26-03	Amend	1-1-04
436-060-0190	2-29-04	Amend	4-1-04	437-001-0171	11-26-03	Amend	1-1-04

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437-001-0265	11-26-03	Amend	1-1-04	440-055-0008	1-1-04	Adopt	2-1-04
437-001-0270	11-26-03	Amend	1-1-04	440-100-0010	1-1-04	Adopt	2-1-04
437-001-0430	11-26-03	Amend	1-1-04	440-200-0020	9-30-04	Am. & Ren.	11-1-04
437-001-0700	11-26-03	Amend	1-1-04	440-300-0010	9-30-04	Am. & Ren.	11-1-04
437-001-0765	11-26-03	Amend	1-1-04	440-300-0020	9-30-04	Am. & Ren.	11-1-04
437-002-0100	9-15-04	Amend	10-1-04	440-300-0030	9-30-04	Am. & Ren.	11-1-04
437-002-0120	7-1-04	Amend	5-1-04	440-300-0040	9-30-04	Renumber	11-1-04
437-002-0133	7-1-04	Repeal	5-1-04	440-300-0050	9-30-04	Am. & Ren.	11-1-04
437-002-0220	12-5-03	Amend	1-1-04	440-300-0060	9-30-04	Am. & Ren.	11-1-04
437-002-0240	9-15-04	Amend	10-1-04	440-300-0070	9-30-04	Am. & Ren.	11-1-04
437-002-0300	9-15-04	Amend	10-1-04	440-300-0200	9-30-04	Am. & Ren.	11-1-04
437-002-0340	5-20-04	Amend	7-1-04	440-300-0210	9-30-04	Am. & Ren.	11-1-04
437-003-0001	12-5-03	Amend	1-1-04	440-300-0220	9-30-04	Am. & Ren.	11-1-04
437-003-0001	1-1-04	Amend	2-1-04	440-300-0230	9-30-04	Renumber	11-1-04
437-003-0754	1-1-04	Repeal	2-1-04	440-300-0240	9-30-04	Am. & Ren.	11-1-04
437-003-1754	1-1-04	Adopt	2-1-04	440-300-0250	9-30-04	Am. & Ren.	11-1-04
437-003-1760	1-1-04	Repeal	2-1-04	440-300-0260	9-30-04	Am. & Ren.	11-1-04
437-007-0220	6-7-04	Amend	7-1-04	440-300-0270	9-30-04	Am. & Ren.	11-1-04
437-007-0600	6-7-04	Amend	7-1-04	440-300-0280	9-30-04	Renumber	11-1-04
437-007-0605	6-7-04	Amend	7-1-04	440-300-0290	9-30-04	Am. & Ren.	11-1-04
437-007-0615	6-7-04	Amend	7-1-04	440-300-0300	9-30-04	Renumber	11-1-04
437-007-0650	6-7-04	Amend	7-1-04	440-300-0310	9-30-04	Am. & Ren.	11-1-04
437-007-0655	6-7-04	Amend	7-1-04	440-300-0320	9-30-04	Renumber	11-1-04
437-007-0660	6-7-04	Amend	7-1-04	440-300-0330	9-30-04	Am. & Ren.	11-1-04
437-007-0690	6-7-04	Amend	7-1-04	440-300-0340	9-30-04	Am. & Ren.	11-1-04
437-007-0725	6-7-04	Amend	7-1-04	440-300-0350	9-30-04	Renumber	11-1-04
438-005-0040	9-1-04	Amend	8-1-04	440-300-0360	9-30-04	Am. & Ren.	11-1-04
438-005-0050	9-1-04	Amend	8-1-04	441-001-0005	1-1-04	Adopt	2-1-04
438-005-0055	9-1-04	Amend	8-1-04	441-001-0005	8-5-04	Amend	9-1-04
438-006-0064	1-1-04	Adopt	1-1-04	441-001-0010	1-1-04	Adopt	2-1-04
438-009-0010	9-1-04	Amend	8-1-04	441-001-0020	1-1-04	Adopt	2-1-04
438-009-0015	9-1-04	Amend	8-1-04	441-001-0030	1-1-04	Adopt	2-1-04
438-012-0017	9-1-04	Adopt	8-1-04	441-001-0040	1-1-04	Adopt	2-1-04
438-012-0018	9-1-04	Amend	8-1-04	441-001-0050	1-1-04	Adopt	2-1-04
438-012-0020	9-1-04	Amend	8-1-04	441-002-0005	1-1-04	Adopt	2-1-04
438-012-0030	9-1-04	Amend	8-1-04	441-002-0010	1-1-04	Adopt	2-1-04
438-012-0032	9-1-04	Amend	8-1-04	441-002-0020	1-1-04	Adopt	2-1-04
438-012-0035	9-1-04	Amend	8-1-04	441-002-0030	1-1-04	Adopt	2-1-04
438-012-0055	9-1-04	Amend	8-1-04	441-002-0040	1-1-04	Adopt	2-1-04
438-012-0060	9-1-04	Amend	8-1-04	441-035-0045	11-26-03	Amend(T)	1-1-04
438-012-0090	9-1-04	Amend	8-1-04	441-035-0045	5-19-04	Amend	7-1-04
438-012-0095	9-1-04	Amend	8-1-04	441-049-1001	11-26-03	Adopt(T)	1-1-04
438-012-0100	9-1-04	Amend	8-1-04	441-049-1001	5-19-04	Adopt	7-1-04
438-012-0110	9-1-04	Adopt	8-1-04	441-049-1021	11-26-03	Amend(T)	1-1-04
438-015-0011	9-1-04	Adopt	8-1-04	441-049-1021	5-19-04	Amend	7-1-04
438-015-0110	1-1-04	Adopt	1-1-04	441-049-1031	11-26-03	Amend(T)	1-1-04
438-022-0005	9-1-04	Amend	8-1-04	441-049-1031	5-19-04	Amend	7-1-04
438-022-0010	9-1-04	Amend	8-1-04	441-049-1041	11-26-03	Amend(T)	1-1-04
440-020-0010	1-1-04	Adopt	2-1-04	441-049-1041	5-19-04	Amend	7-1-04
440-020-0015	1-1-04	Adopt	2-1-04	441-049-1051	11-26-03	Amend(T)	1-1-04
440-035-0050	9-30-04	Am. & Ren.	11-1-04	441-049-1051	5-19-04	Amend	7-1-04
440-035-0060	9-30-04	Renumber	11-1-04	441-065-0001	11-26-03	Adopt(T)	1-1-04
440-035-0070	9-30-04	Am. & Ren.	11-1-04	441-065-0001	5-19-04	Adopt	7-1-04
440-035-0080	9-30-04	Renumber	11-1-04	441-065-0015	11-26-03	Amend(T)	1-1-04
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441-065-0020	5-19-04	Amend	7-1-04	441-810-0210	1-1-04	Adopt	2-1-04
441-065-0035	11-26-03	Amend(T)	1-1-04	441-810-0220	1-1-04	Adopt	2-1-04
441-065-0035	5-19-04	Amend	7-1-04	441-810-0230	1-1-04	Adopt	2-1-04
441-065-0170	11-26-03	Amend(T)	1-1-04	441-810-0240	1-1-04	Adopt	2-1-04
441-065-0170	5-19-04	Amend	7-1-04	441-810-0250	1-1-04	Adopt	2-1-04
441-065-0180	11-26-03	Amend(T)	1-1-04	441-810-0260	1-1-04	Adopt	2-1-04
441-065-0180	5-19-04	Amend	7-1-04	441-830-0010	8-5-04	Amend	9-1-04
441-065-0270	11-26-03	Amend(T)	1-1-04	441-830-0020	8-5-04	Amend	9-1-04
441-065-0270	5-19-04	Amend	7-1-04	441-830-0030	8-5-04	Amend	9-1-04
441-075-0020	11-26-03	Amend(T)	1-1-04	441-830-0040	8-5-04	Amend	9-1-04
441-075-0020	5-19-04	Amend	7-1-04	441-860-0010	8-5-04	Amend	9-1-04
441-095-0030	11-26-03	Amend(T)	1-1-04	441-860-0020	1-1-04	Amend	2-1-04
441-095-0030	5-19-04	Amend	7-1-04	441-860-0050	1-1-04	Amend	2-1-04
441-175-0002	11-26-03	Adopt(T)	1-1-04	441-860-0060	8-5-04	Amend	9-1-04
441-175-0002	5-19-04	Adopt	7-1-04	441-860-0070	8-5-04	Amend	9-1-04
441-175-0010	1-1-04	Amend	2-1-04	441-860-0090	8-5-04	Amend	9-1-04
441-175-0015	11-26-03	Amend(T)	1-1-04	441-865-0040	8-5-04	Amend	9-1-04
441-175-0015	5-19-04	Amend	7-1-04	441-870-0050	8-5-04	Amend	9-1-04
441-175-0035	1-1-04	Repeal	2-1-04	441-875-0040	8-5-04	Amend	9-1-04
441-175-0055	1-1-04	Amend	2-1-04	441-880-0010	8-5-04	Amend	9-1-04
441-175-0060	11-26-03	Amend(T)	1-1-04	441-880-0020	8-5-04	Amend	9-1-04
441-175-0060	5-19-04	Amend	7-1-04	441-880-0030	8-5-04	Amend	9-1-04
441-175-0080	11-26-03	Amend(T)	1-1-04	441-880-0040	8-5-04	Amend	9-1-04
441-175-0080	5-19-04	Amend	7-1-04	441-880-0050	1-1-04	Adopt	2-1-04
441-175-0085	11-26-03	Amend(T)	1-1-04	441-880-0050	8-5-04	Amend	9-1-04
441-175-0085	5-19-04	Amend	7-1-04	441-910-0060	8-5-04	Amend	9-1-04
441-175-0100	11-26-03	Amend(T)	1-1-04	441-910-0095	8-5-04	Amend	9-1-04
441-175-0100	5-19-04	Amend	7-1-04	441-910-0110	8-5-04	Amend	9-1-04
441-175-0120	11-26-03	Amend(T)	1-1-04	441-910-0120	8-5-04	Amend	9-1-04
441-175-0120	5-19-04	Amend	7-1-04	443-015-0010	5-1-04	Amend	6-1-04
441-175-0130	11-26-03	Amend(T)	1-1-04	445-050-0005	2-15-04	Amend	2-1-04
441-175-0130	1-1-04	Amend	2-1-04	445-050-0020	2-15-04	Amend	2-1-04
441-175-0130	5-19-04	Amend	7-1-04	445-050-0030	2-15-04	Amend	2-1-04
441-175-0160	11-26-03	Amend(T)	1-1-04	445-050-0040	2-15-04	Amend	2-1-04
441-175-0160	5-19-04	Amend	7-1-04	445-050-0050	2-15-04	Amend	2-1-04
441-175-0165	11-26-03	Amend(T)	1-1-04	445-050-0060	2-15-04	Amend	2-1-04
441-175-0165	5-19-04	Amend	7-1-04	445-050-0080	2-15-04	Amend	2-1-04
441-175-0171	11-26-03	Amend(T)	1-1-04	445-050-0090	2-15-04	Amend	2-1-04
441-175-0171	5-19-04	Amend	7-1-04	445-050-0155	2-15-04	Amend	2-1-04
441-195-0010	5-19-04	Amend	7-1-04	459-001-0000	6-15-04	Amend	7-1-04
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441-195-0035	1-1-04	Repeal	2-1-04	459-005-0001	5-21-04	Amend(T)	5-1-04
441-505-3020	8-5-04	Amend	9-1-04	459-005-0001	6-15-04	Amend	7-1-04
441-505-3060	8-5-04	Amend	9-1-04	459-005-0001(T)	11-20-03	Repeal	1-1-04
441-710-0038	8-5-04	Amend	9-1-04	459-005-0055	2-18-04	Amend	4-1-04
441-710-0070	8-5-04	Amend	9-1-04	459-005-0210	10-14-04	Amend	11-1-04
441-730-0010	8-5-04	Amend	9-1-04	459-005-0250	1-1-04	Adopt	1-1-04
441-730-0030	1-1-04	Amend	2-1-04	459-005-0250	9-22-04	Amend	11-1-04
441-730-0080	8-5-04	Amend	9-1-04	459-005-0320	1-22-04	Repeal	3-1-04
441-730-0100	8-5-04	Amend	9-1-04	459-007-0001	12-15-03	Amend	1-1-04
441-730-0160	8-5-04	Amend	9-1-04	459-007-0001(T)	12-15-03	Repeal	1-1-04
441-730-0270	8-5-04	Amend	9-1-04	459-007-0003	12-15-03	Adopt	1-1-04
441-730-0275	8-5-04	Amend	9-1-04	459-007-0005	4-15-04	Adopt	5-1-04
441-740-0030	1-1-04	Adopt	2-1-04	459-007-0030	4-15-04	Repeal	5-1-04

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459-007-0040(T)	12-15-03	Repeal	1-1-04	461-110-0330	1-1-04	Amend	2-1-04
459-007-0050	12-15-03	Amend	1-1-04	461-110-0330	7-1-04	Amend	8-1-04
459-007-0050	6-15-04	Amend	7-1-04	461-110-0350	12-17-03	Amend(T)	2-1-04
459-007-0050(T)	12-15-03	Repeal	1-1-04	461-110-0350	4-1-04	Amend	5-1-04
459-007-0060	12-15-03	Amend	1-1-04	461-110-0370	10-1-04	Amend	11-1-04
459-007-0060(T)	12-15-03	Repeal	1-1-04	461-110-0390	4-1-04	Amend	5-1-04
459-007-0070	4-1-04	Amend	1-1-04	461-110-0410	10-1-04	Amend	11-1-04
459-007-0080	4-1-04	Amend	1-1-04	461-110-0610	10-1-04	Amend	11-1-04
459-007-0090	4-1-04	Amend	1-1-04	461-110-0630	4-1-04	Amend	5-1-04
459-007-0095	12-15-03	Adopt	1-1-04	461-110-0630	7-1-04	Amend	8-1-04
459-007-0100	12-15-03	Repeal	1-1-04	461-110-0750	4-1-04	Amend	5-1-04
459-007-0210	4-15-04	Repeal	5-1-04	461-115-0015	1-1-04	Amend	2-1-04
459-007-0300	4-15-04	Amend	5-1-04	461-115-0015	4-1-04	Amend	5-1-04
459-007-0510	4-15-04	Amend	5-1-04	461-115-0030	7-1-04	Amend	8-1-04
459-007-0520	4-15-04	Repeal	5-1-04	461-115-0030	10-1-04	Amend	11-1-04
459-009-0100	1-1-04	Amend	2-1-04	461-115-0050	10-1-04	Amend	11-1-04
459-009-0110	1-1-04	Repeal	2-1-04	461-115-0190	10-1-04	Amend	11-1-04
459-010-0055	7-1-04	Amend	7-1-04	461-115-0430	7-1-04	Amend	8-1-04
459-011-0100	1-22-04	Amend	3-1-04	461-115-0530	7-1-04	Amend	8-1-04
459-011-0110	1-22-04	Amend	3-1-04	461-115-0651	7-1-04	Amend	8-1-04
459-013-0280	7-1-04	Adopt	7-1-04	461-115-0651	9-7-04	Amend(T)	10-1-04
459-013-0280	7-1-04	Adopt(T)	5-1-04	461-115-0705	1-1-04	Amend	2-1-04
459-013-0300	12-15-03	Adopt	1-1-04	461-115-0705	10-1-04	Amend	11-1-04
459-017-0060	12-15-03	Amend(T)	1-1-04	461-120-0120	1-1-04	Amend	2-1-04
459-017-0060	6-15-04	Amend	7-1-04	461-120-0125	1-1-04	Amend(T)	2-1-04
459-035-0050	1-1-04	Amend	1-1-04	461-120-0125	4-1-04	Amend	5-1-04
459-045-0001	11-20-03	Amend	1-1-04	461-120-0125	4-9-04	Amend(T)	5-1-04
459-045-0001(T)	11-20-03	Repeal	1-1-04	461-120-0125	5-11-04	Amend(T)	6-1-04
459-045-0030	7-1-04	Amend	7-1-04	461-120-0125	7-1-04	Amend	8-1-04
459-060-0001	12-15-03	Amend	1-1-04	461-120-0125(T)	1-1-04	Suspend	2-1-04
459-060-0010	12-15-03	Amend	1-1-04	461-120-0125(T)	5-11-04	Suspend	6-1-04
459-060-0020	12-15-03	Amend	1-1-04	461-120-0210	7-1-04	Amend	8-1-04
459-070-0001	2-18-04	Adopt	4-1-04	461-120-0330	7-1-04	Amend	8-1-04
459-070-0100	1-1-04	Adopt	2-1-04	461-120-0340	1-1-04	Amend	2-1-04
459-070-0110	1-1-04	Adopt	2-1-04	461-120-0345	1-1-04	Amend	2-1-04
459-070-0900	2-18-04	Adopt(T)	4-1-04	461-120-0345	1-1-04	Amend	2-1-04
459-070-0900	5-19-04	Adopt	7-1-04	461-120-0345	4-1-04	Amend	5-1-04
459-075-0010	2-18-04	Adopt	4-1-04	461-120-0345	7-1-04	Amend	8-1-04
459-075-0030	1-1-04	Adopt	2-1-04	461-120-0510	4-1-04	Amend	5-1-04
459-075-0100	1-22-04	Adopt	3-1-04	461-120-0510	7-1-04	Amend	8-1-04
459-075-0150	2-18-04	Adopt	4-1-04	461-120-0510	10-1-04	Amend	11-1-04
459-080-0010	1-1-04	Adopt	1-1-04	461-120-0630	7-1-04	Amend	8-1-04
459-080-0100	1-22-04	Adopt	3-1-04	461-125-0370	10-1-04	Amend	11-1-04
459-080-0150	6-21-04	Adopt(T)	7-1-04	461-125-0510	4-1-04	Amend	5-1-04
459-080-0150	9-22-04	Adopt	11-1-04	461-125-0510	6-1-04	Amend(T)	7-1-04
459-080-0200	1-1-04	Adopt(T)	1-1-04	461-125-0510	10-1-04	Amend	11-1-04
459-080-0200	5-19-04	Adopt	7-1-04	461-125-0600	4-1-04	Repeal	5-1-04
459-080-0250	9-22-04	Adopt(T)	11-1-04	461-125-0610	4-1-04	Repeal	5-1-04
459-080-0500	1-1-04	Adopt	1-1-04	461-125-0650	4-1-04	Repeal	5-1-04
461-025-0310	10-1-04	Amend	11-1-04	461-125-0660	4-1-04	Repeal	5-1-04
461-025-0311	1-1-04	Amend	2-1-04	461-125-0690	4-1-04	Repeal	5-1-04
461-025-0315	10-1-04	Amend	11-1-04	461-125-0890	4-1-04	Repeal	5-1-04
461-101-0010	4-1-04	Amend	5-1-04	461-125-0910	4-1-04	Repeal	5-1-04
461-101-0010	7-1-04	Amend	8-1-04	461-125-0930	4-1-04	Repeal	5-1-04
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461-130-0330	7-1-04	Amend	8-1-04	461-135-1130	1-1-04	Amend	2-1-04
461-135-0010	1-1-04	Amend	2-1-04	461-135-1130	2-19-04	Amend(T)	4-1-04
461-135-0085	7-1-04	Amend	8-1-04	461-135-1130	4-1-04	Amend	5-1-04
461-135-0170	7-1-04	Amend	8-1-04	461-135-1130	4-1-04	Amend(T)	5-1-04
461-135-0180	1-1-04	Repeal	2-1-04	461-135-1130	7-1-04	Amend	8-1-04
461-135-0200	7-1-04	Amend	8-1-04	461-135-1130(T)	12-1-03	Suspend	1-1-04
461-135-0300	7-1-04	Amend	8-1-04	461-135-1130(T)	4-1-04	Repeal	5-1-04
461-135-0301	12-1-03	Amend(T)	1-1-04	461-135-1220	4-1-04	Amend	5-1-04
461-135-0301	4-1-04	Amend	5-1-04	461-135-1230	4-1-04	Amend	5-1-04
461-135-0301	5-1-04	Amend(T)	6-1-04	461-135-1235	4-1-04	Amend	5-1-04
461-135-0301	10-1-04	Amend	11-1-04	461-140-0040	7-1-04	Amend	8-1-04
461-135-0301(T)	4-1-04	Repeal	5-1-04	461-140-0110	7-1-04	Amend	8-1-04
461-135-0310	7-1-04	Amend	8-1-04	461-140-0120	4-1-04	Amend	5-1-04
461-135-0320	7-1-04	Amend	8-1-04	461-140-0120	7-1-04	Amend	8-1-04
461-135-0340	7-1-04	Amend	8-1-04	461-140-0130	4-1-04	Amend	5-1-04
461-135-0350	7-1-04	Amend	8-1-04	461-140-0210	10-1-04	Amend	11-1-04
461-135-0400	1-1-04	Amend	2-1-04	461-140-0242	7-1-04	Amend	8-1-04
461-135-0400	4-1-04	Amend	5-1-04	461-140-0296	10-1-04	Amend	11-1-04
461-135-0401	1-1-04	Amend	2-1-04	461-145-0001	7-1-04	Amend(T)	8-1-04
461-135-0401	4-1-04	Amend	5-1-04	461-145-0001	10-1-04	Amend	11-1-04
461-135-0405	10-1-04	Amend	11-1-04	461-145-0040	4-1-04	Amend	5-1-04
461-135-0700	1-1-04	Amend(T)	2-1-04	461-145-0050	4-1-04	Amend	5-1-04
461-135-0700	4-1-04	Amend	5-1-04	461-145-0105	7-1-04	Adopt	8-1-04
461-135-0700	4-15-04	Amend(T)	5-1-04	461-145-0120	7-1-04	Amend	8-1-04
461-135-0700	7-1-04	Amend	8-1-04	461-145-0150	4-1-04	Amend	5-1-04
461-135-0700(T)	1-1-04	Suspend	2-1-04	461-145-0190	4-1-04	Amend	5-1-04
461-135-0701	4-1-04	Amend	5-1-04	461-145-0200	7-1-04	Amend	8-1-04
461-135-0705	4-1-04	Amend	5-1-04	461-145-0230	7-1-04	Amend	8-1-04
461-135-0720	10-1-04	Repeal	11-1-04	461-145-0240	7-1-04	Amend	8-1-04
461-135-0721	10-1-04	Repeal	11-1-04	461-145-0250	7-1-04	Amend	8-1-04
461-135-0730	1-1-04	Amend	2-1-04	461-145-0280	7-1-04	Amend	8-1-04
461-135-0730	4-1-04	Amend(T)	5-1-04	461-145-0320	4-1-04	Amend	5-1-04
461-135-0730	7-1-04	Amend	8-1-04	461-145-0360	4-1-04	Amend	5-1-04
461-135-0750	7-1-04	Amend	8-1-04	461-145-0360	7-1-04	Amend	8-1-04
461-135-0760	7-1-04	Repeal	8-1-04	461-145-0410	7-1-04	Amend	8-1-04
461-135-0780	1-1-04	Amend	2-1-04	461-145-0410	10-1-04	Amend	11-1-04
461-135-0780	7-1-04	Amend	8-1-04	461-145-0420	7-1-04	Amend	8-1-04
461-135-0830	1-1-04	Amend	2-1-04	461-145-0530	4-1-04	Amend	5-1-04
461-135-0832	1-1-04	Amend	2-1-04	461-145-0540	10-1-04	Amend	11-1-04
461-135-0834	10-1-04	Amend	11-1-04	461-145-0600	7-1-04	Amend	8-1-04
461-135-0845	2-5-04	Amend(T)	3-1-04	461-145-0860	7-1-04	Amend	8-1-04
461-135-0845	7-1-04	Amend	8-1-04	461-145-0910	7-1-04	Amend	8-1-04
461-135-0847	1-1-04	Adopt	2-1-04	461-150-0010	7-1-04	Amend	8-1-04
461-135-0847	10-1-04	Amend	11-1-04	461-150-0020	4-1-04	Amend(T)	5-1-04
461-135-0875	10-1-04	Amend	11-1-04	461-150-0020	7-1-04	Amend	8-1-04
461-135-0990	10-1-04	Amend	11-1-04	461-150-0042	7-1-04	Amend	8-1-04
461-135-1070	7-1-04	Amend(T)	8-1-04	461-155-0010	4-1-04	Amend	5-1-04
461-135-1070	10-1-04	Amend	11-1-04	461-155-0010	7-1-04	Amend	8-1-04
461-135-1102	7-1-04	Adopt	8-1-04	461-155-0020	1-1-04	Amend	2-1-04
461-135-1110	7-1-04	Amend	8-1-04	461-155-0030	1-1-04	Amend	2-1-04
461-135-1120	1-1-04	Amend	2-1-04	461-155-0035	1-1-04	Amend	2-1-04
461-135-1120	2-19-04	Amend(T)	4-1-04	461-155-0035	7-1-04	Amend	8-1-04
461-135-1120	7-1-04	Amend	8-1-04	461-155-0070	7-1-04	Amend	8-1-04
461-135-1120	10-1-04	Amend	11-1-04	461-155-0110	10-1-04	Repeal	11-1-04
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461-155-0150	4-1-04	Amend	5-1-04	461-165-0030	7-1-04	Amend	8-1-04
461-155-0190	10-1-04	Amend	11-1-04	461-165-0060	8-1-04	Amend(T)	9-1-04
461-155-0210	4-1-04	Amend	5-1-04	461-165-0060	10-1-04	Amend	11-1-04
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461-155-0225	4-1-04	Amend	5-1-04	461-165-0120	7-1-04	Amend	8-1-04
461-155-0225	10-1-04	Amend	11-1-04	461-165-0180	5-1-04	Amend	6-1-04
461-155-0235	3-1-04	Amend(T)	4-1-04	461-165-0180	7-1-04	Amend	8-1-04
461-155-0235	4-1-04	Amend	5-1-04	461-165-0400	3-1-04	Repeal	4-1-04
461-155-0250	1-1-04	Amend	2-1-04	461-170-0010	1-1-04	Amend	2-1-04
461-155-0250	4-1-04	Amend	5-1-04	461-170-0120	10-1-04	Amend	11-1-04
461-155-0270	1-1-04	Amend	2-1-04	461-175-0010	10-1-04	Amend	11-1-04
461-155-0290	4-1-04	Amend	5-1-04	461-175-0030	10-1-04	Amend	11-1-04
461-155-0291	4-1-04	Amend	5-1-04	461-175-0200	1-1-04	Amend	2-1-04
461-155-0295	4-1-04	Amend	5-1-04	461-175-0200	7-1-04	Amend	8-1-04
461-155-0300	1-1-04	Amend	2-1-04	461-175-0200	10-1-04	Amend	11-1-04
461-155-0360	10-1-04	Amend	11-1-04	461-175-0250	10-1-04	Amend	11-1-04
461-155-0500	7-1-04	Amend	8-1-04	461-175-0300	7-1-04	Amend	8-1-04
461-155-0526	1-1-04	Amend	2-1-04	461-175-0330	10-1-04	Repeal	11-1-04
461-155-0526	1-1-04	Amend	2-1-04	461-180-0010	7-1-04	Amend	8-1-04
461-155-0526	4-1-04	Amend	5-1-04	461-180-0050	7-1-04	Amend	8-1-04
461-155-0551	4-1-04	Amend	5-1-04	461-180-0050	7-12-04	Amend	8-1-04
461-155-0630	10-1-04	Amend	11-1-04	461-180-0050	10-1-04	Amend(T)	11-1-04
461-155-0660	10-1-04	Amend	11-1-04	461-180-0065	10-1-04	Amend	11-1-04
461-155-0670	7-1-04	Amend	8-1-04	461-180-0070	1-1-04	Amend	2-1-04
461-155-0680	1-1-04	Amend	2-1-04	461-180-0070	7-1-04	Amend	8-1-04
461-160-0010	7-1-04	Amend	8-1-04	461-180-0070	10-1-04	Amend	11-1-04
461-160-0015	4-1-04	Amend	5-1-04	461-180-0090	7-1-04	Amend	8-1-04
461-160-0015	7-1-04	Amend	8-1-04	461-180-0105	12-1-03	Amend(T)	1-1-04
461-160-0015	10-1-04	Amend	11-1-04	461-180-0105	1-1-04	Amend	2-1-04
461-160-0030	9-7-04	Amend(T)	10-1-04	461-180-0120	7-1-04	Amend	8-1-04
461-160-0030	10-1-04	Amend	11-1-04	461-180-0140	7-1-04	Amend	8-1-04
461-160-0030	10-1-04	Amend(T)	11-1-04	461-190-0110	1-1-04	Amend	2-1-04
461-160-0030(T)	10-1-04	Suspend	11-1-04	461-190-0161	1-1-04	Amend	2-1-04
461-160-0055	9-7-04	Amend(T)	10-1-04	461-190-0191	1-1-04	Repeal	2-1-04
461-160-0055	10-1-04	Amend	11-1-04	461-190-0211	1-1-04	Amend	2-1-04
461-160-0055	10-1-04	Amend(T)	11-1-04	461-190-0211	10-1-04	Amend	11-1-04
461-160-0055(T)	10-1-04	Suspend	11-1-04	461-190-0221	10-1-04	Repeal	11-1-04
461-160-0060	4-1-04	Amend	5-1-04	461-190-0241	10-1-04	Amend	11-1-04
461-160-0080	10-1-04	Repeal	11-1-04	461-190-0360	1-1-04	Amend	2-1-04
461-160-0140	7-1-04	Amend	8-1-04	461-193-0560	1-1-04	Amend	2-1-04
461-160-0160	7-1-04	Amend	8-1-04	461-195-0501	1-1-04	Amend	2-1-04
461-160-0420	10-1-04	Amend	11-1-04	461-195-0511	10-1-04	Amend	11-1-04
461-160-0430	7-1-04	Amend	8-1-04	461-195-0531	4-1-04	Amend	5-1-04
461-160-0430	10-1-04	Amend	11-1-04	461-195-0551	4-1-04	Amend	5-1-04
461-160-0500	4-1-04	Amend	5-1-04	461-195-0561	1-1-04	Amend	2-1-04
461-160-0510	4-1-04	Repeal	5-1-04	461-195-0601	4-1-04	Amend	5-1-04
461-160-0520	4-1-04	Repeal	5-1-04	461-195-0621	4-1-04	Amend	5-1-04
461-160-0540	10-1-04	Amend	11-1-04	461-195-0621	7-1-04	Amend	8-1-04
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461-160-0560	4-1-04	Amend	5-1-04	462-120-0020	3-3-04	Amend	4-1-04
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461-160-0580	10-1-04	Amend	11-1-04	462-140-0070	4-8-04	Amend	5-1-04
461-160-0610	10-1-04	Amend	11-1-04	462-140-0410	4-8-04	Amend	5-1-04
461-160-0620	1-1-04	Amend	2-1-04	462-140-0420	4-8-04	Amend	5-1-04
461-160-0620	7-1-04	Amend	8-1-04	462-140-0480	4-8-04	Amend	5-1-04

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462-170-0030	4-8-04	Amend	5-1-04	471-040-0015	8-1-04	Amend	9-1-04
462-170-0050	4-8-04	Amend	5-1-04	471-040-0020	8-1-04	Amend	9-1-04
462-180-0010	4-8-04	Amend	5-1-04	471-040-0021	8-1-04	Amend	9-1-04
462-180-0060	4-8-04	Amend	5-1-04	471-040-0023	8-1-04	Amend	9-1-04
462-200-0640	10-14-04	Adopt	11-1-04	471-040-0025	8-1-04	Amend	9-1-04
462-220-0040	7-1-04	Amend	8-1-04	471-040-0026	8-1-04	Amend	9-1-04
471-010-0010	8-1-04	Amend	9-1-04	471-040-0030	8-1-04	Amend	9-1-04
471-010-0020	8-1-04	Amend	9-1-04	471-040-0035	8-1-04	Amend	9-1-04
471-010-0050	1-4-04	Amend	2-1-04	471-040-0040	5-4-04	Amend(T)	6-1-04
471-010-0050	8-1-04	Amend	9-1-04	471-040-0040	8-1-04	Amend	9-1-04
471-010-0051	1-4-04	Amend	2-1-04	471-040-0040(T)	8-1-04	Repeal	9-1-04
471-010-0054	1-4-04	Amend	2-1-04	471-041-0060	5-4-04	Amend(T)	6-1-04
471-010-0054	8-1-04	Amend	9-1-04	471-041-0060	8-1-04	Amend	9-1-04
471-010-0057	1-4-04	Adopt	2-1-04	471-041-0060(T)	8-1-04	Repeal	9-1-04
471-012-0010	12-14-03	Amend	1-1-04	471-041-0150	8-1-04	Repeal	9-1-04
471-012-0015	12-14-03	Amend	1-1-04	471-060-0005	1-4-04	Amend	2-1-04
471-012-0020	12-14-03	Amend	1-1-04	543-050-0000	1-1-04	Repeal	1-1-04
471-015-0005	12-14-03	Amend	1-1-04	543-050-0020	1-1-04	Repeal	1-1-04
471-015-0010	12-14-03	Amend	1-1-04	543-050-0030	1-1-04	Repeal	1-1-04
471-015-0015	12-14-03	Amend	1-1-04	543-050-0040	1-1-04	Repeal	1-1-04
471-015-0020	12-14-03	Amend	1-1-04	543-050-0050	1-1-04	Repeal	1-1-04
471-020-0010	8-8-04	Amend	9-1-04	543-060-0000	1-1-04	Adopt	1-1-04
471-020-0020	8-8-04	Amend	9-1-04	543-060-0010	1-1-04	Adopt	1-1-04
471-020-0030	8-8-04	Amend	9-1-04	543-060-0020	1-1-04	Adopt	1-1-04
471-020-0035	8-8-04	Amend	9-1-04	543-060-0030	1-1-04	Adopt	1-1-04
471-020-0040	8-8-04	Amend	9-1-04	543-060-0030	9-1-04	Amend	10-1-04
471-030-0023	8-1-04	Amend	9-1-04	543-060-0040	1-1-04	Adopt	1-1-04
471-030-0037	8-1-04	Amend	9-1-04	543-060-0040	9-1-04	Amend	10-1-04
471-030-0040	12-14-03	Amend	1-1-04	543-060-0060	1-1-04	Adopt	1-1-04
471-030-0044	8-1-04	Adopt	9-1-04	571-003-0025	9-14-04	Amend	10-1-04
471-030-0045	12-14-03	Amend	1-1-04	571-020-0120	5-17-04	Amend	6-1-04
471-030-0054	8-1-04	Adopt	9-1-04	571-020-0180	5-17-04	Amend	6-1-04
471-030-0055	8-1-04	Amend	9-1-04	571-024-0005	7-19-04	Amend	8-1-04
471-030-0065	8-1-04	Amend	9-1-04	571-060-0005	7-1-04	Amend	6-1-04
471-030-0074	8-1-04	Adopt	9-1-04	571-060-0005	7-1-04	Amend	8-1-04
471-030-0075	8-1-04	Amend	9-1-04	573-001-0000	4-5-04	Amend	5-1-04
471-030-0125	1-4-04	Adopt	2-1-04	573-001-0015	4-5-04	Amend	5-1-04
471-030-0126	4-11-04	Adopt(T)	5-1-04	573-020-0000	4-5-04	Repeal	5-1-04
471-030-0126	8-1-04	Adopt	9-1-04	573-020-0005	4-5-04	Repeal	5-1-04
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471-030-0130	1-4-04	Repeal	2-1-04	573-020-0015	4-5-04	Repeal	5-1-04
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471-030-0200	8-1-04	Repeal	9-1-04	573-020-0030	4-5-04	Repeal	5-1-04
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471-031-0076	12-14-03	Amend	1-1-04	573-020-0049	4-5-04	Repeal	5-1-04
471-031-0077	12-14-03	Adopt	1-1-04	573-020-0052	4-5-04	Repeal	5-1-04
471-031-0080	8-1-04	Amend	9-1-04	573-020-0060	4-5-04	Repeal	5-1-04
471-031-0085	8-1-04	Amend	9-1-04	573-020-0065	4-5-04	Repeal	5-1-04
471-031-0110	8-1-04	Amend	9-1-04	573-020-0070	4-5-04	Repeal	5-1-04
471-031-0140	12-14-03	Amend	1-1-04	573-020-0075	4-5-04	Repeal	5-1-04
471-031-0141	12-14-03	Amend	1-1-04	573-020-0080	4-5-04	Repeal	5-1-04
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573-020-0095	4-5-04	Repeal	5-1-04	574-001-0000	8-4-04	Amend	9-1-04
573-020-0100	4-5-04	Repeal	5-1-04	574-010-0005	8-4-04	Amend	9-1-04
573-020-0105	4-5-04	Repeal	5-1-04	574-010-0010	8-4-04	Amend	9-1-04
573-020-0110	4-5-04	Repeal	5-1-04	574-010-0015	8-4-04	Repeal	9-1-04
573-020-0115	4-5-04	Repeal	5-1-04	574-010-0020	8-4-04	Amend	9-1-04
573-020-0120	4-5-04	Repeal	5-1-04	574-010-0025	8-4-04	Repeal	9-1-04
573-020-0125	4-5-04	Repeal	5-1-04	574-010-0030	8-4-04	Amend	9-1-04
573-020-0130	4-5-04	Repeal	5-1-04	574-010-0035	8-4-04	Repeal	9-1-04
573-040-0005	4-5-04	Amend	5-1-04	574-010-0040	8-4-04	Repeal	9-1-04
573-042-0005	4-5-04	Amend	5-1-04	574-010-0045	8-4-04	Repeal	9-1-04
573-050-0005	4-5-04	Amend	5-1-04	574-010-0050	8-4-04	Repeal	9-1-04
573-050-0010	4-5-04	Amend	5-1-04	574-010-0055	8-4-04	Repeal	9-1-04
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573-050-0025	4-5-04	Amend	5-1-04	574-010-0067	8-4-04	Amend	9-1-04
573-050-0030	4-5-04	Amend	5-1-04	574-010-0068	8-4-04	Amend	9-1-04
573-050-0035	4-5-04	Amend	5-1-04	574-010-0070	8-4-04	Amend	9-1-04
573-050-0040	4-5-04	Amend	5-1-04	574-010-0075	8-4-04	Amend	9-1-04
573-050-0045	4-5-04	Amend	5-1-04	574-010-0080	8-4-04	Amend	9-1-04
573-070-0001	4-5-04	Amend	5-1-04	574-010-0085	8-4-04	Amend	9-1-04
573-070-0004	4-5-04	Amend	5-1-04	574-020-0015	8-4-04	Amend	9-1-04
573-070-0011	4-5-04	Amend	5-1-04	574-020-0020	3-24-04	Amend	5-1-04
573-070-0067	4-5-04	Amend	5-1-04	574-040-0001	8-4-04	Amend	9-1-04
573-070-0068	4-5-04	Amend	5-1-04	574-040-0005	8-4-04	Amend	9-1-04
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573-075-0010	4-5-04	Adopt	5-1-04	574-040-0025	8-4-04	Amend	9-1-04
573-075-0020	4-5-04	Adopt	5-1-04	574-040-0030	8-4-04	Amend	9-1-04
573-075-0030	4-5-04	Adopt	5-1-04	574-040-0035	8-4-04	Amend	9-1-04
573-075-0040	4-5-04	Adopt	5-1-04	574-050-0005	3-24-04	Amend	5-1-04
573-075-0050	4-5-04	Adopt	5-1-04	574-050-0005	8-4-04	Amend	9-1-04
573-075-0060	4-5-04	Adopt	5-1-04	575-030-0005	2-12-04	Amend	3-1-04
573-075-0070	4-5-04	Adopt	5-1-04	575-031-0015	2-12-04	Amend	3-1-04
573-075-0080	4-5-04	Adopt	5-1-04	576-010-0000	7-1-04	Amend	8-1-04
573-075-0090	4-5-04	Adopt	5-1-04	576-030-0020	7-1-04	Amend	8-1-04
573-075-0100	4-5-04	Adopt	5-1-04	576-030-0030	7-1-04	Amend	8-1-04
573-075-0110	4-5-04	Adopt	5-1-04	576-030-0035	7-1-04	Amend	8-1-04
573-075-0120	4-5-04	Adopt	5-1-04	576-030-0040	7-1-04	Amend	8-1-04
573-075-0130	4-5-04	Adopt	5-1-04	576-030-0050	7-1-04	Amend	8-1-04
573-075-0140	4-5-04	Adopt	5-1-04	577-060-0020	11-18-03	Amend(T)	1-1-04
573-075-0150	4-5-04	Adopt	5-1-04	577-060-0020	8-20-04	Amend	10-1-04
573-075-0160	4-5-04	Adopt	5-1-04	578-041-0030	6-9-04	Amend	7-1-04
573-075-0170	4-5-04	Adopt	5-1-04	580-010-0029	12-3-03	Amend	1-1-04
573-075-0180	4-5-04	Adopt	5-1-04	580-010-0030	12-3-03	Amend	1-1-04
573-075-0190	4-5-04	Adopt	5-1-04	580-010-0031	12-3-03	Amend	1-1-04
573-075-0200	4-5-04	Adopt	5-1-04	580-010-0033	12-3-03	Amend	1-1-04
573-075-0210	4-5-04	Adopt	5-1-04	580-010-0035	12-3-03	Amend	1-1-04
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573-075-0230	4-5-04	Adopt	5-1-04	580-010-0040	12-3-03	Amend	1-1-04
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580-040-0100	7-23-04	Amend	9-1-04	580-050-0230	6-9-04	Adopt(T)	7-1-04
580-040-0205	7-23-04	Amend	9-1-04	580-050-0240	6-9-04	Adopt(T)	7-1-04
580-040-0210	7-23-04	Amend	9-1-04	580-050-0250	6-9-04	Adopt(T)	7-1-04
580-040-0215	7-23-04	Amend	9-1-04	580-050-0260	6-9-04	Adopt(T)	7-1-04
580-040-0223	7-23-04	Amend	9-1-04	580-050-0270	6-9-04	Adopt(T)	7-1-04
580-040-0225	7-23-04	Amend	9-1-04	580-050-0280	6-9-04	Adopt(T)	7-1-04
580-040-0228	7-23-04	Repeal	9-1-04	580-050-0290	6-9-04	Adopt(T)	7-1-04
580-040-0230	7-23-04	Amend	9-1-04	580-050-0300	6-9-04	Adopt(T)	7-1-04
580-040-0235	7-23-04	Amend	9-1-04	580-050-0310	6-9-04	Adopt(T)	7-1-04
580-040-0240	7-23-04	Amend	9-1-04	580-050-0320	6-9-04	Adopt(T)	7-1-04
580-040-0260	7-23-04	Amend	9-1-04	580-050-0330	6-9-04	Adopt(T)	7-1-04
580-040-0275	7-23-04	Amend	9-1-04	580-050-0340	6-9-04	Adopt(T)	7-1-04
580-040-0277	7-23-04	Amend	9-1-04	581-001-0120	3-5-04	Adopt(T)	4-1-04
580-040-0280	7-23-04	Amend	9-1-04	581-001-0125	10-15-04	Adopt	11-1-04
580-040-0285	7-23-04	Amend	9-1-04	581-015-0062	5-11-04	Amend(T)	6-1-04
580-040-0290	7-23-04	Amend	9-1-04	581-015-0062	7-9-04	Amend	8-1-04
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580-040-0295	7-23-04	Amend	9-1-04	581-015-0126	1-15-04	Amend	2-1-04
580-040-0300	6-9-04	Adopt	7-1-04	581-015-0126	8-4-04	Amend	9-1-04
580-040-0301	6-9-04	Adopt	7-1-04	581-015-0900	1-15-04	Amend	2-1-04
580-040-0302	6-9-04	Adopt	7-1-04	581-015-0935	1-15-04	Amend	2-1-04
580-040-0303	6-9-04	Adopt	7-1-04	581-015-0938	1-15-04	Amend	2-1-04
580-040-0304	6-9-04	Adopt	7-1-04	581-015-0940	1-15-04	Amend	2-1-04
580-040-0305	6-9-04	Adopt	7-1-04	581-015-0960	1-15-04	Amend	2-1-04
580-040-0306	6-9-04	Adopt	7-1-04	581-015-0964	1-15-04	Amend	2-1-04
580-040-0307	6-9-04	Adopt	7-1-04	581-015-0968	1-15-04	Amend	2-1-04
580-040-0308	6-9-04	Adopt	7-1-04	581-015-0970	1-15-04	Amend	2-1-04
580-040-0309	6-9-04	Adopt	7-1-04	581-015-0972	1-15-04	Amend	2-1-04
580-040-0310	6-9-04	Adopt	7-1-04	581-015-0980	1-15-04	Amend	2-1-04
580-040-0311	6-9-04	Adopt	7-1-04	581-015-0990	1-15-04	Amend	2-1-04
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580-050-0100	6-9-04	Amend(T)	7-1-04	581-045-0026	1-1-04	Amend	2-1-04
580-050-0105	6-9-04	Amend(T)	7-1-04	581-045-0032	1-1-04	Amend	2-1-04
580-050-0110	6-9-04	Adopt(T)	7-1-04	581-045-0065	1-1-04	Amend	2-1-04
580-050-0120	6-9-04	Adopt(T)	7-1-04	581-045-0068	1-1-04	Amend	2-1-04
580-050-0130	6-9-04	Adopt(T)	7-1-04	581-045-0200	1-1-04	Amend	2-1-04
580-050-0140	6-9-04	Adopt(T)	7-1-04	581-051-0100	10-10-04	Amend	9-1-04
580-050-0150	6-9-04	Adopt(T)	7-1-04	581-051-0400	10-10-04	Amend	9-1-04
580-050-0160	6-9-04	Adopt(T)	7-1-04	581-051-0500	10-10-04	Amend	9-1-04
580-050-0170	6-9-04	Adopt(T)	7-1-04	581-051-0510	10-10-04	Amend	9-1-04
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581-051-0565	8-10-04	Amend	9-1-04	582-050-0000	8-5-04	Amend	9-1-04
581-051-0570	8-10-04	Amend	9-1-04	582-050-0005	8-5-04	Adopt	9-1-04
581-051-0580	8-10-04	Amend	9-1-04	582-050-0010	8-5-04	Amend	9-1-04
581-053-0002	8-4-04	Amend	9-1-04	582-050-0020	8-5-04	Amend	9-1-04
581-053-0006	8-4-04	Amend	9-1-04	582-050-0030	8-5-04	Repeal	9-1-04
581-053-0015	8-4-04	Amend	9-1-04	582-050-0040	8-5-04	Repeal	9-1-04
581-053-0507	8-4-04	Amend	9-1-04	582-050-0050	8-5-04	Amend	9-1-04
581-053-0512	8-4-04	Amend	9-1-04	582-050-0060	8-5-04	Amend	9-1-04
581-053-0517	8-4-04	Amend	9-1-04	582-060-0010	8-5-04	Amend	9-1-04
581-053-0545	10-15-04	Amend	11-1-04	582-060-0020	8-5-04	Amend	9-1-04
581-053-0550	10-15-04	Amend	11-1-04	582-070-0005	8-5-04	Repeal	9-1-04
582-001-0001	8-5-04	Amend	9-1-04	582-070-0010	3-9-04	Amend	4-1-04
582-001-0003	8-5-04	Amend	9-1-04	582-070-0010	8-5-04	Amend	9-1-04
582-001-0005	8-5-04	Amend	9-1-04	582-070-0020	12-31-03	Amend	2-1-04
582-001-0010	8-5-04	Adopt	9-1-04	582-070-0020	8-5-04	Amend	9-1-04
582-010-0005	12-31-03	Amend	2-1-04	582-070-0025	8-5-04	Amend	9-1-04
582-010-0010	12-31-03	Amend	2-1-04	582-070-0030	3-9-04	Amend	4-1-04
582-010-0010	8-5-04	Amend	9-1-04	582-070-0030	8-5-04	Amend	9-1-04
582-010-0015	12-31-03	Amend	2-1-04	582-070-0040	8-5-04	Amend	9-1-04
582-010-0020	12-31-03	Amend	2-1-04	582-070-0041	8-5-04	Amend	9-1-04
582-010-0020	8-5-04	Amend	9-1-04	582-070-0042	8-5-04	Amend	9-1-04
582-010-0021	8-5-04	Adopt	9-1-04	582-070-0043	8-5-04	Amend	9-1-04
582-010-0022	8-5-04	Adopt	9-1-04	582-070-0044	8-5-04	Amend	9-1-04
582-010-0025	12-31-03	Amend	2-1-04	582-075-0010	8-5-04	Amend	9-1-04
582-010-0025	8-5-04	Amend	9-1-04	582-075-0020	8-5-04	Amend	9-1-04
582-010-0030	12-31-03	Adopt	2-1-04	582-075-0030	8-5-04	Amend	9-1-04
582-010-0030	8-5-04	Amend	9-1-04	582-075-0040	8-5-04	Amend	9-1-04
582-020-0005	1-30-04	Adopt	3-1-04	582-080-0010	8-5-04	Amend	9-1-04
582-020-0010	1-30-04	Amend	3-1-04	582-080-0020	12-31-03	Amend	2-1-04
582-020-0015	1-30-04	Adopt	3-1-04	582-080-0020	8-5-04	Amend	9-1-04
582-020-0015	8-5-04	Amend	9-1-04	582-080-0030	8-5-04	Amend	9-1-04
582-020-0020	1-30-04	Amend	3-1-04	582-080-0040	8-5-04	Amend	9-1-04
582-020-0030	1-30-04	Amend	3-1-04	582-085-0004	8-5-04	Adopt	9-1-04
582-020-0030	8-5-04	Amend	9-1-04	582-085-0005	8-5-04	Adopt	9-1-04
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582-020-0060	1-30-04	Amend	3-1-04	582-085-0020	8-5-04	Repeal	9-1-04
582-020-0070	1-30-04	Amend	3-1-04	582-085-0040	8-5-04	Repeal	9-1-04
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582-020-0110	1-30-04	Amend	3-1-04	582-090-0030	4-2-04	Amend	5-1-04
582-020-0110	8-5-04	Amend	9-1-04	582-090-0050	4-2-04	Repeal	5-1-04
582-020-0120	1-30-04	Amend	3-1-04	582-100-0010	8-5-04	Repeal	9-1-04
582-020-0125	1-30-04	Adopt	3-1-04	582-100-0020	8-5-04	Repeal	9-1-04
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582-030-0010	3-12-04	Amend	4-1-04	583-030-0020	2-11-04	Amend(T)	3-1-04
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583-030-0045	1-14-04	Amend	2-1-04	584-100-0091	3-17-04	Adopt	5-1-04
583-030-0046	2-11-04	Amend(T)	3-1-04	584-100-0096	3-17-04	Adopt	5-1-04
583-040-0025	2-13-04	Amend	3-1-04	584-100-0101	3-17-04	Adopt	5-1-04
583-050-0031	5-14-04	Amend	6-1-04	584-100-0106	3-17-04	Adopt	5-1-04
584-017-0042	3-17-04	Adopt(T)	5-1-04	584-100-0111	3-17-04	Adopt	5-1-04
584-017-0042	8-25-04	Adopt	10-1-04	585-010-0020	10-8-04	Amend	11-1-04
584-017-0185	8-25-04	Amend	10-1-04	585-010-0310	10-8-04	Amend	11-1-04
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584-036-0055	8-25-04	Amend	10-1-04	589-020-0220	11-20-03	Adopt(T)	1-1-04
584-036-0062	5-14-04	Amend	6-1-04	603-001-0001	2-10-04	Amend	3-1-04
584-036-0067	3-17-04	Adopt(T)	5-1-04	603-013-0600	2-13-04	Amend	3-1-04
584-036-0067	8-25-04	Adopt	10-1-04	603-013-0602	2-13-04	Amend	3-1-04
584-040-0005	3-17-04	Amend(T)	5-1-04	603-013-0604	2-13-04	Amend	3-1-04
584-040-0005	8-25-04	Amend	10-1-04	603-013-0616	2-13-04	Amend	3-1-04
584-050-0042	8-25-04	Amend	10-1-04	603-014-0016	1-23-04	Amend	3-1-04
584-052-0030	8-25-04	Adopt	10-1-04	603-016-0471	2-13-04	Repeal	3-1-04
584-052-0031	8-25-04	Adopt	10-1-04	603-016-0476	2-13-04	Repeal	3-1-04
584-052-0032	8-25-04	Adopt	10-1-04	603-016-0481	2-13-04	Repeal	3-1-04
584-052-0033	8-25-04	Adopt	10-1-04	603-016-0486	2-13-04	Repeal	3-1-04
584-060-0001	8-25-04	Amend	10-1-04	603-016-0491	2-13-04	Repeal	3-1-04
584-060-0002	8-25-04	Adopt	10-1-04	603-016-0496	2-13-04	Repeal	3-1-04
584-060-0005	8-25-04	Amend	10-1-04	603-016-0500	2-13-04	Repeal	3-1-04
584-060-0161	8-25-04	Amend	10-1-04	603-016-0505	2-13-04	Repeal	3-1-04
584-060-0162	8-25-04	Adopt	10-1-04	603-016-0510	2-13-04	Repeal	3-1-04
584-060-0171	5-14-04	Amend	6-1-04	603-027-0105	6-28-04	Amend	8-1-04
584-060-0181	8-25-04	Amend	10-1-04	603-027-0170	6-28-04	Amend	8-1-04
584-060-0210	9-10-04	Amend(T)	10-1-04	603-027-0180	6-28-04	Amend	8-1-04
584-060-0210(T)	9-20-04	Suspend	11-1-04	603-027-0206	6-28-04	Amend	8-1-04
584-070-0130	9-10-04	Adopt(T)	10-1-04	603-027-0220	6-28-04	Amend	8-1-04
584-070-0130(T)	9-20-04	Suspend	11-1-04	603-027-0395	3-26-04	Amend	5-1-04
584-070-0410	9-10-04	Adopt(T)	10-1-04	603-027-0405	3-26-04	Repeal	5-1-04
584-070-0410(T)	9-20-04	Suspend	11-1-04	603-027-0410	6-28-04	Amend	8-1-04
584-080-0171	9-10-04	Adopt(T)	10-1-04	603-027-0635	6-28-04	Amend	8-1-04
584-080-0171(T)	9-20-04	Suspend	11-1-04	603-027-0640	3-26-04	Amend	5-1-04
584-100-0002	3-17-04	Adopt	5-1-04	603-027-0640	6-28-04	Amend	8-1-04
584-100-0006	3-17-04	Adopt	5-1-04	603-027-0680	6-28-04	Amend	8-1-04
584-100-0011	3-17-04	Adopt	5-1-04	603-027-0700	6-28-04	Amend	8-1-04
584-100-0016	3-17-04	Adopt	5-1-04	603-051-0801	2-13-04	Repeal	3-1-04
584-100-0021	3-17-04	Adopt	5-1-04	603-051-0802	2-13-04	Repeal	3-1-04
584-100-0023	3-17-04	Adopt	5-1-04	603-051-0810	2-13-04	Repeal	3-1-04
584-100-0026	3-17-04	Adopt	5-1-04	603-051-0812	2-13-04	Repeal	3-1-04
584-100-0026	5-14-04	Amend(T)	6-1-04	603-051-0814	2-13-04	Repeal	3-1-04
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584-100-0036	3-17-04	Adopt	5-1-04	603-051-0819	2-13-04	Repeal	3-1-04
584-100-0036	5-14-04	Amend(T)	6-1-04	603-051-0821	2-13-04	Repeal	3-1-04
584-100-0036	8-25-04	Amend	10-1-04	603-051-0823	2-13-04	Repeal	3-1-04
584-100-0037	5-14-04	Adopt(T)	6-1-04	603-051-0825	2-13-04	Repeal	3-1-04
584-100-0037	8-25-04	Adopt	10-1-04	603-051-0827	2-13-04	Repeal	3-1-04
584-100-0041	3-17-04	Adopt	5-1-04	603-051-0829	2-13-04	Repeal	3-1-04
584-100-0046	3-17-04	Adopt	5-1-04	603-051-0855	6-1-04	Amend	7-1-04
584-100-0051	3-17-04	Adopt	5-1-04	603-051-0856	6-1-04	Amend	7-1-04
584-100-0056	3-17-04	Adopt	5-1-04	603-051-0857	6-1-04	Amend	7-1-04
584-100-0061	3-17-04	Adopt	5-1-04	603-051-0858	6-1-04	Amend	7-1-04
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603-052-0325	2-13-04	Repeal	3-1-04	603-095-3640	1-12-04	Adopt	2-1-04
603-052-0326	2-13-04	Repeal	3-1-04	603-095-3660	1-12-04	Adopt	2-1-04
603-052-0327	2-13-04	Repeal	3-1-04	603-095-3700	1-23-04	Adopt	3-1-04
603-052-0331	2-13-04	Repeal	3-1-04	603-095-3720	1-23-04	Adopt	3-1-04
603-052-0332	2-13-04	Repeal	3-1-04	603-095-3740	1-23-04	Adopt	3-1-04
603-052-0333	2-13-04	Repeal	3-1-04	603-095-3760	1-23-04	Adopt	3-1-04
603-052-0335	2-13-04	Repeal	3-1-04	603-095-3800	3-22-04	Adopt	5-1-04
603-052-0340	2-13-04	Repeal	3-1-04	603-095-3820	3-22-04	Adopt	5-1-04
603-052-0345	2-13-04	Repeal	3-1-04	603-095-3840	3-22-04	Adopt	5-1-04
603-052-0400	2-13-04	Repeal	3-1-04	603-095-3860	3-22-04	Adopt	5-1-04
603-052-0425	2-13-04	Repeal	3-1-04	603-095-3900	6-17-04	Adopt	8-1-04
603-052-0810	2-13-04	Repeal	3-1-04	603-095-3920	6-17-04	Adopt	8-1-04
603-052-1000	2-13-04	Repeal	3-1-04	603-095-3940	6-17-04	Adopt	8-1-04
603-052-1010	2-13-04	Repeal	3-1-04	603-095-3960	6-17-04	Adopt	8-1-04
603-052-1235	6-22-04	Adopt(T)	8-1-04	604-030-0010	1-1-04	Adopt	1-1-04
603-052-1238	7-2-04	Adopt(T)	8-1-04	604-030-0020	1-1-04	Adopt	1-1-04
603-052-1239	9-3-04	Adopt(T)	10-1-04	604-030-0030	1-1-04	Adopt	1-1-04
603-054-0010	2-13-04	Repeal	3-1-04	604-030-0040	1-1-04	Adopt	1-1-04
603-054-0027	3-12-04	Adopt	4-1-04	605-030-0010	1-15-04	Adopt	2-1-04
603-057-0006	12-23-03	Amend	2-1-04	605-030-0020	1-15-04	Adopt	2-1-04
603-057-0006(T)	12-23-03	Repeal	2-1-04	605-030-0030	1-15-04	Adopt	2-1-04
603-059-0020	7-1-04	Amend	5-1-04	605-030-0040	1-15-04	Adopt	2-1-04
603-076-0051	5-5-04	Adopt	6-1-04	606-010-0025	1-15-04	Amend	2-1-04
603-076-0052	5-5-04	Adopt	6-1-04	606-030-0010	1-15-04	Adopt	2-1-04
603-077-0101	8-10-04	Amend	9-1-04	606-030-0020	1-15-04	Adopt	2-1-04
603-077-0103	8-10-04	Amend	9-1-04	606-030-0040	1-15-04	Adopt	2-1-04
603-077-0105	8-10-04	Amend	9-1-04	607-030-0010	1-1-04	Adopt	1-1-04
603-077-0110	8-10-04	Amend	9-1-04	607-030-0020	1-1-04	Adopt	1-1-04
603-077-0112	8-10-04	Amend	9-1-04	607-030-0030	1-1-04	Adopt	1-1-04
603-077-0115	8-10-04	Amend	9-1-04	607-030-0040	1-1-04	Adopt	1-1-04
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603-077-0131	8-10-04	Amend	9-1-04	608-010-0020	1-2-04	Amend	2-1-04
603-077-0133	8-10-04	Amend	9-1-04	608-030-0010	1-2-04	Adopt	2-1-04
603-077-0137	8-10-04	Amend	9-1-04	608-030-0020	1-2-04	Adopt	2-1-04
603-077-0155	8-10-04	Amend	9-1-04	608-030-0030	1-2-04	Adopt	2-1-04
603-077-0165	8-10-04	Amend	9-1-04	608-030-0040	1-2-04	Adopt	2-1-04
603-077-0175	8-10-04	Amend	9-1-04	611-030-0010	1-15-04	Adopt	2-1-04
603-077-0177	8-10-04	Amend	9-1-04	611-030-0020	1-15-04	Adopt	2-1-04
603-077-0180	8-10-04	Amend	9-1-04	611-030-0030	1-15-04	Adopt	2-1-04
603-077-0190	8-10-04	Amend	9-1-04	611-030-0040	1-15-04	Adopt	2-1-04
603-077-0195	8-10-04	Amend	9-1-04	617-010-0090	1-16-04	Adopt	2-1-04
603-095-0140	1-23-03	Amend	3-1-04	617-030-0010	1-16-04	Adopt	2-1-04
603-095-2900	6-17-04	Adopt	8-1-04	617-030-0020	1-16-04	Adopt	2-1-04
603-095-2920	6-17-04	Adopt	8-1-04	617-030-0030	1-16-04	Adopt	2-1-04
603-095-2940	6-17-04	Adopt	8-1-04	617-030-0040	1-16-04	Adopt	2-1-04
603-095-2960	6-17-04	Adopt	8-1-04	620-010-0050	1-14-04	Adopt	2-1-04
603-095-3400	6-17-04	Adopt	8-1-04	620-030-0010	1-14-04	Adopt	2-1-04
603-095-3420	6-17-04	Adopt	8-1-04	620-030-0020	1-14-04	Adopt	2-1-04
603-095-3440	6-17-04	Adopt	8-1-04	620-030-0030	1-14-04	Adopt	2-1-04
603-095-3460	6-17-04	Adopt	8-1-04	620-030-0040	1-14-04	Adopt	2-1-04
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623-030-0030	12-8-03	Adopt	1-1-04	635-003-0076	7-8-04	Amend(T)	8-1-04
624-010-0000	1-16-04	Amend	2-1-04	635-003-0076	7-16-04	Amend(T)	8-1-04
624-010-0020	1-16-04	Amend	2-1-04	635-003-0076	7-19-04	Amend(T)	9-1-04
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624-030-0020	1-16-04	Adopt	2-1-04	635-003-0076(T)	7-1-04	Suspend	8-1-04
624-030-0030	1-16-04	Adopt	2-1-04	635-003-0076(T)	7-8-04	Suspend	8-1-04
624-030-0040	1-16-04	Adopt	2-1-04	635-003-0076(T)	7-16-04	Suspend	8-1-04
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629-001-0015	2-10-04	Amend	3-1-04	635-003-0076(T)	9-1-04	Suspend	10-1-04
629-001-0025	2-10-04	Amend	3-1-04	635-003-0076(T)	9-7-04	Suspend	10-1-04
629-001-0040	2-10-04	Amend	3-1-04	635-004-0005	1-1-04	Amend	1-1-04
629-001-0045	2-10-04	Amend	3-1-04	635-004-0018	1-1-04	Amend	1-1-04
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629-001-0055(T)	2-10-04	Repeal	3-1-04	635-004-0033	7-28-04	Amend(T)	9-1-04
629-023-0110	5-6-04	Repeal	6-1-04	635-004-0033	9-28-04	Amend(T)	11-1-04
629-023-0120	5-6-04	Repeal	6-1-04	635-004-0033(T)	9-28-04	Suspend	11-1-04
629-023-0130	5-6-04	Repeal	6-1-04	635-004-0036	1-1-04	Amend	1-1-04
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629-023-0145	5-6-04	Repeal	6-1-04	635-005-0048	12-1-03	Adopt(T)	1-1-04
629-023-0150	5-6-04	Repeal	6-1-04	635-005-0048	2-13-04	Adopt	3-1-04
629-023-0160	5-6-04	Repeal	6-1-04	635-005-0048(T)	2-13-04	Repeal	3-1-04
629-023-0165	5-6-04	Repeal	6-1-04	635-005-0205	11-21-03	Amend(T)	1-1-04
629-023-0170	5-6-04	Repeal	6-1-04	635-006-0132	5-1-04	Amend	6-1-04
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629-041-0550	9-10-04	Amend	10-1-04	635-006-0150	1-1-04	Amend	1-1-04
629-043-0041	1-30-04	Amend	3-1-04	635-006-0200	5-1-04	Amend	6-1-04
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629-065-0400	5-4-04	Amend	6-1-04	635-006-0215	5-1-04	Amend	6-1-04
629-065-0410	5-4-04	Adopt	6-1-04	635-006-0232	2-1-04	Amend	2-1-04
629-065-0500	5-4-04	Repeal	6-1-04	635-006-0850	1-1-04	Amend	1-1-04
629-670-0300	2-10-04	Amend	3-1-04	635-006-0850	3-23-04	Amend	5-1-04
629-670-0310	2-10-04	Amend	3-1-04	635-006-0910	1-31-04	Amend(T)	3-1-04
629-670-0315	2-10-04	Amend	3-1-04	635-006-0910	3-23-04	Amend	5-1-04
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635-014-0080	1-1-04	Amend	1-1-04	635-023-0130(T)	9-29-04	Suspend	11-1-04
635-014-0090	12-11-03	Amend(T)	1-1-04	635-023-0130(T)	9-30-04	Suspend	11-1-04
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635-014-0090	7-1-04	Amend(T)	8-1-04	635-039-0090	11-21-03	Amend(T)	1-1-04
635-014-0090	10-1-04	Amend(T)	10-1-04	635-039-0090	1-1-04	Amend	1-1-04
635-014-0090	10-4-04	Amend(T)	11-1-04	635-039-0090	1-1-04	Amend	1-1-04
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635-014-0090(T)	10-4-04	Suspend	11-1-04	635-039-0090	9-30-04	Amend(T)	11-1-04
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635-018-0090	4-1-04	Amend(T)	5-1-04	635-041-0075	10-4-04	Amend(T)	11-1-04
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635-019-0080	1-1-04	Amend	1-1-04	635-041-0075(T)	9-24-04	Suspend	11-1-04
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635-042-0060(T)	9-24-04	Suspend	11-1-04	635-050-0090	7-13-04	Amend	8-1-04
635-042-0060(T)	9-29-04	Suspend	11-1-04	635-050-0100	7-13-04	Amend	8-1-04
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635-067-0015	1-1-04	Amend	1-1-04	635-300-0001	5-1-04	Amend	6-1-04
635-067-0024	1-1-04	Amend	1-1-04	635-425-0020	5-1-04	Amend	6-1-04
635-067-0028	1-1-04	Adopt	1-1-04	635-500-1820	12-15-03	Amend	1-1-04
635-067-0029	1-1-04	Adopt	1-1-04	635-500-1830	12-15-03	Amend	1-1-04
635-067-0032	1-1-04	Amend	1-1-04	635-500-1850	12-15-03	Amend	1-1-04
635-067-0034	1-1-04	Amend	1-1-04	635-500-1920	12-15-03	Amend	1-1-04
635-067-0041	1-1-04	Adopt	1-1-04	635-500-1930	12-15-03	Amend	1-1-04
635-068-0000	1-19-04	Amend	1-1-04	635-500-3120	12-15-03	Amend	1-1-04
635-068-0000	6-16-04	Amend	8-1-04	635-500-6000	12-15-03	Adopt	1-1-04
635-069-0000	2-2-04	Amend	1-1-04	635-500-6010	12-15-03	Adopt	1-1-04
635-069-0000	6-16-04	Amend	8-1-04	635-500-6020	12-15-03	Adopt	1-1-04
635-070-0000	12-24-03	Amend(T)	2-1-04	635-500-6030	12-15-03	Adopt	1-1-04
635-070-0000	2-2-04	Amend(T)	3-1-04	635-500-6040	12-15-03	Adopt	1-1-04
635-070-0000	4-1-04	Amend	1-1-04	635-500-6050	12-15-03	Adopt	1-1-04
635-070-0000	6-16-04	Amend	8-1-04	635-500-6060	12-15-03	Adopt	1-1-04
635-070-0005	2-2-04	Amend(T)	3-1-04	641-030-0010	1-15-04	Adopt	1-1-04
635-070-0010	12-24-03	Amend(T)	2-1-04	641-030-0020	1-15-04	Adopt	1-1-04
635-071-0000	1-1-04	Amend	1-1-04	641-030-0030	1-15-04	Adopt	1-1-04
635-071-0000	1-13-04	Amend(T)	2-1-04	642-010-0020	1-15-04	Amend	1-1-04
635-071-0000	6-16-04	Amend	8-1-04	642-030-0010	1-15-04	Adopt	1-1-04
635-071-0000	10-13-04	Amend(T)	11-1-04	642-030-0020	1-15-04	Adopt	1-1-04
635-071-0005	1-13-04	Amend(T)	2-1-04	642-030-0030	1-15-04	Adopt	1-1-04
635-071-0005	10-13-04	Amend(T)	11-1-04	643-010-0030	1-16-04	Adopt	3-1-04
635-072-0000	1-1-04	Amend	1-1-04	643-030-0010	1-16-04	Adopt	3-1-04
635-073-0000	12-24-03	Amend(T)	2-1-04	643-030-0020	1-16-04	Adopt	3-1-04
635-073-0000	2-2-04	Amend	1-1-04	643-030-0030	1-16-04	Adopt	3-1-04
635-073-0000	6-16-04	Amend	8-1-04	643-030-0040	1-16-04	Adopt	3-1-04
635-073-0060	12-24-03	Amend(T)	2-1-04	644-010-0005	1-8-04	Amend	2-1-04
635-073-0065	6-16-04	Adopt	8-1-04	644-010-0010	1-8-04	Amend	2-1-04
635-073-0070	1-1-04	Amend	1-1-04	644-010-0015	1-8-04	Amend	2-1-04
635-073-0070	6-16-04	Amend	8-1-04	644-010-0020	1-8-04	Amend	2-1-04
635-073-0090	1-1-04	Amend	1-1-04	644-010-0025	1-8-04	Amend	2-1-04
635-075-0005	1-1-04	Amend	1-1-04	644-030-0010	1-8-04	Adopt	2-1-04
635-075-0015	1-1-04	Amend	1-1-04	644-030-0020	1-8-04	Adopt	2-1-04
635-075-0020	1-1-04	Amend	1-1-04	644-030-0030	1-8-04	Adopt	2-1-04
635-075-0029	1-1-04	Amend	1-1-04	644-030-0040	1-8-04	Adopt	2-1-04
635-078-0001	1-1-04	Amend	1-1-04	645-010-0020	1-16-04	Amend	2-1-04
635-078-0005	1-1-04	Amend	1-1-04	645-030-0010	1-16-04	Adopt	2-1-04
635-078-0008	1-1-04	Amend	1-1-04	645-030-0020	1-16-04	Adopt	2-1-04
635-080-0030	1-1-04	Amend	1-1-04	645-030-0030	1-16-04	Adopt	2-1-04
635-080-0031	1-1-04	Amend	1-1-04	645-030-0040	1-16-04	Adopt	2-1-04
635-090-0140	7-13-04	Amend	8-1-04	646-010-0030	1-16-04	Adopt	2-1-04
635-090-0150	7-13-04	Amend	8-1-04	646-030-0010	1-16-04	Adopt	2-1-04
635-090-0160	7-13-04	Amend	8-1-04	646-030-0020	1-16-04	Adopt	2-1-04
635-100-0136	5-1-04	Amend	6-1-04	646-030-0020	4-8-04	Amend	5-1-04
635-120-0001	3-5-04	Amend	4-1-04	646-030-0030	1-16-04	Adopt	2-1-04
635-120-0005	3-5-04	Amend	4-1-04	646-030-0040	1-16-04	Adopt	2-1-04
635-120-0010	3-5-04	Amend	4-1-04	647-010-0010	6-1-04	Amend	6-1-04
635-120-0015	3-5-04	Amend	4-1-04	647-010-0020	1-16-04	Amend	2-1-04
635-120-0020	3-5-04	Amend	4-1-04	647-015-0010	1-16-04	Adopt	2-1-04
635-135-0001	8-18-04	Adopt	10-1-04	647-015-0020	1-16-04	Adopt	2-1-04

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647-015-0030	1-16-04	Adopt	2-1-04	660-025-0010	5-7-04	Amend	6-1-04
655-015-0010	1-16-04	Adopt	2-1-04	660-025-0040	5-7-04	Amend	6-1-04
655-015-0020	1-16-04	Adopt	2-1-04	660-025-0120	5-7-04	Amend	6-1-04
655-015-0030	1-16-04	Adopt	2-1-04	660-025-0130	5-7-04	Amend	6-1-04
656-030-0010	1-1-04	Adopt	1-1-04	660-025-0140	5-7-04	Amend	6-1-04
656-030-0020	1-1-04	Adopt	1-1-04	660-025-0150	5-7-04	Amend	6-1-04
656-030-0030	1-1-04	Adopt	1-1-04	660-025-0160	5-7-04	Amend	6-1-04
656-030-0040	1-1-04	Adopt	1-1-04	660-025-0175	5-7-04	Amend	6-1-04
657-030-0010	1-15-04	Adopt	1-1-04	660-030-0005	5-7-04	Amend	6-1-04
657-030-0020	1-15-04	Adopt	1-1-04	660-033-0020	4-30-04	Amend	6-1-04
657-030-0030	1-15-04	Adopt	1-1-04	660-033-0090	4-30-04	Amend	6-1-04
658-010-0005	12-4-03	Amend	1-1-04	660-033-0120	4-30-04	Amend	6-1-04
658-010-0006	12-4-03	Amend	1-1-04	660-033-0130	4-30-04	Amend	6-1-04
658-010-0007	12-4-03	Adopt	1-1-04	660-033-0135	4-30-04	Amend	6-1-04
658-030-0010	12-4-03	Adopt	1-1-04	660-034-0000	5-7-04	Amend	6-1-04
658-030-0020	12-4-03	Adopt	1-1-04	660-034-0040	5-7-04	Amend	6-1-04
658-030-0030	12-4-03	Adopt	1-1-04	660-037-0030	5-7-04	Amend	6-1-04
660-001-0000	5-7-04	Amend	6-1-04	664-010-0020	1-15-04	Amend	1-1-04
660-001-0310	5-17-04	Am. & Ren.	7-1-04	664-015-0010	1-15-04	Adopt	1-1-04
660-001-0315	5-17-04	Am. & Ren.	7-1-04	664-015-0020	1-15-04	Adopt	1-1-04
660-002-0010	5-7-04	Amend	6-1-04	664-015-0030	1-15-04	Adopt	1-1-04
660-003-0025	5-7-04	Amend	6-1-04	668-010-0010	1-15-04	Amend	2-1-04
660-004-0005	5-7-04	Amend	6-1-04	668-030-0010	1-15-04	Adopt	2-1-04
660-004-0010	5-7-04	Amend	6-1-04	668-030-0020	1-15-04	Adopt	2-1-04
660-004-0018	5-7-04	Amend	6-1-04	668-030-0030	1-15-04	Adopt	2-1-04
660-004-0020	5-7-04	Amend	6-1-04	668-030-0040	1-15-04	Adopt	2-1-04
660-004-0022	5-7-04	Amend	6-1-04	669-010-0015	1-13-04	Amend	2-1-04
660-004-0035	5-7-04	Amend	6-1-04	669-010-0020	1-13-04	Amend	2-1-04
660-004-0040	5-7-04	Amend	6-1-04	669-010-0025	1-13-04	Amend	2-1-04
660-006-0015	5-7-04	Amend	6-1-04	669-010-0030	1-13-04	Amend	2-1-04
660-006-0025	5-7-04	Amend	6-1-04	669-010-0040	1-13-04	Amend	2-1-04
660-008-0000	5-7-04	Amend	6-1-04	669-010-0050	1-13-04	Adopt	2-1-04
660-008-0005	5-7-04	Amend	6-1-04	669-030-0010	1-13-04	Adopt	2-1-04
660-012-0045	5-7-04	Amend	6-1-04	669-030-0020	1-13-04	Adopt	2-1-04
660-012-0055	5-7-04	Amend	6-1-04	669-030-0030	1-13-04	Adopt	2-1-04
660-012-0070	5-7-04	Amend	6-1-04	669-030-0040	1-13-04	Adopt	2-1-04
660-013-0030	5-7-04	Amend	6-1-04	670-010-0020	1-15-04	Amend	2-1-04
660-013-0070	5-7-04	Amend	6-1-04	670-030-0010	1-15-04	Adopt	2-1-04
660-013-0080	5-7-04	Amend	6-1-04	670-030-0020	1-15-04	Adopt	2-1-04
660-013-0160	5-7-04	Amend	6-1-04	670-030-0030	1-15-04	Adopt	2-1-04
660-014-0000	5-17-04	Amend	7-1-04	679-010-0000	1-20-04	Amend	3-1-04
660-014-0010	5-17-04	Amend	7-1-04	679-010-0010	1-20-04	Amend	3-1-04
660-014-0020	5-17-04	Repeal	7-1-04	679-010-0030	1-20-04	Amend	3-1-04
660-014-0030	5-17-04	Amend	7-1-04	679-010-0050	1-20-04	Adopt	3-1-04
660-014-0040	5-17-04	Amend	7-1-04	679-010-0060	1-20-04	Adopt	3-1-04
660-016-0005	5-7-04	Amend	6-1-04	679-030-0010	1-20-04	Adopt	3-1-04
660-016-0010	5-7-04	Amend	6-1-04	679-030-0020	1-20-04	Adopt	3-1-04
660-017-0000	5-7-04	Amend	6-1-04	679-030-0030	1-20-04	Adopt	3-1-04
660-018-0005	5-7-04	Amend	6-1-04	679-030-0040	1-20-04	Adopt	3-1-04
660-018-0150	5-7-04	Adopt	6-1-04	690-003-0000	6-15-04	Repeal	7-1-04
660-020-0060	5-7-04	Amend	6-1-04	690-003-0010	6-15-04	Repeal	7-1-04
660-020-0065	5-7-04	Amend	6-1-04	690-003-0020	6-15-04	Repeal	7-1-04
660-023-0090	5-7-04	Amend	6-1-04	690-011-0220	6-15-04	Repeal	7-1-04
660-023-0140	5-7-04	Amend	6-1-04	690-014-0005	7-1-04	Amend	7-1-04
660-023-0180	6-25-04	Amend	8-1-04	690-014-0020	7-1-04	Amend	7-1-04
660-023-0190	5-7-04	Amend	6-1-04	690-014-0030	7-1-04	Amend	7-1-04

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690-014-0080	7-1-04	Amend	7-1-04	695-020-0092	1-26-04	Amend	3-1-04
690-014-0090	7-1-04	Adopt	7-1-04	695-020-0093	1-26-04	Amend	3-1-04
690-014-0100	7-1-04	Amend	7-1-04	695-020-0094	1-26-04	Amend	3-1-04
690-014-0110	7-1-04	Adopt	7-1-04	695-020-0095	1-26-04	Amend	3-1-04
690-014-0150	7-1-04	Repeal	7-1-04	695-020-0096	1-26-04	Amend	3-1-04
690-014-0170	7-1-04	Amend	7-1-04	695-020-0097	1-26-04	Amend	3-1-04
690-014-0190	7-1-04	Amend	7-1-04	695-020-0098	1-26-04	Adopt	3-1-04
690-014-0200	7-1-04	Repeal	7-1-04	695-040-0010	9-20-04	Adopt	11-1-04
690-014-0220	7-1-04	Amend	7-1-04	695-040-0020	4-12-04	Adopt	5-1-04
690-026-0005	6-15-04	Repeal	7-1-04	695-040-0020	9-20-04	Adopt	11-1-04
690-026-0010	6-15-04	Repeal	7-1-04	695-040-0030	4-12-04	Adopt	5-1-04
690-026-0015	6-15-04	Repeal	7-1-04	695-040-0030	9-20-04	Adopt	11-1-04
690-026-0020	6-15-04	Repeal	7-1-04	695-040-0040	4-12-04	Adopt	5-1-04
690-026-0025	6-15-04	Repeal	7-1-04	695-040-0040	9-20-04	Adopt	11-1-04
690-026-0030	6-15-04	Repeal	7-1-04	695-040-0050	4-12-04	Adopt	5-1-04
690-200-0028	4-1-04	Adopt	5-1-04	695-040-0050	9-20-04	Adopt	11-1-04
690-200-0050	6-15-04	Amend	7-1-04	695-040-0060	4-12-04	Adopt	5-1-04
690-205-0005	6-15-04	Amend	7-1-04	695-040-0060	9-20-04	Adopt	11-1-04
690-205-0175	6-15-04	Amend	7-1-04	695-040-0070	4-12-04	Adopt	5-1-04
690-205-0200	6-15-04	Amend	7-1-04	695-040-0070	9-20-04	Adopt	11-1-04
690-205-0210	6-15-04	Amend	7-1-04	731-001-0000	12-11-03	Amend	1-1-04
690-240-0005	6-15-04	Amend	7-1-04	731-001-0005	2-23-04	Amend	4-1-04
690-240-0010	6-15-04	Amend	7-1-04	731-007-0050	1-20-04	Amend	3-1-04
690-240-0035	6-15-04	Amend	7-1-04	731-007-0050(T)	1-20-04	Repeal	3-1-04
690-240-0055	6-15-04	Amend	7-1-04	731-050-0020	6-24-04	Adopt	8-1-04
690-240-0340	6-15-04	Amend	7-1-04	731-060-0000	8-20-04	Adopt	10-1-04
690-240-0375	6-15-04	Amend	7-1-04	731-060-0010	8-20-04	Adopt	10-1-04
690-240-0395	6-15-04	Amend	7-1-04	731-060-0020	8-20-04	Adopt	10-1-04
690-240-0525	6-15-04	Amend	7-1-04	731-060-0030	8-20-04	Adopt	10-1-04
690-310-0040	6-15-04	Amend	7-1-04	731-060-0040	8-20-04	Adopt	10-1-04
690-310-0060	6-15-04	Amend	7-1-04	731-060-0050	8-20-04	Adopt	10-1-04
690-310-0150	6-15-04	Amend	7-1-04	731-060-0060	8-20-04	Adopt	10-1-04
690-310-0160	6-15-04	Amend	7-1-04	731-060-0070	8-20-04	Adopt	10-1-04
690-310-0180	6-15-04	Amend	7-1-04	731-070-0005	8-26-04	Adopt	10-1-04
690-310-0220	6-15-04	Amend	7-1-04	731-070-0010	8-26-04	Adopt	10-1-04
690-340-0030	6-15-04	Amend	7-1-04	731-070-0020	8-26-04	Adopt	10-1-04
690-380-2130	3-17-04	Amend	5-1-04	731-070-0030	8-26-04	Adopt	10-1-04
690-380-8000	3-17-04	Amend	5-1-04	731-070-0040	8-26-04	Adopt	10-1-04
690-380-8002	3-17-04	Adopt	5-1-04	731-070-0050	8-26-04	Adopt	10-1-04
690-380-8004	3-17-04	Adopt	5-1-04	731-070-0055	8-26-04	Adopt(T)	10-1-04
690-380-8010	3-17-04	Amend	5-1-04	731-070-0060	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0070	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0080	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0110	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0120	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0130	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0140	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Am. & Ren.	1-1-04	731-070-0160	8-26-04	Adopt	10-1-04
690-502-0160	12-4-03	Amend	1-1-04	731-070-0170	8-26-04	Adopt	10-1-04
690-502-0210	12-4-03	Adopt	1-1-04	731-070-0180	8-26-04	Adopt	10-1-04
690-502-0215	6-15-04	Adopt	7-1-04	731-070-0190	8-26-04	Adopt	10-1-04
695-020-0020	1-26-04	Amend	3-1-04	731-070-0200	8-26-04	Adopt	10-1-04
695-020-0020	4-12-04	Amend	5-1-04	731-070-0210	8-26-04	Adopt	10-1-04
695-020-0056	4-12-04	Repeal	5-1-04	731-070-0220	8-26-04	Adopt	10-1-04
695-020-0057	4-12-04	Repeal	5-1-04	731-070-0230	8-26-04	Adopt	10-1-04

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731-070-0250	8-26-04	Adopt	10-1-04	734-051-0300	3-1-04	Am. & Ren.	4-1-04
731-070-0260	8-26-04	Adopt	10-1-04	734-051-0310	3-1-04	Am. & Ren.	4-1-04
731-070-0270	8-26-04	Adopt	10-1-04	734-051-0320	3-1-04	Am. & Ren.	4-1-04
731-070-0280	8-26-04	Adopt	10-1-04	734-051-0330	3-1-04	Repeal	4-1-04
731-070-0290	8-26-04	Adopt	10-1-04	734-051-0340	3-1-04	Repeal	4-1-04
731-070-0295	8-26-04	Adopt	10-1-04	734-051-0350	3-1-04	Repeal	4-1-04
731-070-0300	8-26-04	Adopt	10-1-04	734-051-0360	3-1-04	Am. & Ren.	4-1-04
731-070-0310	8-26-04	Adopt	10-1-04	734-051-0370	3-1-04	Am. & Ren.	4-1-04
731-070-0320	8-26-04	Adopt	10-1-04	734-051-0380	3-1-04	Am. & Ren.	4-1-04
731-070-0330	8-26-04	Adopt	10-1-04	734-051-0390	3-1-04	Am. & Ren.	4-1-04
731-070-0350	8-26-04	Adopt	10-1-04	734-051-0400	3-1-04	Am. & Ren.	4-1-04
731-070-0360	8-26-04	Adopt	10-1-04	734-051-0410	3-1-04	Repeal	4-1-04
732-005-0005	7-15-04	Amend(T)	8-1-04	734-051-0420	3-1-04	Repeal	4-1-04
732-005-0010	7-15-04	Amend(T)	8-1-04	734-051-0430	3-1-04	Am. & Ren.	4-1-04
732-005-0027	7-15-04	Amend(T)	8-1-04	734-051-0440	3-1-04	Am. & Ren.	4-1-04
732-005-0031	7-15-04	Amend(T)	8-1-04	734-051-0450	3-1-04	Am. & Ren.	4-1-04
732-005-0051	7-15-04	Amend(T)	8-1-04	734-051-0460	3-1-04	Am. & Ren.	4-1-04
732-010-0010	7-15-04	Amend(T)	8-1-04	734-051-0470	3-1-04	Am. & Ren.	4-1-04
732-010-0035	7-15-04	Amend(T)	8-1-04	734-051-0480	3-1-04	Repeal	4-1-04
733-030-0021	7-20-04	Amend(T)	9-1-04	734-060-0025	1-1-04	Amend	1-1-04
733-030-0065	7-20-04	Amend(T)	9-1-04	734-071-0010	5-20-04	Amend	7-1-04
734-017-0005	1-20-04	Amend	3-1-04	734-071-0050	5-20-04	Amend	7-1-04
734-020-0010	5-6-04	Amend	6-1-04	734-082-0080	2-25-04	Adopt	4-1-04
734-020-0011	10-6-04	Adopt	11-1-04	735-010-0070	1-1-04	Amend	1-1-04
734-051-0010	3-1-04	Amend	4-1-04	735-018-0020	12-15-03	Amend	1-1-04
734-051-0020	3-1-04	Amend	4-1-04	735-018-0070	12-15-03	Amend	1-1-04
734-051-0030	3-1-04	Am. & Ren.	4-1-04	735-018-0080	12-15-03	Amend	1-1-04
734-051-0040	3-1-04	Amend	4-1-04	735-018-0110	12-15-03	Amend	1-1-04
734-051-0050	3-1-04	Am. & Ren.	4-1-04	735-018-0120	1-1-04	Adopt(T)	1-1-04
734-051-0060	3-1-04	Am. & Ren.	4-1-04	735-018-0120	6-24-04	Adopt	8-1-04
734-051-0070	3-1-04	Amend	4-1-04	735-018-0120(T)	6-24-04	Repeal	8-1-04
734-051-0080	3-1-04	Amend	4-1-04	735-020-0000	5-24-04	Amend	7-1-04
734-051-0085	3-1-04	Adopt	4-1-04	735-020-0020	5-24-04	Amend	7-1-04
734-051-0090	3-1-04	Am. & Ren.	4-1-04	735-020-0070	1-1-04	Adopt(T)	1-1-04
734-051-0100	3-1-04	Am. & Ren.	4-1-04	735-020-0070	5-24-04	Adopt	7-1-04
734-051-0105	3-1-04	Adopt	4-1-04	735-020-0070(T)	5-24-04	Repeal	7-1-04
734-051-0110	3-1-04	Am. & Ren.	4-1-04	735-020-0080	1-1-04	Adopt(T)	1-1-04
734-051-0120	3-1-04	Am. & Ren.	4-1-04	735-020-0080	6-24-04	Adopt	8-1-04
734-051-0130	3-1-04	Repeal	4-1-04	735-020-0080(T)	6-24-04	Repeal	8-1-04
734-051-0140	3-1-04	Repeal	4-1-04	735-024-0010	1-1-04	Amend(T)	1-1-04
734-051-0150	3-1-04	Repeal	4-1-04	735-024-0010	5-24-04	Amend	7-1-04
734-051-0160	3-1-04	Repeal	4-1-04	735-024-0010	6-24-04	Amend	8-1-04
734-051-0170	3-1-04	Repeal	4-1-04	735-024-0010	8-20-04	Repeal	10-1-04
734-051-0180	3-1-04	Repeal	4-1-04	735-024-0010(T)	5-24-04	Repeal	7-1-04
734-051-0190	3-1-04	Am. & Ren.	4-1-04	735-024-0015	8-20-04	Adopt	10-1-04
734-051-0200	3-1-04	Am. & Ren.	4-1-04	735-024-0020	1-1-04	Amend(T)	1-1-04
734-051-0210	3-1-04	Am. & Ren.	4-1-04	735-024-0020	6-24-04	Amend	8-1-04
734-051-0220	3-1-04	Repeal	4-1-04	735-024-0020	8-20-04	Repeal	10-1-04
734-051-0230	3-1-04	Am. & Ren.	4-1-04	735-024-0020(T)	6-24-04	Repeal	8-1-04
734-051-0235	3-1-04	Am. & Ren.	4-1-04	735-024-0025	8-20-04	Adopt	10-1-04
734-051-0240	3-1-04	Am. & Ren.	4-1-04	735-024-0030	8-20-04	Amend	10-1-04
734-051-0250	3-1-04	Am. & Ren.	4-1-04	735-024-0040	8-20-04	Repeal	10-1-04
734-051-0260	3-1-04	Am. & Ren.	4-1-04	735-024-0045	1-1-04	Adopt(T)	1-1-04
734-051-0270	3-1-04	Am. & Ren.	4-1-04	735-024-0045	6-24-04	Adopt	8-1-04
734-051-0280	3-1-04	Am. & Ren.	4-1-04	735-024-0045	8-20-04	Repeal	10-1-04

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735-024-0060	8-20-04	Repeal	10-1-04	735-060-0130	11-18-03	Amend	1-1-04
735-024-0090	8-20-04	Repeal	10-1-04	735-060-0140	11-18-03	Am. & Ren.	1-1-04
735-032-0010	1-1-04	Amend(T)	1-1-04	735-060-0150	11-18-03	Am. & Ren.	1-1-04
735-032-0010	5-24-04	Amend	7-1-04	735-060-0160	11-18-03	Am. & Ren.	1-1-04
735-032-0010(T)	5-24-04	Repeal	7-1-04	735-060-0170	11-18-03	Am. & Ren.	1-1-04
735-034-0010	1-1-04	Amend(T)	1-1-04	735-061-0010	1-15-04	Repeal	2-1-04
735-034-0010	5-24-04	Amend	7-1-04	735-061-0020	1-15-04	Repeal	2-1-04
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735-040-0050	1-1-04	Amend(T)	1-1-04	735-061-0040	1-15-04	Repeal	2-1-04
735-040-0050	6-24-04	Amend	8-1-04	735-061-0050	1-15-04	Repeal	2-1-04
735-040-0050(T)	6-24-04	Repeal	8-1-04	735-061-0060	1-15-04	Repeal	2-1-04
735-040-0055	1-1-04	Amend(T)	1-1-04	735-061-0070	1-15-04	Repeal	2-1-04
735-040-0055	6-24-04	Amend	8-1-04	735-061-0080	1-15-04	Repeal	2-1-04
735-040-0055(T)	6-24-04	Repeal	8-1-04	735-061-0090	1-15-04	Repeal	2-1-04
735-040-0061	1-1-04	Amend(T)	1-1-04	735-061-0100	1-15-04	Repeal	2-1-04
735-040-0061	6-24-04	Amend	8-1-04	735-061-0110	1-15-04	Repeal	2-1-04
735-040-0061(T)	6-24-04	Repeal	8-1-04	735-061-0120	1-15-04	Repeal	2-1-04
735-040-0080	1-1-04	Amend(T)	1-1-04	735-061-0130	1-15-04	Repeal	2-1-04
735-040-0080	6-24-04	Amend	8-1-04	735-061-0140	1-15-04	Repeal	2-1-04
735-040-0080(T)	6-24-04	Repeal	8-1-04	735-061-0150	1-15-04	Repeal	2-1-04
735-040-0095	1-1-04	Amend(T)	1-1-04	735-061-0160	1-15-04	Repeal	2-1-04
735-040-0095	6-24-04	Amend	8-1-04	735-061-0170	1-15-04	Repeal	2-1-04
735-040-0095(T)	6-24-04	Repeal	8-1-04	735-061-0180	1-15-04	Repeal	2-1-04
735-040-0097	1-1-04	Amend(T)	1-1-04	735-061-0190	1-15-04	Repeal	2-1-04
735-040-0097	6-24-04	Amend	8-1-04	735-061-0200	1-15-04	Repeal	2-1-04
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735-116-0000	1-15-04	Amend	2-1-04	735-170-0110	1-1-04	Adopt	1-1-04
735-150-0000	8-20-04	Amend	10-1-04	735-170-0120	1-1-04	Adopt	1-1-04
735-150-0005	8-20-04	Amend	10-1-04	735-170-0140	1-1-04	Adopt	1-1-04
735-150-0010	8-20-04	Amend	10-1-04	735-174-0000	1-1-04	Amend	1-1-04
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735-150-0039	8-20-04	Adopt	10-1-04	735-176-0018	1-15-04	Adopt	2-1-04
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735-150-0080	8-20-04	Amend	10-1-04	736-002-0090	1-15-04	Adopt	2-1-04
735-150-0090	8-20-04	Amend	10-1-04	736-002-0100	1-15-04	Adopt	2-1-04
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735-150-0110	8-20-04	Amend	10-1-04	736-006-0110	5-5-04	Amend	6-1-04
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736-100-0040	9-10-04	Amend	10-1-04	740-115-0040	1-1-04	Repeal	1-1-04
736-100-0050	9-10-04	Amend	10-1-04	740-115-0050	1-1-04	Repeal	1-1-04
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736-100-0070	9-10-04	Amend	10-1-04	740-115-0070	1-1-04	Repeal	1-1-04
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738-090-0030	2-17-04	Amend	4-1-04	740-130-0060	1-1-04	Repeal	1-1-04
738-090-0040	2-17-04	Amend	4-1-04	740-130-0070	1-1-04	Repeal	1-1-04
738-100-0010	2-17-04	Amend	4-1-04	740-130-0080	1-1-04	Repeal	1-1-04
738-110-0010	2-17-04	Repeal	4-1-04	740-130-0090	1-1-04	Repeal	1-1-04
738-110-0020	2-17-04	Repeal	4-1-04	740-135-0010	1-1-04	Repeal	1-1-04
738-110-0030	2-17-04	Repeal	4-1-04	740-135-0020	1-1-04	Repeal	1-1-04
738-110-0040	2-17-04	Repeal	4-1-04	740-135-0030	1-1-04	Repeal	1-1-04
738-110-0050	2-17-04	Repeal	4-1-04	740-135-0040	1-1-04	Repeal	1-1-04
738-125-0010	5-24-04	Adopt	7-1-04	740-140-0010	1-1-04	Repeal	1-1-04
738-125-0015	5-24-04	Adopt	7-1-04	740-140-0020	1-1-04	Repeal	1-1-04
738-125-0020	5-24-04	Adopt	7-1-04	740-140-0030	1-1-04	Repeal	1-1-04
738-125-0025	5-24-04	Adopt	7-1-04	740-140-0040	1-1-04	Repeal	1-1-04
738-125-0030	5-24-04	Adopt	7-1-04	740-140-0050	1-1-04	Repeal	1-1-04
738-125-0035	5-24-04	Adopt	7-1-04	740-140-0060	1-1-04	Repeal	1-1-04
738-125-0040	5-24-04	Adopt	7-1-04	740-145-0010	1-1-04	Repeal	1-1-04
738-125-0045	5-24-04	Adopt	7-1-04	740-145-0020	1-1-04	Repeal	1-1-04
738-125-0050	5-24-04	Adopt	7-1-04	740-145-0030	1-1-04	Repeal	1-1-04
738-125-0055	5-24-04	Adopt	7-1-04	740-145-0040	1-1-04	Repeal	1-1-04
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740-060-0030	6-29-04	Amend	8-1-04	740-145-0060	1-1-04	Repeal	1-1-04
740-060-0030(T)	6-29-04	Repeal	8-1-04	740-150-0010	1-1-04	Repeal	1-1-04
740-060-0050	1-1-04	Amend(T)	1-1-04	740-150-0020	1-1-04	Repeal	1-1-04
740-060-0050	6-29-04	Amend	8-1-04	740-150-0030	1-1-04	Repeal	1-1-04
740-060-0050(T)	6-29-04	Repeal	8-1-04	740-150-0040	1-1-04	Repeal	1-1-04
740-060-0055	1-1-04	Adopt(T)	1-1-04	740-150-0050	1-1-04	Repeal	1-1-04
740-060-0055	6-29-04	Adopt	8-1-04	740-155-0010	1-1-04	Repeal	1-1-04
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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
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740-165-0010	1-1-04	Repeal	1-1-04	741-520-0010	3-24-04	Amend	5-1-04
740-165-0020	1-1-04	Repeal	1-1-04	800-020-0020	8-31-04	Amend	9-1-04
740-165-0030	1-1-04	Repeal	1-1-04	800-025-0025	2-1-04	Amend	3-1-04
740-165-0040	1-1-04	Repeal	1-1-04	800-030-0025	2-1-04	Amend	3-1-04
740-200-0010	1-1-04	Amend	1-1-04	800-030-0025	11-1-04	Amend	11-1-04
740-200-0020	1-1-04	Amend	1-1-04	800-030-0050	11-1-04	Amend	11-1-04
740-200-0040	1-1-04	Amend	1-1-04	801-001-0005	1-1-04	Amend	2-1-04
740-300-0035	1-1-04	Adopt(T)	1-1-04	801-001-0010	1-1-04	Amend	2-1-04
740-300-0035	6-29-04	Adopt	8-1-04	801-001-0015	1-1-04	Amend	2-1-04
740-300-0035(T)	6-29-04	Repeal	8-1-04	801-001-0020	1-1-04	Amend	2-1-04
741-020-0010	5-20-04	Adopt	7-1-04	801-001-0035	1-1-04	Adopt	2-1-04
741-020-0020	5-20-04	Adopt	7-1-04	801-001-0050	1-1-04	Adopt	2-1-04
741-020-0025	5-20-04	Adopt	7-1-04	801-005-0010	1-1-04	Amend	2-1-04
741-020-0030	5-20-04	Adopt	7-1-04	801-010-0010	1-1-04	Amend	2-1-04
741-020-0040	5-20-04	Adopt	7-1-04	801-010-0045	1-1-04	Amend	2-1-04
741-020-0050	5-20-04	Adopt	7-1-04	801-010-0050	1-1-04	Amend	2-1-04
741-020-0060	5-20-04	Adopt	7-1-04	801-010-0050	3-15-04	Amend(T)	4-1-04
741-020-0070	5-20-04	Adopt	7-1-04	801-010-0050	7-2-04	Amend(T)	8-1-04
741-020-0080	5-20-04	Adopt	7-1-04	801-010-0060	1-1-04	Amend	2-1-04
741-025-0010	5-20-04	Adopt	7-1-04	801-010-0075	1-1-04	Amend	2-1-04
741-025-0020	5-20-04	Adopt	7-1-04	801-010-0080	1-1-04	Amend	2-1-04
741-025-0025	5-20-04	Adopt	7-1-04	801-010-0085	1-1-04	Amend	2-1-04
741-025-0030	5-20-04	Adopt	7-1-04	801-010-0110	1-1-04	Amend	2-1-04
741-025-0040	5-20-04	Adopt	7-1-04	801-010-0115	1-1-04	Amend	2-1-04
741-025-0050	5-20-04	Adopt	7-1-04	801-010-0125	1-1-04	Amend	2-1-04
741-025-0060	5-20-04	Adopt	7-1-04	801-010-0345	1-1-04	Amend	2-1-04
741-025-0070	5-20-04	Adopt	7-1-04	801-020-0700	1-1-04	Amend	2-1-04
741-025-0080	5-20-04	Adopt	7-1-04	801-030-0005	1-1-04	Amend	2-1-04
741-050-0010	3-24-04	Repeal	5-1-04	801-030-0015	1-1-04	Amend	2-1-04
741-050-0020	3-24-04	Repeal	5-1-04	801-030-0020	1-1-04	Amend	2-1-04
741-050-0030	3-24-04	Repeal	5-1-04	801-040-0070	1-1-04	Amend	2-1-04
741-050-0040	3-24-04	Repeal	5-1-04	801-040-0090	1-1-04	Amend	2-1-04
741-050-0050	3-24-04	Repeal	5-1-04	801-040-0100	1-1-04	Amend	2-1-04
741-050-0060	3-24-04	Repeal	5-1-04	801-040-0160	1-1-04	Amend	2-1-04
741-050-0070	3-24-04	Repeal	5-1-04	801-050-0080	1-1-04	Amend	2-1-04
741-050-0080	3-24-04	Repeal	5-1-04	806-001-0004	5-5-04	Amend	6-1-04
741-050-0090	3-24-04	Repeal	5-1-04	806-001-0005	5-5-04	Amend	6-1-04
741-050-0100	3-24-04	Repeal	5-1-04	806-010-0035	3-2-04	Amend	4-1-04
741-050-0110	3-24-04	Repeal	5-1-04	806-010-0037	3-2-04	Adopt	4-1-04
741-050-0120	3-24-04	Repeal	5-1-04	806-010-0045	5-5-04	Amend	6-1-04
741-050-0130	3-24-04	Repeal	5-1-04	806-010-0060	3-2-04	Amend	4-1-04
741-050-0140	3-24-04	Repeal	5-1-04	806-010-0080	5-5-04	Amend	6-1-04
741-050-0150	3-24-04	Repeal	5-1-04	806-010-0145	5-5-04	Amend	6-1-04
741-050-0160	3-24-04	Repeal	5-1-04	806-020-0080	1-28-04	Amend	3-1-04
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741-050-0180	3-24-04	Repeal	5-1-04	808-001-0020	10-4-04	Amend	11-1-04
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741-050-0220	3-24-04	Repeal	5-1-04	808-002-0210	2-1-04	Adopt	3-1-04
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741-050-0240	3-24-04	Repeal	5-1-04	808-002-0298	2-1-04	Adopt	3-1-04
741-050-0250	3-24-04	Repeal	5-1-04	808-002-0448	2-1-04	Repeal	3-1-04
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808-002-0880	2-1-04	Amend	3-1-04	809-050-0000	8-5-04	Amend	9-1-04
808-002-0890	2-1-04	Adopt	3-1-04	811-001-0005	6-7-04	Amend	7-1-04
808-002-0920	2-1-04	Amend	3-1-04	811-010-0085	12-11-03	Amend	1-1-04
808-003-0010	2-1-04	Amend	3-1-04	811-010-0085	6-7-04	Amend	7-1-04
808-003-0015	2-1-04	Amend	3-1-04	811-010-0086	6-7-04	Amend	7-1-04
808-003-0018	2-1-04	Amend	3-1-04	811-010-0095	12-11-03	Amend	1-1-04
808-003-0030	2-1-04	Amend	3-1-04	811-015-0010	12-11-03	Amend	1-1-04
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808-003-0040	2-1-04	Amend	3-1-04	812-001-0000	3-1-04	Amend	4-1-04
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808-003-0050	2-1-04	Amend	3-1-04	812-001-0015	3-1-04	Amend	4-1-04
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808-003-0070	2-1-04	Amend	3-1-04	812-001-0020	1-1-04	Amend(T)	2-1-04
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808-003-0081	2-1-04	Amend	3-1-04	812-001-0020	6-1-04	Amend(T)	7-1-04
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812-004-0535	12-5-03	Amend	1-1-04	813-003-0070	5-20-04	Adopt(T)	7-1-04
812-004-0535	3-1-04	Amend	4-1-04	813-300-0010	12-19-03	Amend	2-1-04
812-004-0540	3-1-04	Amend	4-1-04	813-300-0120	12-19-03	Amend	2-1-04
812-004-0550	3-1-04	Amend	4-1-04	813-310-0005	6-28-04	Adopt	8-1-04
812-004-0600	9-1-04	Amend	8-1-04	813-310-0010	6-28-04	Adopt	8-1-04
812-004-0600	10-1-04	Amend	11-1-04	813-310-0015	6-28-04	Adopt	8-1-04
812-005-0005	12-5-03	Amend	1-1-04	813-310-0020	6-28-04	Adopt	8-1-04
812-005-0005	9-1-04	Amend	8-1-04	813-310-0025	6-28-04	Adopt	8-1-04
812-006-0020	12-5-03	Amend	1-1-04	813-310-0030	6-28-04	Adopt	8-1-04
812-006-0050	9-1-04	Amend	10-1-04	813-310-0035	6-28-04	Adopt	8-1-04
812-008-0050	3-1-04	Amend	4-1-04	813-310-0040	6-28-04	Adopt	8-1-04
812-009-0100	3-1-04	Amend	4-1-04	813-310-0045	6-28-04	Adopt	8-1-04
812-009-0120	3-1-04	Amend	4-1-04	813-310-0050	6-28-04	Adopt	8-1-04
812-009-0160	10-1-04	Amend	11-1-04	813-310-0055	6-28-04	Adopt	8-1-04
812-010-0020	12-5-03	Amend	1-1-04	813-310-0060	6-28-04	Adopt	8-1-04
812-010-0020	6-1-04	Amend	7-1-04	813-310-0065	6-28-04	Adopt	8-1-04
812-010-0020	10-1-04	Amend	11-1-04	813-310-0070	6-28-04	Adopt	8-1-04
812-010-0030	12-5-03	Amend	1-1-04	813-310-0075	6-28-04	Adopt	8-1-04
812-010-0050	12-5-03	Adopt	1-1-04	813-310-0080	6-28-04	Adopt	8-1-04
812-010-0050	6-1-04	Amend	7-1-04	813-310-0085	6-28-04	Adopt	8-1-04
812-010-0060	12-5-03	Amend	1-1-04	813-310-0090	6-28-04	Adopt	8-1-04
812-010-0060	6-1-04	Amend	7-1-04	813-310-0095	6-28-04	Adopt	8-1-04
812-010-0060	10-1-04	Amend	11-1-04	813-310-0100	6-28-04	Adopt	8-1-04
812-010-0085	12-5-03	Amend	1-1-04	813-310-0105	6-28-04	Adopt	8-1-04
812-010-0140	12-5-03	Amend	1-1-04	813-310-0110	6-28-04	Adopt	8-1-04
812-010-0140	6-1-04	Amend	7-1-04	813-350-0030	4-8-04	Amend	5-1-04
812-010-0180	10-1-04	Amend	11-1-04	813-350-0030(T)	4-8-04	Repeal	5-1-04
812-010-0240	12-5-03	Repeal	1-1-04	817-001-0000	7-1-04	Repeal	8-1-04
812-010-0280	12-5-03	Amend	1-1-04	817-001-0005	7-1-04	Repeal	8-1-04
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817-005-0005	7-1-04	Amend	8-1-04	817-090-0080	7-1-04	Amend	8-1-04
817-010-0007	7-1-04	Amend	8-1-04	817-090-0085	7-1-04	Amend	8-1-04
817-010-0014	7-1-04	Amend	8-1-04	817-090-0090	7-1-04	Amend	8-1-04
817-010-0035	7-1-04	Amend	8-1-04	817-090-0095	7-1-04	Amend	8-1-04
817-010-0055	7-1-04	Amend	8-1-04	817-090-0100	7-1-04	Amend	8-1-04
817-010-0060	7-1-04	Amend	8-1-04	817-090-0105	7-1-04	Amend	8-1-04
817-010-0065	7-1-04	Amend	8-1-04	817-090-0110	7-1-04	Amend	8-1-04
817-010-0068	7-1-04	Amend	8-1-04	817-090-0115	7-1-04	Amend	8-1-04
817-010-0069	7-1-04	Amend	8-1-04	817-100-0005	7-1-04	Amend	8-1-04
817-010-0075	7-1-04	Amend	8-1-04	817-110-0005	7-1-04	Repeal	8-1-04
817-010-0101	7-1-04	Amend	8-1-04	817-120-0005	7-1-04	Amend	8-1-04
817-010-0300	7-1-04	Amend	8-1-04	818-012-0040	6-1-04	Amend	7-1-04
817-015-0010	7-1-04	Amend	8-1-04	818-012-0075	6-1-04	Amend	7-1-04
817-015-0030	7-1-04	Amend	8-1-04	818-012-0110	6-1-04	Adopt	7-1-04
817-015-0050	7-1-04	Amend	8-1-04	818-021-0010	6-1-04	Amend	7-1-04
817-015-0065	7-1-04	Amend	8-1-04	818-021-0011	6-1-04	Amend	7-1-04
817-020-0005	7-1-04	Amend	8-1-04	818-021-0020	6-1-04	Amend	7-1-04
817-020-0011	7-1-04	Amend	8-1-04	818-021-0025	6-1-04	Amend	7-1-04
817-020-0012	7-1-04	Amend	8-1-04	818-021-0070	7-15-04	Amend	8-1-04
817-020-0015	7-1-04	Amend	8-1-04	818-021-0086	7-15-04	Repeal	8-1-04
817-020-0305	7-1-04	Amend	8-1-04	818-035-0030	6-1-04	Amend	7-1-04
817-030-0005	7-1-04	Amend	8-1-04	818-035-0080	6-1-04	Amend	7-1-04
817-030-0015	7-1-04	Amend	8-1-04	818-042-0010	6-1-04	Amend	7-1-04
817-030-0018	7-1-04	Amend	8-1-04	818-042-0020	6-1-04	Amend	7-1-04
817-030-0020	7-1-04	Amend	8-1-04	818-042-0070	6-1-04	Amend	7-1-04
817-030-0030	7-1-04	Amend	8-1-04	818-042-0080	6-1-04	Amend	7-1-04
817-030-0040	7-1-04	Amend	8-1-04	820-001-0000	7-14-04	Amend	8-1-04
817-030-0045	7-1-04	Amend	8-1-04	820-001-0020	7-14-04	Adopt	8-1-04
817-030-0055	7-1-04	Amend	8-1-04	820-010-0010	1-26-04	Amend	3-1-04
817-030-0065	7-1-04	Amend	8-1-04	820-010-0010	7-14-04	Amend	8-1-04
817-030-0080	7-1-04	Amend	8-1-04	820-010-0200	1-26-04	Amend	3-1-04
817-030-0100	7-1-04	Amend	8-1-04	820-010-0225	1-26-04	Amend	3-1-04
817-035-0010	7-1-04	Amend	8-1-04	820-010-0300	7-14-04	Amend	8-1-04
817-035-0020	7-1-04	Repeal	8-1-04	820-010-0325	7-14-04	Amend	8-1-04
817-035-0030	7-1-04	Amend	8-1-04	820-010-0450	1-26-04	Amend	3-1-04
817-035-0050	7-1-04	Amend	8-1-04	820-010-0500	1-26-04	Amend	3-1-04
817-035-0070	7-1-04	Amend	8-1-04	820-010-0623	1-26-04	Adopt	3-1-04
817-035-0090	7-1-04	Amend	8-1-04	820-015-0026	1-26-04	Amend	3-1-04
817-035-0110	7-1-04	Amend	8-1-04	830-020-0040	11-1-04	Amend	11-1-04
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817-055-0010	7-1-04	Repeal	8-1-04	836-009-0007	12-19-03	Amend	1-1-04
817-060-0020	7-1-04	Amend	8-1-04	836-011-0000	12-3-03	Amend	1-1-04
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836-080-0430	10-5-04	Amend	11-1-04	845-001-0005	11-1-04	Amend	11-1-04
836-080-0432	10-5-04	Repeal	11-1-04	845-001-0007	11-1-04	Amend	11-1-04
836-080-0435	10-5-04	Amend	11-1-04	845-003-0590	2-10-04	Amend	1-1-04
836-080-0436	10-5-04	Adopt	11-1-04	845-003-0670	12-1-03	Amend	1-1-04
836-080-0438	10-5-04	Adopt	11-1-04	845-005-0304	1-1-04	Amend	2-1-04
837-012-0645	1-14-04	Amend	2-1-04	845-005-0326	11-1-04	Amend	11-1-04
837-012-0720	1-14-04	Amend	2-1-04	845-005-0445	1-1-04	Amend(T)	2-1-04
837-012-0830	1-14-04	Amend	2-1-04	845-005-0445	6-29-04	Amend	7-1-04
837-012-0850	1-14-04	Amend	2-1-04	845-006-0335	4-9-04	Amend	5-1-04
837-012-1210	1-14-04	Amend	2-1-04	845-006-0347	5-19-04	Amend	7-1-04
837-012-1220	1-14-04	Amend	2-1-04	845-006-0365	11-1-04	Amend	11-1-04
837-012-1260	1-14-04	Amend	2-1-04	845-006-0430	4-1-04	Amend	5-1-04
837-012-1290	1-14-04	Amend	2-1-04	845-006-0441	12-1-03	Amend	1-1-04
837-012-1300	1-14-04	Amend	2-1-04	845-007-0015	6-1-04	Amend	4-1-04
837-012-1320	1-14-04	Amend	2-1-04	845-008-0045	7-1-04	Amend	8-1-04
837-012-1340	1-14-04	Amend	2-1-04	845-009-0010	11-1-04	Amend	11-1-04
837-030-0130	1-14-04	Amend	2-1-04	845-009-0015	12-1-03	Amend	1-1-04
837-030-0220	1-14-04	Amend	2-1-04	845-009-0015	11-1-04	Amend	11-1-04
837-030-0230	1-14-04	Amend	2-1-04	845-009-0020	11-1-04	Amend	11-1-04
837-030-0240	1-14-04	Amend	2-1-04	845-010-0920	11-1-04	Amend	11-1-04
837-030-0250	1-14-04	Amend	2-1-04	845-013-0001	11-1-04	Amend	11-1-04
837-030-0280	1-14-04	Amend	2-1-04	845-015-0115	11-1-04	Amend	11-1-04
837-040-0001	10-1-04	Amend	5-1-04	845-015-0140	3-21-04	Amend	3-1-04
837-040-0010	10-1-04	Amend	5-1-04	845-015-0155	7-1-04	Amend	8-1-04
837-040-0140	10-1-04	Amend	5-1-04	845-015-0199	5-1-04	Adopt(T)	6-1-04
839-001-0000	7-27-04	Amend	9-1-04	845-015-0199	10-29-04	Adopt	11-1-04
839-001-0200	1-1-04	Adopt	2-1-04	847-001-0000	7-13-04	Amend	8-1-04
839-001-0420	1-1-04	Amend	2-1-04	847-001-0005	7-13-04	Amend	8-1-04
839-001-0470	1-1-04	Amend	2-1-04	847-001-0015	7-13-04	Amend	8-1-04
839-001-0490	1-1-04	Adopt	2-1-04	847-001-0020	7-13-04	Adopt	8-1-04
839-002-0002	7-27-04	Amend	9-1-04	847-001-0025	7-13-04	Adopt	8-1-04
839-014-0020	7-27-04	Amend	9-1-04	847-005-0005	9-9-04	Amend	10-1-04
839-015-0000	7-27-04	Amend	9-1-04	847-008-0005	7-13-04	Amend	8-1-04
839-016-0000	7-27-04	Amend	9-1-04	847-008-0015	1-27-04	Amend	3-1-04
839-016-0700	1-5-04	Amend	2-1-04	847-008-0015	7-13-04	Amend	8-1-04
839-016-0700	4-15-04	Amend	5-1-04	847-008-0022	7-13-04	Adopt	8-1-04
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839-016-0700	10-1-04	Amend	11-1-04	847-008-0045	7-13-04	Amend	8-1-04
839-016-0750	5-1-04	Amend	6-1-04	847-008-0050	12-8-03	Amend	1-1-04
839-016-0750	5-19-04	Amend	7-1-04	847-008-0055	1-27-04	Amend	3-1-04
839-016-0750	5-24-04	Amend	7-1-04	847-008-0055	7-13-04	Amend	8-1-04
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839-016-0750	7-15-04	Amend	8-1-04	847-010-0063	4-22-04	Amend	6-1-04
839-017-0004	1-1-04	Amend	2-1-04	847-010-0073	4-22-04	Adopt	6-1-04
839-017-0500	1-1-04	Adopt	2-1-04	847-012-0000	1-27-04	Amend	3-1-04
839-017-0505	1-1-04	Adopt	2-1-04	847-015-0030	3-1-04	Amend	6-1-04
839-017-0510	1-1-04	Adopt	2-1-04	847-020-0130	4-22-04	Amend(T)	6-1-04
839-017-0515	1-1-04	Adopt	2-1-04	847-020-0130	7-13-04	Amend	8-1-04
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847-070-0033	4-22-04	Adopt	6-1-04	851-061-0040	2-12-04	Amend	3-1-04
847-080-0010	7-13-04	Amend	8-1-04	851-061-0050	2-12-04	Amend	3-1-04
847-080-0019	7-13-04	Amend	8-1-04	851-061-0070	2-12-04	Amend	3-1-04
850-001-0000	6-10-04	Amend	7-1-04	851-061-0080	2-12-04	Amend	3-1-04
850-010-0130	2-11-04	Amend	3-1-04	851-061-0080	7-13-04	Amend	8-1-04
850-010-0175	9-10-04	Adopt	10-1-04	851-061-0090	2-12-04	Amend	3-1-04
850-010-0210	6-10-04	Amend	7-1-04	851-061-0090	7-13-04	Amend	8-1-04
850-010-0212	6-10-04	Adopt	7-1-04	851-061-0100	2-12-04	Amend	3-1-04
850-010-0215	4-14-04	Amend	5-1-04	851-061-0110	2-12-04	Amend	3-1-04
850-010-0225	12-5-03	Amend	1-1-04	851-061-0110	7-13-04	Amend	8-1-04
850-010-0225	6-10-04	Amend	7-1-04	851-061-0130	2-12-04	Adopt	3-1-04
850-010-0226	12-5-03	Amend	1-1-04	851-062-0005	2-12-04	Adopt	3-1-04
850-010-0226	6-10-04	Amend	7-1-04	851-062-0010	2-12-04	Amend	3-1-04
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851-001-0006	5-4-04	Amend	6-1-04	851-062-0015	2-12-04	Adopt	3-1-04
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851-047-0010	2-26-04	Amend	4-1-04	851-062-0075	2-12-04	Adopt	3-1-04
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851-047-0030	2-26-04	Amend	4-1-04	851-062-0090	2-12-04	Amend	3-1-04
851-047-0040	2-26-04	Amend	4-1-04	851-062-0100	2-12-04	Amend	3-1-04
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851-050-0133	12-23-03	Amend(T)	2-1-04	851-063-0050	2-12-04	Amend	3-1-04
851-050-0133	5-12-04	Repeal	6-1-04	851-063-0060	2-12-04	Amend	3-1-04
851-050-0134	12-23-03	Amend(T)	2-1-04	851-063-0070	2-12-04	Amend	3-1-04
851-050-0134	5-12-04	Repeal	6-1-04	851-063-0080	2-12-04	Amend	3-1-04
851-050-0138	5-12-04	Amend	6-1-04	851-063-0100	2-12-04	Amend	3-1-04
851-050-0140	5-12-04	Amend	6-1-04	852-001-0001	3-8-04	Amend	4-1-04
851-050-0145	12-23-03	Amend(T)	2-1-04	852-001-0002	3-8-04	Amend	4-1-04
851-050-0145	5-12-04	Repeal	6-1-04	852-001-0005	5-20-04	Repeal	7-1-04
851-050-0150	12-23-03	Suspend	2-1-04	852-001-0010	5-20-04	Repeal	7-1-04
851-050-0155	12-23-03	Amend(T)	2-1-04	852-001-0015	5-20-04	Repeal	7-1-04
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851-050-0161	12-23-03	Adopt(T)	2-1-04	852-020-0031	3-8-04	Adopt	4-1-04
851-050-0161	5-12-04	Repeal	6-1-04	852-020-0060	3-8-04	Amend	4-1-04
851-050-0162	5-12-04	Adopt	6-1-04	852-060-0004	5-20-04	Amend	7-1-04
851-050-0163	5-12-04	Adopt	6-1-04	852-060-0060	5-20-04	Adopt	7-1-04
851-050-0164	5-12-04	Adopt	6-1-04	852-060-0065	5-20-04	Adopt	7-1-04
851-050-0170	12-23-03	Amend(T)	2-1-04	852-060-0070	5-20-04	Adopt	7-1-04
851-050-0170	5-12-04	Amend	6-1-04	852-060-0075	5-20-04	Adopt	7-1-04
851-061-0010	2-12-04	Amend	3-1-04	852-080-0040	10-1-04	Amend	11-1-04
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855-021-0015	6-1-04	Repeal	7-1-04	860-035-0020	1-15-04	Repeal	2-1-04
855-021-0025	6-1-04	Amend	7-1-04	860-035-0030	1-15-04	Repeal	2-1-04
855-021-0030	6-1-04	Amend	7-1-04	860-035-0040	1-15-04	Repeal	2-1-04
855-021-0035	6-1-04	Repeal	7-1-04	860-035-0050	1-15-04	Repeal	2-1-04
855-021-0050	6-1-04	Amend	7-1-04	860-035-0060	1-15-04	Repeal	2-1-04
855-031-0015	3-12-04	Amend	4-1-04	860-035-0070	1-15-04	Repeal	2-1-04
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855-043-0205	5-24-04	Repeal	7-1-04	860-035-0100	1-15-04	Repeal	2-1-04
855-043-0210	12-31-03	Adopt(T)	2-1-04	860-035-0110	1-15-04	Repeal	2-1-04
855-043-0210	6-1-04	Adopt	7-1-04	860-035-0120	1-15-04	Repeal	2-1-04
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858-010-0001	8-30-04	Amend	10-1-04	860-036-0010	12-10-03	Amend(T)	1-1-04
858-010-0002	8-30-04	Adopt	10-1-04	860-036-0010	4-9-04	Amend	5-1-04
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858-010-0015	8-30-04	Amend	10-1-04	860-036-0040	6-2-04	Amend	7-1-04
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858-050-0125	8-30-04	Amend	10-1-04	860-036-0900	12-10-03	Amend(T)	1-1-04
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860-037-0060	1-29-04	Amend	3-1-04	860-037-0567	1-29-04	Adopt	3-1-04
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860-037-0080	1-29-04	Amend	3-1-04	860-037-0615	1-29-04	Amend	3-1-04
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918-306-0010	4-1-04	Amend	5-1-04	918-780-0130	10-1-04	Amend	11-1-04
918-306-0340	4-1-04	Amend	5-1-04	918-780-0140	10-1-04	Amend	11-1-04
918-306-0350	4-1-04	Amend	5-1-04	951-001-0000	3-15-04	Adopt(T)	4-1-04
918-306-0360	4-1-04	Amend	5-1-04	951-001-0000	7-15-04	Adopt	8-1-04
918-306-0370	4-1-04	Repeal	5-1-04	951-001-0005	4-15-04	Adopt	4-1-04
918-306-0380	4-1-04	Amend	5-1-04	972-010-0030	1-16-04	Adopt	2-1-04
918-306-0390	4-1-04	Amend	5-1-04	972-030-0010	1-16-04	Adopt	2-1-04
918-306-0400	4-1-04	Amend	5-1-04	972-030-0020	1-16-04	Adopt	2-1-04
918-306-0410	4-1-04	Amend	5-1-04	972-030-0030	1-16-04	Adopt	2-1-04
918-309-0000	4-1-04	Amend	5-1-04	972-030-0040	1-16-04	Adopt	2-1-04
918-309-0040	4-1-04	Amend	5-1-04				

